

URBIS

CLAUSE 4.6 VARIATION REQUEST (FSR)

15A and 15B Moseley Street
and 25-31 Donald Street,
Carlingford

Prepared for

THE TRUSTEE FOR CAPTAG INVESTMENTS TRUST

February 2026

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Acknowledgement of Country

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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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REQUEST TO VARY THE MAXIMUM FLOOR SPACE RATIO DEVELOPMENT STANDARD UNDER SECTION 16(3) OF THE HOUSING SEPP

Address: 15A and 15B Moseley Street and 25-31 Donald Street, Carlingford

This Clause 4.6 Variation Request has been prepared in relation to a State Significant Development Application (**SSDA**) for an in-fill affordable housing development and should be reviewed in conjunction with the Environmental Impact Statement dated August 2025.

1. Site Description

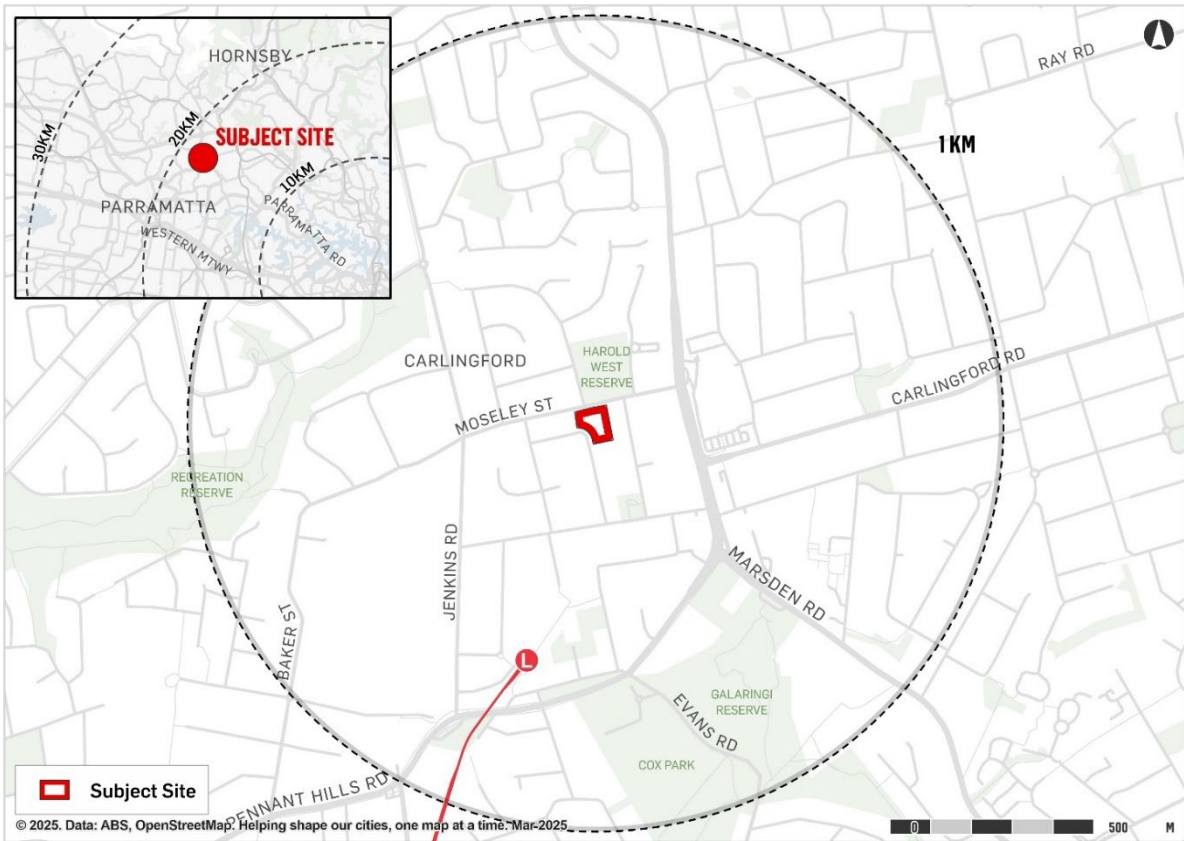
The table below summarises the key features of the site and the land to which the subject SSDA relates.

Table 1 Site Description

Characteristic	Description
Street Address	15A and 15B Moseley Street and 25-31 Donald Street, Carlingford
Legal Description	<ul style="list-style-type: none"> ▪ Lot 35 DP 536982 (15A Moseley Street) ▪ Lot 34 DP 536982 (15B Moseley Street) ▪ Lot 5 DP 35555 (25 Donald Street) ▪ Lot 33 DP 536982 (27 Donald Street) ▪ Lot 32 DP 536982 (29 Donald Street) ▪ Lot 2 DP 35555 (31 Donald Street)
Site Area	5,948 m ²
Land Configuration	<p>The site area is 5,948sqm. The approximate dimensions of the site are as follows: 55m x 79m x 45m x 60m.</p> <p>The site slopes from north-east down towards the south-west of the site with a crossfall of approximately 9 metres.</p>
Land Ownership	The site is owned by Captag Investments
Existing Development	The site is vacant except for the display suite for sales and marketing.
Local Context	<p>The surrounding locality is described below:</p> <ul style="list-style-type: none"> ▪ North: the northern boundary of the site adjoins Moseley Street. There is an Anglican Church, Church of Latter-Day Saints Temple and Harold West Reserve located on the opposite side of Moseley Street. There are also several single detached dwellings located along Moseley Street which is reflective of the R2 low density residential zoning. ▪ East: the eastern boundary of the site adjoins residential development facing Young Street. There are a mix of single detached dwellings and residential flat buildings on Young Street. ▪ South: the southern boundary of the site adjoins residential development facing Donald Street. These are single detached dwellings. ▪ West: the western boundary of the site adjoins residential development facing Donald Street. There are a mix of single detached dwellings and residential flat buildings that reflect the R4 high density residential zoning.

Characteristic	Description
Regional Context	<p>The site is located in Carlingford and is approximately 200m walking distance to the west of Carlingford Court Shopping Centre, 5.3km north-east of Parramatta CBD and 18km north-west of the Sydney CBD.</p> <p>It is well connected to the regional road network with direct access from Moseley Road to the Pennant Hills Road.</p>
Infrastructure	<p>The site is well serviced by public transport with regular bus services at Carlingford Court Shopping Centre, and at Jenkins Road (approximately 350 metres west of the site). Stage 1 of the Parramatta Light Rail opened in December 2024 and provides public transport connections from Carlingford to Parramatta CBD via Camellia.</p>
Site Access	<p>Pedestrian access to the site is provided via Moseley Street and Donald Street. Vehicle access to the site is provided via Donald Street.</p>
Services	<p>Water connection points, sewer, gas and electricity are located within the vicinity of the proposed development.</p>
Acid Sulfate Soils	<p>The site is not affected by acid sulfate soils.</p>
Contamination	<p>A Preliminary Site Investigation (PSI) has been prepared for the site as part of the SSDA. The PSI concludes that the potential for significant contamination is considered low and that the site can be made suitable for residential and child care uses, subject to the implementation of mitigation measures. Refer to Section 6.12 of the EIS for further detail.</p>
Stormwater and Flooding	<p>The site is not flood affected.</p>
Bushfire Prone Land	<p>The site is not identified as bushfire prone land.</p>
Aboriginal Heritage	<p>The site is not identified as containing any items of Aboriginal heritage significance. This has been confirmed through the preparation of an Aboriginal Heritage Impact Assessment Report (AHIAR).</p>
European Heritage	<p>The site does not contain any heritage items, located near any heritage items or within a heritage conservation area.</p>

Figure 1 Location Plan of Regional Site Context



Source: Urbis (2025)

Figure 2 Site Location Plan



Source: Nearmap 2025 (edited by Urbis)

2. Proposed Development

The SSDA (as amended) seeks development consent for the following:

- Site preparation works including demolition of structures and tree removal.
- Bulk excavation works to establish basement parking structure.
- Construction of one (1) x nine (9) storey and one (1) x seven (7) storey residential flat buildings.
- A 76 place centre-based child care facility.
- Three (3) level basement parking structure (residential) and podium parking for child care.
- Associated civil, landscaping and public domain works.

The key numeric components of the proposed development are summarised in **Table 2**.

Table 2 Development Description

Project Element	Summary
Project Area	5,948sqm
Site Description	<ul style="list-style-type: none"> ▪ Lot 35 DP 536982 (15A Moseley Street) ▪ Lot 34 DP 536982 (15B Moseley Street) ▪ Lot 5 DP 35555 (25 Donald Street) ▪ Lot 33 DP 536982 (27 Donald Street) ▪ Lot 32 DP 536982 (29 Donald Street) ▪ Lot 2 DP 35555 (31 Donald Street)
Project Summary	<p>The Project includes site preparation, bulk earthworks, construction and landscaping works comprising:</p> <ul style="list-style-type: none"> ▪ Site preparation works including demolition of structures and tree removal. ▪ Bulk excavation works to establish basement parking structure. ▪ Construction of one (1) x nine (9) storey and one (1) x seven (7) storey residential flat buildings. ▪ A 76 place centre-based child care facility. ▪ Three (3) level basement parking structure (residential) and podium parking for child care. ▪ Associated civil, landscaping and public domain works.
Proposed land uses	The proposal is defined as a mixed-use development comprising 'residential flat building' and 'centre-based child care facility'.
Demolition	<p>The site is largely vacant, following the approval of development consent (DA/219/2024) in October 2024 for early works, including the demolition of all existing buildings and structures and the removal of trees.</p> <p>A display suite currently remains in the northwest corner of the site and will be demolished as part of this SSDA. The proposal also includes the removal of eight trees.</p>
Gross Floor Area (GFA)	<p>Total 12,242sqm which includes:</p> <ul style="list-style-type: none"> ▪ Child care: 410sqm ▪ Residential: 11,832sqm
Floor Space Ratio (FSR)	<p>A total FSR 2.058:1 which includes:</p> <ul style="list-style-type: none"> ▪ Child care: 0.069:1 ▪ Residential: 1.989:1
Residential Apartments	<p>A total of 118 apartments comprising:</p> <ul style="list-style-type: none"> ▪ 23 x affordable apartments ▪ 95 x market apartments <p><i>Minimum 15% of the overall GFA to be allocated to affordable housing</i></p>
Apartments and Mix	<ul style="list-style-type: none"> ▪ 1 bedroom: 9 (8%) ▪ 2 bedroom: 74 (63%)

Project Element	Summary
	<ul style="list-style-type: none"> ▪ 3 bedroom: 20 (17%) ▪ 4 bedroom: 15 (12%)
Maximum height	28.65 metres / 9 Storeys
Setbacks	<p>North: Building B - Min 6.5m for all levels</p> <p>East: Building B - Min 6m for first 4 floors of residential, increased to min 9m for upper residential floors. Building A2 - Min 6m for first 5 floors of residential, increased to min 9m for upper residential floors.</p> <p>South: Building A2 - Min 8.5m setback for all levels.</p> <p>West: Building A1 - 4.2m to ground floor private open space, min 6m to all levels. Building B - Min 3m to car park, min 6m to first 4 floors of residential, increased to min 9m for upper residential floors.</p>
Vehicular Access	Vehicle access to the residential basement levels is provided via Donald Street. Vehicle access to the child care car parking is provided via Moseley Street.
Parking	<p>Residential</p> <ul style="list-style-type: none"> ▪ 145 residential spaces ▪ 22 visitor car parking spaces ▪ 5 motorcycle parking spaces ▪ Total car parking spaces: 167 <p>Child care</p> <ul style="list-style-type: none"> ▪ 12 x staff car parking spaces (including 5 tandem) ▪ 10 x visitor car parking spaces ▪ 1 x accessible space ▪ Total child care car parking spaces: 23
Cycle Parking	<p>Visitor: 10</p> <p>Residential: 95</p> <p>Total: 105 spaces</p>
Communal Open Space	1,508sqm (25.3% of the site area)
Deep Soil Area	683sqm (11.4% of the site area)

3. Statutory Context

Clause 4.3 of the Parramatta LEP 2023 establishes a mapped floor space ratio (**FSR**) control of part 1:1 (northern portion) and part 1.49:1 (southern portion). This is shown in **Figure 3** below.

Figure 3 Extract of Parramatta LEP 2023 Floor Space Ratio Map



Source: Parramatta LEP 2023 / Urbis 2025

The site is located approximately 430m walking distance of Carlingford Court Shopping Centre (measured assuming crossing at the intersection of Carlingford Road and Pennant Hills Road) which is mapped as a town centre under Chapter 6 (Low and mid rise housing) of *State Environmental Planning Policy (Housing) 2021 (Housing SEPP 2021)*. The site is therefore located within a “low and mid rise housing outer area” and is subject to the development standards under the Low and Mid-Rise Housing Policy (LMR) of the Housing SEPP 2021.

The LMR provisions of the Housing SEPP apply to the proposal as the development:

- Is not located on bush fire prone land, or land identified as a coastal vulnerability area or a coastal wetlands or littoral rainforests area.
- Is not located within a transit oriented development (TOD) precinct, an “Accelerated TOD Precinct” or a “deferred TOD area” (and is therefore not subject to the provisions under Chapter 5 of the Housing SEPP).
- Is not on land that is a heritage item, or on which a heritage item is located.
- Meets the locational requirements of the Housing SEPP.
- Is not in a flood planning area within any of the identified LGAs.
- Is not on land affected by ANEF noise contours.
- Is not located on land within 200 metres of a relevant pipeline.
- Is not located within 800 metres of a public entrance to a railway, metro or light rail station as listed in Schedule 12 of the Housing SEPP.

The site is located on land zoned R4 High Density Residential under the Parramatta LEP 2023 and proposes the construction of two residential flat buildings. The proposed development is therefore eligible to utilise the

uplift in development standards under the LMR provisions (as set out within Sections 176 and 180 of the Housing SEPP 2021). These provisions permit ‘residential flat buildings’ on the land zoned R4 High Density Residential with a maximum building height of 17.5m and a maximum FSR of 1.5:1.

The proposed development also seeks to incorporate “in-fill affordable housing” in accordance with Chapter 2, Part 2, Division 1 of the Housing SEPP 2021. These provisions enable up to 30% additional building height and up to 30% additional floor space above the base controls (subject to the provision of affordable housing). This additional uplift is in addition to the LMR controls established under Chapter 6 of the Housing SEPP 2021. For the southern portion of the site where the LEP height (21m) exceeds the LMR height (17.5m) the LEP height is taken to be the ‘base control’.

The maximum permissible building height that applies to the site (taking into account the LMR controls and the uplift associated with utilising the in-fill affordable housing’ provisions of the Housing SEPP 2021) is summarised in **Table 3**.

Table 3 Maximum Permissible Building Height

Building	LEP Height	LMR Height	Max. Permissible Height (LMR + 30%)
Building A1	16 metres	17.5 metres (4 storeys)	22.75 metres
Building A2	21 metres	17.5 metres (4 storeys)	27.3 metres <i>NB: LEP height taken used as base control</i>
Building B	16 metres	17.5 metres (4 storeys)	22.75 metres

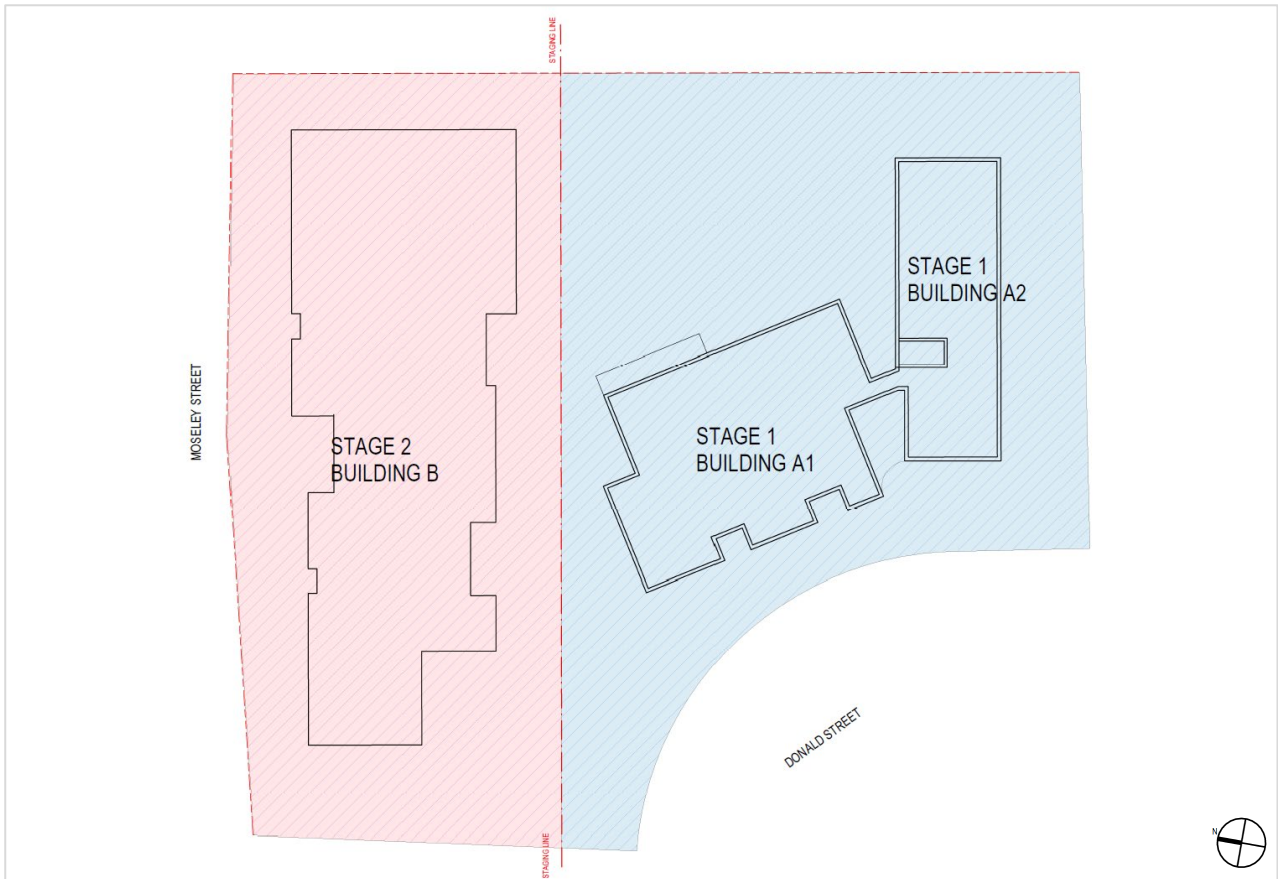
The maximum permissible Floor Space Ratio is established by considering the LMR non-discretionary development standard under Section 180 (3(a)), then applying the uplift associated with utilising the in-fill affordable housing’ provisions of the Housing SEPP 2021. The maximum floor space ratio and gross floor area (GFA) is summarised in **Table 4** below.

Table 4 Maximum Permissible Floor Space Ratio

Site Area	LMR FSR	Max permissible FSR (LMR + 30%)	Max. Permissible GFA
5,948 sqm	1.5 :1	1.95 : 1	11,598.6 sqm

The proposed location of Buildings A1, A2 and Building B (associated with the proposed staging of construction) is shown in the following **Figure 4**.

Figure 4 Proposed Building Layout and Construction Staging



Source: Capio (2025)

PLANNING INSTRUMENT, DEVELOPMENT STANDARD, AND VARIATION

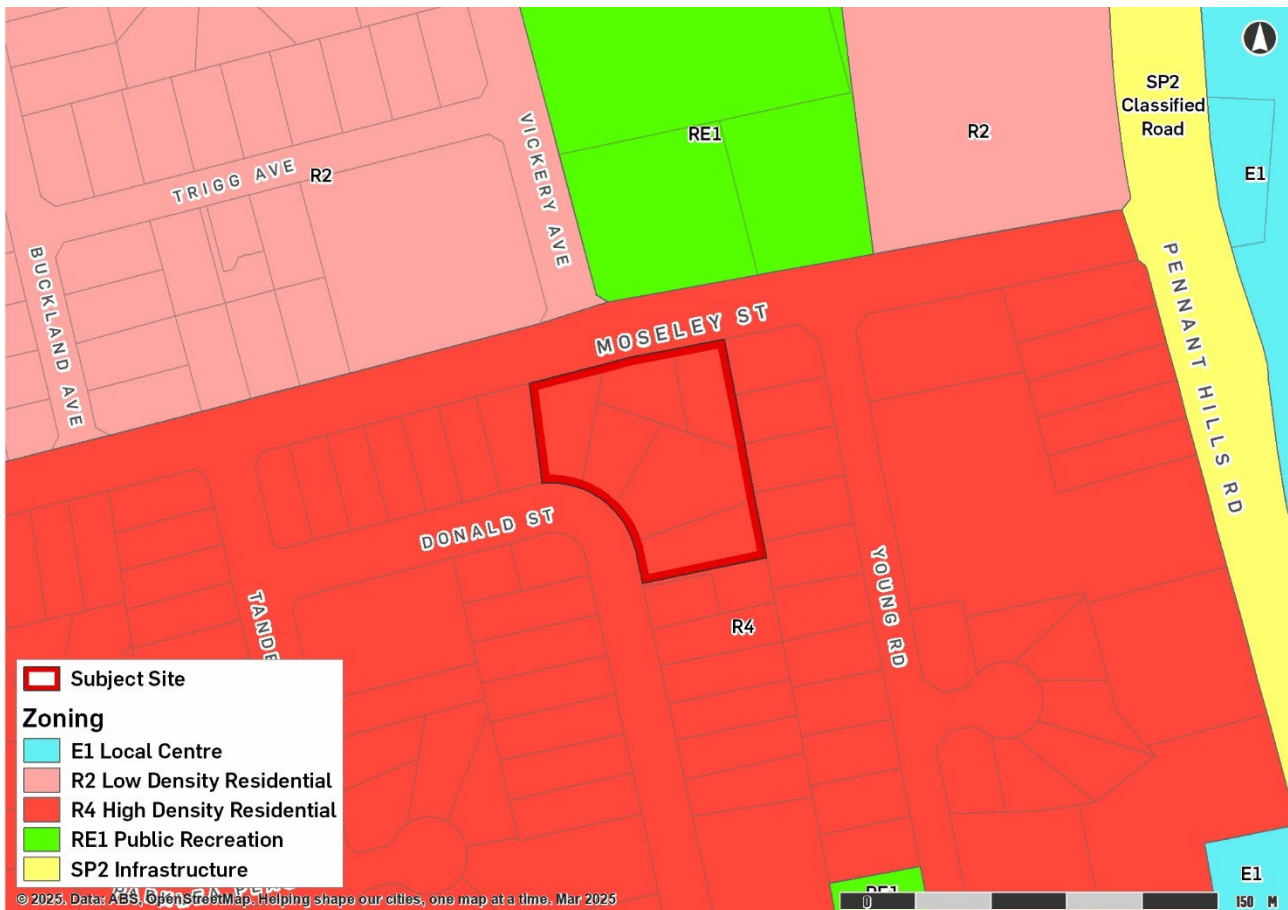
4. Environmental Planning Instrument Sought to be Varied

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

5. Zoning of the Site

The site is zoned R4 High Density Residential under the Parramatta LEP 2023.

Figure 5 Land Use Zoning



Source: Urbis

The relevant objectives of the R4 High Density Residential are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for high density residential development close to open space, major transport nodes, services and employment opportunities.
- To provide opportunities for people to carry out a reasonable range of activities from their homes if the activities will not adversely affect the amenity of the neighbourhood.

6. Development Standards to be Varied – Floor Space Ratio under CI 16 of the Housing SEPP

The standard proposed to be varied is the maximum floor space ratio development standard under Part 2, Division 1, Clause 16(3) of the Housing SEPP. Part 2, Division 1, Section 16(1) of the SEPP states:

Chapter 2 Affordable Housing, Part 2, Division 1, Clause 16 of the Housing SEPP. Part 2, Section 16 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—

Affordable housing component = 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 proposal provides at least 15% of the GFA as affordable housing, and is therefore eligible to utilise the full 30% uplift in FSR and building height available under Section 16 of the Housing SEPP. This results in the following FSR standard:

- 1.5:1 (LMR control) x 130% = **1.95:1**

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

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 **floor space ratio** development standard in the LEP are as follows:

- to ensure buildings are compatible with the bulk, scale and character of existing and desired future development in the surrounding area,*
- to regulate density of development and generation of vehicular and pedestrian traffic,*
- to provide a transition in built form and land use intensity,*
- to require the bulk and scale of future buildings to be appropriate in relation to heritage sites and their settings,*
- to reinforce and respect the existing character and scale of low density residential areas.*

7 Type of Development Standards

The request seeks to vary the **floor space ratio** development standard under Clause 16(1) of the Housing SEPP

8 Variation to development standard

8.1 Floor Space Ratio

Inclusive of the LMR provisions and in-fill affordable housing bonus, the maximum floor space ratio standard is as follows:

- 1.5:1 (LMR control) x 130% = **1.95:1**

The proposed variation to the maximum FSR control is set out below in Table 5.

Table 5 Extent of FSR Variation

Site Area	LMR FSR	Max permissible FSR (LMR + 30%)	Proposed FSR	Extent of Variation
5,948 sqm	1.5 :1	1.95 : 1 (11,598.6 sqm GFA)	2.058:1 (12,242 sqm GFA)	+ 0.108:1 (+643.4 sqm GFA)

Discussion regarding the proposed FSR non-compliance is provided below:

- **Application of LMR Outer Area Controls:** At pre-lodgement consultation with DPHI and at the time of lodgement of the EIS, it was contemplated that the site could be considered as an LMR *inner area*. This is due the sites close proximity to Carlingford Court (approximately 200m direct walking distance, assuming the crossing of Pennant Hills Road utilising the refuge island nearest to Mosely Street). If the inner area LMR controls were to apply, the site would benefit from a maximum FSR of 2.86:1 and height of 28.6m inclusive of the in-fill affordable housing bonus. The proposal was lodged and accepted by DPHI on this basis.

In further support of the walking distance to Carlingford Court at the time of EIS lodgement, is the identification of the future pedestrian infrastructure upgrade and signalisation of Mosely Street and Pennant Hills Road intersection. This upgrade was identified in historic strategic planning documents, including the Hills Shire Public Domain Plan for Carlingford Precinct. The upgrade was also identified as a works item on the Hills Shire Council Contributions Plan 14 - Carlingford Precinct. However, the signalisation of this intersection has not yet occurred, and the status and funding of this infrastructure is unknown.

However, in DPHI’s Response to Submissions Key Issues Letter dated 7 November 2025, DPHI has confirmed their position that the nearest safe crossing of Pennant Hills Road is at the Carlingford Road intersection (being approximately 430m walking distance from north east corner of the site). As such, **the outer area LMR controls have been adopted.**

The application of the outer area controls has now been applied to the amended proposal as outlined in this Clause 4.6 Request. The proposal has also been amended to remove two floors from Building B and substantially reduce the overall GFA to improve compliance with the outer area controls. It is, however, noted that the approximate 430m walking distance to Carlingford Court is primarily due to the location of the crossing on the southern side on the Pennant Hills Road and Carlingford Road intersection. While the outer area controls have been applied, the site is very well positioned to accommodate additional density due to its proximity to the local centre and transport services. The nuance and marginal nature of the inner v outer area control application is therefore a relevant consideration.

- **Massing strategy** - While some GFA is located above the building height plane, this has been intentionally located primarily at Building A1 and the rear of Building B within central areas of the site. Building A1 (where the height breach is at its greatest point) is separated from neighbouring properties by Donald Street, further minimising any possible amenity impacts associated with the non-compliant height.
- **Provision of affordable housing** – the proposed development provides 15% of the total GFA for affordable housing in perpetuity. In achieving this, the bonus 30% has been carefully distributed across the site as part of the broader massing strategy. Any reductions to GFA would result in less GFA being provided for affordable housing and impact the viability of providing affordable housing in perpetuity.

Visual representation of the proposed variation

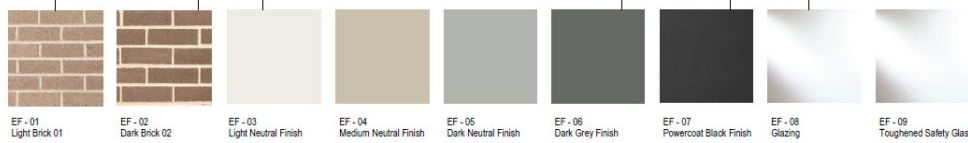
The extent of the proposed FSR variation is best depicted through the building elevations and renders, which illustrate how a high-quality built form and street presentation is achieved, despite the minor FSR variation proposed. As can be observed, the proposal adopts generous landscape setbacks, building articulation features and high-quality façade treatments which contribute to the overall aesthetic of the building and reduce perceived bulk and scale from these key viewpoints.

Figure 6 Northern Elevation and Render (Mosely Street)



Source: Capio (2025)

Figure 7 Proposed Western Elevation and Render (Donald Street)



Source: Capio(2025)

JUSTIFICATION FOR THE PROPOSED VARIATION

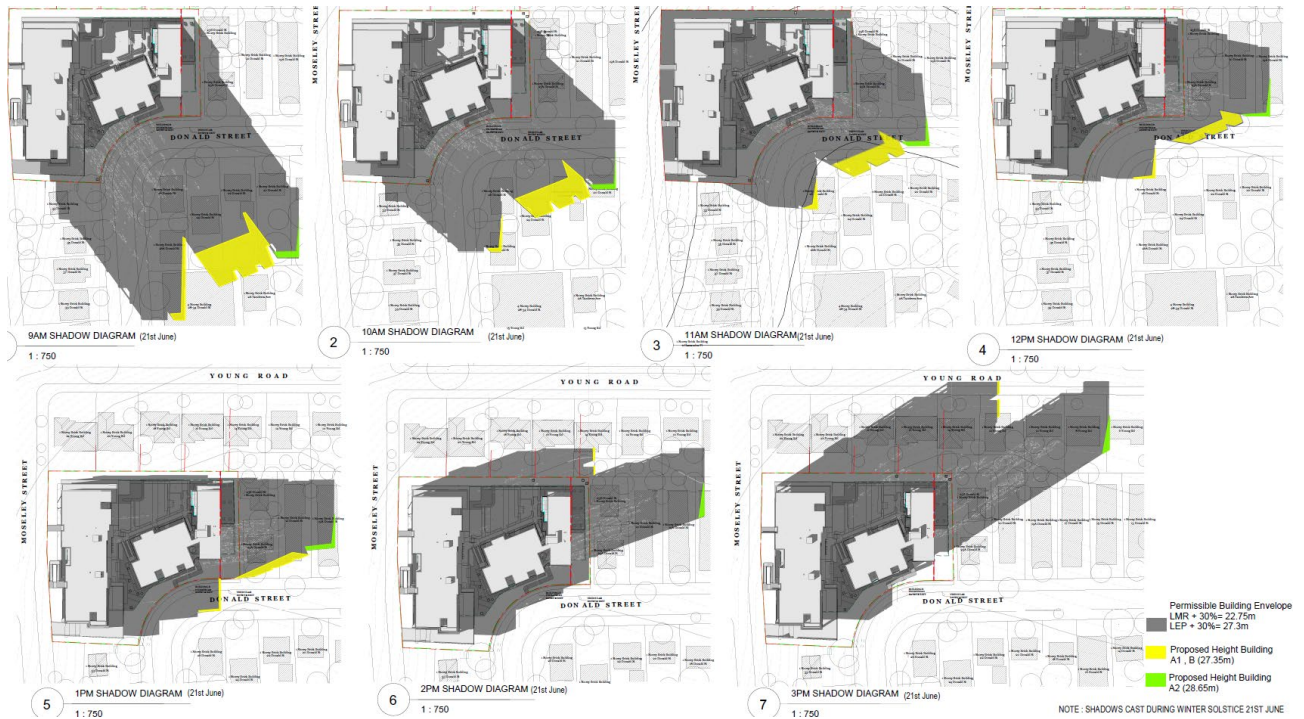
9. How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case?

Key Questions	Response
<p>a) Are the objectives of the development standard achieved notwithstanding the non-compliance?</p>	<p>For completeness, this section addresses both the objectives of the in-fill affordable housing provisions of the Housing SEPP and the objectives of the FSR development standard of the Parramatta LEP 2023.</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 in-fill affordable housing to meet the needs of very low, low and moderate income households.</i></p> <p>The amended proposal dedicates a minimum of 15% of the total GFA as affordable housing which equates to 18 affordable housing apartments (1,870 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. 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 4.4 Floor Space Ratio Parramatta LEP</u></p> <p><i>(a) to ensure buildings are compatible with the bulk, scale and character of existing and desired future development in the surrounding area,</i></p> <p>The proposal reflects the future character envisaged by the R4 High Density Residential zoning and aligns with the evolving built form context. Approved developments in the immediate vicinity include 6 to 7 storey residential flat buildings.</p> <p>With the introduction of the LMR and in-fill affordable housing provisions, the introduction of buildings 9 or more storeys is expected in the vicinity of the site to the south and the east. Inner area sites, where in-fill affordable housing is proposed benefit from an FSR of 2.86:1. It can be reasonably expected that buildings of a comparable or greater scale/massing will gradually develop over time, particularly to the south and south east.</p> <p><i>(b) to regulate density of development and generation of vehicular and pedestrian traffic,</i></p> <p>The proposal will not result in unacceptable vehicular traffic generation, as has been outlined in the supporting transport analysis. The site benefits from dual street frontages and proposes separate access for Child Care and residential uses, further assisting with distributing traffic flows amongst the existing street network.</p> <p>Pedestrians and residents of the site will benefit from excellent access to shops, services and local transport.</p> <p><i>(c) to provide a transition in built form and land use intensity,</i></p> <p>The design provides an appropriate transition in built form and land use intensity, particularly at Mosely Street where there is a zone interface with RE1 Public Recreation and R2 Low Density Zone. Building B presents to Mosely Street as a 6 storey built form, due to the partially sunken ground floor. The building height at the Mosely Street frontage site entirely below</p>

Key Questions	Response
	<p>the permissible height control, providing a smooth transition in built form and land use intensity to this key interface.</p> <p>The building mass has also been strategically distributed within the site to avoid amenity impacts to neighbours and provide appropriate transition to surrounding uses. While the proposal includes a minor FSR non compliance and some GFA above the building height plane, this is primarily located at Building A1 and centrally located within the site to minimise amenity impacts to neighbours. Sites to the east, south and west are all zoned R4 High Density Residential.</p> <p><i>(d) to require the bulk and scale of future buildings to be appropriate in relation to heritage sites and their settings,</i></p> <p>There are no relevant nearby heritage items that will be impacted by the proposal.</p> <p><i>(e) to reinforce and respect the existing character and scale of low density residential areas.</i></p> <p>The site is zoned R4 High Density Residential, as are adjoining areas to the east, south and west.</p> <p>Mosely Street provides a zone interface with RE1 Public Recreation and R2 Low Density Zone. Building B presents to Mosely Street as a 6 storey built form, due to the partially sunken ground floor. The building height at the Mosely Street frontage site entirely below the permissible height control, providing a smooth transition in built form and land use intensity to this key interface.</p>
<p>b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)</p>	<p>N/A</p>
<p>c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)</p>	<p>N/A</p>
<p>(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?</p>	<p>N/A</p>
<p>e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?</p>	<p>N/A</p>

Figure 9 illustrates a comparison of building shadows between a permissible building envelope and the proposed building envelope. Grey shadows reflect the permissible building envelope (fully compliant height), while the yellow represents additional shadows cast by the proposed envelope of Building A1 and B, and green for Building A2. This figure is based on the winter solstice on 21 June. Additional impacts are lessened throughout other seasons as illustrated on the shadow analysis within the Architectural Plan set.

Figure 8 Shadow Diagrams (Winter Solstice)



Source: Capio (2025)

Figure 9 illustrates the incremental shadows cast by the portions of the buildings that exceed the 22.75m control (shown in yellow for Building B and A1) and the 27.3m control (shown in green for Building A2).

While building height has been assessed separately in a stand alone Clause 4.6 Request, the extent of non-compliant GFA which contributes to the building height breach is minimal. Shadow diagrams have been included within this request for completeness, to demonstrate that together with the height non-compliance, the non-compliant GFA results in only minor and localised shadow impacts, largely limited to times when the sun is low in the sky. Properties which are impacted by some additional overshadowing on the inner corner of Donald Street maintain good solar amenity for the majority of the day, even mid-winter. The exceedance does not cause any significant loss of solar access to sensitive adjoining properties or the public domain and is therefore acceptable in planning and design terms.

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

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

- **Appropriate zone transition:** While the proposal includes a minor exceedance of the permissible GFA and varying degrees of height non-compliance across buildings, the building mass has been strategically laid out to minimise visual impact, bulk and scale and possible amenity impacts to surrounding properties. Specifically, Building B has been significantly reduced by 2 storeys as part of the amended proposal. Reduction in the massing of Building B has been prioritised to present as a 6 storey built form and compliant building height to Mosely Street, providing an appropriate transition to the adjoining RE1 and R2 zone interface.
- **GFA distribution:** The area of most significant height non-compliance and GFA above the height plan is Building A1. Other breaches include the rear of Building B and the front of Building A2.

Building A1 is centrally located within the site, does not share a common property boundary with any neighbouring site and is separated from adjoining properties via the Donald Street road reserve. The nearest existing built form is 26 Donald Street, and over 30m building separation would be achieved to that existing dwelling. While the extent of height breach at the front of Building A1 is inflated due to the significant drop in site topography, Building A1 is considered appropriate to accommodate additional building mass due to the absence of additional environmental impacts. The proposal will not result in

unacceptable visual privacy, acoustic impacts or compromised solar amenity to adjoining sites in comparison to a fully compliant built form.

If strict compliance with the planning FSR and height controls was adhered to, then the development and associated critical affordable housing could not be delivered as proposed. It is noted that the amended proposal includes a significant reduction in overall GFA (and consequently some reduction in affordable housing provision), based on the application of the LMR outer area controls. The nuanced and marginal nature of the inner v outer area control application is therefore a relevant consideration, particularly in consideration of the anticipated future character and building massing immediately surrounding areas.

- **Visual Privacy:** There are no sensitive visual adjacencies to the of the non-compliant portions of Buildings A1, A2 of B. Adequate visual privacy can be achieved within the project site and to adjoining properties, as has been demonstrated in the Architectural Design Report.
- **Public Interest and Benefit:** The development is in the public interest as it contributes to the supply of critically needed affordable housing and supports the strategic planning objectives for Carlingford and Parramatta Local Government Area. The proposal aligns with regional planning strategies aimed at increasing housing density in centres which are well connected with public transport and services. Strict compliance with the maximum FSR and height standards would ultimately result in the loss or partial loss of the top floors of the buildings and a substantial reduction in overall GFA. This loss would inherently reduce the extent of affordable housing floorspace which could be delivered as part of the proposal.

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

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