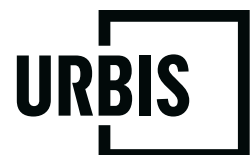




CLAUSE 4.6 VARIATION REQUEST

State Significant Development
SSD-14378717 – Telopea
Stage 1A

Prepared for
FRASERS PROPERTY TELOPEA DEVELOPER PTY LTD
16 July 2021



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1. INTRODUCTION

This Clause 4.6 Variation Request (**the Request**) has been prepared on behalf of Frasers Property Telopea Developer Pty Ltd (**Frasers, the Proponent**) on behalf of Land and Housing Corporation (**LAHC**) in support of a State Significant Development Application (**SSDA**) for approval, in accordance with Division 4.4 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, for the staged redevelopment of the **‘Telopea Concept Plan Area’ (CPA)**, particularly the detailed proposal for the first stage of development, known as **‘Stage 1A’**. This Clause 4.6 Variation Request relates to the Stage 1A detailed proposal; a separate Clause 4.6 Variation has been submitted in support of the concept proposal.

The Request seeks an exception from the maximum Height of Buildings development standard prescribed for the site under Clause 4.3 of the *Parramatta Local Environmental Plan 2011 (PLEP 2011)*. The variation is request is made pursuant to Clause 4.6 of the PLEP 2011.

This report should be read in conjunction with the Environmental Impact Statement (**EIS**) prepared by Urbis Pty Ltd and dated July 2021.

This report is structured as follows:

- **Section 2:** description of the site and its local and regional context, including key features relevant to the proposed variation.
- **Section 3:** brief overview of the proposed development as outlined in further detail within the EIS and accompanying drawings.
- **Section 4:** identification of the development standard, which is proposed to be varied, including the extent of the contravention.
- **Section 5:** outline of the relevant assessment framework for the variation in accordance with Clause 4.6 of the PLEP 2011.
- **Section 6:** detailed assessment and justification of the proposed variation in accordance with the relevant guidelines and relevant planning principles and judgements issued by the Land and Environment Court.
- **Section 7:** summary and conclusion.

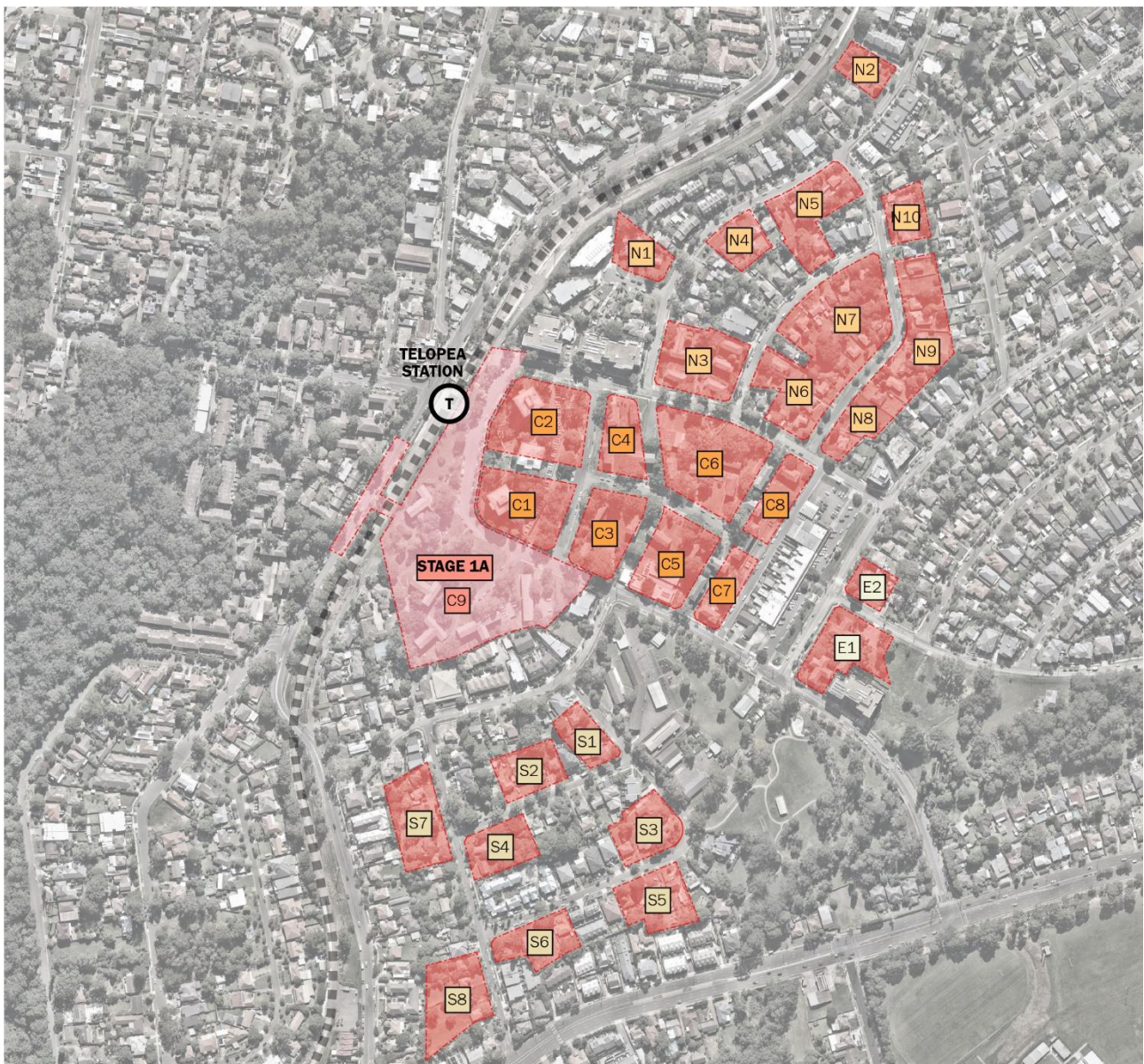
2. SITE CONTEXT

2.1. SITE DESCRIPTION

The Telopea CPA is approximately 13.4 hectares (ha) and comprises of 99 individual allotments as shown in **Figure 1**. It currently accommodates 486 social housing dwellings across a mix of single dwellings, townhouses, and three to nine storey residential flat buildings. The CPA also currently accommodates a range of existing community facilities including Dundas Community Centre, Dundas Branch Library, Community Health Centre, Hope Connect Church and Telopea Christian Centre. The entire CPA is owned and managed by LAHC.

The Telopea CPA is divided into four precincts known as Core, North, South and East incorporating a total of 29 lots. As shown in **Figure 1**, the Stage 1A site area is located within Core lot C9.

Figure 1 Telopea Concept Plan Area Lot Boundaries



Source: Bates Smart and Hassell

2.2. LOCALITY CONTEXT

The Telopea CPA is located in the Parramatta Local Government Area (**LGA**) around 4 kilometres (**km**) north-east of the Parramatta Central Business District (**CBD**), 6km south-west of Macquarie Park Strategic Centre and 17km from Sydney CBD. The site is located within the Telopea Precinct which forms part of the Greater Parramatta to Olympic Park (**GPOP**) Growth Area.

The site is predominately within a residential area and includes a neighbourhood centre. Surrounding development includes the following:

- North: mixture of residential land uses comprising of single-family dwellings to 5-6 storeys residential flat buildings.
- South: low density residential and Telopea Public School.
- East: Waratah Shops including an IGA Supermarket and Australia Post.
- West: Telopea Light Rail Station and light rail easement. Further west, land uses comprise of low density residential.

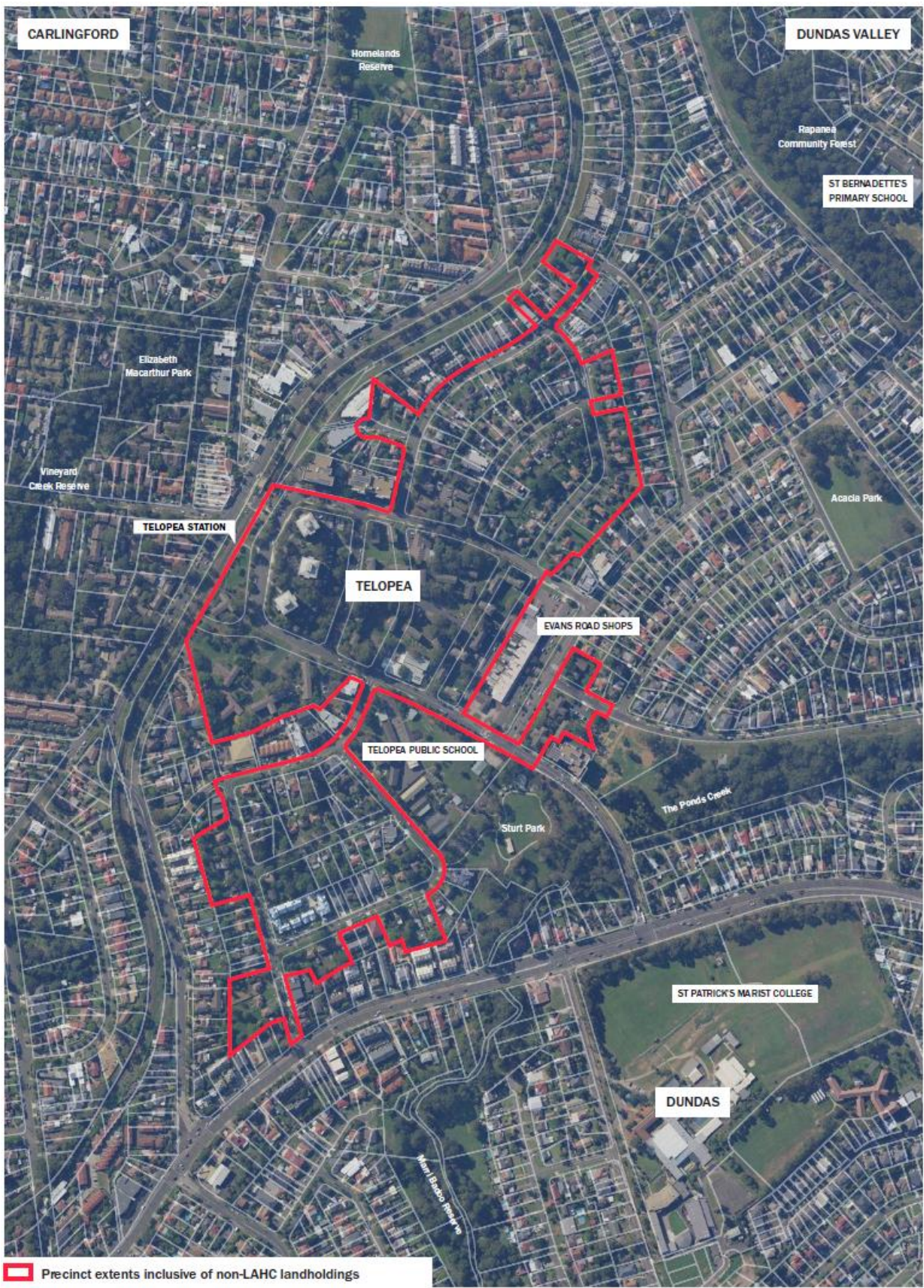
2.3. EXISTING DEVELOPMENT

The Telopea CPA is primarily residential in character and includes existing social housing owned by LAHC. A neighbourhood shopping centre known as the Waratah Shops is located in Benaud Place around 400m east of the Telopea Station. This shopping centre includes 17 local shops and an IGA supermarket.

The tallest buildings in the CPA are a group of three buildings in Sturt Street adjacent to the station, which are nine storeys in height. These form part of the ageing housing stock in the precinct along with several three storey walk up apartment buildings further east and south of the three towers.

There have been new apartment buildings constructed since 2012 including two apartment buildings adjacent to the rail line north of the three towers which are five to six storeys. In addition, there is a six storey apartment building on Sturt Street opposite of Sturt Park, and a four storey apartment building in Evans Road adjoining the Waratah Shops.

Figure 2 Telopea CPA Existing Development



Source: LAHC

2.4. TOPOGRAPHY

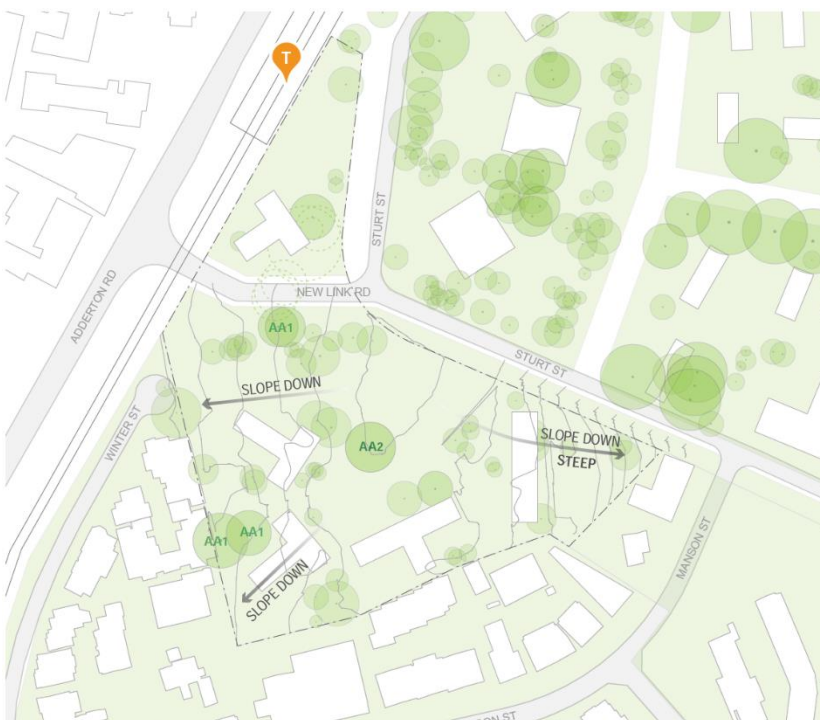
The sloping topography of Telopea is amongst its most distinctive features, lending significantly to the sense of place. From the top of the hill, with an RL of circa 61 metres (m), the site falls generally down to Evans Road at RL35m. This fall of 26 metres across 350 metres culminates in The Ponds Creek, which traverses through the bottom of Sturt Park. A ridge line runs through Telopea CPA in the vicinity of the light rail easement, where land slopes to the east down to the Ponds Creek. In relation to the Stage 1A site, the centre of the site is relatively flat whilst the eastern and western edges show significant level changes.

Figure 3 Telopea CPA Topography



Source: Bates Smart

Figure 4 Stage 1A site topography



Source: Plus Architecture

2.5. VEGETATION

The Stage 1A site has a range of important tree clusters which provide a strong sense of character. The site has a range of well-established tree clusters which provide a sense of place and character to the area. The clusters include a range of Eucalyptus trees which are important in maintaining the character of the area.

The cluster of trees at the centre of the site consists of well-established trees which create a strong focal point within the heart of the site. The cluster provides a natural guide and marker towards the public link within the site.

Figure 5 Current cluster of trees at northern part of site



Source: Plus Architecture

Figure 6 Cluster of trees at centre of site



Source: Plus Architecture

2.6. OPEN SPACE

There is a range of open space provided in the vicinity of the Telopea CPA including:

- Sturt Park located adjacent to Sturt Road to the south of the Telopea Public School. It is approximately 3 ha and its facilities include paths, sport courts, children's play equipment and skate park;
- Acacia Park is located approximately 700m east of Telopea Station and is approximately 1.5 ha. It contains children's play equipment;

- Homelands Reserve is located north-west of Telopea Station and contains sporting fields and children's play equipment. It is approximately 2 ha;
- The Ponds Walk is a 6.6km track which runs alongside The Ponds Creek, which connects Carlingford to Rydalmere;
- There are three active outdoor sports and recreation facilities within 1km of the Telopea CPA including:
 - Dundas Park, which is 6.5 ha and is a major district-level sporting facilities;
 - Sir Thomas Mitchell Reserve, which is 3.9 ha and is a major district level sporting facility; and
 - Upjohn Park, which is 14 ha and provides a large multi-purpose sporting and recreational space.

2.7. HERITAGE

Within the vicinity of the CPA is the State Listed heritage item known as Redstone at 34 Adderton Road, to the south of the Stage 1A subject site. Redstone is a Walter Burley Griffin dwelling from c.1935.

2.8. PUBLIC TRANSPORT

The Parramatta Light Rail (PLR) is a NSW Government major infrastructure project. Stage 1 from Westmead to Carlingford via Parramatta CBD and Camellia is currently underway with Transport for NSW converting the former T9 Carlingford Railway Line from heavy rail to light rail. Stage 1 covers 16 light rail stops which includes a stop at Telopea. The PLR is anticipated to open in 2023.

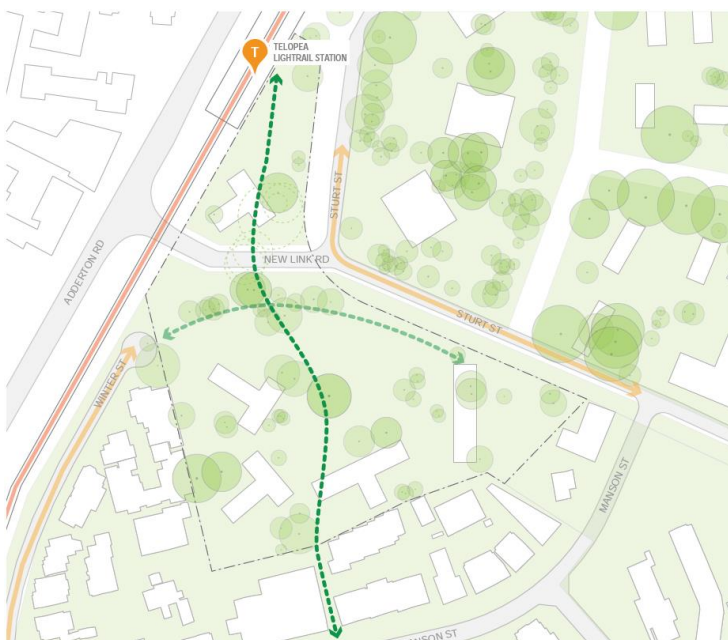
The light rail will improve access for residents of Telopea with better connections to jobs, hospitals, universities, entertainment hubs, and sport and leisure areas. The light rail service is planned to run from early morning through to late at night with services every eight and a half minutes throughout the day.

In addition to the future light rail, Telopea is serviced by three public bus routes:

- 513 route from Carlingford to Meadowbank Wharf
- 535 route from Carlingford to Parramatta
- 545 route from Macquarie Park to Parramatta.

The site provides an opportunity to establish a through-site connection from the southern end at Manson Street to the light rail station. This north-south connection will provide a strong desire line which is naturally reinforced by the existing tree clusters which act as markers along the journey.

Figure 7 Potential pedestrian connections through the site to the light rail station



Source: Plus Architecture

2.9. STAGE 1A SITE

The Stage 1A site is bound by Adderton Road to the north and west, Sturt Street to the east, and existing residential development to the south beyond which is Manson Street.

Figure 8 Photograph of corner of Sturt Street & 27 Manson Street



The site has a strong topographical fall along Sturt Street. The property on the corner of Sturt Street and Manson Street will form the immediate context to the site along the southern boundary. The three - four storey building located at the southern end of the site forms part of the immediate context and the scale and character of the local area.

Figure 9 Photograph of 27 Manson Street



Figure 10 Manson Street existing street character



Source: Plus Architecture

Manson Street is characterised by two storey buildings using warm tones of brick. The PLEP 2011 zoning for this site allows buildings heights up to 21m or approximately seven storeys in height. There is a public link which connects Manson Street to the site, with existing trees on the site providing route markers.

Figure 11 Manson Street through site link to site



Source: Plus Architecture

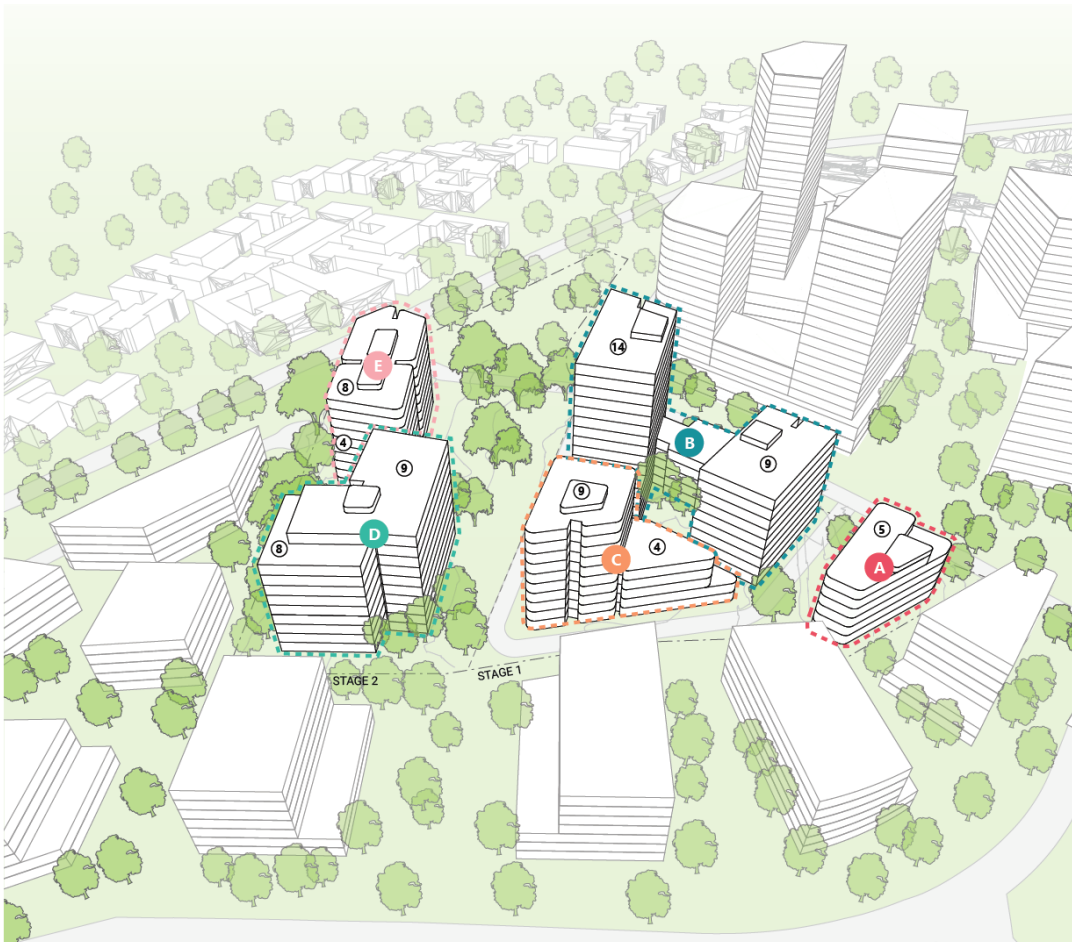
3. PROPOSED DEVELOPMENT

This Clause 4.6 Variation Request has been prepared to accompany an SSD DA for Stage 1A of the Telopea CPA. A detailed description of the proposed development is provided in the Environmental Impact Statement prepared by Urbis Pty Ltd. The proposal is also detailed within the Design Report prepared by Plus Architecture.

A summary of the key features of the proposed development is provided below:

- Site establishment works including demolition of all existing buildings and structures, tree removal, site preparation, excavation and services augmentation.
- Construction of a new arrival plaza for the PLR known as 'Telopea Station Plaza' incorporating a hilltop park surrounding existing significant trees.
- Construction of the Sturt Street West extension over the PLR including Adderton Road intersection works and cycleway connection.
- Upgrade of Sturt and Shortland Streets including kerb realignment, new footpaths and verge landscaping, new indented parking bays, bus zones and pedestrian crossing.
- Construction of five residential buildings between 4 and 14 storeys in height with a shared basement, comprising a total of 443 studio, one-, two- and three-bedroom apartments.
- Construction of two basement levels with ingress/egress via Sturt Street and Winter Street comprising a total of 416 car parking spaces and 473 bicycle storage spaces, waste and loading facilities.
- Associated open space and landscaping works, including construction of a new public park and through site link, retention of existing significant trees, and ground and rooftop communal open space.

Figure 12 Proposed Stage 1A Development



Source: Plus Architecture

3.1. STAGE 1A DEVELOPMENT

The Stage 1A site is immediately adjacent to the future light rail station and Telopea Core Area. The development includes the delivery of the new 'Telopea Station Plaza' and hilltop park, as well as a new 3,500m² public park, internal loop road, as well as other road and intersection upgrades. The built form comprises five buildings (labelled A-E), which transition in height across the site to respond to the future desired character of the broader precinct.

The current site consists of three storey buildings set within the existing natural landscape defined by trees and steep topography. The future context will allow for buildings approximately 70m - 86m in height to the north of the site and seven storey buildings to the south of the site.

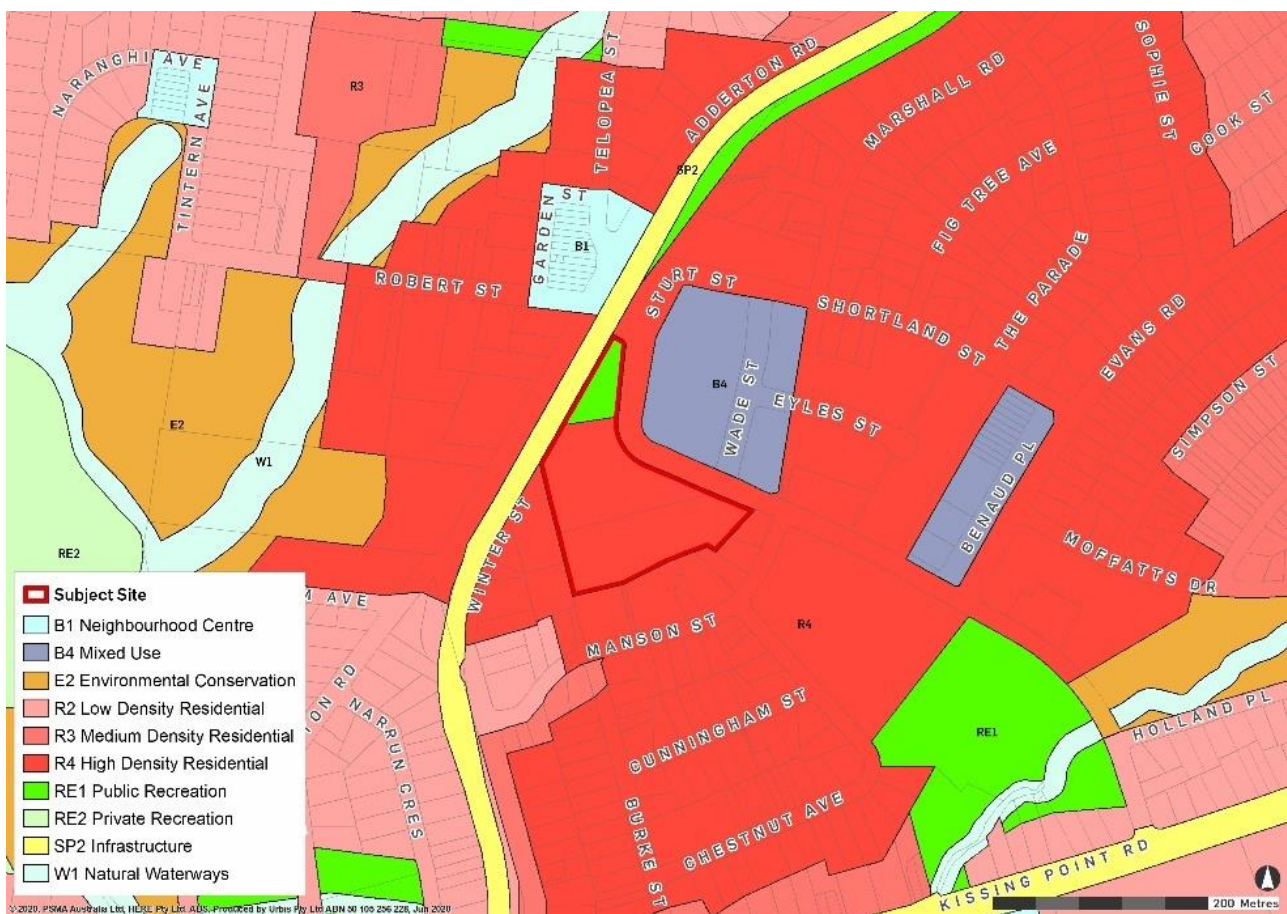
Through a carefully considered urban design response, the proposal consists of five individual buildings which as a collective establish a height transition from the smaller scale to the south to the much taller scale in the future Core Area of Telopea. The proposal establishes this transition whilst creating a generous public park at the heart of the precinct and proposes to develop below the permissible GFA under the PLEP 2011. The design strategy proposes increased density supported by the improved public transport connectivity of the light rail.

The proposal ensures that the planning framework is aligned with anticipated growth and meets the needs of the local community. The Stage 1A proposal is consistent with the intent of the overall Concept Masterplan and public domain strategy, which includes providing public amenity and connectivity within the Stage 1A urban design proposal, enhancing the experience of the overall neighbourhood centre.

3.1.1. Land Uses

The proposal is for high density residential development and public recreation space in accordance with the PLEP 2011 land use zoning (**Figure 13**). It is noted that the proposed new 3,500m² public park and through site link is located within the R4 High Density Residential zoned land.

Figure 13 PLEP 2011 Land Zoning Map



Source: NSW Legislation

3.1.2. Design Principles

As generally described within the Design Report prepared by Plus Architecture, the following design principles have guided the design development of Stage 1A:

- Establish a well-connected public domain and permeable urban fabric which breaks down the perceived building mass creating a strong sense of openness and connection to the existing natural landscape.
- To create range of built form which respect the character of Telopea by maintaining most of the significant trees.
- Establish building expression which clearly responds to the human scale and manages the topography changes throughout the precinct.
- Create a dynamic sequence of spaces defined by both the existing trees, the built form and level changes to create a place which is connected and promotes interaction within the community.
- Create an architectural expression based on material and textures reflecting the character of Telopea and its unique Blue Gum forest.
- Create an environment and public amenity which can sustain increased density of living with well-crafted buildings that create a variety of architectural expression and experience within the Telopea masterplan.

Through a process of careful consideration of these objectives, the proposed development is a well-balanced design solution in which both built form and the natural setting of the place are in harmony. The clusters of important existing trees on the site naturally define a range of spaces which setup a hierarchy of spaces and mark the public link through the heart of the site. The proposed buildings frame these spaces and allow the residents to engage with these pockets of landscape which also help to blend the new proposed development within its existing setting. The proposal anticipates the future context of increased density both south as well as north and aims to help transition the scale to the taller Core buildings opposite the light rail stop which will mark Telopea.

3.1.3. Built Form

The proposed building form and positioning within the site is based on a range of key design drivers which form part of the general masterplan strategy. The building footprint carefully considers retention of the existing trees on the site, as well as clusters of significant trees which establish character both within the site and to the edges of the site relating to the existing context. The proposed building footprints are divided to allow for the retention and expansion of the already existing public pedestrian link which runs through the centre of the site connecting the southern precinct to the light rail plaza and station to the north.

The proportions of various building forms establish a series of zones which clearly frame the public and communal spaces created. The proposed loop access road aligns with the existing surrounding road network and establishes a clear relationship to the future built form to the north of Sturt Street. The length of the built form and articulation is proposed to create a well-balanced composition which moves through the existing landscape and naturally defines each external open space. The proposed buildings are varied in their scale and form to create a natural variety of building typologies, through core configurations, form and architectural language.

The proposal seeks to maintain building separation for both privacy and acoustic treatment. The design creates generous public and communal spaces between buildings to create gathering spaces for the community.

The following key built form principles support the proposed design:

- Alignment of the built form with Core Area building positions
- Variety of built form, building scale and length
- Consideration of footprint and built form connections
- Consideration of orientation and solar access.

Figure 14 Built form alignment, orientation, solar access and open space



Source: Plus Architecture

3.1.4. Building Height

The proposal seeks approval for maximum building heights largely consistent with the maximum height limits prescribed in the PLEP 2011.

Table 1 Proposed Stage 1A Building Heights

Building	Proposed Maximum Building Height
Stage 1A	
A	20.85m
B (west)	45.58m
B (east)	30.88m
C	31.9m
D	32.12m
E	30.13m

3.1.5. Character

Teloepa has a unique character which is established through the steep topography combined with a landscaped setting defined by the existing Blue Gum Tree forest and various other existing trees. The lush tree canopies and clusters of trees create a counterpoint to the current buildings which are set freely within this landscape setting. The proposed Stage 1A proposal seeks to maintain this character and ensure the trees and topographic level changes drive the outcome of the new urban proposal.

The Stage 1A development will sit immediately south of the Core Area and future neighbourhood centre. The Core is the central part of the overall masterplan and is defined by public open space and podium and tower configurations creating a clear marker for Teloepa. The buildings proposed as part of Stage 1A play a role in creating a transition from the Core Area future height to both the existing and future scale of adjacent sites south of the site.

The Stage 1A proposal seeks to develop four to fourteen storey buildings which will transition in scale from north to south. This strategy of placing the scale towards the north of the site minimises any adverse overshadowing to the southern surrounding context. To ensure sufficient open space is created to allow the existing trees and public open space to be created, a taller building height is proposed for the northern building within the proposal. This height will help transition the scale of the buildings towards the taller tower compositions to the north within the Core Area.

The proposed buildings are varied and have a clearly defined base with the middle and top in varying expression which will assist in establishing a proportional response to both current and future conditions. The two – four storey expressed base podiums respond to pedestrian movement and human scale. This scale is sympathetic to the existing Teloepa context.

A strong textural and material character is proposed to ground the buildings and will guide the public through the proposed public pedestrian link and the new proposed access road through the heart of the proposal. The architectural languages proposed further contribute to the scale of transition between the future southern scale and the future northern development. The perceived mass of the buildings is reduced with the use of recessed upper levels, and contrasting materiality creates a variety in the expression of the overall building composition.

3.1.6. Landscape

The proposal integrates the architecture and landscaping into a sympathetic balance in which the existing landscape character, topography and trees help to shape and define the built form and architecture. The architecture and building composition define a network of landscaped areas which enhance the clusters of existing trees. The neighbourhood park, new road, public link, and communal open spaces are well defined by the built form and allow for a variety of uses and programming. Design variety within each open space is proposed to balance the existing trees with new proposed planting, seating, and gardens. The layered landscaped edges help to further define the separation between the private gardens and the communal or public areas.

This landscape design provides for intuitive pedestrian movement through the landscaped ground plane. The neighbourhood park connects to the public link which is located through the heart of the development and uses some of the key existing trees to guide the public through a variety of spaces.

Figure 15 Stage 1A – Landscape framing, pedestrian routes, built form and connectivity



Source: Plus Architecture

3.1.7. Public Domain

The Stage 1A proposal includes varied types of open space, arranged around retention of significant trees. A mix of public spaces, communal gardens, and generous setbacks each contribute to retaining the bushland hillside character of the Telopea CPA.

Figure 16 Core Precinct Open Space Network



Source: Bates Smart and Hassell

4. VARIATION OF BUILDING HEIGHT STANDARD

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

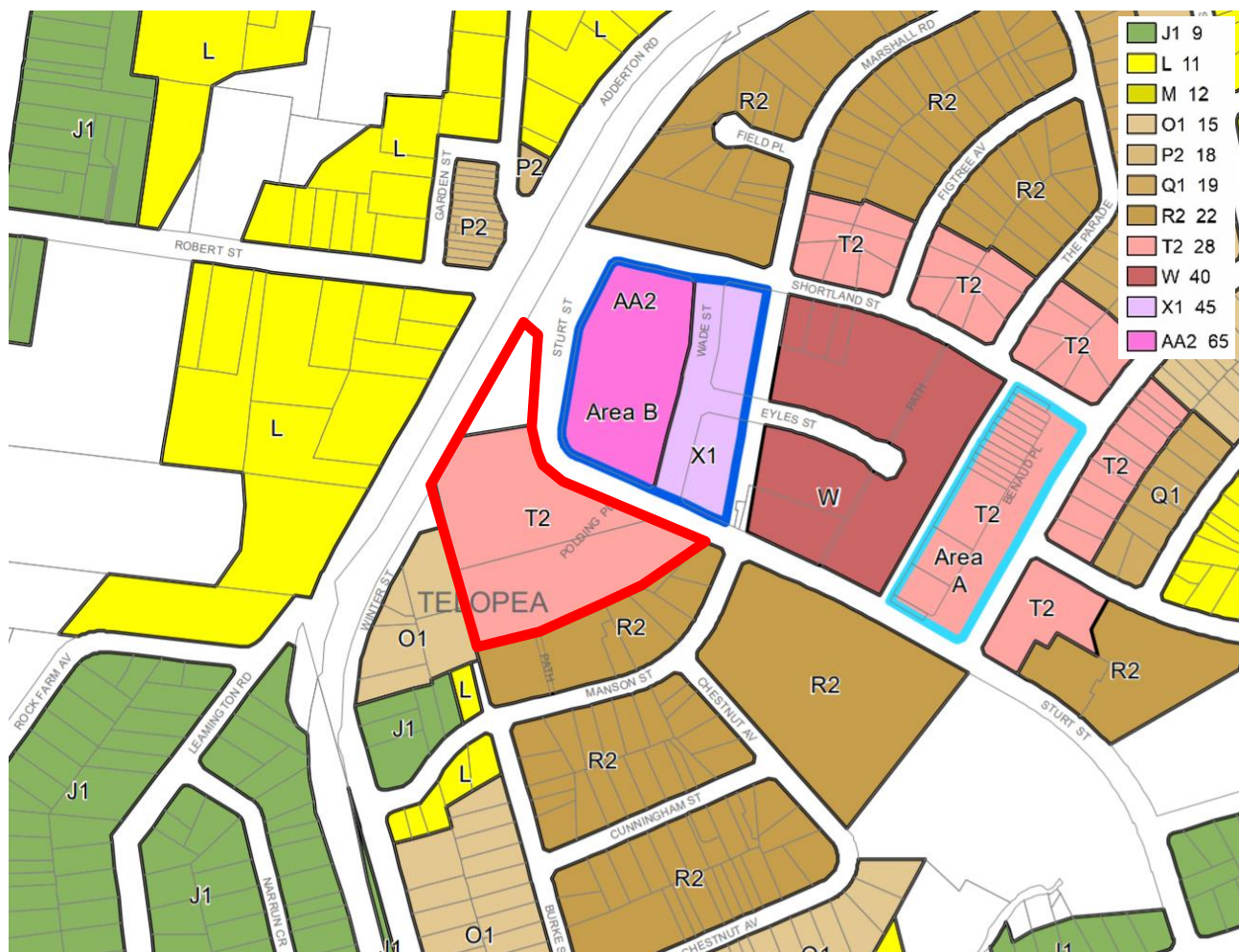
4.1. DEVELOPMENT STANDARD

PLEP 2011 Clause 4.3 Height of Buildings sets out the following objectives:

- (a) to nominate heights that will provide a transition in built form and land use intensity within the Parramatta Local Government Area,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
- (c) to require the height of future buildings to have regard to heritage sites and their settings,
- (d) to ensure the preservation of historic views,
- (e) to reinforce and respect the existing character and scale of low density residential areas,
- (f) to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

The PLEP sets maximum heights for buildings in the Telopea CPA Stage 1A site of 28 metres as shown in **Figure 17**.

Figure 17 PLEP 2011 Height of Buildings Map – Core Area



Source: PLEP 2011

4.2. PROPOSED VARIATION TO CLAUSE 4.3

As set out in section 4.1 above, Clause 4.3 of the PLEP 2011 permit building heights for the Telopea CPA Stage 1A site of 28m. The proposed variation to the building heights standard is set out in **Table 2** below and illustrated in **Figure 18**.

Table 2 Proposed Height of Buildings Variation – Stage 1A

Building	PLEP 2011 Permissible Height	Proposed Height of Building	Variation to PLEP 2011	Proposed Variation
A	28m	20.85m	-7.2m	-25.5%
B (west)	28m	45.58m	+17.58m	38.6%
B (east)	28m	30.88m	+2.88m	9.3%
C	28m	31.9m	+3.9m	12.2%
D	28m	32.12m	+4.12m	12.8%
E	28m	30.13m	+2.13m	7.1%

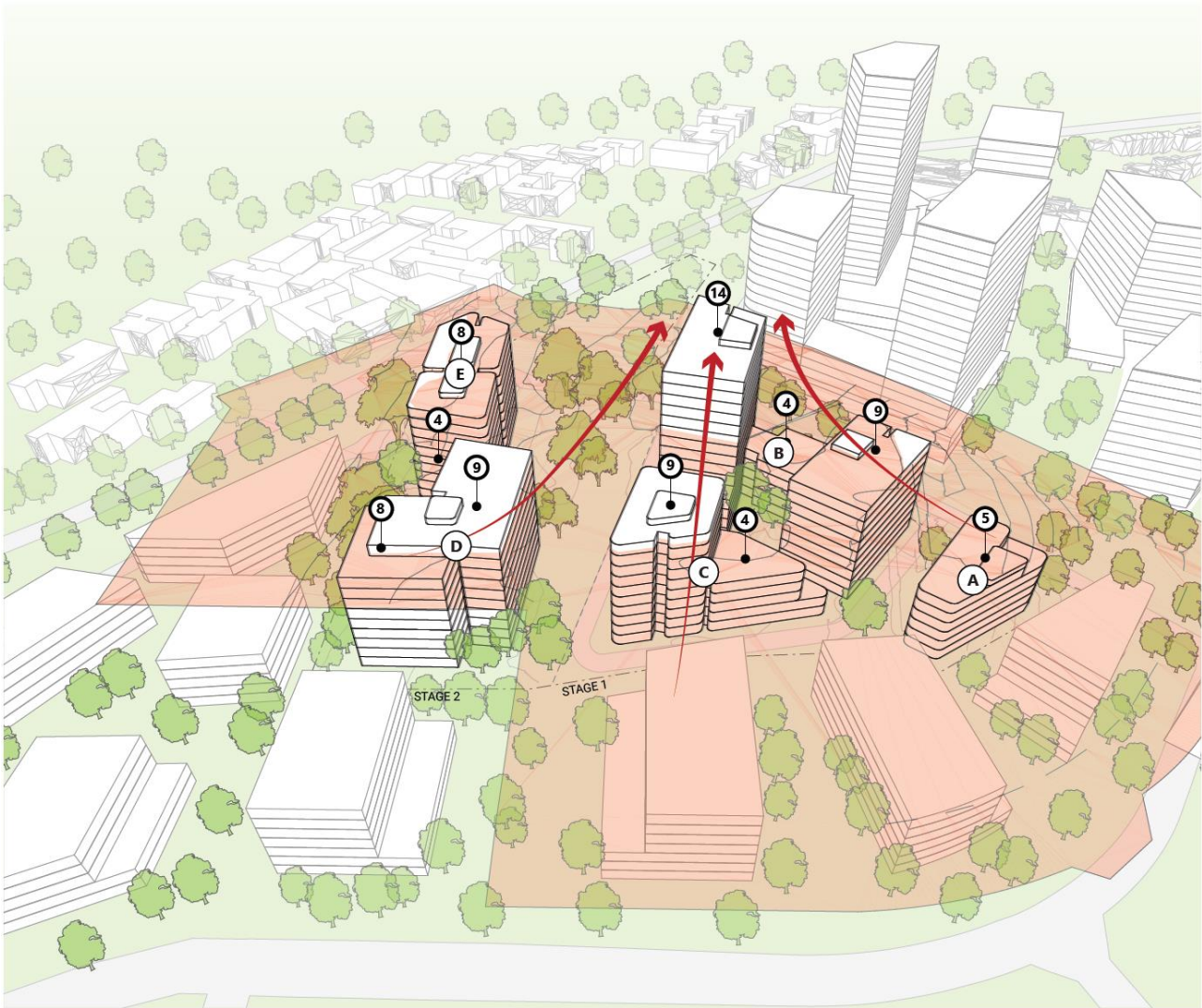
Following feedback from the SDRP and Parramatta City Council (**PCC**), the design for Stage 1A was revised to maximise access, public open space, and residential amenity. A new internal loop road was introduced to provide each building with a street address and improve access and legibility of the new public park. Buildings were separated into five distinct forms, varying in height across the site to respond to the future desired character of the precinct. Buildings now achieve a greater level of residential amenity, with regard to natural cross ventilation, visual and acoustic privacy, number of apartments per core, and solar access.

In order to provide the new 3,500m² public park, internal loop road, and through site link gross floor area has been redistributed. The redistribution has resulted in minor variations to the maximum building height on Building C, D and E and a more significant variation to the maximum building height of Building B. Building A sits well below the maximum permissible building height under PLEP 2011.

Of the four buildings that are a variation to the PLEP 2011 height limit, three of those propose a variation of approximately one storey or less, with the majority of the exceedance being caused by roof features or lift overruns. This provides for variation and visual interest in the built form.

In relation to Building B, as can be seen from **Figure 18**, this taller building sits in the context of the Core Area adjacent and provides a transition in height from the marker buildings adjacent to Telopea Station to the remainder of the site. This height variation allows for the loop access road and public open space adjacent to be delivered within the site.

Figure 18 Proposed Height of Buildings – Stage 1A



Source: Plus Architecture

As demonstrated by the photomontage at **Figure 19**, Buildings A and B are stepped to provide a natural transition in height along Sturt Street, with the tallest form providing a marker at the highest point of the site adjacent to the new public park, light rail plaza and Telopea Core Area. Building A has deliberately been reduced in scale to respond to the existing and future desired character of buildings to the south-east.

Figure 19 Stage 1A photomontage Sturt Street



As demonstrated by the photomontage at **Figure 20**, Buildings C, D, and E are designed to frame the new public park and loop road. Despite the minor increases in height on these buildings (less than one storey), they provide a neighbourhood character and comfortable pedestrian scale to these new significant public spaces.

Figure 20 Stage 1A photomontage of new public park and loop road



5. RELEVANT ASSESSMENT FRAMEWORK

Clause 4.6 of the PLEP 2011 includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of Clause 4.6 of the PLEP 2011 are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, Clause 4.6(3) requires that the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

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

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

Clause 4.6(4)(b) requires the concurrence of the Secretary to have been obtained. In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The concurrence of the Secretary can be assumed to have been granted for the purpose of this variation request in accordance with the Department of Planning Circular PS 18–003 'Variations to development standards', dated 21 February 2018. This circular is a notice under section 64(1) of the Environmental Planning and Assessment Regulation 2000 and provides for assumed concurrence. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

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

This Clause 4.6 request demonstrates that compliance with the Height of Buildings standard prescribed for the site in Clause 4.3 of PLEP 2011 is unreasonable and unnecessary, that there are sufficient environmental planning grounds to justify the requested variation and that the approval of the variation is in the public interest because it is consistent with the development standard and zone objectives.

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

6. ASSESSMENT OF CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standards relating to the Height of Buildings in accordance with Clause 4.3 of PLEP 2011.

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

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

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

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

The Height of Buildings prescribed by Clause 4.3 of the PLEP 2011 is a development standard capable of being varied under Clause 4.6(2) of PLEP 2011.

The proposed variation is not excluded from the operation of Clause 4.6(2) as it does not comprise any of the matters listed within Clause 4.6(6) or Clause 4.6(8) of PLEP 2011.

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

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

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

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

The Request also addresses the third method, that the underlying objective or purpose of the development standard would be undermined, defeated or thwarted if compliance was required with the consequence that compliance is unreasonable (*Initial Action* at [19] and *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]). Again, this method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

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

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

The specific objectives of the Height of Buildings development standard as specified in Clause 4.3 of the PLEP 2011 are detailed in **Table 3** below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

Table 3 Assessment of consistency with Clause 4.3 objectives

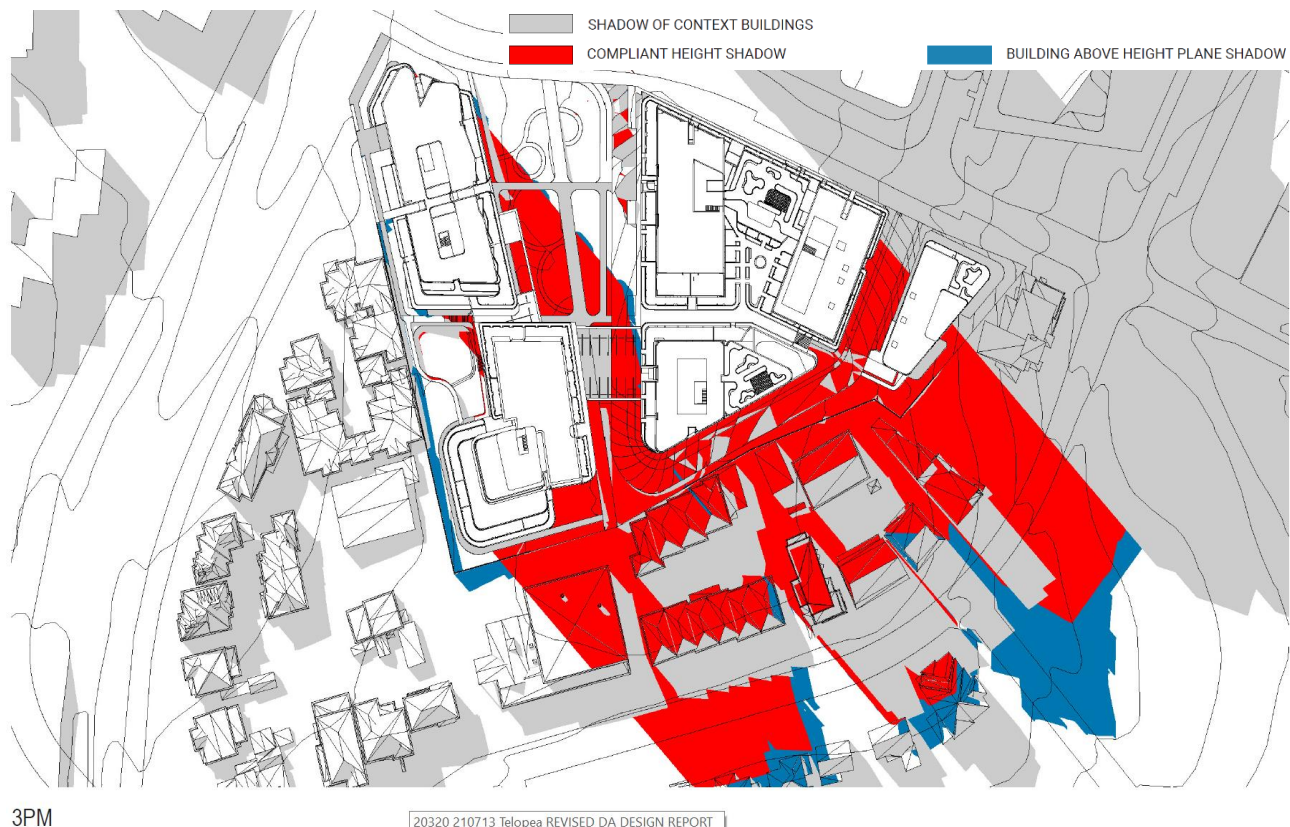
Objectives	Assessment
<p><i>To nominate heights that will provide a transition in built form and land use intensity within the Parramatta Local Government Area</i></p>	<p>The PLEP 2011 identifies the Stage 1A area as a high-density residential zone, with a public recreation zoning for the northern portion of the site. The PLEP 2011 also identifies height of building transition zones to the east, west and south of the Stage 1A area from high-rise to mid-rise. The proposed development is in accordance with this built form and land use strategy, with the taller building proposed adjacent to the high-rise Core Area and the remainder of the buildings transitioning to the mid-rise zonings to the south and west of the site.</p> <p>It is noted that the proposed new 3,500m² public park and through site link is located within the R4 High Density Residential zoned land.</p>
<p><i>To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development</i></p>	<p>A number of design principles have been utilised to minimise the visual impact of the proposal including reducing building heights in alignment with the topographic slope of the site, proposing a variety of complimentary building heights across the site to create visual interest, and maximising building separation distances and public domain spaces.</p> <p>Existing tree formations are proposed to be retained to create a natural buffer along the southern and western boundaries of the site as well as landscape pockets to provide natural relief and amenity.</p> <p>In addition to boundary setbacks, the building forms are articulated to create a sense of scale by breaking down the overall form with a combination of contrasting materials and texture.</p> <p>The visual impact of the proposed building envelopes has been assessed from identified key views. The Visual Impact Assessment concludes that with regard to the potential visual impacts, the proposal is acceptable and does not result in any significant negative visual effects or impacts on the immediate 'effective' visual catchment.</p> <p>The proposal will cause an obvious but positive visual change to the existing character of the site and the surroundings. Such changes are considered to be highly compatible with the emerging and desired future character of the locality and wider visual context, which will undergo significant transformation to higher density and will include taller built forms.</p> <p>The proposal is responsive to the visual opportunities and constraints of the subject site and its surroundings and appropriately responds to the character of adjacent land uses.</p>

Objectives	Assessment
	<p>The development includes wide setbacks between the residential flat buildings and appropriate setbacks from surrounding residential areas and public open spaces.</p> <p>The arrangement of the built forms proposed includes appropriate visual and physical linkages to existing or approved developments and open spaces. This combination has the potential to create a high-quality suburban, residential environment.</p> <p>The additional height sought does not cause any significant visual effects, does not block access to scenic or important views, or generate any significant visual impacts. The proposed development is therefore supported on visual impacts grounds.</p> <p>The layout and built form of the proposed buildings has been aligned with the Core Area building envelope positions to maximise views through the precinct. Disruption of views will be minimised through the public open spaces and pedestrian connections through the site, with the mix of compact building forms allowing views to be maintained across the precinct.</p> <p>To maintain privacy, the proposal orientates dwellings to maximise existing and proposed residential amenity including privacy, with architectural screening proposed where appropriate within the building fabric.</p> <p>Solar access shadow diagrams have been prepared by Plus Architecture and are included in the Design Report. In relation to solar access from the proposed Stage 1A development, shadow diagrams have been prepared for hourly intervals from 9am to 3pm for 21st June, representing the greatest overshadowing impact through the year. The shadow diagrams compare the shadow cast by existing buildings, shadow cast by a building height compliant with the PLEP 2011, and shadow cast by the proposed built form.</p> <p>The shadow diagrams show that for the majority of time, the shadows cast by the proposed building envelopes are equal to the shadows that would be cast by PLEP 2011 compliant building heights. These shadows are cast within the Telopea precinct redevelopment area. Where shadows are greater than those that would be cast by a PLEP 2011 compliant building height, these generally fall on existing buildings, roads or footpaths.</p> <p>Between 9am and 11am there is some minor additional overshadowing to small areas of private or public open space within the Telopea precinct, however these spaces will continue to receive solar access for the remainder of the day.</p>

Objectives	Assessment
	<p>At 3pm a portion of additional shadow is cast on the western corner of the Telopea Public School site (Figure 21). The western corner of the school site is already shaded by mature trees and the overshadowing does not occur to the main areas of the school grounds during recess or lunchtime break periods.</p> <p>The variation to building height proposed allows for a greater area of additional high quality public space to be delivered on site which will be accessible to the general public. Of note, the new public space and through site link will receive a minimum of two hours of solar in mid-winter.</p> <p>The additional overshadowing as a result of this building height variance has a minor impact on existing development, with the overshadowing reducing in the Spring and Autumn months and being at its minimum in Summer. Given that there is very limited additional overshadowing caused beyond a PLEP 2011 compliant height limit, and that the additional overshadowing only occurs for a couple of hours over the day, it is considered that this is acceptable.</p>
<i>To require the height of future buildings to have regard to heritage sites and their settings</i>	<p>As set out in the supporting Heritage Impact Statement (HIS), the proposed development has given consideration to the appropriate management of the heritage values of the area. The proposed development will have no adverse heritage impacts on the significance of heritage items and will not detract from the existing setting and streetscape of any heritage item.</p>
<i>To ensure the preservation of historic views</i>	<p>The HIS does not identify any historic views in relation to the proposal. The closest heritage item to the Stage 1A area is Redstone House, listed on the NSW State Heritage Register. The HIS finds that the spatial separation of the proposal in relation to Redstone House is such that the proposal will not dominate views to or from the heritage item or significantly impact on its visual setting. The proposal generates a level of visual effects and potential visual impacts that are contemplated in the statutory and non-statutory controls for the site and can be supported on visual impact grounds.</p>
<i>To reinforce and respect the existing character and scale of low density residential areas</i>	<p>The Stage 1A development has been designed to maintain the site's sloping landscape hillside character through building forms and pedestrian connections consistent with the site's topography and the retention of existing tree clusters (Figure 22). The architectural expression proposed is based on materials and textures reflecting the character of Telopea and its unique Blue Gum forest, as well as brick bases to proposed buildings to reflect the existing character of the area.</p>

Objectives	Assessment
	<p>In accordance with the Design Guidelines, the proposed development has also been carefully considered in relation to setting the desired future character for the Telopea precinct. The Telopea precinct has recently been rezoned through the PLEP 2011 to deliver high density residential development. The proposal seeks to deliver a mix of high-quality dwellings, landscaping and public open space in accordance with the Design Guidelines, which will guide the character of development in the Telopea CPA to come.</p>
<p><i>To maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes</i></p>	<p>As set out in the Design Report, solar access to both residential apartments and areas of public domain has been assessed. Buildings have been arranged to maximise opportunities for solar access to comply with the requirements set out in the Apartment Design Guide (ADG). The proposal achieves the ADG requirements with over 75% of apartments receiving at least 2 hours of sunlight per day.</p> <p>The public open space is positioned towards the northern of the site, benefiting from the open space to the north. As shown in Figure 23 below, 87% of the proposed open space area receives solar access for 2 hours between 9am and 3pm in on 21st June.</p>

Figure 21 Shadow diagrams for the Concept Proposal on 21st June at 3pm



Source: Plus Architecture

Figure 22 Sturt Street elevation



Source: Plus Architecture

Figure 23 Solar access to public domain areas, Core precinct, 21st June 9am-3pm



Source: Plus Architecture

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

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

The Stage 1A site area is partially zoned R4 High Density Residential and RE1 Public Recreation. The northern portion of the site zoned RE1 will deliver public space as part of the new Telopea Station Plaza. The remainder of the site zoned R4 will deliver high density residential development in accordance with the PLEP 2011, as well as additional public recreation space, through site link, and internal loop road.

The proposed variation to the building height control is in direct response to feedback received from the SDRP and PCC. Specifically, the introduction of a new public park and internal loop road resulted in the redistribution of gross floor area across the site. The redistribution has resulted in minor variations to the maximum building height on Building C, D and E and a more significant variation to the maximum building height of Building B.

The proposed variation to the building height control allows for greater public benefits to be delivered in comparison to a scheme with building heights compliant with the PLEP 2011. Primarily, the variances to the building height limit allow for a building layout and form to be delivered which increases the amount and quality of public space within the site area. The size and quality of pedestrian routes, public open space, communal gardens, and the public domain is improved through the proposed building height.

The proposed built form and layout allows for a greater retention of existing mature trees, contributing to ongoing sustainability, the quality of the public domain, visual and residential amenity and promoting the character of the Telopea precinct. The proposed built form and layout also allows for a loop access road to be included in response to SDRP and PCC feedback. This ensures each building is provided with a street address and improves public access and legibility of the new public park.

In relation to built form, a PLEP 2011 compliant building height profile results in limited variation in height, plan form or typology. In response to SDRP feedback, the proposal has been designed to maximise diversity of built form and character across the precinct, including greater building height variation than currently prescribed by the PLEP 2011. As shown in **Figure 24** below, the proposed height variations create a greater differentiation in building form across the site area and transition from the building heights in the Core Area.

The proposed height variations and building form allow for greater separation between buildings, delivering improved amenity for both residents and public open spaces. The height variation also allows increased public open space to be delivered in a strategic location, enhancing the new Telopea Station plaza and creating a high-quality pedestrian link from the precinct to the station.

Figure 24 Stage 1A Development Visualisation



Source: Plus Architecture

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

The proposed development is in accordance with the land use zoning for the site and will deliver a mix of high-quality residential dwellings as well as public open space. The proposed building height variation allows a number of benefits to be delivered through the built form and layout of the site including:

- A greater area and higher quality public domain and public open space in a mixture of public parks, through site link, and communal open space.
- Retention of existing mature trees, contributing to the character of the Telopea precinct.
- A greater variation in building form and typologies in response to SDRP and PCC feedback.
- Fewer apartments per floor.
- Greater building spacing providing improved views, visual impacts, and high-quality pedestrian connections.
- Increased solar amenity to proposed dwellings, public domain, open spaces, and existing development.
- The inclusion of a loop access road to create an improved sense of address and public access to the new park and through site link.

It is also noted that for three of the four buildings that propose a variation to the PLEP 2011 height control, the proposed height variation is approximately one storey or less and mainly results from roof features and lift overruns. These three variations are all below 10%. The height proposed for building B is in response to the precinct context, adjacent to the tall marker buildings in the upper Core Area, allowing a transition in scale to be created from the Core Area to the broader precinct.

Although the proposal creates some additional overshadowing to the Telopea Public School site, this is limited at the end of the school day and, in the worst case on 21st June, creates shadow to a small area at the western boundary of the site on land already shaded by trees. The positioning of the proposed taller building at the north of the site reduces overshadowing impacts beyond the site.

A proposal that complied with the PLEP 2011 would result in inferior quality housing and public realm being delivered for the community as well as greater amenity impacts for residents.

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

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

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

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

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

- Allowing high quality housing, public open space, and public domain to be delivered in a designated, sustainable urban renewal area with access to the future light rail service.
- Enabling an urban and architectural design with greater public benefits to be delivered including high quality public domain and public open space, amenity for existing and future residents and visually diverse and interesting high-density housing.

- A development which priorities high quality public open space for the local community including maximising existing mature tree retention, promoting local character.
- Minimal impacts on the amenity of existing residents whilst providing new, high quality public open spaces for the broader community.
- Provision of high-quality pedestrian connections and access for the benefit of existing and future residents, including access to the future light rail Station.
- The majority of the proposed development sits within or close to the PLEP 2011 building height limit and has been designed to minimise overshadowing impacts. The tall building proposed is adjacent to the taller marker buildings in the upper Core Area and enables a transition in the scale of development across the precinct.

Based on the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed Height of Buildings development standard non-compliance in this instance.

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

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

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

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

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

The consistency of the development with the objectives of the development standard is demonstrated in **Table 3** above. The proposal is also consistent with the land use objectives that apply to the site under the PLEP 2011. The site is located within the High Density Residential and Public Recreation zones. The proposed development is consistent with the relevant land use zone objectives as outlined in **Table 4** below.

Table 4 Assessment of compliance with land use zone objectives

Objective	Assessment
R4 High Density Residential	
(a) <i>To provide for the housing needs of the community within a high density residential environment.</i>	(a) A diversity of housing is provided within a high-density residential environment that will cater for the needs of a broad range of users.
(b) <i>To provide a variety of housing types within a high density residential environment.</i>	(b) High density housing is proposed, with a variety of apartments in a mix of studio, one-, two- and three-bedroom units.
(c) <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	(c) As part of the Stage 1A development Telopea Station Plaza will be delivered providing a civic space and arrival plaza, as well as a new hilltop park and neighbourhood park.
(d) <i>To provide opportunity for high density residential development close to major transport nodes, services and employment opportunities.</i>	

Objective	Assessment
(e) <i>To provide opportunities for people to carry out a reasonable range of activities from their homes if such activities will not adversely affect the amenity of the neighbourhood.</i>	<p>(d) High density residential development is proposed close to the future Telopea Light Rail station, existing bus network, neighbourhood centre and access to employment opportunities.</p> <p>(e) The Stage 1A development proposes a variety of public open spaces for use by residents. A range of other facilities and services are located in close proximity (including Schools, parks, and retail) and additional uses will be delivered throughout the Telopea Core Area.</p>
RE1 Public Recreation	
<p>(a) <i>To enable land to be used for public open space or recreational purposes.</i></p> <p>(b) <i>To provide a range of recreational settings and activities and compatible land uses.</i></p> <p>(c) <i>To protect and enhance the natural environment for recreational purposes.</i></p> <p>(d) <i>To conserve, enhance and promote the natural assets and cultural heritage significance of Parramatta Park.</i></p> <p>(e) <i>To create a riverfront recreational opportunity that enables a high quality relationship between the built and natural environment.</i></p>	<p>The RE1 zoned portion of the Stage 1A site is proposed to be delivered as public open space as part of the Telopea Station Plaza and hilltop park.</p> <p>Telopea Station Plaza is proposed to be a civic place and arrival plaza for the use of the residents and the public adjacent to the Telopea Light Rail station. It will provide a community hub at the heart of the plaza as a destination for the whole neighbourhood.</p>

The above table demonstrates the proposed development will be in the public interest notwithstanding the proposed variation to the Height of Buildings development standard as it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

The Secretary can be assumed to have concurred to the variation under Department of Planning Circular PS 18–003 ‘Variations to development standards’, dated 21 February 2018. This circular is a notice under 64(1) of the *Environmental Planning and Assessment Regulation 2000*.

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

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

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

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

▪ **Clause 4.6(5)(b) - is there a public benefit of maintaining the planning control standard?**

The proposed development achieves the objectives of the Height of Buildings development standard and the land use zone objectives despite the technical non-compliance.

The planning benefits of the proposed scheme include the delivery of high quality, high density residential dwellings with high quality public realm and open space. The proposed residential uses will have a high level of amenity and impacts on the amenity of existing residents are minimised. The proposals seek to support the existing landscape character of Telopea including through maximising tree retention. A proposal which complied with the Height of Buildings development standard would result in lower quality housing, reduced public benefits for the community and greater impacts on the amenity of existing residents.

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

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

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

7. CONCLUSION

For the reasons set out in this written request, strict compliance with the Height of Buildings development standard contained within Clause 4.3 of the PLEP 2011 is unreasonable and unnecessary in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation and it is in the public interest to do so.

It is reasonable and appropriate to vary the Height of Buildings development standard to the extent proposed for the reasons detailed within this submission and as summarised below:

- The proposed building heights provide for a transition in built form and land use intensity from the highest building forms of the Core Area to medium-rise buildings in the Stage 1A area and the wider Telopea precinct beyond.
- The proposed development has been carefully designed and sited to minimise visual impact, disruption of views and loss of privacy, deliver a high standard of amenity for existing and future residents.
- The proposed built form provides a high level of solar access to the public domain and public open space and any overshadowing impacts have sought to be minimised.
- The proposed development will not have any impacts on heritage items or historic views.
- The proposal prioritises maintaining the existing landscape character of Telopea with the built form and layout respecting and reinforcing the topography of the site, and new public spaces and building layout being designed around the retention of existing mature trees.
- In response to SDRP and PCC feedback, the proposed building heights allow high quality, high density residential development to be delivered in a varied and interesting building typology and form which provides greater amenity for the Telopea community.
- The proposal includes high quality public open spaces including parks, gardens, and landscaped pedestrian links with a varied planting palette for the benefit of existing and future residents.
- The proposed built form allows for a high-quality pedestrian link from the new Telopea Station Plaza to the site and the precinct beyond to be delivered, as well as a loop access road within the site to provide an improved sense of address and access for the new residences.
- Three of the four buildings that propose a variation to the PLEP 2011 height control have a height variation of approximately one storey or less and mainly result from roof features and lift overruns. These three variations are all below 10%.
- Additional height has been strategically located on Building B immediately adjacent to the upper Core Area of Telopea to provide a transition in height from the marker buildings adjacent to Telopea Station to the remainder of the site and precinct.
- The proposed development is in accordance with the Telopea CPA Design Guidelines.
- The proposal will deliver high quality public space as part of the new Telopea Station Plaza.
- A proposal which complied with the Height of Buildings development standard would result in lower quality housing, reduced public benefits for the community and greater impacts on the amenity of existing residents.

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

DISCLAIMER

This report is dated 16 July 2021 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Frasers Property Telopea Developer Pty Ltd (**Instructing Party**) for the purpose of Draft for Review (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

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

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

