



Clause 4.6 Variation – Height of Buildings (Clause 4.3)

Proposed Warehouses and Industrial Facilities

62 Ferndell Street, South Granville
(Lot 50 in DP 816718)

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Strategy

June 2019

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PART A PRELIMINARY

1.1 INTRODUCTION

This Clause 4.6 Variation request has been prepared in support of the Development Application (DA) for the proposed construction and operational use of Warehouses and Industrial Facilities. The proposed development would be located at 62 Ferndell Street, South Granville (Lot 50 DP 816718), on a site of approximately 100,301 m².

The proposed development results in non-compliances with Clause 4.3 Height of Buildings under *Parramatta Local Environmental Plan 2011* (PLEP2011).

This Clause 4.6 Variation request has therefore been prepared in accordance with the requirements of Clause 4.6 of PLEP2011, which includes the following objectives:

- (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.*

In accordance with Clause 4.6(3) of PLEP2011, Council is required to consider the following:

"Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard 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."*

This request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant Development Standard.

1.2 PROPOSED NON-COMPLIANCES

1.2.1 Clause 4.3 Height of Buildings

Under the provisions of Clause 4.3 of PLEP2011, the Site is subject to a maximum building height of approximately 12 m. It is noted, that the proposed development would comprise four (4) warehouses, which would vary in height; however, it is important to note the maximum height proposed is approximately 16.7 m (Warehouses 3 & 4), measured from the vertical distance from the ground level (existing) to the highest point of the building, in accordance with the definition bestowed in PLEP2011 and the Standard Instrument. The proposed development would result in an exceedance of PLEP2011 12 m height control by approximately 4.7 m (or by 39.16%).

1.3 STRATEGIC PLANNING JUSTIFICATION

If the proposal was to include a compliant scheme in accordance with the Development Standard of PLEP2011, the built-form potential of the Site would be significantly under-realised. Hypothetically, if a height compliant scheme for the proposal was submitted, it would:

- Not contribute towards meeting the demand for employment-generating opportunities within the Cumberland Local Government Area (LGA), as identified within *A Metropolis of Three Cities*

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and the *Central City District Plan*, by potentially resulting in a reduction in available building footprint and consequently future industrial and warehouse land uses on the Site;

- Threaten the commercial viability of the proposed development by reducing the overall achievable maximum height across the height, by which would impact on end-user operational requirements;
- Create fewer full-time equivalent jobs during the construction and operational phases of development due to a decrease in footprint and potential disinterest in the Site due to preferred end-user ceiling heights not being able to be achieved; and
- Fail to meet the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) by making orderly and economic use of the Site for its full planning potential.

Notwithstanding, this Clause 4.6 Variation request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant Development Standards under PLEP2011. It considers various planning controls, strategic planning objectives and existing characteristics of the Site, and concludes that the proposed non-compliance is the best means of achieving the objective, which encourages orderly and economic use and development of land under Section 1.3 of the EP&A Act.

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PART B THRESHOLDS THAT MUST BE MET

2.1 CLAUSE 4.6 OF PLEP2011

In accordance with Clause 4.6 of PLEP2011, Council is required to consider the following Subclauses:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard 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.**
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. the proposed development will be in the public interest because 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, and**
 - (b) the concurrence of the Secretary has been obtained.**
- (5) In deciding whether to grant concurrence, the Secretary must 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.**

These matters are responded to in **Part D** of this Clause 4.6 Variation.

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PART C THE STANDARDS BEING OBJECTED TO

3.1 CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

The Development Standard requested to be varied is Clause 4.3 Height of Buildings of PLEP2011. **Table 1** below outlines the proposed variation sought to Clause 4.3 of PLEP2011.

Table 1: Proposed Development Standard Variation in Relation to PLEP2011			
PLEP2011 Clause	PLEP2011 Development Standard	Proposed Development Non-Compliance	Percentage of Variation
Clause 4.3(2) Height of Buildings	Maximum 12 m building height	The proposal seeks development consent for a 16.70 m maximum building height	39.16%

3.2 HYPOTHETICAL COMPLIANT DESIGN

As mentioned above in **Section 1.3**, an alternative, hypothetical design compliant with Clause 4.3 would:

- Not contribute towards meeting the demand for employment-generating opportunities within the Cumberland LGA, as identified within *A Metropolis of Three Cities* and the *Central City District Plan*, by potentially resulting in a reduction in available building footprint and consequently future industrial and warehouse land uses on the Site;
- Threaten the commercial viability of the proposed development by reducing the overall achievable maximum height across the height, by which would impact on end-user operational requirements;
- Create fewer full-time equivalent jobs during the construction and operational phases of development due to a decrease in footprint and potential disinterest in the Site due to preferred end-user ceiling heights not being able to be achieved; and
- Fail to meet the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) by making orderly and economic use of the Site for its full planning potential.

Overall, an alternative, hypothetical design compliant with Clause 4.3 is not considered justified for the Site.

PART D PROPOSED VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDINGS

4.1 OBJECTIVES OF THE STANDARD

A key determinant of the appropriateness of a Clause 4.6 Variation to a Development Standard is the proposed development's compliance with the underlying objectives and purpose of that Development Standard.

Therefore, while the Site is subject to a specified numerical control for building height (Clause 4.3(2)), the objectives and underlying purpose behind these Development Standards are basic issues for consideration in the development assessment process, for which require due consideration (refer to **Figure 1**).

4.1.1 PLEP2011 – Clause 4.3 Height of Buildings

Clause 4.3 of PLEP2011 sets out specific objectives. Those objectives under PLEP2011 are responded to as follows:

- (a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,*

The intent of the proposed development is to contribute to the existing industrial character experienced within the IN1 General Industrial zone within the immediate vicinity of the Subject Site in a complementary manner, consistent with the PLEP2011 and *Parramatta Development Control Plan 2011* (PDCP2011).

The design approach for the Site has evolved in a considerate relationship to adjacent properties on the Ferndell Street frontage, to ensure their current and future amenity would not be compromised. It is important to note, that the predominant building setbacks would be maintained accordingly, with regard to the setback controls articulated within the PDCP2011 for industrial development. The additional height would only read as approximately 4.7 m above the permitted maximum height control for the Site.

With its overall site configuration, a well resolved built-form and potential public realm benefits, the proposed development can create a high quality built-form, which is complementary to the street character on the Ferndell Street frontage, as well as being a quality contribution to the urban built-form of the surrounding area, comprising a versatile mix of transitional industrial (north, south and northeast) and low density residential (southeast) development surrounding the Site. Through generous landscaping and peripheral amenities to help activate the street frontage, the proposed development can achieve a suitable fit within the existing public realm, with positive economic, social and environmental benefits for the wider community.

In order to facilitate high quality resolution of the building envelope, and to enable the best outcome for transitional relationships with the adjoining site, the proposed development comprises a legible and efficient floor plan with the façade articulation, as well as material and colour selection to complement an aesthetic, that is not considered to be visually adverse or obtrusive.

Underpinned by the subtly expressive architectural language, the building articulation of the industrial development transitions well both horizontally and vertically in its streetscape and built-form relationships with adjoining industrial developments.

Additionally, the built-form of the proposed development responds to the operational requirements of the end-user and any future users of the Subject Site. Accordingly, the height of the proposed development is considered highly appropriate for the Site and its context. Notwithstanding, the height is representative of market needs and demands for modernised industrial warehouse and industrial facilities, for which the average industry standard (based on Fire Engineering and BCA requirements) is

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approximately 13.7 m to the ridge height, which would result in only a minor height variation of approximately 22.79% in accordance with the relevant BCA requirements for modernised industrial warehouses.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

It is important to note, that the most significant breach in height, is towards the rear and side of the Site (northern and western interfaces) pertaining to building's 3 & 4, which attain a maximum proposed building height of approximately 16.7 m.

The built-form, particularly the height of the proposed development would respond to and be further complemented by the height of adjoining industrial developments along the northern, southern and north-eastern interfaces; positioned within an area zoned for such permissible industrial-related purposes. Therefore, as a result of the proposed development, there would be no undue impacts, with regard to visual amenity or view loss.

Accordingly, careful selection of building finishes and colours, combined with proposed landscape planting, particularly along the eastern boundary of the Subject Site, which adjoins the Ferndell Street frontage, is considered to be appropriately treated from an architectural perspective, as well as being aesthetically pleasing to mitigate any visual impacts. This will assist in screening the built-form of the proposed development within the locality. As a result, this will assist in reducing the potential visual impacts to residential receivers along the southeastern portion of the Site, that are in close proximity to the proposed development and are of the highest sensitivity.

Furthermore, the landscaping treatment proposed, as a result of mitigating potentially impacted views, will be most effective after a period of three (3) years, which is the point that trees are expected to reach maturity, or an acceptable height of approximately 4 m, based on a 200 mm pot size.

It is noted, that significant tall areas of existing vegetation to be retained across the Site are located along the eastern boundary, which is the most visually impacted interface with regard to the sensitive residential receivers to the southeast. By increasing the landscaping along this portion of the Site (as well as throughout the Subject Site), this will provide an effective screening measure for the proposed development, towards a number of potential visual receivers to the southeast, including the noted R2 Low Density Residential zone. It is noted, that views looking east towards the Site from Campbell Hill Pioneer Reserve are significantly screened by densely populated vegetation, whilst the northern and southern views are screened and further transitional by existing industrial developments, which further complement the proposed development.

The Architectural and Landscape Plans for the proposed development are included in **Appendix 3 & 8**, which demonstrate, that there will be no such significant visual impacts on adjoining sites and sensitive receivers within close proximity.

(c) to require the height of future buildings to have regard to heritage sites and their settings,

The proposed development is not subject to any identified heritage items of significance, including Aboriginal Cultural Heritage items of significance; NSW State Heritage items (NSW State Heritage Register); or Historic (European) Heritage items (PLEP2011). The height of the proposed development would be considered to be transitional with respect to the existing industrial developments along the northern and southern interfaces. Further consideration with regard to heritage is not considered to be warranted.

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(d) to ensure the preservation of historic views,

The Subject Site is located in an area subject to existing industrial-related land uses, for which the proposed development be complementary and compatible. There are no historic views relevant to the Site. Therefore, no further consideration is considered warranted in this respect.

(e) to reinforce and respect the existing character and scale of low density residential areas,

The proposed development comprises a built-form which is larger than the dominant residential typologies adjoining the Subject Site to the southeast. However, the design approach for this industrial development gives due consideration to the Site and its contextual relationships. Articulation of building envelopes has been carefully developed to create well modelled forms with a rhythm reflecting the scale of nearby industrial development, whilst being conducive to the residential environment in close proximity to the Site, through the integration of landscaped open spaces between, with generous setbacks and high quality architectural treatment that significantly mitigates any concerns regarding streetscape character.

The overall scale of the proposed development seeks to provide a transition from the existing industrial developments along the northern and southern interfaces, comprising developments of similar nature, which are considered compatible in terms of built-form and scale. The overall scale and architectural treatment have been designed accordingly to create an aesthetic that does not compromise the scale of the opposing R2 Low Density Residential zone to the southeast, as mentioned above.

It is noted, that the maximum height exceedances (16.7 m in Building's 3 & 4) have been strategically located along the northern and western portions of the Site, for which they are visually screened by Building's 1 and extensive landscape planting along the Ferndell Street frontage.

The contravention towards the Development Standard by a maximum of 4.7 m is further justified by the height plane drawings prepared by Nettleton Tribe (refer to **Appendix 5**), which reinforce the architectural treatment offered for the Site, for which there would be only minor height limit exceedance along the Ferndell Street frontage when being viewed from the R2 Low Density Residential zone. The minor exceedances in respect of the Development Standard are not considered to adversely impact the amenity of the R2 Low Residential zone by any means.

Notwithstanding, the proposed development has incorporated an aesthetically pleasing architectural and landscaped design, including a dichotomous array of exotic and native flora species, creating an activated and visually pleasing aesthetic to the Subject Site (refer to **Appendix 8**). Furthermore, whilst the proposed development has considered nearby sensitive land users, the Subject Site is zoned for such industrial-related uses, which the proposed development responds to, by according with the objectives of the IN1 General Industrial zone.

(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 objective listed above is not directly applicable to the Subject Site. No further consideration is considered warranted in this respect.

4.2 OBJECTIVES OF THE ZONE

The Subject Site is zoned IN1 General Industrial under PLEP2011, therefore, the proposed development is permissible with development consent. The proposed development is considered consistent with the IN1 General Industrial zone objectives, in that:

- *To provide a wide range of industrial and warehouse land uses.*

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The proposed development provides warehouse and industrial uses, which are considered to align with the zone objectives. The proposed development would positively contribute to the desired industrial character of the Subject Site and the surrounding area.

Furthermore, complementing the zone objective, the proposed development includes the versatile array of industrial and warehouse land uses, that have been proposed across the Site, which include the following breakdown based on the overall Gross Floor Area (GFA) of the Site:

- Warehouse = 18,615 m² GFA;
- Industrial = 20,675 m² GFA;
- Ancillary Office = 6,258 m²; and
- Café (retail premise) = 145 m².

By providing a range of industrial and warehouse land uses, the proposed development would positively contribute to the desired industrial character intended for the Subject Site and the surrounding area, whilst creating positive economic and social impacts, through increased employment-generating opportunities, which aligns with the zone objective listed below.

- *To encourage employment opportunities.*

The proposed development would provide employment-generating opportunities to the immediate community and wider locality within the Cumberland LGA during both the construction and operational phases of development. This would further contribute to the viable economic return on the local and regional economy the proposed development offers.

It is important to note, that if the building heights proposed are not able to be achieved, an alternate site would have to be chosen, thereby forgoing new employment opportunities on the Site.

- *To minimise any adverse effect of industry on other land uses.*

The proposed development is positioned on land that is designated for industrial purposes, and thus would ensure that support is met for the desired outlay of the Site, as-well-as the wider locality. Consideration has also been given to surrounding land uses, for which the proposed development is further complemented by existing industrial developments along the northern, southern and north-eastern boundaries. Mitigation measures would be implemented to minimise and adverse impacts from occurring on nearby sensitive residential receivers. Mitigation measures include:

Noise:

The Noise Impact Assessment undertaken and prepared by Acoustic Logic confirms, that the proposed development is capable of meeting the relevant NSW EPA noise emission guidelines. However, the following mitigation measures are recommended to ensure ongoing compliance with the relevant NSW EPA guidelines:

- Based on the predicted number of articulated / b-double and large rigid truck movements, egress and ingress via the:
 - Northern Driveway is allowable at all times.
 - Central Driveway is allowable at all times.
 - Southern Driveway is allowable between the hours of 7:00am and 11:00pm.
- No restriction is required for trucks using any driveway between 6:00am and 6:00pm, provided that the overall daily vehicles number as detailed in **Table 18** of the SEE (refer to **Appendix 1**) are adopted.
- Forklifts:
 - Electric or Gas forklifts are permitted to be used on-site at all times.
 - Diesel forklifts are not permitted to be used during the night time period (10pm-7am).

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- For any forklift proposed to be used between 10pm-7am – forklifts are to have either visual reversing warning signals, or non-tonal audio reversing alarms (“whooshers” or similar). Tonal reversing alarms are not recommended.
- Detailed acoustic review of all external plant items should be undertaken following equipment selection and duct layout design.
- Building shell – all facades of every tenancy is to be constructed of a minimum 0.4 mm thick sheet metal or material of equal or higher surface density unless specified otherwise.

Operational noise emissions associated with the proposed development have been assessed with reference to the relevant EPA and PDGP2011 acoustic guidelines. Provided that the recommendations listed above are adopted, operational noise emissions from the Site will be compliant with relevant EPA and Council noise emission requirements.

Visual:

As mentioned in **Section 4.1.1**, with its overall site configuration, a well resolved built-form and potential public realm benefits, the proposed development can create a high quality built-form, which is complementary to the street character on the Ferndell Street frontage, as well as being a quality contribution to the urban built-form of the surrounding area, comprising a versatile mix of transitional industrial (north, south and northeast) and low density residential (southeast) development surrounding the Site. Through generous landscaping and peripheral amenities to help activate the street frontage, the proposed development can achieve a suitable fit within the existing public realm, with positive economic, social and environmental benefits for the wider community.

In order to facilitate high quality resolution of the building envelope, and to enable the best outcome for transitional relationships with the adjoining site, the proposed development comprises a legible and efficient floor plan with the façade articulation, as well as material and colour selection to complement an aesthetic, that is not considered to be visually adverse or obtrusive.

As mentioned above, the Site would be complemented via an aesthetically pleasing architectural landscape design with regard to the proposed development, which would contribute to enhancing the vegetated character of the Site – and, be further visually pleasing for nearby residential receivers and passersby along Ferndell Street.

- *To support and protect industrial land for industrial uses.*

The proposed development would provide employment-generating opportunities in both the construction and operational phases, further advocating the continued support of industrial land the IN1 General Industrial zone objectives. The proposed development would ensure the continued use of the Site for employment purposes, accommodating a range of businesses.

- *To facilitate a range of non-industrial land uses that serve the needs of workers and visitors.*

Whilst the IN1 General Industrial zone allows for a range of non-industrial land uses, the proposed development responds to a development for the purposes of warehousing and industry. The proposed development would provide employment-generating opportunities to the immediate community, as well as the wider locality. It is noted, that the proposed development includes provisions for a café, which would be able to be utilised by workers and visitors on-site, as well as being accessible to members of the public within the immediate vicinity.

The provision of additional non-industrial land uses is not sought under this Application; however, the buildings could be adapted in the future, pending market demand.

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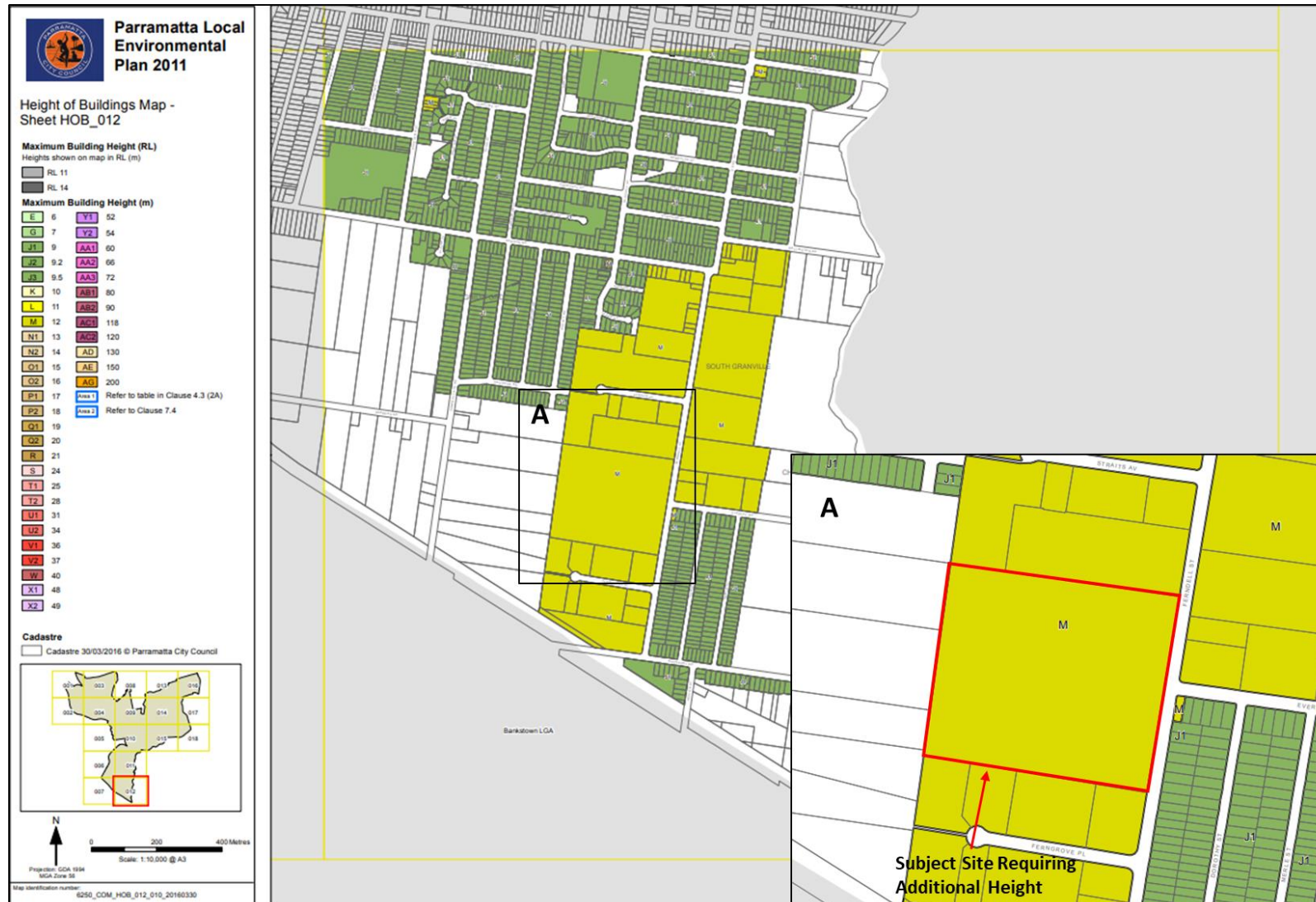


Figure 1 Maximum Building Height of the Subject Site and Surrounding Area (Source: NSW Legislation, 2019)

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4.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR NECESSARY

4.3.1 Height of Buildings

When considering whether a Development Standard is appropriate and / or necessary, one must take into account the nature of the proposed variation; the Site context; and the design of the proposed development.

Compliance with the standard would be unreasonable and unnecessary given that the proposed development generally maintains the height permitted under Clause 4.3 of PLEP2011 with regard to the Subject Site. The non-compliance relates to the exceedance in height proposed that exceeds the standard imposed under PLEP2011. Furthermore, as shown in **Section 4.1** above, the proposed development is considered consistent with the objectives of Clause 4.3 pursuant to PLEP2011.

The standard is unreasonable and unnecessary in the circumstances of the case on the following basis:

- The proposed development, for the purposes of Warehouses and Distribution Facilities, would generally maintain the maximum permitted building height under PLEP2011 with regard to the Subject Site (exceedance by 4.7 m). Accordingly, the density and scale of the built-form proposed, would remain generally consistent with the existing industrial buildings surrounding the Site. Additionally, the proposed development would effectively integrate the streetscape and character of the area into the proposed scheme. It is noted, that the height breach pertains to a limited portion of the Site and would therefore not be highly visible (refer to **Appendix 5**).
- By providing a transition between the existing industrial buildings in close proximity to the Subject Site, the built-form relationship, would remain generally consistent with existing situation currently experienced with the IN1 General Industrial zone.
- The built-form character of the surrounding industrial developments is generally consistent with the built-form proposed under this Application, as it responds to the local and regional context.
- The height is representative of market needs and demands for modernised industrial warehouse and industrial facilities, for which the average industry standard (based on Fire Engineering and BCA requirements) is approximately 13.7 m to the ridge height, which would result in only a minor height variation of approximately 22.79% in accordance with the relevant BCA requirements for modernised industrial warehouses.
- The proposed development would respond to the existing industrial developments on the northern and southern interfaces. There are no sensitive receptors in close proximity to the Subject Site; however, consideration of solar access, privacy, overshadowing and view loss has been given particular attention with respect to the R2 Low Density Residential zone along the eastern interface of the Subject Site.
- The proposed development's building height is considered a key attribute in creating an internal building environment that would ensure the delivery of space and amenity that is required to support the operations of the future tenant involved and thereby enabling the productive use of the Site.
- It should be noted, that to facilitate effective drainage outcomes, the pitch of the roofs results in a non-compliance. However, the creation of large flat portions of the Site has resulted in there being peaks on the Site brought about by the Site's topography. This is especially evident in the centre spine of the Site where the buildings push through the 12 m height plane.

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Notwithstanding, reducing the height of the design to strictly meet the PLEP2011 Development Standard is considered unreasonable, as this would result in a less efficient use of the Site and require additional GFA, as well as being operationally unsound for future end-users. Further, a reduced height may result in a building design that does not respond as well to the Site's prevailing topography, which the proposed heights have been so strategically based on, as confirmed by Nettleton Tribe (refer to **Appendix 6**). The abovementioned justifications are considered valid and, in this instance, the proposed Clause 4.6 Variation is considered to be acceptable. The objectives of the relevant clauses and the IN1 General Industrial zone would be upheld as a result of the proposed development.

4.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

The variation to the Development Standard for building height (Clause 4.3) under PLEP2011 is considered well-founded on the basis that:

- The proposed development is entirely consistent with the underlying objective(s) or purpose of the building height standard, as demonstrated in **Section 4.1**.
- The proposed development fully achieves the objectives of PLEP2011 for the IN1 General Industrial zone, as described in **Section 4.2**.
- Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in **Section 4.3**.
- The proposed development generally maintains the height experienced on surrounding industrial developments in close proximity to the Subject Site, for which the proposed development would provide a gradual transition.
- Materials and finishes would activate and provide a visual outcome that seamlessly integrates with the surrounding industrial character. Additionally, colour and material direction would be utilised (where possible) to blend with the varied architectural forms. The proposed ancillary office(s) would integrate various volumetric shapes and materials, conducive to transparency of function and respond to sustainable building practices.
- The overall scale of the proposed development seeks to provide a transition from the surrounding industrial developments in close proximity of the Subject Site, being compatible in terms of built-form and scale. Additionally, the proposed development would provide an employment-generating land use that is considered adaptable and responds accordingly to shifting economic conditions.
- The proposed development incorporates suitable setback controls and separation distances (where required) in accordance with the PDCP2011.
- The proposed development, particularly the proposed height would integrate with the local and regional context, specifically the IN1 General Industrial zone that surrounds the Subject Site. The relationship of the proposed development, with respect to height, would remain consistent due to the transition offered between the surrounding sites.
- The proposed development would maintain neighbouring amenity as-well-as the amenity of the public domain. It is important to note, that the proposed development is relatively enclosed and screened by existing industrial developments to the north and south. Additionally, the public domain would be treated with an aesthetically pleasing architectural landscaped design, which softens the industrial treatment of the Subject Site. Further, the additional height would not

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result in any significant adverse impacts on the amenity of the neighbouring industrial buildings and further positioned residential dwellings to the southeast in terms of overshadowing, privacy, outlook and amenity.

- The exceedance of the Height Standard (by 4.7 m) would have minimal impact on the streetscape, on visual privacy and solar access of neighbouring development due to a strategically implemented architectural treatment, which positions the building's forming the most significant height non-compliances to the rear of the Site, away from being able to be view from nearby residential receivers, whilst integrating an aesthetically pleasing architectural landscape design, which offers suitable vibrant screening through a dichotomous selection of endemic and exotic tree and plant species to be dispersed across the Site
- The proposed development would support the productive economic use of the Site that is ideally located within an area zoned for such permissible industrial use, as-well-as being located within close proximity to major commercial centres (Parramatta City Centre) and nearby transport infrastructure, such as rail and bus networks and the wider regional road network.
- To facilitate an appropriate stormwater management outcome across the Site, with respect to drainage, an increase in height is required due to large flat portions of the Site, which has resulted in there being peaks on the Site brought about by the Site's topography.

For the reasons outlined above, it is considered that the proposed variation to the building height control under Clause 4.3 is entirely appropriate and can be clearly justified having regard to the matters listed within PLEP2011 Clause 4.6.

4.5 PUBLIC INTEREST

It is noted, that Subclause 4.6(4)(a)(ii) requires the proposed development be in the public interest because 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.

Sections 4.1 and 4.2 have already demonstrated how the proposed development is consistent with the objectives of Clause 4.3 and the IN1 General Industrial zone under PLEP2011. Accordingly, the proposed development is in the public interest, as it is consistent with the overarching height objectives. It would also contribute towards meeting the demand for employment opportunities within the Cumberland LGA, as identified within *A Metropolis of Three Cities* and the *Central City District Plan*. Specifically, the proposed development would be of social benefit to the South Granville community and wider Cumberland LGA as it would revitalise an underutilised industrial zoned site, for which it would provide employment-generating opportunities during the construction and operational phases of development.

There are no significant public disadvantages which would result from the proposed development.

The proposed development is therefore considered to be justified on public interest grounds.

4.6 MATTERS OF STATE OR REGIONAL SIGNIFICANCE

The proposed non-compliances with Clause 4.3 of PLEP2011 would not raise any matters of significance for State or Regional environmental planning. It would also not conflict with any State Environmental Planning Policies or Ministerial Directives under Section 9.1 of the EP&A Act.

It is noted, that Planning Circular – PS 08-014 – issued by the NSW Department of Planning and Environment (DP&E), requires that all Development Applications including a variation to a standard of more than 10% be considered by Council, rather than under delegation. The proposed development would result in exceedances of the relevant planning controls as follows:

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- PLEP2011, Clause 4.3 Height of Buildings by 4.7 m / 39.16%.

This non-compliance is more than the 10% prescribed in the stipulated planning circular.

Furthermore, by including the non-compliance with Clause 4.3 of PLEP2011, the proposed development would be more susceptible to being able to meet the objectives of the following State Government planning policies:

- *A Metropolis of Three Cities:*
 - By providing a greater height at the Site, the proposed development can respond to the Greater Sydney Commission's vision and NSW Government's aim of increasing the availability of employment opportunities in a range of industry sectors.
- *Central City District Plan:*
 - By providing a greater height at the Site, the proposed development can better respond to the Greater Sydney Commission's vision for continued job growth and economic prosperity across the Central City District.

4.7 PUBLIC BENEFIT IN MAINTAINING THE STANDARDS

Given that strict compliance with Clause 4.3 of PLEP2011 would result in:

- Not contribute towards meeting the demand for employment-generating opportunities within the Cumberland Local Government Area (LGA), as identified within *A Metropolis of Three Cities* and the *Central City District Plan*, by potentially resulting in a reduction in available building footprint and consequently future industrial and warehouse land uses on the Site;
- Threaten the commercial viability of the proposed development by reducing the overall achievable maximum height across the height, by which would impact on end-user operational requirements;
- Create fewer full-time equivalent jobs during the construction and operational phases of development due to a decrease in footprint and potential disinterest in the Site due to preferred end-user ceiling heights not being able to be achieved; and
- Fail to meet the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) by making orderly and economic use of the Site for its full planning potential.

As such, there is no genuine public benefit in maintaining this strict height of building control at the Subject Site.

4.8 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

All planning determinations made under the EP&A Act are required to be made with regard to the Objects of the Act in accordance with Section 1.3 of the EP&A Act. **Table 2** below assesses the proposed development against the Objects of the Act.

Table 2: Objects of the Act – EP&A Act	
Object	Proposed Development Compliance
The objects of this Act are as follows:	
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposed development is considered to be in the public interest as it would contribute towards meeting the demand for increased employment opportunities within the Cumberland LGA, as identified in <i>A Metropolis of Three Cities</i> , and the <i>Central City District Plan</i> . Specifically, the proposed development would be of social benefit to the community situated within South Granville, as it would provide employment-generating opportunities for the immediate locality.

CLAUSE 4.6 VARIATION – HEIGHT OF BUILDINGS (CLAUSE 4.3)

Proposed Warehouses and Industrial Facilities – 62 Ferndell Street, South Granville (Lot 50 DP 816718)

<p><i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i></p>	<p>The proposed development has been assessed against the principles of Ecologically Sustainable Development as set out in the <i>Protection of the Environment Operations (General) Regulation 2009</i> as follows.</p> <p>The proposed development would not create the risk of serious or irreversible damage to the environment.</p> <p>Ultimately, the proposed development would not create any threats of serious or irreversible environmental damage which would require further scientific study to fully ascertain.</p> <p>The proposed development would not impact on the conservation of biological diversity or the ecological integrity of the locality. It is important to note, the Biodiversity Area identified to the southwest of the Site will not be impacted by the proposed development.</p> <p>The proposed development would not require an Environment Protection Licence or other mechanism to compensate for any pollution generating activities at the Site.</p>
<p><i>(c) to promote the orderly and economic use and development of land,</i></p>	<p>The proposed development would make use of a site used for similar purposes, that is currently considered to be underdeveloped and underutilised, for which it would result in orderly and economically beneficial development, without resulting in any unacceptable economic, environmental or social impacts.</p>
<p><i>(d) to promote the delivery and maintenance of affordable housing,</i></p>	<p>Not relevant to the proposed development.</p>
<p><i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i></p>	<p>There are no flora or fauna species listed under the Schedules of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) or <i>Biodiversity Conservation Act 2016</i> (BC Act) were recorded within, or in close proximity to the Subject Site. Similarly, none would be reliant upon the Subject Site for any of their necessary lifecycle requirements.</p> <p>Furthermore, the proposed development would not remove or significantly affect any habitats of local, regional, state or national conservation concern. As such, the proposed works would not have a significant impact on any ecological communities, plants or animals of national, state or regional significance.</p>
<p><i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i></p>	<p>The Site does not contain, and nor is it in the vicinity of, any heritage items listed under both the NSW State Heritage Register or PLEP2011.</p> <p>The Site has been previously disturbed and is therefore subject to significant levels of disturbance. The potential for the proposed development to uncover any unrecorded items of Aboriginal Cultural Heritage significance is therefore considered to be</p>

CLAUSE 4.6 VARIATION – HEIGHT OF BUILDINGS (CLAUSE 4.3)

Proposed Warehouses and Industrial Facilities – 62 Ferndell Street, South Granville (Lot 50 DP 816718)

	low. In the unlikely event that potential Aboriginal Cultural Heritage items or human remains are uncovered at the Site, works in the vicinity of the find would cease, and the NSW OEH and NSW Police would be contacted as appropriate.
<i>(g) to promote good design and amenity of the built environment,</i>	Section 4.1 satisfactorily addresses how the proposed development responds to the character of the locality in terms of urban design.
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The proposed development can be constructed and maintained without health and safety risks to future tenants.
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	The proposed development has a Capital Investment Value of approximately \$71,643,000 Million. As such, it is classified as Regionally Significant Development, for which it would be determined by the Sydney Central City Planning Panel.
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	The DA for the proposed development would be subject to the relevant public notification requirements.

4.9 SUMMARY

For the reasons outlined above, it is considered that the objections to Clause 4.3 of the PLEP2011 are well-founded in this instance and the granting of Clause 4.6 Variations to these Development Standards are appropriate in the circumstances. Furthermore, the objection is considered to be well-founded for the following reasons, as outlined within Clause 4.6 of PLEP2011:

- Compliance with the Development Standard is unreasonable and unnecessary in the circumstances;
- There are sufficient environmental planning grounds to justify contravening the Development Standard;
- The proposed development is in the public interest;
- The proposed development is consistent with the objectives of the particular standard;
- The proposed development is consistent with the objectives for development within the IN1 General Industrial zone;
- The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
- The proposed development does not negatively impact on any matters of State or regional significance; and
- The public benefit in maintaining strict compliance with the development standard would be negligible.

It is furthermore submitted, that:

- Strict compliance with the Development Standard would hinder the achievement of the Objects of the Act in accordance with Section 1.3 of the EP&A Act (refer to **Table 2** above);
- The proposed development would contribute toward employment contribution within the Cumberland LGA and wider Western Sydney Metropolitan Area, as identified within *A Metropolis of Three Cities* and the *Central City District Plan*; and
- No unreasonable impacts are associated with the proposed development.

CLAUSE 4.6 VARIATION – HEIGHT OF BUILDINGS (CLAUSE 4.3)

Proposed Warehouses and Industrial Facilities – 62 Ferndell Street, South Granville (Lot 50 DP 816718)

Overall, it is considered that the proposed Clause 4.6 Variation to Clause 4.3 Height of Buildings pursuant to PLEP2011 is entirely appropriate and can be clearly justified having regard to the matters listed with Clause 4.6 of PLEP2011.

CLAUSE 4.6 VARIATION – HEIGHT OF BUILDINGS (CLAUSE 4.3)

Proposed Warehouses and Industrial Facilities – 62 Ferndell Street, South Granville (Lot 50 DP 816718)

PART E CONCLUSION

It is requested, that the Sydney Central City Planning Panel exercise its discretion and find, that this Clause 4.6 Variation adequately addresses the matters required to be demonstrated by Subclause 4.6(3) of the PLEP2011 (refer to **Section 2.1**).

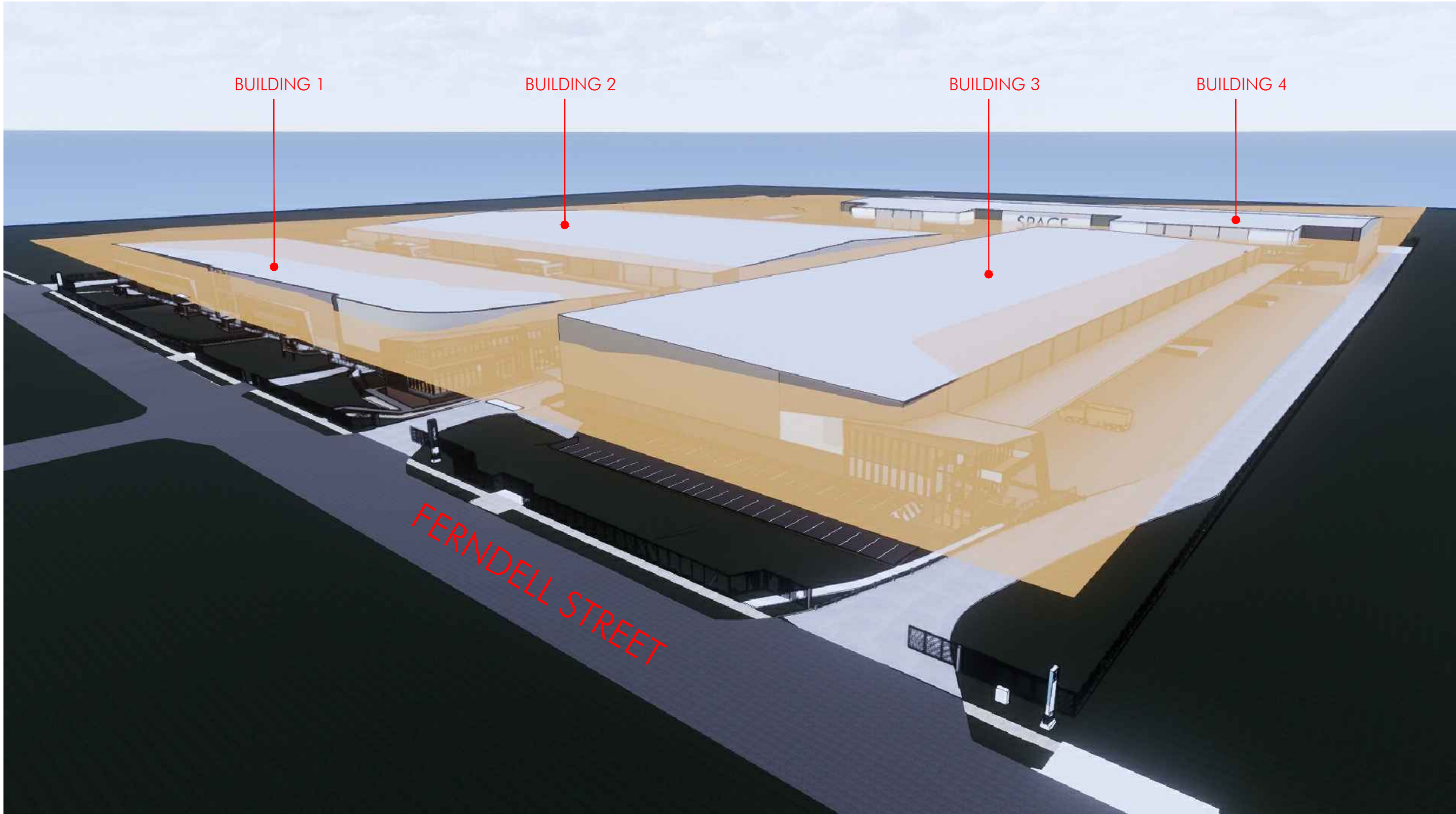
This is particularly the case, given that a hypothetical compliant design at the Site would:

- Not contribute towards meeting the demand for employment-generating opportunities within the Cumberland Local Government Area (LGA), as identified within *A Metropolis of Three Cities* and the *Central City District Plan*, by potentially resulting in a reduction in available building footprint and consequently future industrial and warehouse land uses on the Site;
- Threaten the commercial viability of the proposed development by reducing the overall achievable maximum height across the height, by which would impact on end-user operational requirements;
- Create fewer full-time equivalent jobs during the construction and operational phases of development due to a decrease in footprint and potential disinterest in the Site due to preferred end-user ceiling heights not being able to be achieved; and
- Fail to meet the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) by making orderly and economic use of the Site for its full planning potential.

It is requested that the Sydney Central City Planning Panel support the proposed variation to Clause 4.3 Height of *Buildings* of PLEP2011 for the following reasons:

- Consistency with the objectives of the standard and zone is achieved.
- Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- No unreasonable environmental impacts are introduced as a result of the proposed development.
- There is no public benefit in maintaining strict compliance with the standard.

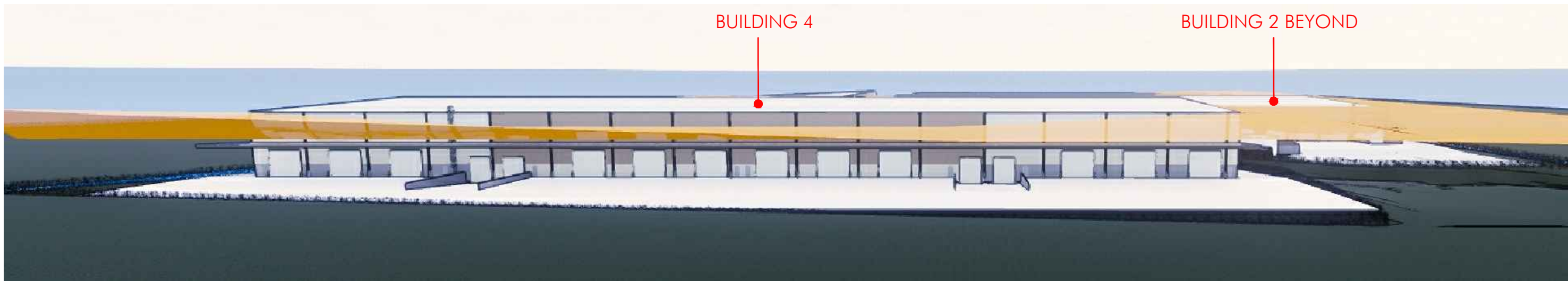
Given the justification provided above, this Clause 4.6 Variation under PLEP2011 is well founded and should be favorably considered by Sydney Central City Planning Panel. As each of the relevant considerations are satisfied for the reasons outlined elsewhere in this Report, concurrence can be assumed under Clause 4.6(5).



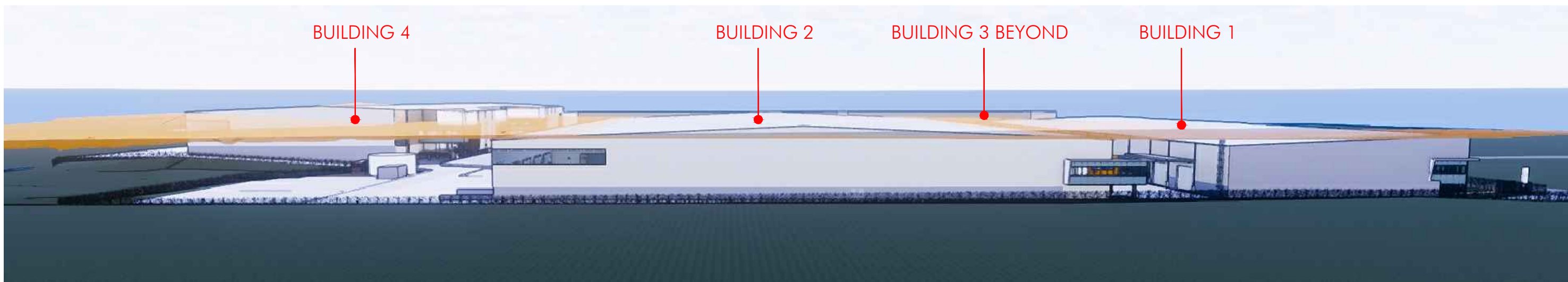
1 12m HEIGHT PLANE - LOOKING DOWN FROM NORTH-EAST CORNER
NTS



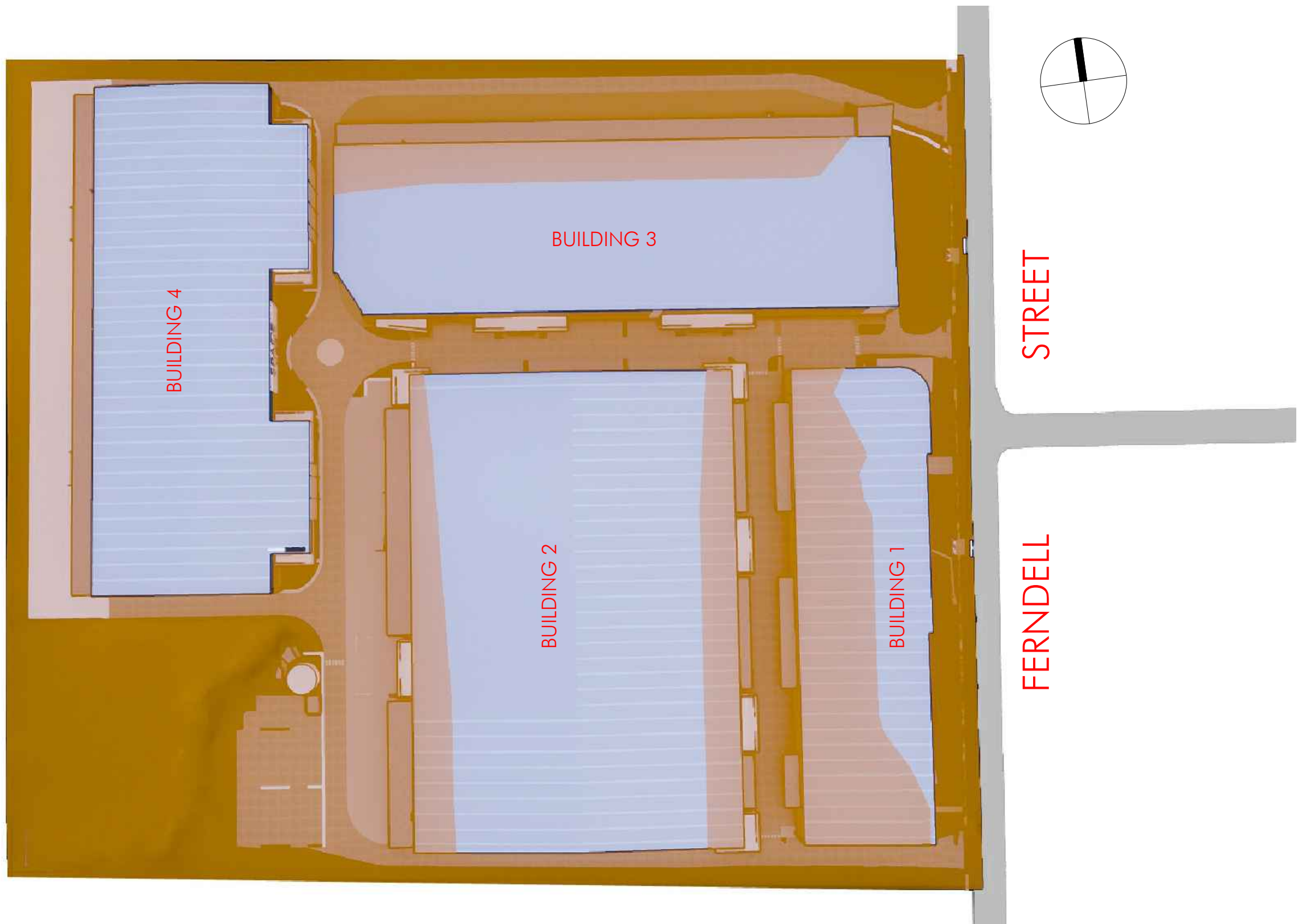
2 12m HEIGHT PLANE - LOOKING DOWN FROM SOUTH-EAST CORNER
NTS



3 12m HEIGHT PLANE - LOOKING ALONG WEST ELEVATION
NTS



4 12m HEIGHT PLANE - LOOKING ALONG SOUTH ELEVATION
NTS



5 12m HEIGHT PLANE - AERIAL VIEW
NTS

* 12m HEIGHT PLANES SHOWN IN ORANGE ARE MEASURED FROM EXISTING NATURAL GROUND LEVEL

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Client

dexus

Issue	Description	Date
P1	ISSUED FOR INFORMATION	03.06.19

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FOR
INFORMATION

Builder

Project Name
Dexus Granville
Project Address
62 Ferndell Street, South Granville, NSW

Drawing Title:
**3D DIAGRAMS
- 12m HEIGHT PLANE**

Author:
HS

Checker:
MC

Sheet Size:
A1

Scale:
NTS

Drawing Number:
10876_SK056

Issue:
P1

nettletontribe

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