



Revised Clause 4.6 Variation Request

Gledswood Entertainment Precinct

Prepared on behalf of: United Development Pty Ltd

November 13, 2024

Document control

Authors

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Project summary

Landowner	United Development Pty Ltd
Landowners address	United ACL of Suite 1, 3b Macquarie Street, Sydney
Land to be developed	1-5 Providence Drive and 2 Huntington Street, Gledswood Hills
Legal description	Lot 1, Lot 2, Lot 3 and Lot 4 of DP1276321
Project description	Mixed-use entertainment precinct comprising 331 residential apartments and a mix of retail, commercial and entertainment uses, including cinema, gym, childcare, food and drink premises and supermarket.

Contents

Document control	ii
Executive Summary.....	v
1 Introduction	7
2 Extent of proposed variation	9
3 Justification for the proposed variation	11
4 Conclusion.....	15
Appendix A Height plane diagrams	16
Table 1 Extent of proposed height variation	9
Table 2: Five ways to demonstrate compliance is unreasonable or unnecessary	11
Table 3: Consideration of Clause 4.3 Height of Buildings objectives	12
Table 4: Consideration of objectives of the B4 Mixed Use zone.....	12
Table 5: Consideration of objectives of the R1 General Residential zone	13
Figure 1: Maximum height of buildings.....	8
Figure 2: Extent of variation – height plane diagram looking north west.....	10
Figure 3: Extent of variation – height plane diagram looking north east	10

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Executive Summary

This Report has been prepared to request a variation to a development standard subject to Clause 4.6 of Appendix 2 of the *State Environmental Planning Policy (Western Parkland City) 2021* in connection with a development application for a mixed-use development at 1-5 Providence Drive and 2 Huntington Street, Gledswood Hills (Gledswood Entertainment Precinct).

The site is currently zoned predominately B4 Mixed Use under *State Environmental Planning Policy (Precincts- Western Parkland City) 2021* (Western Parkland City Precincts SEPP). A small portion of the site is zoned R1 General Residential. The following controls apply:

- FSR – no FSR control
- Maximum height of 18m for the B4 zone (refer to Figure 1)
- Maximum height of 16m for the R1 zone (refer to Figure 1)

A minor variation to the maximum building height is required to accommodate the roof plant and lift overrun and to respond to the sloping topography of the site.

The proposal includes heights ranging from 15.599m up to 20.455m for a small part of the site. The minor height exceedance is required to accommodate the lift over run and roof top servicing. The proposal does not include any usable floorspace above the 18m height limit.

The maximum extent of the height exceedance would be 2.455m and a maximum variation to the 18m height of control by 13.6%. There is an extremely minor exceedance to the 16m height control of 99mm (0.099m) for a small portion of one building (Building J) which is a variation of 0.6% to the 16m height control.

The proposed exceedance to the height control is minor and generally limited to lift overrun and rooftop plant.

Despite the minor non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties or public domain.

The proposal is consistent with the objectives of Clause 4.3 'Height of Buildings, and the zone objectives of the B4 Mixed Use zone and R1 General Residential zone in Appendix 2 of the Western Parkland City Precincts SEPP. As such compliance is considered unnecessary or unreasonable in the circumstances and there are sufficient environmental planning grounds to justify the minor departure from the height control.

Clause 4.6 of Appendix 2 of the Western Parkland City Precincts SEPP includes provisions that allow for variation of development standards in certain circumstances where compliance with the standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard.

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants in applying to vary development standards. The guide sets out five common ways which have been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded. The matters have been considered and addressed by this report.

The proposed height variation is justified for the following reasons.

- The proposal will deliver a new mixed-use entertainment precinct, with increased housing, and improved jobs and services to support the Gledswood community.

- The extent of the building height non-compliance is minor with the greatest exceedance of the 18m building height control being 2.455m (13.6%). There is a minor exceedance to the 16m height control of 99mm (0.6%).
- The building height non-compliance is generally required to accommodate the lift overrun and roof top plant and to respond to the sloping topography of the site.
- The proposed non-compliance does not result in any usable floorspace above the 18m height control.
- The proposal represents an appropriate built form on the site and is compatible with surrounding built form character and does not result in any significant visual or streetscape impacts.
- The minor variation to height will not result in any visual impacts, overshadowing or amenity impacts to surrounding properties or the public domain.
- The proposal does not result in any significant increased overshadowing to adjoining properties. All adjoining properties maintain a minimum of 2 hours of solar access in mid-winter.
- The proposal has been designed to respond to the existing and future built form context, including the Gledswood Primary School and potential future development of the adjacent Entertainment Precinct sites up to heights of 18m.
- The proposal achieves an appropriate bulk and scale and aligns with the setback controls for the site in the Turner Road Precinct DCP.
- The proposal marginally exceeds the height control, with the area of most buildings being within the height control. The minor exceedance to the height control is limited to the lift overrun and a small portion of the roof level.
- A compliant proposal would be indistinguishable from the proposal as the extent of the variation to the height control is so minor and limited to roof plant and lift overrun.

The proposal will deliver a much-needed retail and entertainment precinct to support the growing population of Gledswood Hills and the broader South-West region. The proposal will deliver increased housing supply and choice, provide new jobs and deliver new services and amenities to support the Gledswood community.

On this basis the variation is appropriate and justified.

1 Introduction

This report has been prepared to request a variation to a development standard subject to Clause 4.6 of Appendix 2 of the *State Environmental Planning Policy (Western Parkland City) 2021* in connection with a development application for a mixed-use development at 1-5 Providence Drive and 2 Huntington Street, Gledswood Hills (Gledswood Entertainment Precinct).

The site is currently zoned predominately B4 Mixed Use under *State Environmental Planning Policy (Precincts- Western Parkland City) 2021* (Western Parkland City Precinct SEPP). A small portion of the site is zoned R1 General Residential. The following controls apply:

- FSR – no FSR control
- Maximum height of 18m for the B4 zone (refer to Figure 1)
- Maximum height of 16m for the R1 zone (refer to Figure 1)

A minor variation to the maximum building height is required to accommodate the roof plant and lift overrun and to respond to the sloping topography of the site.

The proposal includes heights ranging from 15.6m up to 20.455m for a small part of the site. The minor height exceedance is required to accommodate the lift over run and roof top servicing. The proposal does not include any usable floorspace above the 18m height limit.

The maximum extent of the height exceedance would be 2.455m and a maximum variation to the 18m height of control by 13.6%. There is an extremely minor exceedance to the 16m height control of 99mm (0.099m) for a small portion of one building (Building J) which is a variation of 0.6% to the 16m height control.

The proposed exceedance to the height control is minor and generally limited to lift overrun and rooftop plant.

Clause 4.6 of Appendix 2 of the Western Parkland City Precincts SEPP includes provisions that allow a consent authority to vary development standards in certain circumstances. The objectives of clause 4.6 are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances.
- There are sufficient environmental planning grounds to justify contravening the development standard.

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants in applying to vary development standards. The guide sets out five common ways which have been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded. The matters have been considered and addressed by this report.

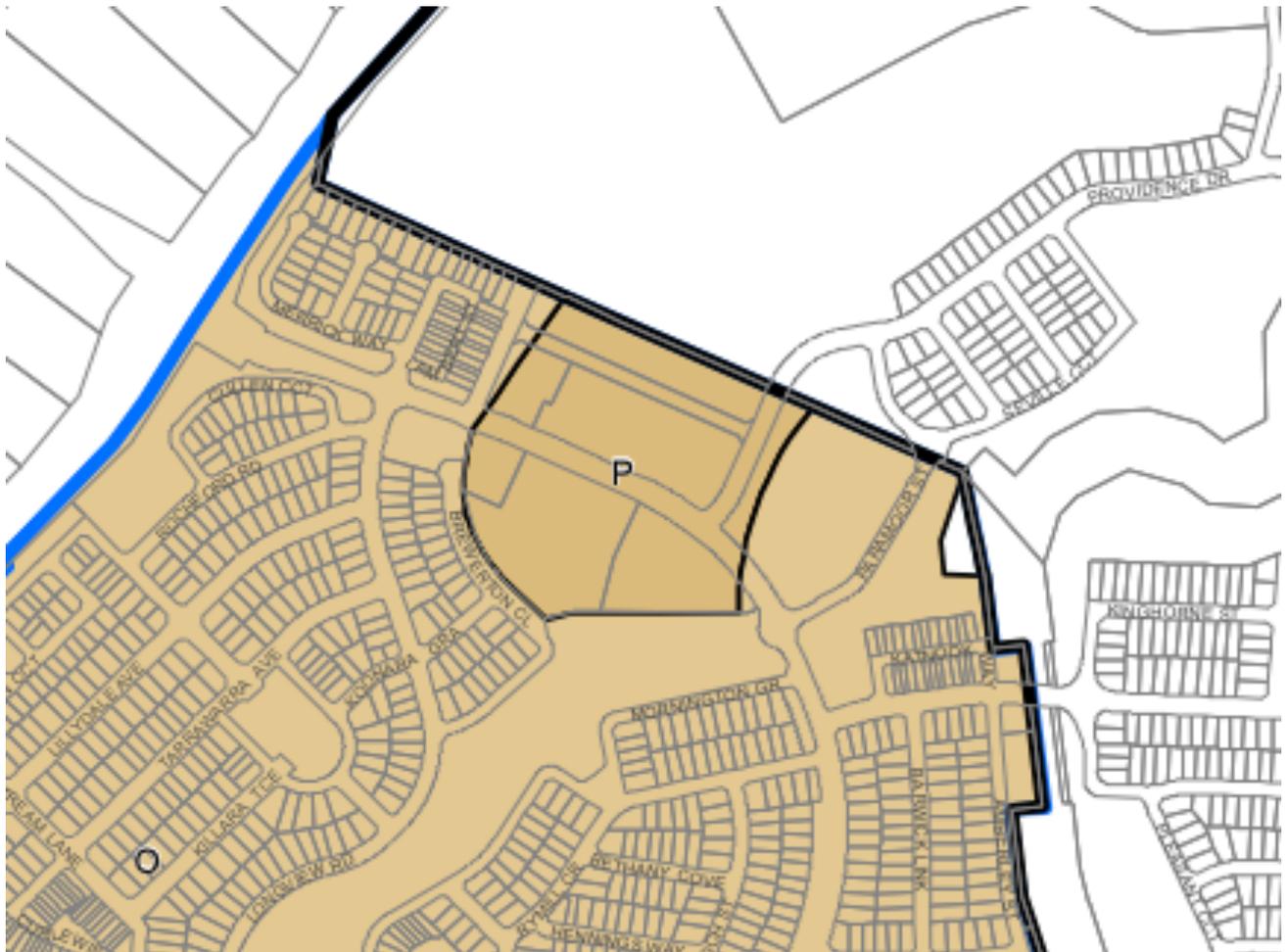


Figure 1: Maximum height of buildings

Maximum Building Height (m)

C	5
E	6
J	9.5
J1	9
M	12
N	13
O	16 Residential Flat Buildings 9.5 All other developments
O1	16
O2	15
P	18

2 Extent of proposed variation

This clause 4.6 Variation Request seeks a variation to the 16m and 18m height control for the site.

This building height non-compliance results in a minor variation to the building height control to facilitate the development of the Gledswood Entertainment Precinct on the site. The proposal will facilitate a new mixed-use precinct, providing increased housing supply and diversity, jobs and services and amenities to support the Gledswood community.

The proposal exceeds the maximum building height to accommodate the lift overrun and roof plant on eight of the proposed buildings. The height exceedance is also due to the fall of natural ground level which slopes away from the centre of the site.

The proposal includes heights ranging from 15.599m up to 20.455m on a small part of the site. The minor height exceedance is required to accommodate the lift over run and roof top servicing. The proposal does not include any usable floorspace above the 18m height limit.

As shown in Table 1, the maximum extent of the height exceedance is 2.455m and a variation to the 18m height of control by 13.6%. There is an extremely minor exceedance to the 16m height control for one building (Building J) of 99m which is variation to the 16m height control of 0.6%.

The proposal provides significant public benefit in the form of a much-needed retail and entertainment precinct to support the growing population of Gledswood Hills and the broader South-West region. The proposal will deliver increased housing supply and choice, provide new jobs and deliver new services and amenities to support the Gledswood community.

Despite the minor non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties or the public domain.

The extent of the variation is outlined in Table 1, and shown on the height plane diagrams at Figure 2 and Figure 3 and Appendix A.

Table 1 Extent of proposed height variation

Building	Maximum height proposed (m)	Maximum extent of variation (m)	Maximum extent of variation (%)
Building A (16m HOB)	15.599m	Complies – no variation proposed	N/A
Building A (18m HOB)	16.565m	Complies – no variation proposed	N/A
Building B (18m HOB)	18.586m	0.586m (Plant)	3.3%
Building C (18m HOB)	19.271m	1.271m (Plant)	7.06%
Building D (18m HOB)	20.239m	2.239m (Plant)	12.4%
Building E (18m HOB)	18.686m	0.686m (Plant)	3.8%
Building F (18m HOB)	19.303m	1.303m (Lift overrun)	7.2%
Building G (18m HOB)	19.624m	1.624m (Plant)	9.02%
Building H (18m HOB)	18.536m	0.536m (Plant)	2.9%
Building I (18m HOB)	19.418m	1.418m (Plant)	7.9%

Building J (18m HOB)	20.455m	2.455m (Plant)	13.6%
Building J (16m HOB)	16.099m	0.099m	0.6%



Figure 2: Extent of variation – height plane diagram looking north west

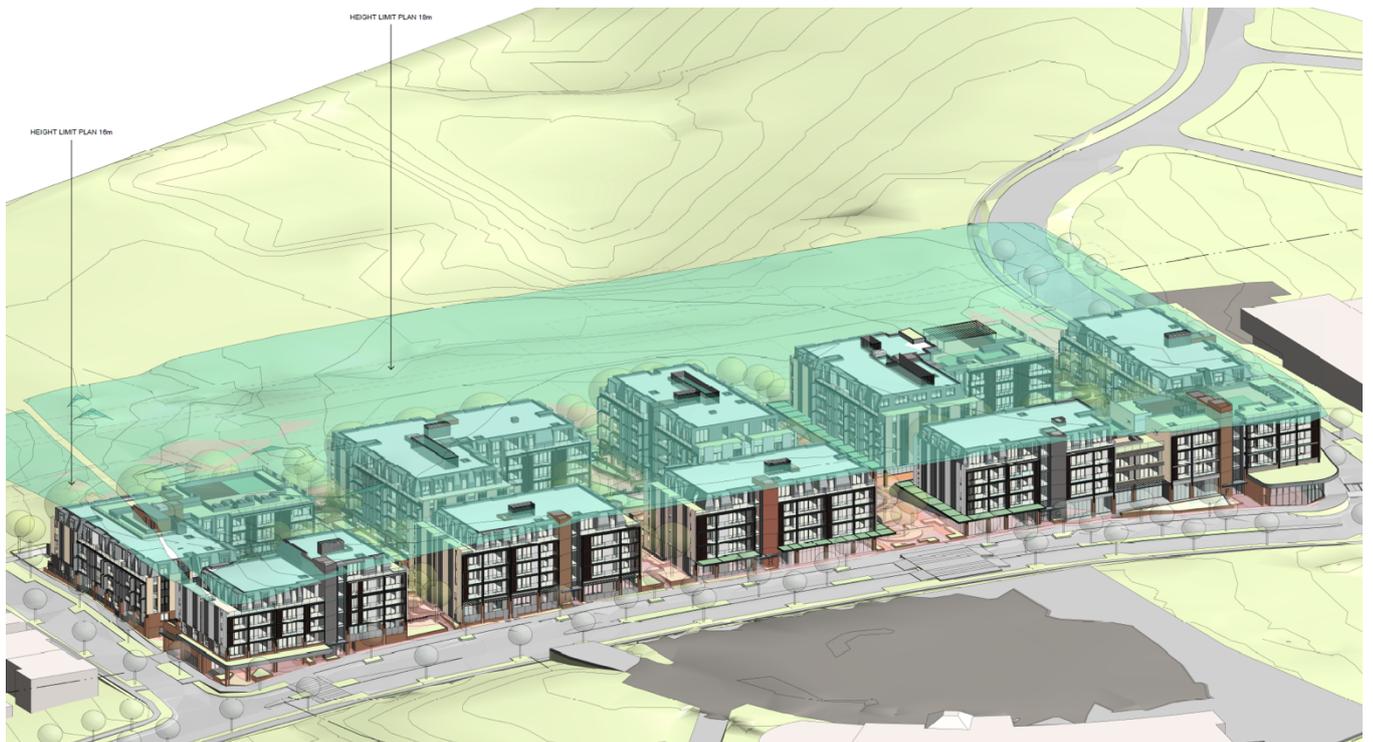


Figure 3: Extent of variation – height plane diagram looking north east

3 Justification for the proposed variation

This section of the report provides consideration of the requirements of Clause 4.6 and the matters set out in the *Guide to Varying Development Standards November 2023*.

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

Compliance with the development standard is considered unreasonable and unnecessary in this instance.

The proposed variation will have negligible impact on the amenity of the surrounding area and will not impact on the ability of the proposal to achieve the relevant objectives of Appendix 2 of the Western Parkland City Precincts SEPP as set out in Clause 4.3 – Height of Buildings and for the B4 Mixed Use and R1 General Residential zone which apply to the site.

As demonstrated in Table 3, Table 4 and Table 5 the objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in *Wehbe vs Pittwater* and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the *Guide to Varying Development Standards* (refer to Table 2).

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants applying to vary development standards. The guide sets out five common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary as established by the NSW Land and Environment Court in determining whether the objection to the development standard is well founded. A Clause 4.6 application is not required to meet all of the tests.

Table 2: Five ways to demonstrate compliance is unreasonable or unnecessary

Objective	Consideration
The objectives of the standard are achieved notwithstanding non-compliance with the standard	The objectives of Clause 4.3 Height of Buildings and the zone objectives can still be achieved, as outlined at Table 3, Table 4 and Table 5, notwithstanding the non-compliance.
The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary	This test is not applicable in this instance.
The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable	This test is not applicable in this instance.
The development standard has been virtually abandoned or destroyed by council’s own actions in granting consents departing from the standard.	This test is not applicable in this instance.
The compliance with the development standard is unreasonable or inappropriate due to the existing use of the land and current character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.	This test is not applicable in this instance.

The proposed development is consistent with the objectives of Clause 4.3 Height of Buildings as shown in Table 3.

Table 3: Consideration of Clause 4.3 Height of Buildings objectives

Objective	Consideration
To preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale	The proposal does not result in any significant amenity impacts to surrounding development and maintains excellent solar access to surrounding dwellings and public domain areas.
To provide for a range of residential building heights in appropriate locations that provide a high quality urban form	The proposal provides a transition to surrounding buildings and is considered appropriate for the existing and emerging character of Gledswood Hills.
To facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas	The proposal will deliver a higher-density mixed-use precinct to provide improved retail, commercial, recreation and entertainment uses for the Gledswood community, while minimising impacts to surrounding properties.
To provide appropriate height controls for commercial and industrial development.	The proposed development provides an appropriate height transition to heritage items and does not impact the significance of the heritage conservation area. The proposed building is appropriately scaled and setback to reduce bulk and scale and minimise impacts.

The proposed development is consistent with the objectives of the B4 Mixed Use zone and R1 General Residential zone which apply to the site as shown in Table 4 and Table 5.

Table 4: Consideration of objectives of the B4 Mixed Use zone

Objective	Consideration
To provide a mixture of compatible land uses.	The proposal provides a mix of uses, including residential, commercial, retail, entertainment, and recreation consistent with the vision for the Gledswood Entertainment Precinct.
To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	The proposal includes a range of services and amenities including retail, entertainment, employment, and residential uses, and will facilitate excellent access to transport, services and open space – allowing for the majority of trips to be made on foot with reduced reliance on private vehicle.
To encourage development that supports or complements the primary office and retail functions of the Neighbourhood Centre Zone and the Local Centre Zone.	Gledswood Entertainment Precinct is identified as important neighbourhood centre to meet the needs of the Gledswood community. The proposal is consistent with the vision and strategic objectives for the Gledswood Entertainment Precinct and will support nearby centres.
To encourage development providing services to the surrounding community.	The proposal will deliver a new mixed-use precinct, providing new jobs, services, housing and

	entertainment uses to support the needs of the Gledswood community.
To permit development that adds to the vitality and diversity of commercial and retail centres while not prejudicing their principal function.	The proposal will deliver the Gledswood Entertainment Precinct, an important neighbourhood centre for Gledswood Hills and surrounding areas. The proposal will provide a mixed-use precinct that will meet the demand for retail, commercial and local services and is not expected to impact the viability of existing and other planned centres.

Table 5: Consideration of objectives of the R1 General Residential zone

Objective	Consideration
To provide for the housing needs of the community	The proposal will provide the housing needs of the community through the delivery of 331 new apartments on the site. The building height non-compliance will support greater housing choice and increased housing supply without resulting in any significant additional amenity impacts to surrounding properties.
To provide a variety of housing types and densities	The proposal will enhance the variety of housing types in the area providing greater diversity of housing and improving affordable housing options in the local area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	The proposal provides a range of services and amenities to support the community, including a supermarket, childcare, retail and local businesses.
To support the well being of the community, including educational, recreational, community, religious and other activities and, where appropriate, neighbourhood shops if there will be no adverse effect on the amenity of proposed or existing nearby residential development.	The proposal will support the needs and well-being of the Gledswood community by providing a range of facilities and services within walking distance of homes, including high quality public domain areas, play areas, childcare and spaces for the community to meet and socialise.
To allow for small scale kiosks, function centres, restaurants and markets that support the primary function and use of recreation areas, public open space and recreation facilities located within residential areas.	Not applicable
To allow for small scale intensity tourist and visitor accommodation that does not interfere with residential amenity.	Not applicable
To provide for a variety of recreational uses within open space areas.	Not applicable

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

As outlined below, there are sufficient environmental planning grounds to justify the proposed variation to the height control in this instance.

The proposed building height non-compliance results in a minor variation to the building height control to facilitate the development of the Gledswood Entertainment Precinct on the site. The proposal will facilitate a new mixed-use precinct, providing increased housing supply and diversity, jobs and services and amenities to support the Gledswood community.

The proposal exceeds the maximum building height to accommodate the lift overrun and roof plant. The height exceedance is also due to the fall of natural ground level which slopes away from the centre of the site.

The proposal includes heights ranging from 15.6m up to 20.455m on a small part of the site. The minor height exceedance is required to accommodate the lift over run and roof top servicing. The proposal does not include any usable floorspace above the 18m height limit.

The maximum extent of the height exceedance would be 2.455m and a maximum variation to the 18m height of control by 13.6%. There is an extremely minor exceedance to the 16m height control of 99mm (0.099m) for a small portion of one building (Building J) which is a variation of 0.6% to the 16m height control.

The proposed exceedance to the height control is minor and generally limited to lift overrun and rooftop plant.

The proposal provides significant benefits in the form of a much-needed retail and entertainment precinct, will facilitate the orderly and economic development of the land, and support the growing population of Gledswood Hills and the broader South-West region. The proposal will deliver increased housing supply and choice, provide new jobs and deliver new services and amenities to support the Gledswood community.

Despite the minor non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties or public domain.

The minor building height non-compliance will not result in any adverse amenity impacts. From a visual and streetscape point of view the minor extent of the variation means that the impacts would be negligible.

4 Conclusion

In summary the proposed variation to the maximum height of buildings control is justified on the basis that:

- The proposal will deliver a new mixed-use entertainment precinct, with increased housing, and improved jobs and services to support the Gledswood community.
- The extent of the building height non-compliance is minor with the greatest exceedance of the 18m building height control being 2.455m (13.6%). There is an extremely minor exceedance to the 16m height control of 99mm (0.099m) which is a variation of 0.6% to the 16m height control.
- The building height non-compliance is required to accommodate the lift overrun and roof top plant and to respond to the topography of the site.
- The proposed non-compliance does not result in any usable floorspace above the 18m height control.
- The proposal represents an appropriate built form on the site and is compatible with surrounding built form character and does not result in any significant visual or streetscape impacts.
- The minor variation to height will not result in any visual impacts, overshadowing or amenity impacts to surrounding properties or the public domain.
- The proposal does not result in any significant increased overshadowing to adjoining properties. All adjoining properties maintain a minimum of 2 hours of solar access in mid-winter.
- The proposal has been designed to respond to the existing and future built form context, including the Gledswood Primary School and potential future development of the adjacent Entertainment Precinct sites up to heights of 18m.
- The proposal achieves an appropriate bulk and scale and aligns with the setback controls for the site in the Turner Road Precinct DCP.
- The proposal marginally exceeds the height control, with most of the building being within the height control. The minor exceedance to the height control is limited to the lift over run and a small portion of the roof level.

On this basis the variation is considered to be appropriate and justified.

Appendix A

Height plane diagrams



IMPORTANT NOTES
 Do not scale from drawings. All dimensions to be checked on site before commencement of work. All discrepancies to be brought to the attention of the Architect. Larger scale drawings and written dimensions take preference. This drawing is copyright and the property of the author, and must not be retained, copied or used without the express authority of MARCHESE PARTNERS INTERNATIONAL PTY. LTD.

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FOR APPROVAL
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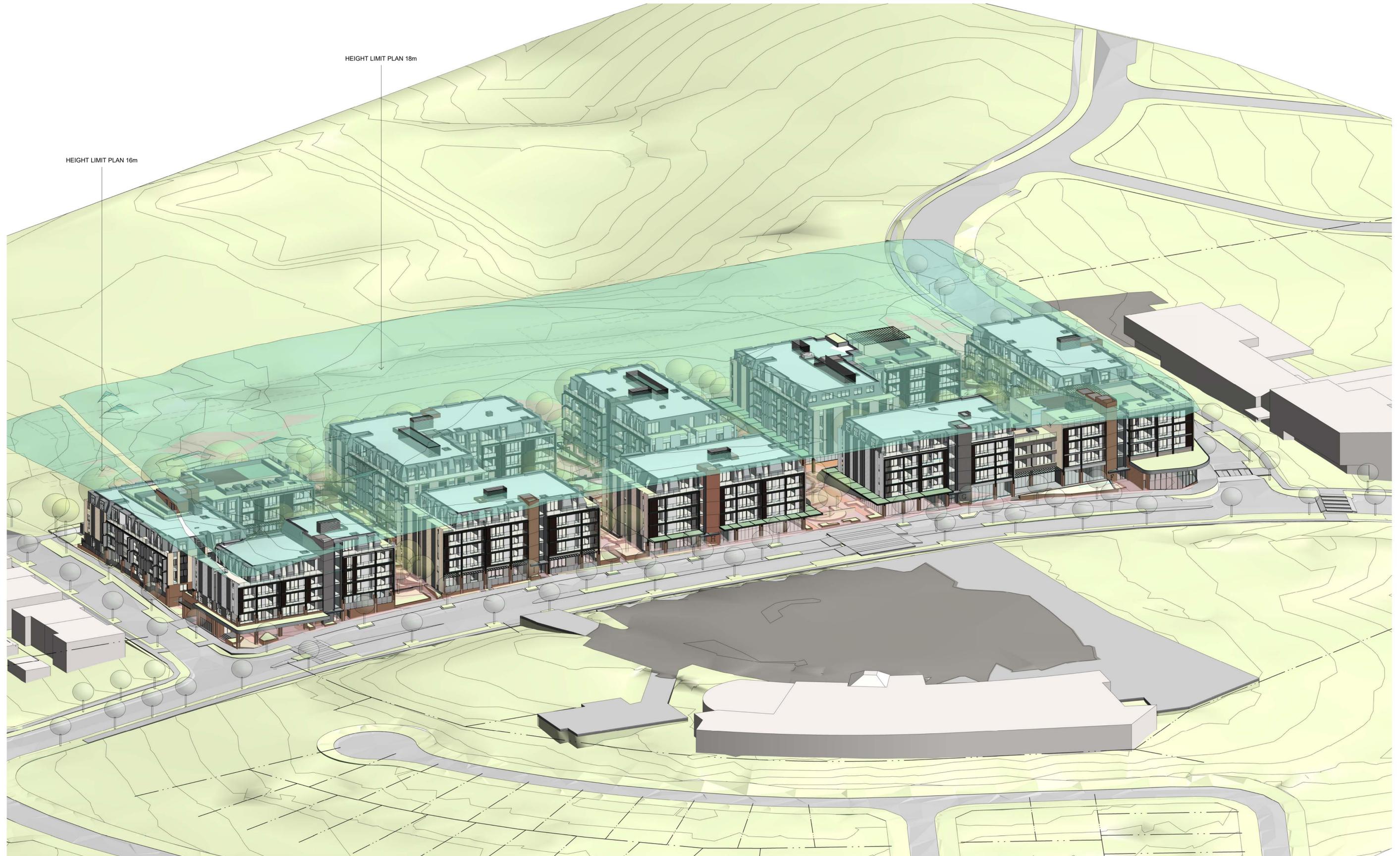
CLIENT
**UNITED DEVELOPMENT
 MANAGEMENT PTY LTD**

PROJECT
**GLEDSDWOOD HILLS
 THE HERMITAGE WAY,
 GLEDSDWOOD HILLS, NSW 2557**

DRAWING TITLE
HEIGHT LIMIT DIAGRAMS - SHEET 1

SCALE NTS	DATE 27/09/2024	DRAWN DZ	CHECKED MS
JOB 22109	DRAWING DA7.50	REVISION B	

DATE STAMP: 26/09/2024 16:47:54



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PROJECT
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 THE HERMITAGE WAY,
 GLEDSDOOD HILLS, NSW 2557**

DRAWING TITLE
HEIGHT LIMIT DIAGRAMS - SHEET 2

SCALE NTS	DATE 27/09/2024	DRAWN SM	CHECKED MS
JOB 22109	DRAWING DA7.51		REVISION B

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