



CLAUSE 4.6 JUSTIFICATION
LOT 642 GOOGONG (18 GLENROCK DRIVE) NSW

29 July 2024

Revision B

**STEWART
ARCHITECTURE**

CLAUSE 4.6 JUSTIFICATION

Overview

Prepared to accompany the Development Application submitted to Queanbeyan-Palerang Regional Council (QPRC).

Project Address:

Lot 642

18 Glenrock Drive, Googong, NSW 2620

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Note

Clause 4.6 Justification prepared for the Development Application of Lot 642 Googong is to be read in conjunction with all architectural documentation, and all supporting consultant documentation and reports.

1. Introduction

The development to which this application relates is for the construction of a residential development comprised of 163 residential apartments at Lot 642 Googong NSW (18 Glenrock Drive).

The site is located in Googong Neighbourhood 2. The site is zoned part R1 General Residential and part E1 Local Zone under the Queanbeyan Palerang Regional Council (QPRC) LEP 2022.

This Development Application seeks approval for the:

- Construction of six residential apartment buildings ranging from 3-storey to 5-storey including 1-bedroom to 3-bedroom apartments. Ground floor apartments addressing the Town Centre are commercially adaptable.
- A common amenities pavilion and pool.
- A common carpark consisting of up to two levels of basement with 337 parking spaces (including visitor spaces)
- Ground level landscaping
- Associated services

The proposal largely complies with the provisions of the QPRC LEP 2022. The development seeks approval for one minor exception to compliance with Part 4.3 Building Heights.

Assessment and justification for the exceedance in height is outlined in this report in accordance with Clause 4.6 of the QPRC LEP 2022. This report has been prepared generally in accordance with the NSW Department of Planning and Infrastructures' publication, 'Varying Development Standards: A Guide' (August 2011). 'Varying Development Standards: A Guide' outlines the matters to be addressed in order to vary a development standard.

The proposed variation is considered reasonable on the basis that:

- The proposed development achieves the objectives of the set out by the R4 High Density Residential Zone, and the objectives of both Clause 4.3 Height of Buildings, and Clause 4.4 Floor Space Ratio.
- The proposed variation to Clause 4.3 Height of Buildings is in an area of the building that will not have a detrimental impact on the existing developments, immediate neighbours to the development, or the streetscape, and thus the variation is negligible.
- Strict compliance with the exact standard would not achieve a greater planning, architectural or urban design outcome on the basis the development complies with the stipulated FSR provisions of the QPRC LEP 2022; which are the indicating controls that the proposal is not an overdevelopment of the site, and that its bulk and scale are appropriate.

2. Site Location + Context

The subject site is Lot 642 Googong, and is referred to as 18 Glenrock Drive for the purpose of the Development Application. The site has an area of 11,901m². A survey detail plan is included in the application set.

The site is located in Neighbourhood 2 of Googong, part of Queanbeyan-Palerang Regional Council. This neighbourhood is supported under the LEP and DCP controls to evolve into a vibrant residential neighbourhood which provides quality residential accommodation set within distinctive streetscapes. This will create a flow-on demand for housing and associated services. The desired future character of the neighbourhood encourages pedestrian and cycle links and an increase in street-planting and landscaping opportunities, connecting the neighbourhood to the Hastings River Foreshore and Kooloonbung Creek.

The site is zoned both R1 General Residential (west of the site) and E1 Local Centre (east of the site). Surrounding sites are of consistent zoning and development is therefore expected to be of similar density and scale.

The site is bound by roads which minimises the impact of development on the site to the surrounds. Importantly, there are parklands and recreational spaces to the east and south of the site, directly opposite the area of the site where the tallest building elements are permitted, thereby further minimising any development impact.

The locality plan (Figure A, below) portrays the site in its local context.



Figure - Locality Plan (Nearmap 10 May 2023)

3. Exception to Development Standards

The Department of Planning and Infrastructure's Publication "Varying Development Standards: A Guide" (August 2011), States that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- *Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP); and*
- *State Environment Planning Policy No 1 – Development Standards (SEPP1).*

In this instance, SEPP 1 does not apply as the QPRC LEP 2022 is a Standard Instrument LEP. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a Development Standard.

Clause 4.6 of the QPRC LEP 2022 outlines its objectives and stipulates its ability to provide a degree of flexibility in the event of promoting better outcomes for and from the development.

(1) The objectives are as follows:

- (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.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

This proposal under Clause 4.6 of the QPRC LEP 2022 seeks to vary the building height standard applicable to the development site. In accordance with Clause 4.6(3) this proposal will demonstrate that compliance with the development standard is unreasonable or unnecessary in this circumstance, and that there are sufficient environmental planning grounds to justify contravening the development standard.

4. Development Standard to be Varied

The Queanbeyan Palerang Regional Council (QPRC) Local Environmental Plan (2022) applies to this land.

4.1 Land Zoning

Under Clause 2.1 of the QPRC LEP 2022 the subject site is zoned R1 General Residential to the west of the site and E1 Local Centre to the east of the site. This zoning is consistent with surrounding sites.

The proposed development is defined under the QPRC LEP 2022 as a 'residential flat building'.



Figure - Land Zoning Map, QPRC LEP 2022

4.2 Standard to be Varied

The Development Standard to be varied is Clause 4.3 Height of Buildings of the QPRC LEP 2022. In accordance with the definition contained in Section 1.4 of the Environmental Planning Assessment Act 1979; Clause 4.3 Height of Buildings is considered a Development Standard and not a prohibition.

Clause 4.3(1) Height of Buildings of the QPRC LEP 2022 outlines its objectives as:

- (a) to establish the height of buildings consistent with the character, amenity and landscape of the area in which the buildings will be located,*
- (b) to protect residential amenity and minimise overshadowing,*
- (c) to minimise the visual impact of buildings,*
- (d) to maintain the predominantly low-rise character of buildings in the Queanbeyan-Palerang Regional local government area,*
- (e) to ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,*
- (f) to protect the heritage character of the Queanbeyan-Palerang Regional local government area and the significance of heritage buildings and heritage items,*
- (g) to provide appropriate height transitions between buildings, particularly at zone boundaries.*

The subject site is identified as having a building height of 12m to the west of the site and 16m to the east of the site. Building height is measured as per the following QPRC LEP 2022 definition:

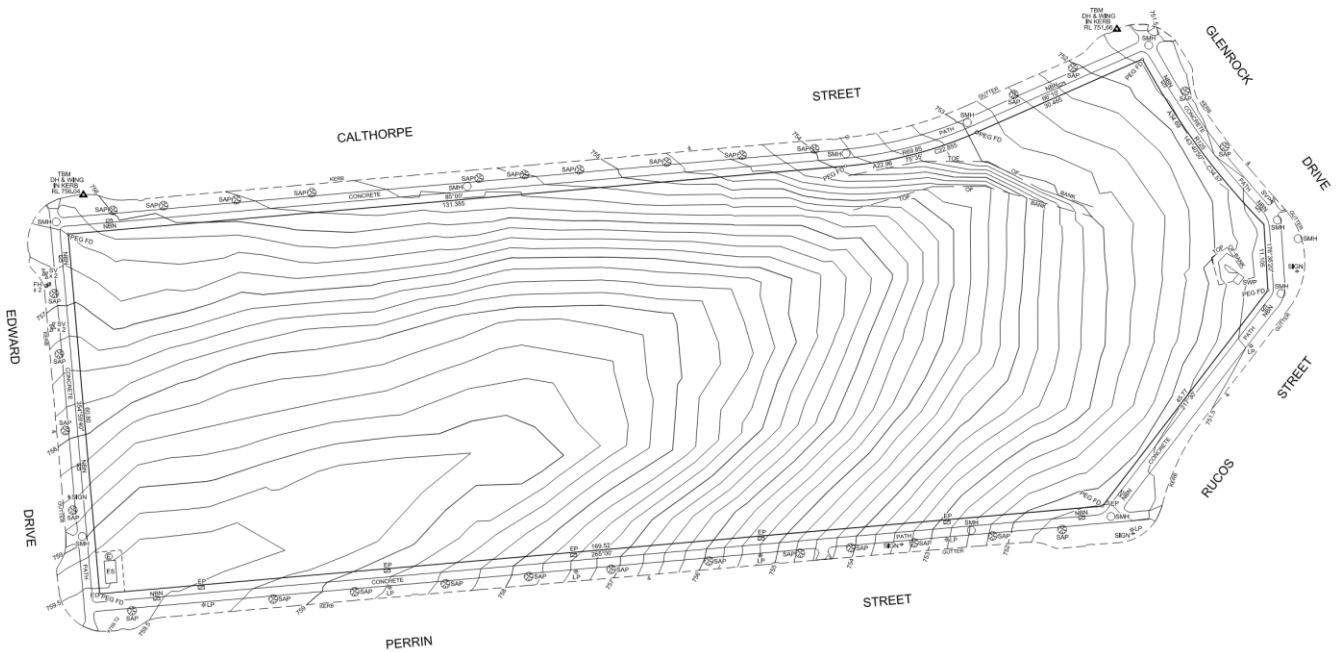
'building height means –

- (a) in relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building – the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.'*



Figure - Building Heights Map, QPRC LEP 2022

The existing topographic condition results in a fall of approximately 9m across the site with a high point at the south-west, and a low point at the east.



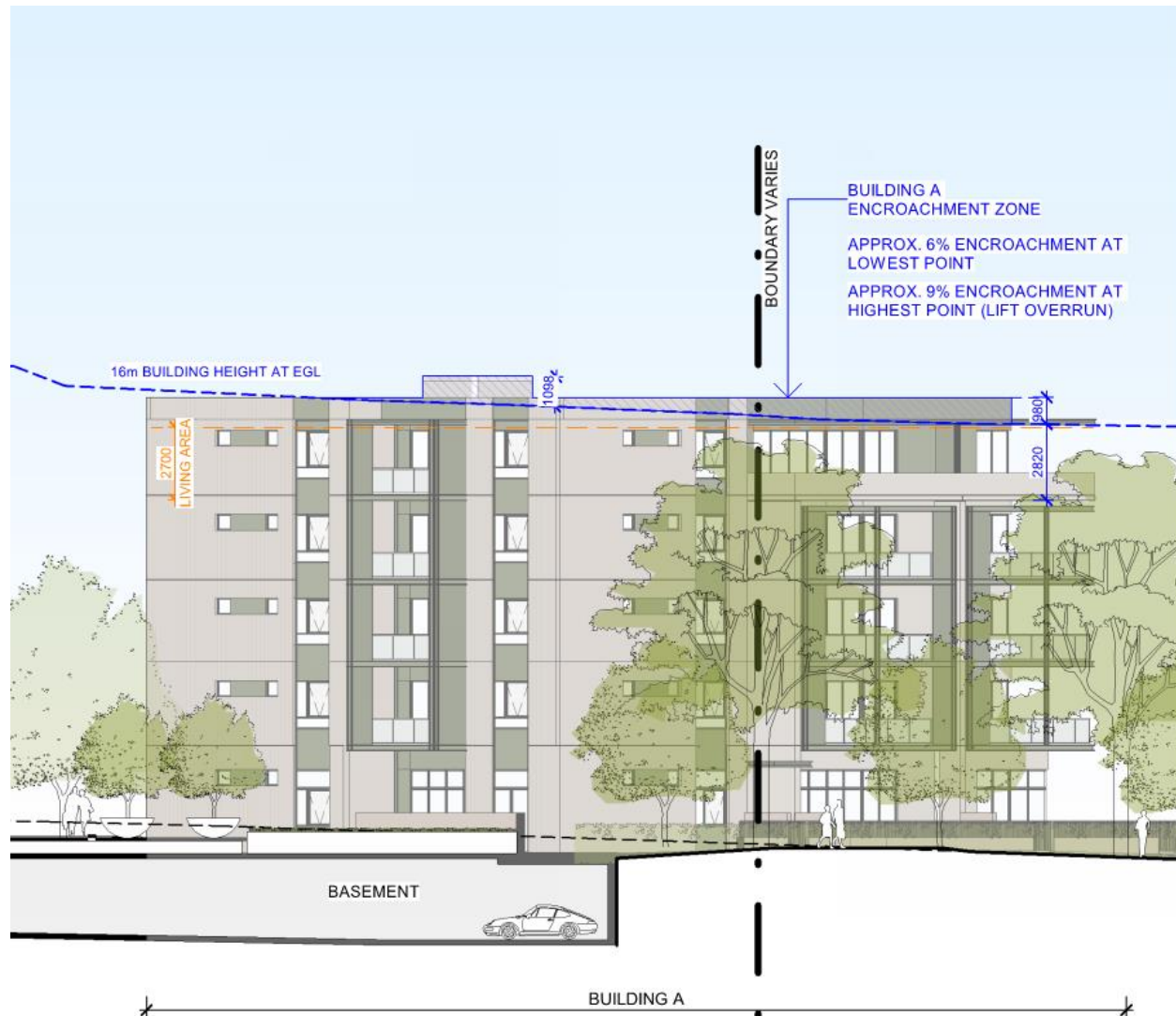
The development proposal responds to this topography by providing a series of small footprint buildings which step with the slope of the land. Additionally, the majority of buildings have two cores to allow further variation in floor levels. This allows all buildings to have positive relationship to the streetscape, with level pedestrian access. All parking can be provided in basement under the buildings, which grades at maximum 1:20, again following the topography.

Regardless of the above initiatives to step the buildings, there are minor rooftop elements which exceed the height limits. These exceedances are outlined as follows:

Building A

Building A is a 5-storey building including commercially adaptable ground floor units to which increased ceiling height is desirable. A small area of roof / parapet exceeds the 16m height plane at the eastern corner of the site by up to 980mm (6% height exceedance). This occurs at the corner of Glenrock Drive and Rucos Street only. There is no exceedance for the majority of each streetscape, and the average height along each streetscape is less than 16m.

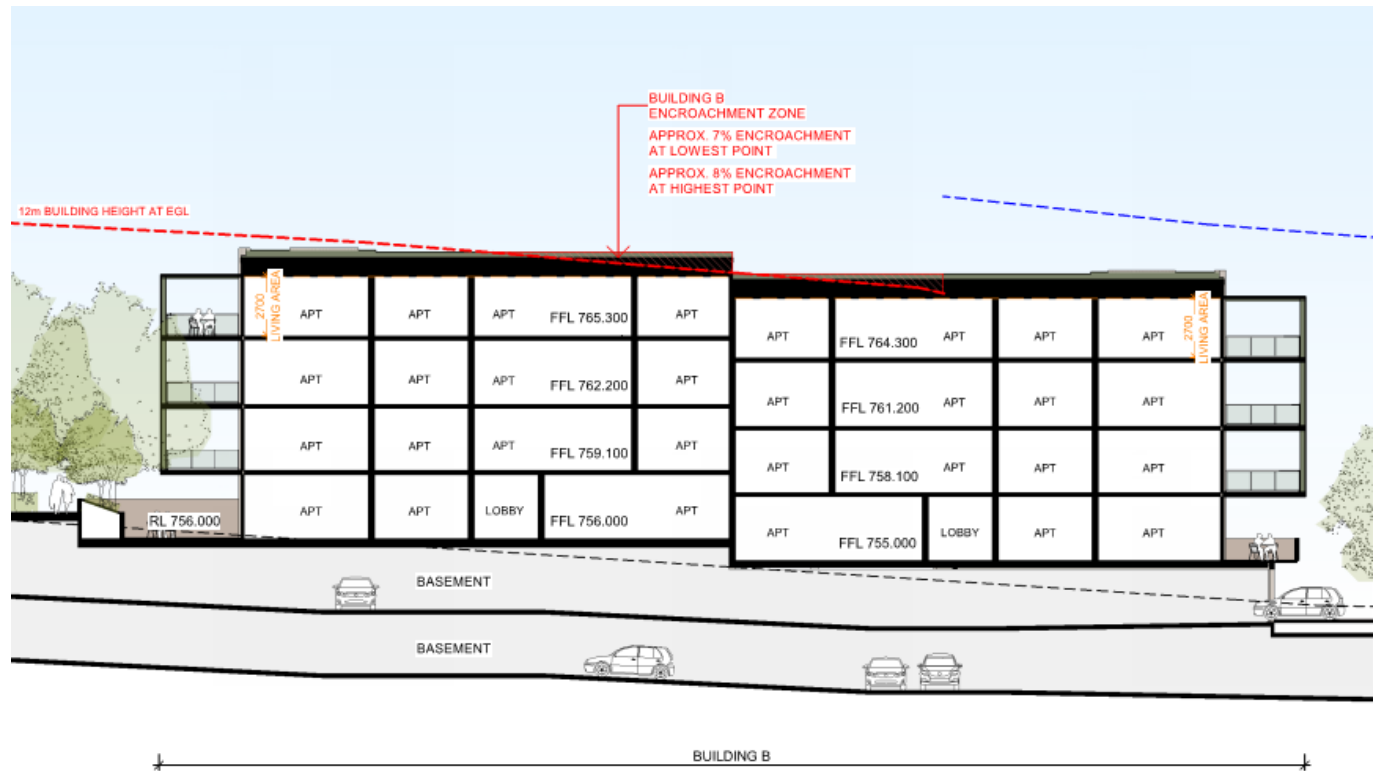
The two lift overruns exceed the 16m height plane by up to 1098mm (7% height exceedance). The overruns are located at the centre of the building floor plate and are not visible from the surrounding public realm.



Building B

Building B is a 4-storey building which is positioned in both the 12m and 16m height areas. Two areas of roof exceed the height plane by up to 950mm (8% height exceedance) only within the 12m height plane. Within the 16m height plane the building is significantly lower than permitted.

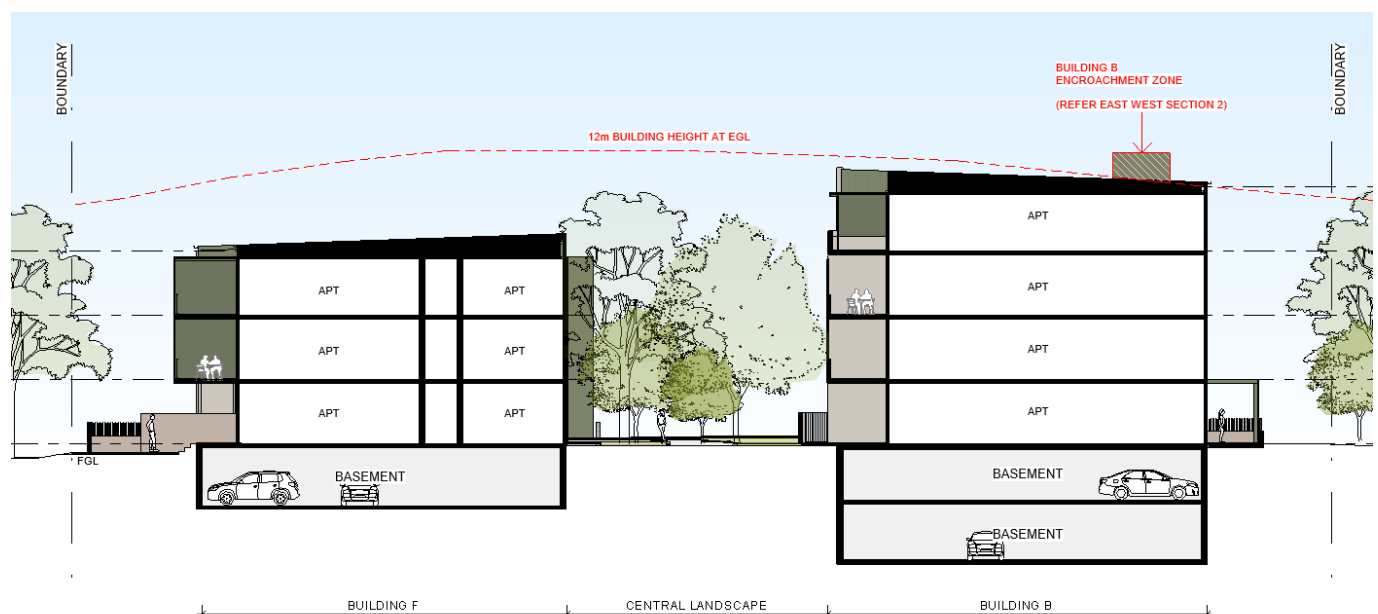
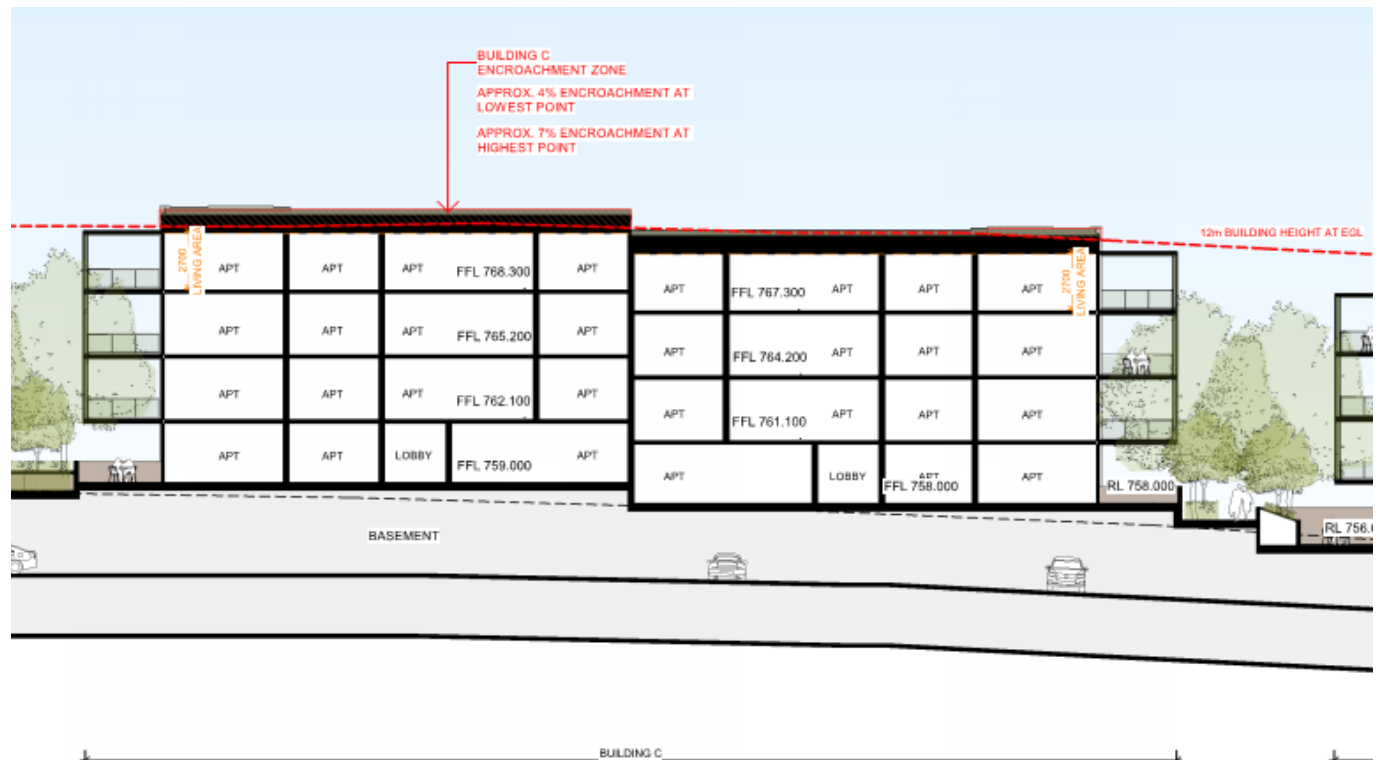
The western lift overrun exceeds the 12m height plane by up to 1200mm (10% height exceedance). The overrun is not readily visible from the surrounding public realm.



Building C

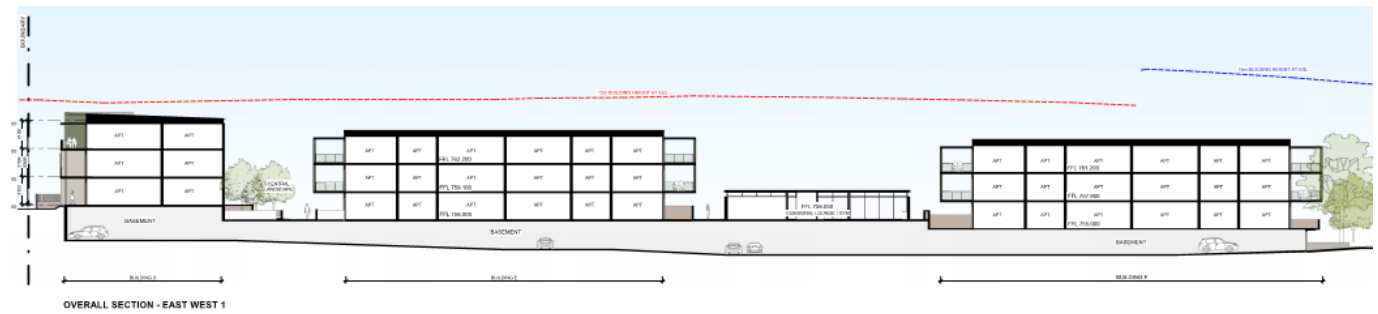
Building C is a 4-storey building which is positioned within the 12m height areas. Two areas of roof exceed the height plane by up to 890mm (7% height exceedance). The western exceedance is due to the leveling of the topography at that part of the site.

The two lift overruns exceed the 12m height plane by up to 1200mm (10% height exceedance). The overruns are not readily visible from the surrounding public realm.



Buildings D, E and F

Buildings D, E and F are all lower three storey scale (to provide variety of scale around the site and maximise solar access throughout the development and therefore significantly under the 12m and 16m height planes.



5. Justification for the Contravention

This section addresses Clause 4.6 Sections (3), (4) and (5). In doing so it will justify the exceedance of Clause 4.3 - Heights of Buildings by demonstrating:

- *That compliance with the Development Standard is unreasonable or unnecessary in the circumstances of the case.*
- *That there are sufficient environmental planning grounds to justify contravening the Development Standard.*
- *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 the development is proposed to be carried out.*

5.1 Compliance is Unreasonable or Unnecessary

Compliance with a Development standard may be shown as unreasonable or unnecessary if the objectives of the standard are achieved notwithstanding noncompliance of the standard. The proposed development achieves the objectives of QPRC LEP 2011 Clause 4.3 Heights of Buildings as follows:

(a) to establish the height of buildings consistent with the character, amenity and landscape of the area in which the buildings will be located,

The proposed development is a high-quality, architectural design which seeks to invigorate this area of Googong in line with the neighbourhood's intended future desired character. The development embraces the site location, adjacent the community recreation spaces including lake; positioning the tallest building elements opposite to maximise outlook and passive surveillance of the public realm. The proposal responds to a desire for additional dwelling typology in Googong including affordable dwellings. The architecture represents a contemporary and refined aesthetic with a strong sense of place and quality design.

The exceedance of the building height limit is primarily due to the challenging topography of the site. Any elements above the height planes have the minimum visual impact from the public domain and are negligible impact in terms of additional shadow created by the exceedance, with no impact to surrounding uses. On average the development proposal sits well below the height planes across the site with significant areas of the site retained as deep soil planting.

It should be acknowledged the variation to the height is not seeking additional floor space but is solely lift overrun and a small portion of the roof structure. The development is below the allowed yield for the FSR under Clause 4.4 Floor Space Ratio of the QPRC LEP 2022. The proposal is also in compliance with site coverage requirements. The small footprint buildings ensure wide interfaces and extensive landscape areas within and around the site.

This is a clear indication that the bulk of the building is proportionate to the site and consistent with the character, amenity and landscape desired for the area. Strict application of the Development Standard for maximum height is unreasonable and unnecessary and would not achieve a greater planning or design outcome in this instance.

(b) to protect residential amenity and minimise overshadowing,

The proposed exceedance of building height is for lift overrun and minor roof elements only. There is no privacy impact for future residents.

With roads surrounding the entire site, any exceedance of building height has negligible impact on future neighbours in terms of overshadowing (refer DA0301). For example, at midday on the winter solstice, shadows cast by the proposal do not extend beyond the Perrin Street setback of future development to the south of the site. buildings opposite the site. Any additional height to the roof or lift overrun would have a negligible impact.

It is clear that the exceedance in height for which this variation seeks approval, does not have a direct effect on neighbours or the public realm and the strict application of the Development Standard for maximum height is unreasonable and unnecessary and would not achieve a greater planning or design outcome in this instance.

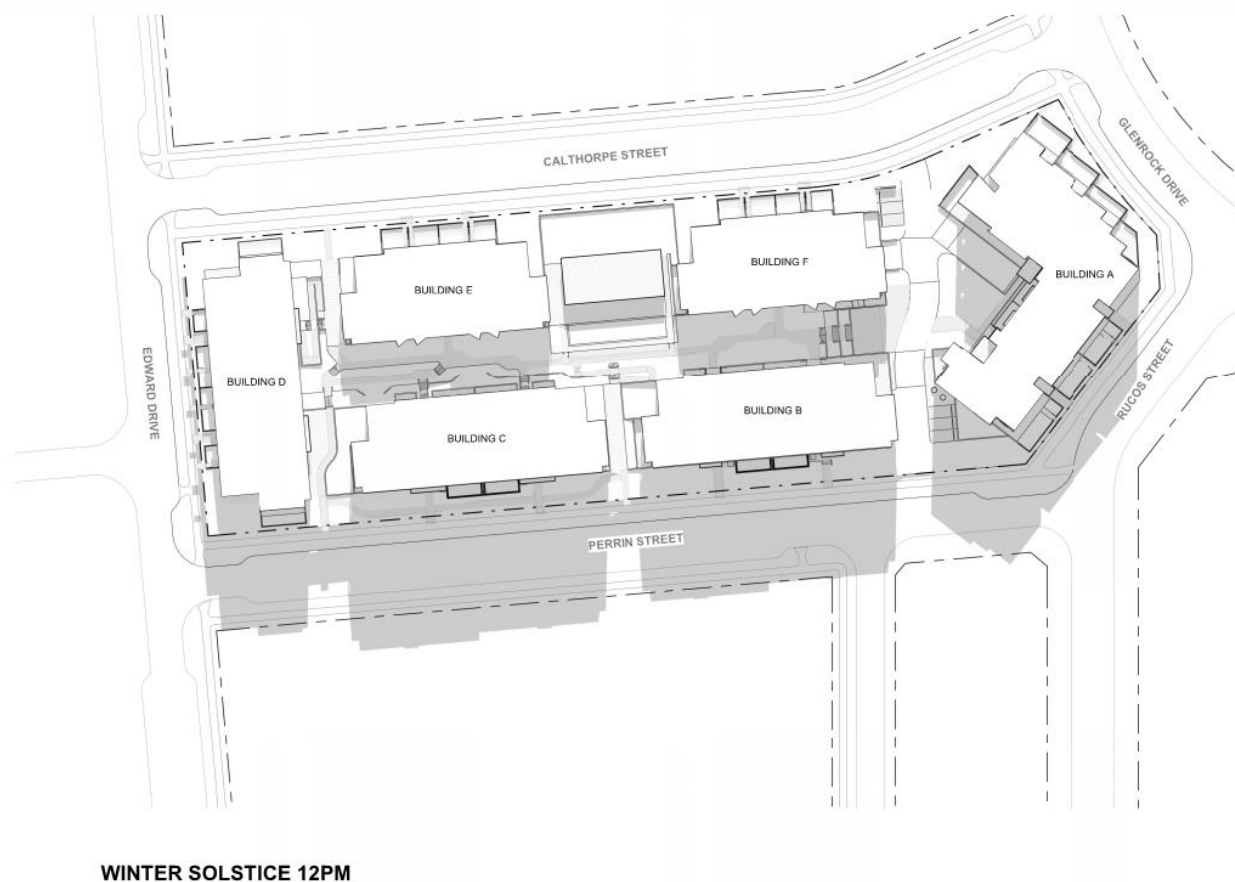


Figure - Winter Solstice Shadow Diagram (Refer Drawing - DA 0301)

(c) to minimise the visual impact of buildings,

The proposed exceedance of the building height limit is for lift overrun, and minor portions of the roof only. The exceedance allows a correctly proportioned rooftop to buildings and therefore improved architectural aesthetic.

There is no current or future visual impact to surrounding development and does not contribute to the loss of views. The proposal presents as a series of buildings within a landscape setting, including wide interfaces allowing both vistas between buildings and solar access through buildings.

The exceedance in height for which this variation seeks approval, does not have a negative visual impact to buildings, and the strict application of the Development Standard for maximum height is unreasonable and unnecessary and would not achieve a greater planning or design outcome in this instance.

(d) to maintain the predominantly low-rise character of buildings in the Queanbeyan-Palerang Regional local government area

The proposed exceedance of the building height limit is for lift overrun, and minor portions of the roof only. Buildings are designed to the heights outlined within the Googong Design Guidelines which require a minimum of 4-storey development to the eastern (town centre) edge of the site and strong built form along Glenrock Drive and Rucos Street.

The exceedance in height for which this variation seeks approval, further enhances this urban design objective, and the strict application of the Development Standard for maximum height is unreasonable and unnecessary and would diminish the planning or design outcome in this instance.

(e) to ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,

The proposed exceedance of the building height limit is for lift overrun, and minor portions of the roof only. Buildings are designed to the heights outlined within the Googong Design Guidelines which require a minimum of 4-storey development to the eastern (town centre) edge of the site and strong built form along Glenrock Drive and Rucos Street.

The exceedance in height for which this variation seeks approval, further enhances this urban design objective, and the strict application of the Development Standard for maximum height is unreasonable and unnecessary and would diminish the planning or design outcome in this instance.

There is no historic character associated with this area.

(f) to protect the heritage character of the Queanbeyan-Palerang Regional local government area and the significance of heritage buildings and heritage items,

There is no heritage character or heritage buildings or items of significance within the area.

(g) to provide appropriate height transitions between buildings, particularly at zone boundaries.

The proposed exceedance of the building height limit is for lift overrun, and minor portions of the roof only. Exceedance above height planes are minor (less than 10%) and maintain appropriate height transitions between buildings. With roads surrounding the entire site, variations in building height can be comfortably accommodated.

The exceedance in height for which this variation seeks approval, further enhances this urban design objective, and the strict application of the Development Standard for maximum height is unreasonable and unnecessary and would diminish the planning or design outcome in this instance.

5.2 Sufficient Environmental Planning Grounds to Justify Contravention

This request for a variation to Clause 4.3 of the QPRC LEP 2022 demonstrates that the proposed exceedance in height sought does not result in any adverse environmental impacts, and that there are sufficient environmental planning grounds to justify the outlined contravention. The development is in keeping with all other sections of the QPRC LEP 2022.

If the development was made to strictly comply with Clause 4.3 Heights of Buildings under the QPRC LEP 2022, there would be no additional benefit to the public realm including streetscapes around the site. The granting of development consent for this development application will enable a high quality, architecturally designed residential building to be constructed in Googong.

The development meets the objectives of Clause 4.3 Heights of Buildings as outlined in this report along with Clause 4.4 Floor Space Ratio and the R1 General Residential and E1 Local Centre zoning under which the site falls. It is for these reasons that there are sufficient environmental planning grounds to justify the variation sought to Development Standard Clause 4.3 under the QPRC LEP 2022.

5.3 Public Interest

As demonstrated in this request for variation, the development proposed will be in the public interest. It meets the objectives set out by the QPRC LEP 2022 in regard to R1 General Residential, E1 Local Centre, Clause 4.4 Floor Space Ratio and Clause 4.3 Height of Buildings.

The objective of the zoning is to provide housing for the needs of the community, provide for a variety of housing types; and enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. The proposal achieves these objectives.

The proposed development provides 163 dwellings which are a mix of 1-, 2- and 3-bedroom apartments and will contribute to the diversity of housing choices in Googong. The approval of this high quality, architecturally designed development and its negligible variation to the height limit would be greatly beneficial to the master plan and objectives of Googong's future desired character, and in the public interest.

5.4 Secretary's Concurrence

It is understood the secretary's concurrence under Clause 4.6 of the QPRC LEP 2022 has been delegated to the Queanbeyan Palerang Regional Council.

6. Conclusion

This Clause 4.6 justification for variation to the Development Standard Clause 4.3 Height of Buildings, has been prepared in response to the minor noncompliance of roof elements including lift overrun.

As demonstrated the extent of the variation to the height is acceptable as the proposal meets all objectives of Clause 4.3 Height of buildings whilst complying with Clause 4.4 Floor Space Ratio and the objectives set out by the R1 general Residential zoning and E1 Local Centre zoning. Compliance with the FSR indicates the bulk of the building is proportionate to the site, thus the minor exceedance in height is negligible. Strict enforcement of the standard would not result in a better outcome for the local area or neighbours, specifically in response to the desired future character of the area, overshadowing of neighbouring properties, loss of privacy or loss of views.

Council can be satisfied that strict compliance with the Development Standard Clause 4.3 Height of Buildings under the QPRC LEP 2022 is unreasonable and unnecessary in the circumstances of the proposed development, and there are sufficient environmental planning grounds to justify contravening the development standard.

For the above reasons the design is considered appropriate and worthy of approval.