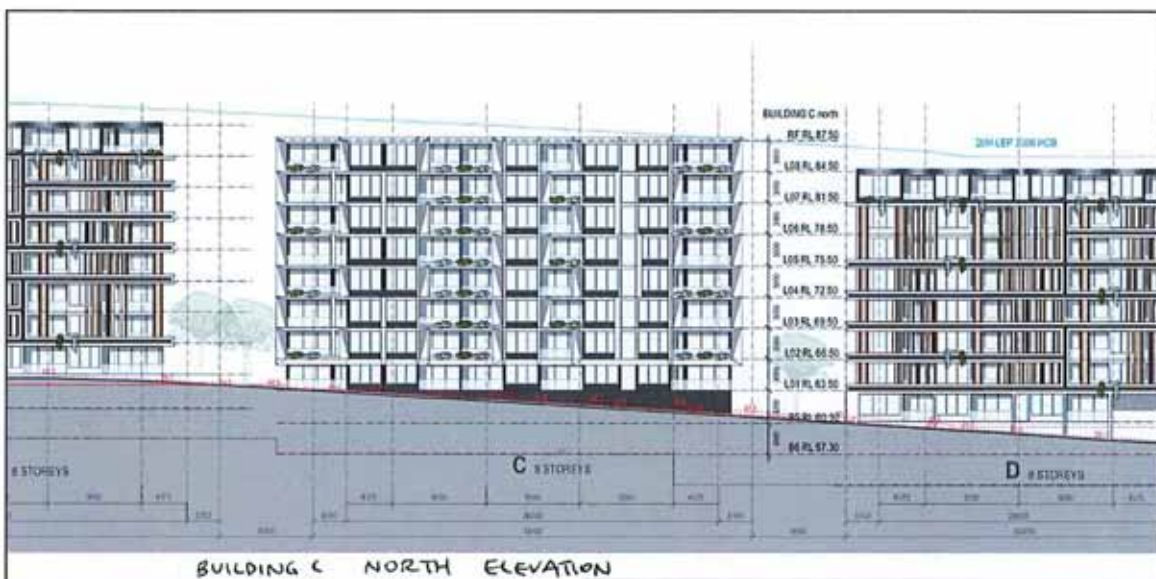
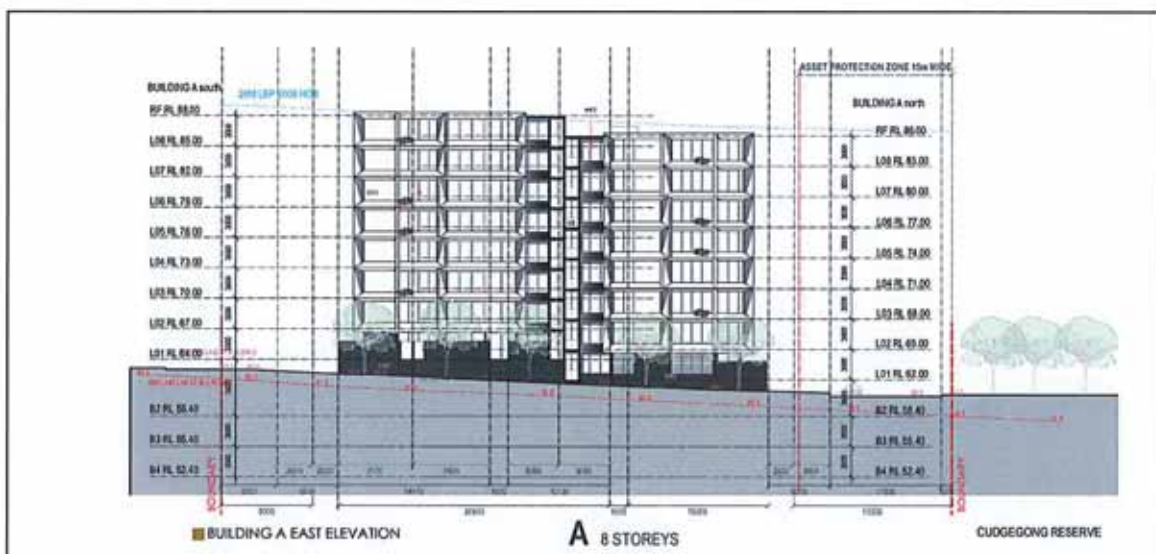




4 x RFB: 433 Units – 65 Cudgegong Road, Rouse Hill

Annexure 1: Clause 4.6 Variation: Building Height

The development concept results in the height of the proposal exceeding the permissible height as shown on the LEP height map, noting that the proposal is predominantly compliant with the maximum building height. It is noted that the proposal is predominantly compliant with the maximum building height however a small portion of the roof structure associated with Building A & C exceeds the maximum building height requirement as illustrated by elevation plans of both building below. The extent of departure is 300mm which equates to 1.2% of the control.



This is a function of topography with the development designed to follow the natural contours of the site.



The provisions of Clause 4.6 of the LEP are addressed below in order to permit Council to vary the LEP requirement given the minor nature of the departure meaning it is not easily 'read' at street level- particularly once taking into account the finished ground levels.

Clause 4.6(3)

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.

The objectives of the height of buildings development standard are stated as:

- (a) to establish the maximum height of buildings on land within the Area 20 Precinct,*
- (b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,*
- (c) to facilitate higher density development in and around commercial centres and major transport routes.*

The development proposal is consistent with the above objectives based on the following:

- a) The proposal is in close proximity to the future Cudgegong Railway Station and Local Centre and the extent of non-compliance represents an appropriate higher density on the site as the extent of variation and also provide a 1.73:1 FSR that is less than the maximum permitted FSR.
- b) The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are manageable within the site, and have no significant impact on adjoining properties or open space areas given that the development is contained within its own street-block meaning shadows cast by the proposal fall on the street with the extent of overshadowing is not unreasonable for density envisaged of this scale within the Area 20 precinct;
- c) The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality generally- noting the uneven topography is the key driver of the height variation rather than a desired to achieve greater yield on the site;
- d) The proposal has no impact on heritage or other views; and
- e) The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the Area 20 Precinct.

As outlined above the proposal remains consistent with the underlying objectives of the controls and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.



Clause 4.6(4)

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the height control. In addition the proposal is consistent with the objectives of the zone.

The proposal provides for the housing needs of the community and contributes to a variety of housing forms within a high density residential environment. The development site is in close proximity to public transport and the design concept recognises the key site attributes and provides for an attractive built form that relates to the existing and future site context.

It is understood that the concurrence of the Director-General can be assumed in the current circumstances.

Clause 4.6(5)

As addressed it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal given that the non-compliance has no discernible impact upon the public streetscape. The departure from the control is acceptable in the circumstances given that the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality given the unique site constraints (topography) and the implications of the RE1 zoned land and land dedications that affects the delivery of an appropriate yield on the site.

Strict compliance with the prescriptive height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts. The proposal will not have any adverse effect on the surrounding locality.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed to the maximum height control.