

Clause 4.1B – Residential Density

The residential density of the site development must exceed 25 dwellings per hectare. The proposal achieves approximately 130 dwellings per hectare, and is therefore compliant with this requirement.

Clause 4.3 – Height of Buildings

The prescribed maximum height of buildings is not to exceed 12 metres. Despite the buildings being stepped to respect the site topography, there are numerous minor height breaches of the maximum building height, with the greatest exceedance being approximately 850mm.

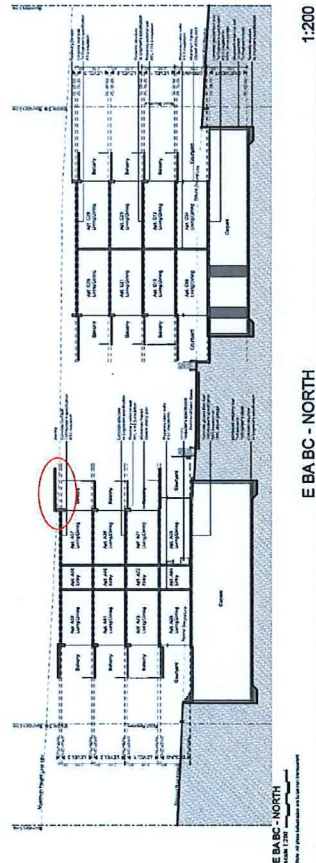
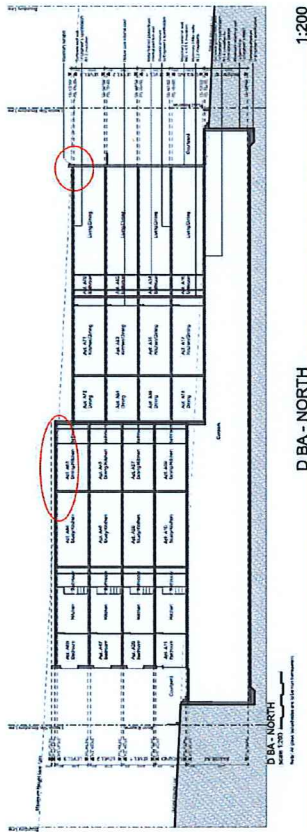
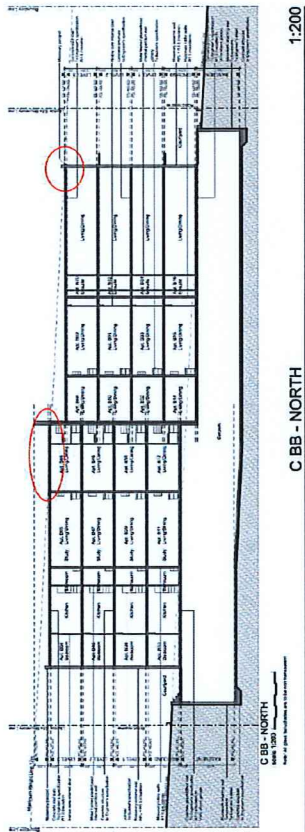


Figure 9: Despite the development variously demonstrating in these illustrated sections that the buildings step with the natural topography of the site, both down and across the site, there are still evident a number of minor point breaches of the 12 metre maximum prescribed building height.

Clause 4.4 – Floor Space Ratio

The SEPP prescribes a floor space ratio of 1.75:1 to the site, which equates to a maximum permissible gross floor area of 17,763m². The proposal achieves a gross floor area of 17,730m² over 10,149.5m² useable site area for a compliant FSR of 1.747:1.

Clause 4.5 – Calculation of Floor Space Ratio

Land on which the proposal is prohibited and community/public land are to be excluded from site area for the purposes of calculating FSR. Following clarification with Council (email communication 10 June 2015), the useable area of the site is calculated to be 10,149.5m². This area takes into consideration the dedication of land for new roads, and is used for calculation of gross floor area and floor space ratios applicable to the proposed development.

Clause 4.6 – Exceptions to Development Standards

The proposal seeks approval for the removal of trees, demolition of all existing structures, the subdivision of land and creation of new roads, and the construction of a residential apartment development comprising 4 buildings at No. 103 Schofields Road, Rouse Hill. The resultant building form will however exceed Council's prescribed maximum building height development standard as demonstrated in sections provided within the Architectural Drawings (Attachment III).

(1) The objectives of this clause 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.

Comment: The proposal seeks flexibility in application of the standard where a breach of the maximum building height arises despite the buildings being modulated to respect the natural topography of the land, being compatible with the 4 storey building height and consistent with the desirous bulk and scale of future development within the locality. This design solution which both steps the building footprints and modulates the built form, ensures that changes in landform are accommodated despite a fall of more than 6 metres from the Schofields Road frontage to the rail corridor, and a change in level of approximately 3.5 metres across the site from east to west.

The Apartment Design Guide suggests that in establishing building heights:

+ 400mm should be added to each floor for structure, services, set downs and finishes
+ 2,700mm minimum floor to ceiling height
(x 4 storeys desired future character of the site)
+ 1 metre to the total to allow for rooftop articulation
= approximately 13.5 metres

The maximum height of the proposed development at 12.85 metres represents a 7% variation to the development standard, and the design response which allows for appropriate structure and minimum floor to ceiling heights to be achieved, is considered an appropriate response to respect good design standards and the site's topographic constraints.

- (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.

Comment: The development standard proposed to be contravened Clause 4.3 Height of Buildings.

- (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 is sufficient environmental planning grounds to justify contravening the development standard.

Comment: This submission is a written request for consideration by the consent authority. Compliance with the clause is considered unreasonable and unnecessary in the circumstance of this case as outlined in the discussion above where the proposal results in a building form of bulk and scale consistent with the desired future character of the locality, and which is respectful of the site's natural topography.

Additionally, the proposed development is consistent with the objectives of the building height standard and the zone objectives (see discussion below).

Contravention of the control by the proposal does not give rise to any environmental effect that would warrant concern, and it is considered that the environmental benefits of the proposal, in establishing medium density residential development in proximity to the Rouse Hill town centre and railway station, and the Cudgong railway stations, is on balance an appropriate environmental outcome, enabling justification for the minor contravention of 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 Director-General has been obtained.*

Comment: The objective of Clause 4.3 Height of Buildings is to establish the maximum height of buildings on land within the Area 20 Precinct, to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space, and to facilitate higher density development in and around commercial centres and major transport routes.

All of these objectives are satisfied by the proposed development. The intended development is 'isolated' by the creation of proposed roads, and through application of DCP controls, separated from any adjoining development by a minimum 25 metres. The negligible breaches to the maximum building height therefore have no visual impact or and would not impact upon the amenity of future adjoining development.

The site is zoned R3 Medium Density Residential pursuant to Appendix 6 of the SEPP, the Area 20 Precinct Plan. The relevant objectives of the zone relating to the proposed development are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

The proposed development is consistent with these objectives, promoting an appropriate density of residential housing to support the urban growth precinct, a variety of housing types consistent with demand in the locality, and an appropriate design quality to establish a precedent for future development in the Schofields Road precinct to follow. The proposed resident population will assist in supporting the vitality of this regional centre.

(5) *In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*

Comment: The contravention raises no matters of State or regional significance. It is considered that as the proposal is consistent with the desired future character of development in the precinct, there is no public benefit in maintaining the development standard given the mitigating circumstances relating to the site's topography, and the very minor nature of the variation proposed. No other matters are required to be taken into consideration by the Director-General.

- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU11 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU11 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.

Comment: The proposal is not for contravention of a subdivision control.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

Comment: The consent authority will keep a record of the determination.

- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,
(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
(c) clause 5.4.

Comment: The proposal is not complying development. The development standard does not arise from the regulations in connection with BASIX. The standard does not arise from Clause 5.4 or any of the other exclusions listed.

Clause 6.1 – Public Utility Infrastructure

Prior to approval of an application, the consent authority must be satisfied that the site is adequately serviced for water, electricity and sewerage. These services are currently available in the locality and can be augmented to suit the development as required.