

Council assessment of Clause 4.6 request to vary height of buildings development standard

Visual representation and discussion of height offset

The Stage 1 Concept Plan (JRPP-15-01543 as modified in MOD-17-00299) approved a maximum building height limit of up to 31 metres, 15 metres above the height permitted under *Sydney Environmental Planning Policy (Sydney Region Growth Centres) 2006* of 16 metres, as shown in **Figure 1**.

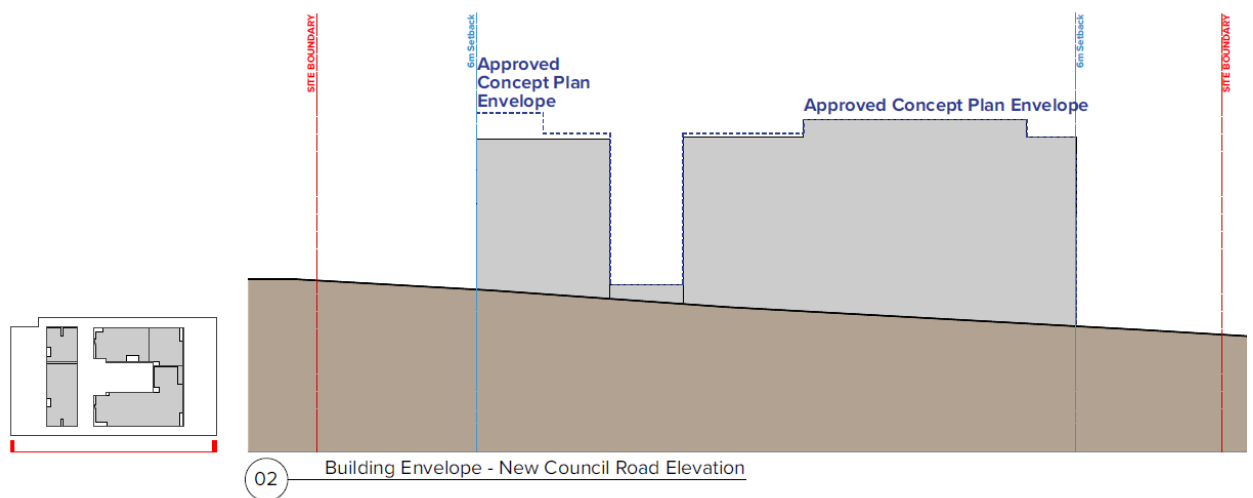


Figure 1: Extract from the Building Envelope Diagram showing the proposed Buildings D.1 and D.2 (shown in grey) are consistent with the building envelopes and 31 metres building height approved in the Stage 1 Concept Plan (JRPP-15-01543 as amended) (shown in blue).

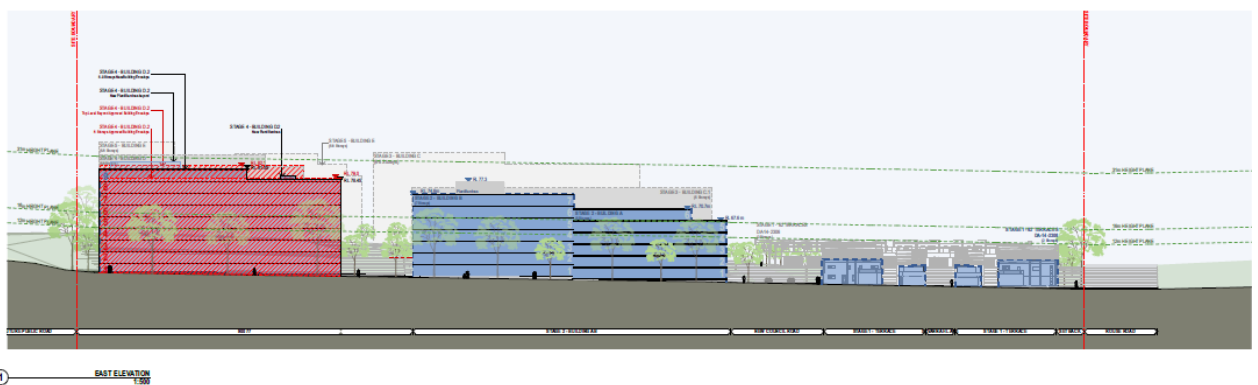


Figure 2: Extract from the Building Envelope Diagram showing entire site.

Assessment of Clause 4.6 variation request

1. **Consideration regarding if compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))**

The underlying objective of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered both unreasonable and

unnecessary as the proposal was considered in the Stage 1 Concept Plan (JRPP-15-01543 as amended) and deemed to be acceptable in this circumstance. The redistribution of building mass across the site was a carefully considered master planned approach. The development standard is still enforceable on the site by virtue of the Concept Plan approval. This application is consistent with the Concept Plan approval, is compatible with the emerging scale of development in the locality and is consistent with the scale of buildings approved in the immediate vicinity.

The proposal provides a better planning outcome by redistributing the building mass in a manner consistent with the Concept Plan approval which improves solar access, the provision of recreational facilities and amenity for its occupants.

2. Consideration of sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b))

The proposal demonstrates sufficient environmental planning grounds to justify contravening the height of buildings development standard for the following reasons:

- The proposal promotes the orderly and economic use and development of the site because it is consistent with the Stage 1 Concept Plan approval (JRPP-15-01543 as modified) which redistributes the building mass across the site in a carefully considered master planned approach which was deemed to be acceptable in the circumstance.
- The proposal promotes the social welfare of the community by providing improved opportunities for solar access within the site and the ‘Village Green’ recreational area in particular, compared to a compliant 5 storey development across the whole site.
- The proposal promotes the sustainable management of built and cultural heritage, in particular with regard to Rouse Hill House Estate which is approximately 1 km to the north of this site. This site is not contained within the views from the Rouse Hill House Estate and is not directly visible from Rouse Hill House Estate as it is blocked by the existing local tree canopy.
- The proposal promotes good design and amenity of the built environment

The Applicant’s written request seeking to justify the contravention of this development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3) in Points 1 and 2 above.

3. The objectives of the standard are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Appendix 6 – Cudgegong Road (Area 20) Precinct Plan 2011 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006	
Objectives of Clause 4.3 ‘Height of buildings’	How the proposal achieves the objective
a. To establish the maximum height of buildings on land within the Area 20 Precinct.	Notwithstanding the maximum height limit of 16 metres on this site, the height limit of 31 metres was considered in the Stage 1 Concept Plan (JRPP-15-01543 as amended) and was deemed to be acceptable in this circumstance. This application is consistent with the approved height of buildings with some parts of Buildings D.1 and D.2 lower than the Concept Plan approval, as shown in Figure 1 above. The 31 metres height limit approved in the Stage 1 Concept Plan (JRPP-15-01543 as amended) represents a 94% variation to the height of buildings development standard. This variation reflects an offset by other approved house products on the site which are

Appendix 6 – Cudgegong Road (Area 20) Precinct Plan 2011 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Objectives of Clause 4.3 'Height of buildings'	How the proposal achieves the objective
	only 9 metres high.
<p>b. To minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space.</p>	<p>Minimise visual impact: The visual impact of the additional building height was considered in the Stage 1 Concept Plan (JRPP-15-01543 as amended) and was deemed to be acceptable in this circumstance. The approved building height was supported because it provides a gradual increase in scale from north to south and achieves an appropriate visual transition to the higher future buildings adjacent to the southeast and south-west.</p> <p>Solar access to buildings and open space of adjoining development and land: The transitional increase in height from north to south provides improved opportunities for solar access within the site, compared to a compliant 5 storey development across the whole site. The approval of the 2 storey built form along Rouse Road provides improved opportunities for solar access to the southern portions of the site and the centrally located 'village green' recreational area. With regard to the southern neighbours minor shadow impacts will occur along their northern site boundary and setback area. However, their buildings achieve compliant solar access. With regard to this application, the buildings and open space areas achieve compliant solar access as required by the Apartment Design Guide and Blacktown City Council Growth Centre Precincts Development Control Plan 2018.</p>
<p>c. To facilitate higher density development in and around commercial centres and major transport routes.</p>	<p>The site is in close proximity of the Tallawong Railway Station (under construction) and Cudgegong Local Centre and higher density development was considered in the Stage 1 Concept Plan (JRPP-15-01543 as amended) and deemed to be acceptable in this circumstance. This application is consistent with this Concept Plan approval. Therefore, the site planning is consistent with the objective of facilitating higher density development in and around commercial centres and major transport routes.</p>

Therefore, the proposal is in the public interest because the development is consistent with the objectives of this particular development standard.

4. The objectives of the zoning are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Appendix 6 – Cudgegong Road (Area 20) Precinct Plan 2011 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Objectives of the R3 Medium Density Residential zone	How the proposal achieves the objective
<p>a. To provide for the housing needs of the community within a medium density residential environment.</p>	<p>The proposal provides for the housing needs of the community by providing 215 apartments and associated communal open space areas, including the 'Village Green' recreational facility.</p>
<p>b. To provide a variety of housing types within a medium density residential environment.</p>	<p>The proposed residential flat buildings provide a mix of 1, 2 and 3 bedroom apartments which contributes to the variety of housing types in this Precinct.</p> <p>In the context of the Stage 1 Concept Plan approval (JRPP-15-01543 as amended), a variety of townhouse style dwellings and apartments are provided which further contributes to the variety of</p>

Appendix 6 – Cudgegong Road (Area 20) Precinct Plan 2011 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Objectives of the R3 Medium Density Residential zone	How the proposal achieves the objective
	housing types in this Precinct.
c. To enable other land uses that provide facilities or services to meet the day to day needs of residents.	In the context of the Stage 1 Concept Plan approval (JRPP-15-01543 as amended), communal open space areas, including the 'Village Green' recreational facility serviced the day to day needs of the residents.
d. To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.	Not applicable to this application.

Therefore, the proposal is in the public interest because the development is consistent with the objectives for development within the R3 Medium Density Residential zone in which this development is to be carried out.

5. The concurrence of the Secretary has been obtained (Clause 4.6(4)(b))

This Clause 4.6 written request to vary a development standard in an Environmental Planning Instrument has been considered in accordance with Planning Circular PS 08-003. The Secretary (formerly Director-General) of the NSW Department of Planning and Environment's concurrence is assumed as this request is adequate, does not raise any matter of significance for State or regional environmental planning and there is no public benefit of maintaining the standard, as discussed below.

6. Contravention of the development standard does not raise any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))

There is no identified outcome which would raise any matter of significance to planning matters of State or regional significance as a result of varying the development standard as proposed under this application.

7. There is no public benefit of maintaining the standard (Clause 4.6(5)(b))

When compared to providing a development which strictly complies with the height of buildings development standard, this application offers public benefit because it is consistent with the Stage 1 Concept Plan approval (JRPP-15-01543 as amended) which has previously been considered to offer improved outcomes for and from development. Therefore, there is no public benefit in maintaining strict compliance with the development standard.

Based on the above assessment and given the development is underpinned by the Stage 1 Concept Plan approval (JRPP-15-01543 as amended). The Clause 4.6 variation request is considered reasonable and well founded. It is recommended for support to allow flexibility in the application of the development standard.