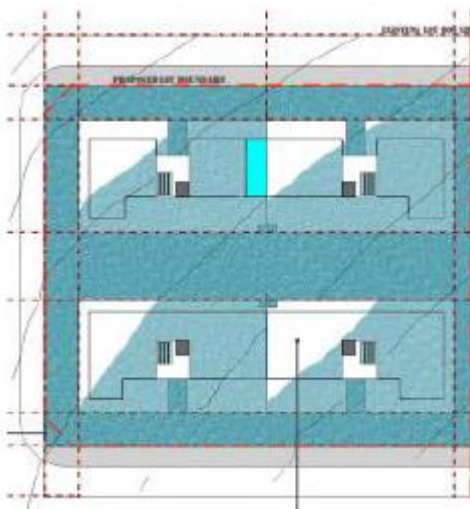


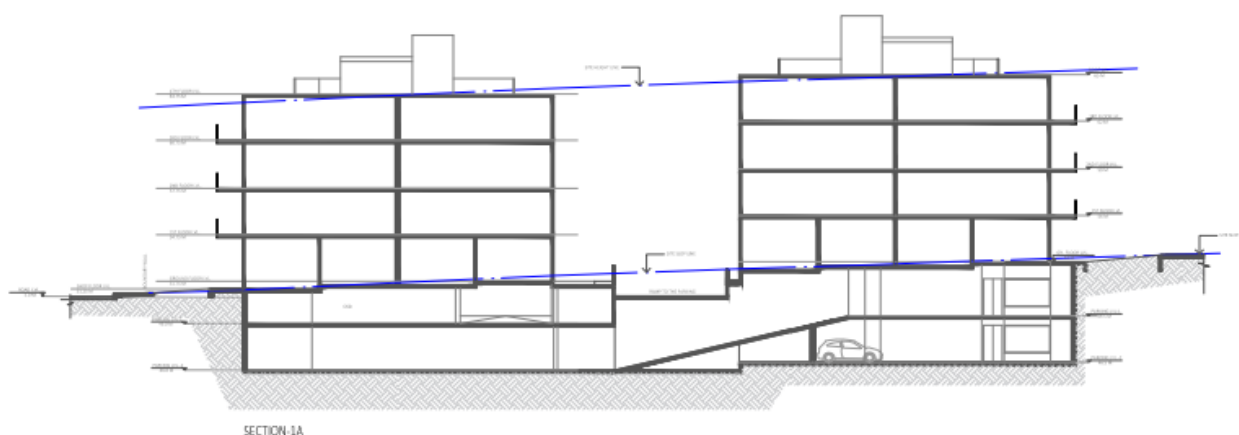
## Council assessment of Clause 4.6 request

### 1. Visual representation of height offset

The following figure identifies the portions of the development that exceed the height limit and the portions of the development that are below the height limit. The roof areas coloured in white in the image below exceed the 12 m maximum building height permitted under Appendix 12 Blacktown Growth Centres Precinct Plan, *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.



The section plan below further illustrates the height non-compliance relating to the roof parapets of each proposed building based on the slope of the land, but will be offset with a greater proportion below the height plane ie. 73 cm will be above the height plane while 110 cm will be below the height plane.



## **2. Assessment of Clause 4.6 variation request**

### **2.1 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 purpose 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 provides a built form which is predominantly lower than the permitted height of buildings.

In the context of this Precinct, the topography of the land must be considered. The site slopes which results in minor portions of the roof levels exceeding the height limit. Since the proposal has been designed in a way that the finished levels, roadworks and drainage will have negligible impact on the existing surface levels across the site, compliance would be unreasonable in the circumstances.

This application is compatible with the emerging scale of development in the locality and is consistent with the scale of residential flat buildings approved in the immediate vicinity. The portion of the rooftop features that exceed the height limit the most are the lift overruns which are contained in the central part of the roof levels, representing only point encroachments into the height plane. They will not be visible from the street and will not result in additional overshadowing to adjoining properties as shadows will be fully contained in the roof areas.

The minor encroachments of the roof parapet will be offset by a greater portion of the roof parapet under the height plane. 73 cm will be above the height plane, while 110 cm will be below the height plane. The additional height does not result in additional yield in terms of the number of apartments or stores and results in better designed buildings.

The proposal provides a better planning outcome because it suitably addresses the slope of the site and provides a built form which achieves an appropriate level of solar access and provides suitable recreation areas and amenity for its occupants.

### **2.2 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 provides a well-balanced built form which does not result in any increase in residential apartments or density and is therefore considered acceptable.
- The proposal promotes the social welfare of the community by providing suitable housing and good quality areas at the ground level, including a centrally located pedestrian access path and vista through the site.
- The proposed design allows for basement access for waste vehicles and parking spaces which service all residents.
- The proposal promotes good design and amenity which creates a diverse and attractive neighbourhood based on strong urban design principles.

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).

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

<b>Appendix 12 Blacktown Growth Centres Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006</b>	
<b>Objectives of Clause 4.3 'Height of buildings'</b>	<b>How the proposal achieves the objective</b>
a. To establish the maximum height of buildings.	<p>The maximum height limit on the site is 12 m. The majority of each building's massing would comply with this height limit including the majority of the respective roof level areas. The increase in height does not impact on the density of the development since no residential units are proposed above the height limit, only communal open space areas.</p> <p>The objective of the building height control is to provide higher density development close to major transport routes without significant amenity impacts on adjoining development, and it is considered that this development will meet that objective.</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>Given the low heights of the proposed buildings, the required setbacks and the width of the existing and proposed surrounding roads, the proposal will not create any overshadowing on adjoining properties. The adjoining properties currently and will continue to receive adequate solar access as shown on the Shadow Diagram Plans at attachment 5.</p> <p>The parts of the building causing the greatest non-compliance are the lift overruns, rooftop communal features and small portions of the roof parapets in the north-western corner of each building based on the topography of the property. These tallest rooftop elements have minimal bulk and are located in the centre of the buildings, which will assist in them not being visible from the public domain. Therefore the proposed building heights are satisfactory and their visual impacts are minimised.</p>
c. To facilitate higher density development in and around commercial centres and major transport routes.	<p>The site is located approximately 600m to the north-east of the future Cudgegong Local Centre and Tallawong Railway Station currently under construction.</p> <p>The buildings contain 8 ground floor shops as well as 117 units in the form of studio, 1, 2 and 3 bedroom apartments, which is representative of the density and housing demand anticipated for this site. The density of this development thus meets this objective.</p> <p>The site and surrounds are well serviced for this form of development. The development offers an interesting and modern design which is supported by carefully considered passive and recreational outdoor areas, to create a favourable living environment for the increased population.</p>

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

<b>Appendix 12 Blacktown Growth Centres Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006</b>	
<b>Objectives of the R3 Medium Density Residential zone</b>	<b>How the proposal achieves the objective</b>
a. To provide for the housing needs of the community within a medium density residential environment.	<p>The proposal provides for the housing needs of the community by providing 117 apartments and associated communal open space areas.</p>

<b>Appendix 12 Blacktown Growth Centres Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006</b>	
<b>Objectives of the R3 Medium Density Residential zone</b>	<b>How the proposal achieves the objective</b>
b. To provide a variety of housing types within a medium density residential environment.	The proposed residential flat buildings provide a mix of studio, 1, 2 and 3 bedroom apartments which contribute to the variety of 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.	8 commercial / retail units are proposed on the ground floor facing Tallawong Road that would provide shops, such as convenience stores, to service residents' daily needs.
d. To support the wellbeing 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.

## **2.5 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 and 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 in strictly maintaining the standard, as discussed below.

## **2.6 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.

## **2.7 There is no public benefit in 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 provides a development with a scale of 4 storeys which is consistent with the desired future outcome for this Precinct. The deletion of a level reduces the yield which can be achieved on this site and the availability of housing. The proposal offers improved outcomes for and from development. Therefore, there is no public benefit in maintaining strict compliance with the development standard in the circumstances of this case.

Based on the above assessment, permitting the proposed development on this site to vary the height of buildings development standard to a minor degree achieves a better planning outcome. The Clause 4.6 variation request is considered reasonable and well founded in this particular circumstance and is recommended for support to allow flexibility in the application of the development standard.