

# Appendix R Clause 4.6 Variation

## 1. Introduction

This clause 4.6 request has been prepared to support the for a variation to the development standard in clause 4.3 *Height of Buildings* in the *Queanbeyan Palerang Regional Local Environmental Plan 2022* (QPRLEP ) and the non-discretionary development standard for visitor car parking under Chapter 4, clause 148 of State *Environmental Planning Policy (Housing) 2021* (Housing SEPP) . This document should be read in conjunction with the Statement of Environmental Effects (SEE), response to a Request for Information (RFI) dated 29 November 2024 and documentation prepared to support a Development Application (DA) for the mixed-use development of land at 50 Morisset St Queanbeyan.

### Height of Building

The height of building control for the site is 30m. The height of the building is within the 30m HOB, however, the design includes a lift overrun and services on the roof which are proposed to be concealed by a 1m parapet. This approach is consistent with the Queanbeyan Development Control Plan (QDCP) which indicates a HOB of 32m which is the combination of the 30m HOB QPRLEP control plus up to 2m parapet.

The proposal complies with the QDCP height of 32m, however, seeks a variation to the QPRLEP control of 30m. The numeric variation to the QPRLEP proposed is 0.905m approximately 3%.

### Car parking

The Chapter 4 of the Housing SEPP references the RMS Guide to Traffic Generating Development of the carparking generation rates for the development. The residential component requires 152 parking spaces, 120 attributed to the units and 32 for visitors. The development provides 189 parking spaces for the units and 12 for visitors. The variation relates to the shortfall in visitor parking of 20 spaces.

This request has been prepared in accordance with the *Guide to Varying Development Standards (DPE, 2023)* and has incorporated the relevant principles identified in the following Land and Environment Court (LEC) judgements.

## 2. Development Standards

### Height of Buildings

Pursuant to Clause 4.6 of the QPRLEP 2022, this objection seeks to vary the building height standard stipulated in Clause 4.3 which states:

#### 4.3 Height of buildings

(1) *The objectives of this clause are 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,*
- (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.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The relevant Height of Building Map (Sheet HOB\_001C) of the QPRLEP 2022 is reproduced in **Figure 1** below. This provides a maximum height of 30m (U) for the site.

**Figure 1 Extract Height of Building Map**



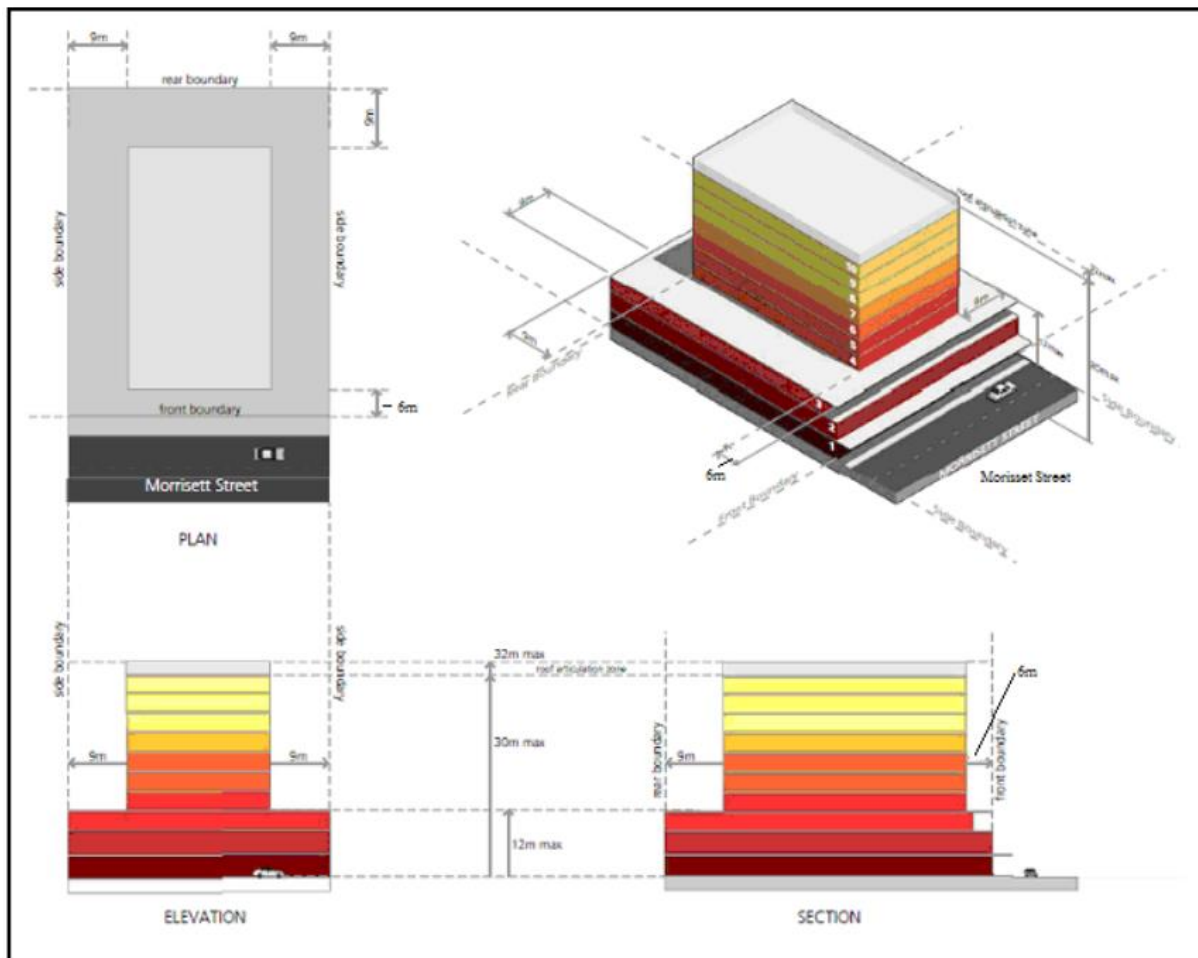
Building Height is also addressed in the QDCP, *Section 6.2.6 Building Height Limits and Setbacks Design for Buildings*.

The DCP includes a building envelope diagram specific to development in Morisset Street (**Figure 2**). The image shows the building in the example at a height of 30m to the roofline and a 2m articulation zone, taking the overall height to 32m.

The includes of the articulation zone in the DCP controls implies that Council will consider a variation to the overall height control in the QPRLEP 2022, subject to the proposal demonstrating consistency with a 12 m restriction to the height of the podium within front and side setbacks.

It is not suggested that the height control has been abandoned, but that flexibility will be considered. The variation requested is 0.9m or 3%.

Figure 2 Extract DCP Building Envelope Morisset Street



Source: QDCP 2012.

## Car parking

The car parking rate is determined by the rates published in the 2002 RMS Guide to Traffic Generating Development referenced in the Apartment Design Guidelines (ADG). The rate for visitor parking is 1 space per 5 apartments.

There is some ambiguity as to the requirement for service vehicles. It is not considered that clause 4.6 applies to the parking for service vehicles in this case.

# 3. Proposed Variations

## Height of Buildings

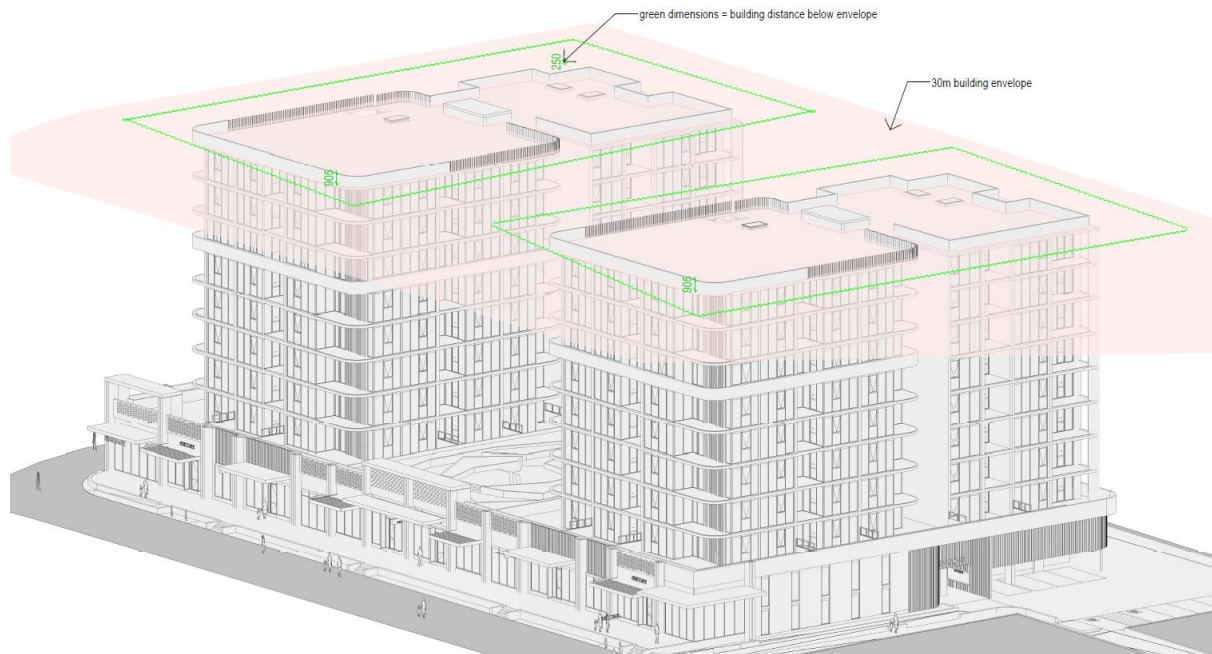
The variation being sought is 3% across the finished height of the building to accommodate the screening of the lift overrun, solar PVP and services ordinarily housed on the roof, including the 1m parapet.

The building height is 29.25-29.91m and the overall height, including the parapet is 30.26-30.9m.

**Figure 3** provides a 3D perspective elevation with the building height plane showing the building roof within the parapet and demonstrating that the entire building is below the 30m HOB. **Figure 4** shows the 2m articulation zone provided for in the QDCP and the 0.9m parapet. It is noted that the highest portion of the building is 30.9m shown as 260mm above the nominated 30m HOB and 1740mm below the 32m envelope (refer Drawing DA500 and DA501 as the most accurate representation of height). **Figure 5** provides this information in section and elevation.

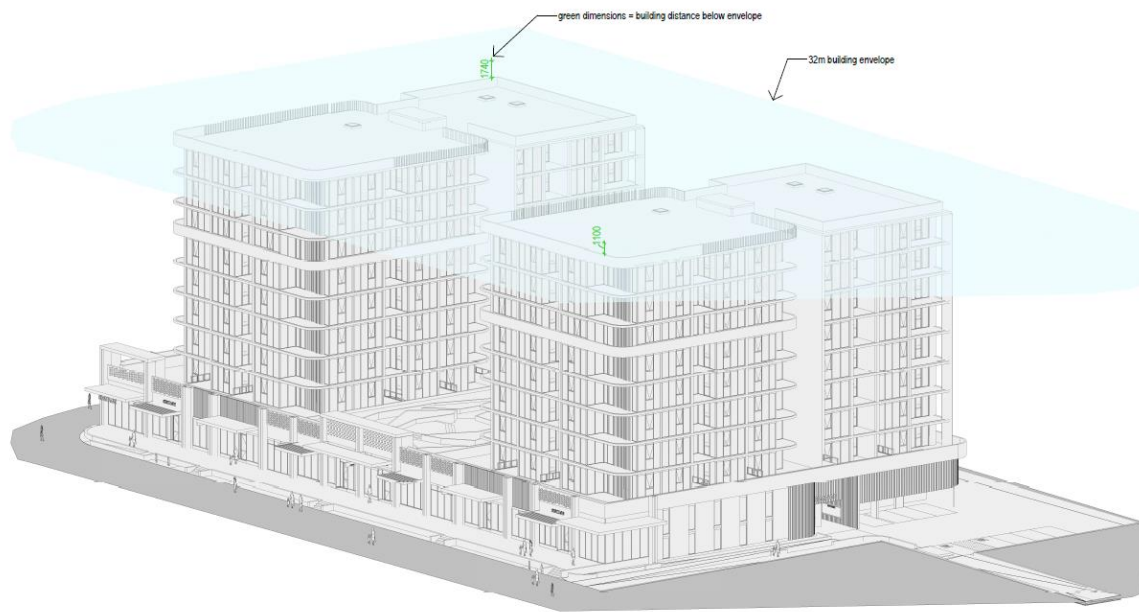
Plans shown in **Figures 3-5** are reproduced as are extracts from the Architectural Drawing Set, drawings DA500 and DA501 reproduced in **Attachment A** to this request.

### Figure 3 3D Perspective 30m Envelope



Source: Revised Architectural Drawings RFI Attachment 8, Sections C&D Sheet Number DA500.

Figure 4 3D Perspective 32m Envelope



PROPOSED MIXED USE  
DEVELOPMENT  
30 MORRISSET STREET  
QUEANBEYAN

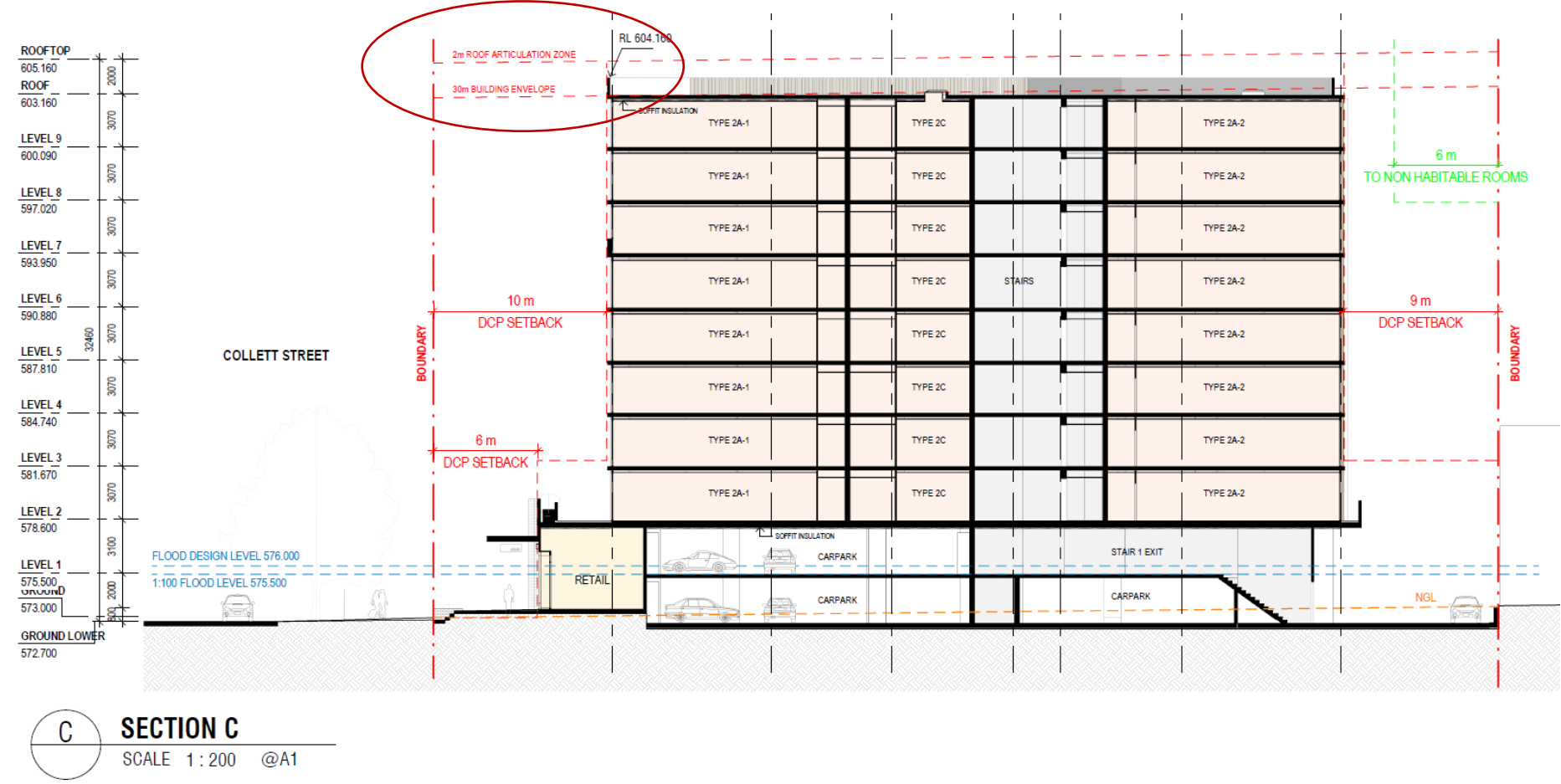
3D PERSPECTIVE - 32m ENVELOPE

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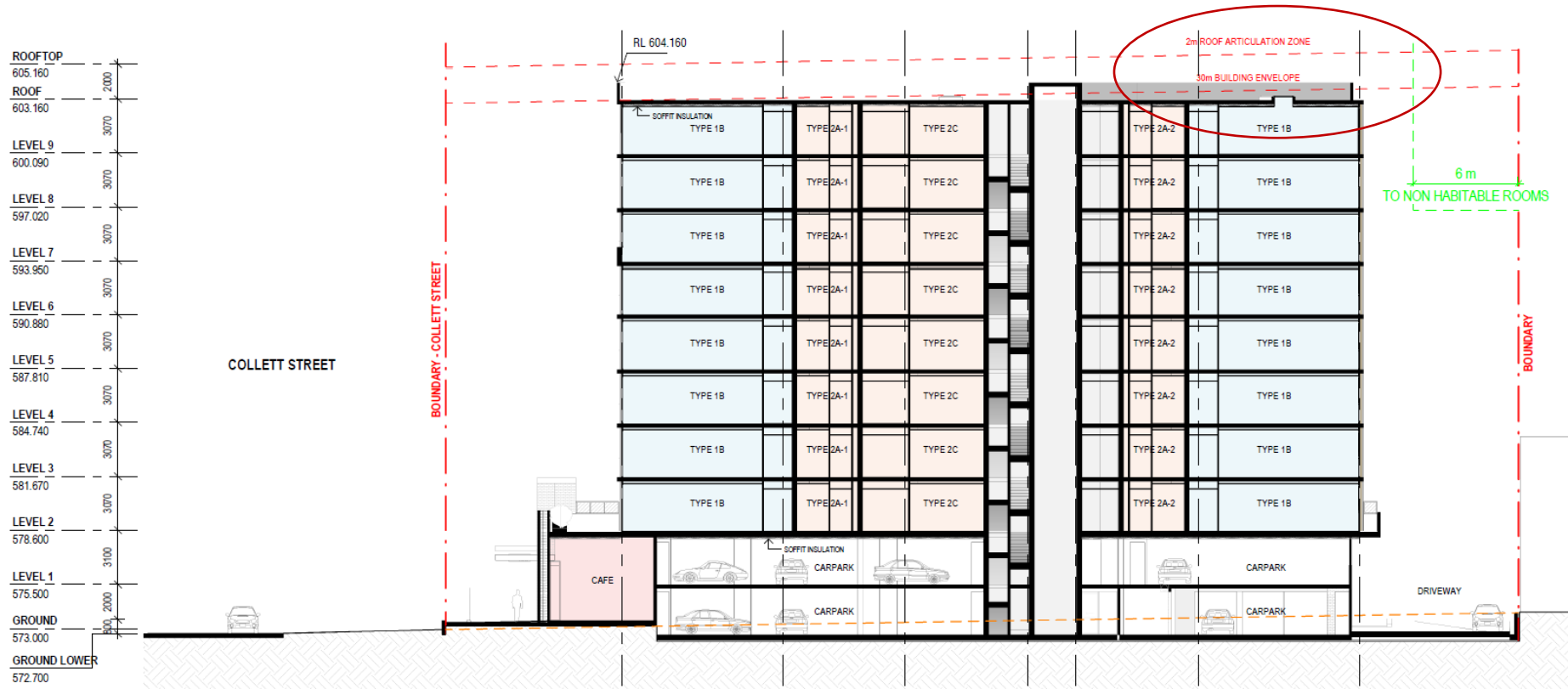
DA501

Source: SEE Appendix A, Sections C&D Sheet Number DA501.

Figure 5 Sections C and D







**D** **SECTION D**  
 SCALE 1:200 @A1

Source: SEE Appendix A, Sections C&D Sheet Number DA301

## Car Parking

The development standard relates to that part of the development not otherwise subject to the car parking provision in Chapter 4, clause 148 non-discretionary development standards and refers to the RMS guideline for Traffic Generating Development 2002 as the relevant parking rate.

On that basis, the parking requirement is:

ADG/RMS Guide to Traffic Generating Development	Required	Proposed
0.6 spaces per 1 bed	48	189
0.9 spaces per 2 bed	72	
Visitor (1 per 5 units)	32	12
<i>Sub-total</i>	<i>152</i>	<i>201</i>
<b>QDCP Part 2</b>		
Commercial	11	11
Service vehicles	5*	1
<i>Sub-total</i>	<i>16</i>	<i>12</i>
<b>Total</b>	<b>168</b>	<b>213</b>

A variation under clause 4.6 for visitor car parking and services vehicles is requested.

### Visitor parking

There are 12 designated visitor parking spaces provided. In addition there are 29 stacked parking space allocated to individual units that could otherwise alleviate visitor parking to those units. The Traffic Impact Assessment undertaken by Quantum Traffic to support the DA has been revised to specifically address the supply of parking in the vicinity of the site. The assessment found that there is more than adequate capacity both on the street in Collett Street and in the public car park immediately opposite the development known as the Collett Street Car Park. The Collett Street Car Park was found to operate at between 1-10% capacity.

A minimum of 1 car parking space has been allocated on site per unit. Given the location of the development in a regional city, provision of resident parking is necessary despite the incentives provided in either of Chapter 4 Residential apartment development and ADG or Chapter 2 Infill affordable housing development in the Housing SEPP. For this reason, residential parking provision has been a focus and the proposal provides 189 car parking spaces for 160 units.

### Service vehicle parking

The Traffic Impact Assessment found it was unnecessary to accommodate additional capacity for service vehicles (**RFI Attachment 14**). *The proposed development contains a single dedicated service vehicle space with dimensions suitable to accommodate a 10m truck. This space is considered to be sufficient to satisfy the once weekly waste collection and anticipated removalist demands (assumed to be approximately once weekly based on residents living on-site for an average duration of three years. It is further noted that the 12 unallocated car parking spaces (including the four contiguous parallel spaces) could be utilised by smaller delivery vehicles serving the commercial component* (Revised Traffic Impact Assessment Report, p25).



## 4. Justification for Proposed Variation

This variation to the maximum permitted building height and car parking is sought under the provisions of Clause 4.6 of the QPRLEP which aims to provide flexibility in the application of development standards. The objectives of Clause 4.6 are as follows:

### 4.1 Objectives

**Clause 4.6 (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

##### Height of Building

The flexible application of the height development standard is appropriate in this instance as the design element, being the parapets, improves the overall visual amenity by screening the services located on the top of the building from view. The flexible application of the standard enables a lower building height to be provided to Morisset Street and Collett Street within the setbacks (significantly less than the 30m permitted height). This improves the bulk and scale of the building, improving integration with the heritage character of the streetscape.

The residential component of the building has been broken into two towers. The additional 0.9m building height sought beyond the 30m control allows for the lift overrun, Solar PVP and services to be screened from view.

The proposal is consistent with building design outcome anticipated in the QDCP and CBD Master Plan for the site.

##### Car Parking

The development requires 120 residential car parking spaces to cater for the development under the Housing SEPP and ADG. A better outcome for the development and residents is provided if all of the units have access to at least one parking space.

### 4.2 Application of the Clause

The following section addresses the requirement of Clause 4.6.

**Clause 4.6 Exceptions to development standards cont.**

*(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.*

The consent authority has the authority to vary the development standard. The decision of Preston CJ, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 clarified the approach as to the application of clause 4.6 does not require that a development that contravene a development standard must have a neutral or better planning outcomes, rather that the written request has adequately addressed the relevant matters (*Randwick City Council v Micaul Holdings Pty Ltd* [2016] at [39]).

## Circumstances in which a variation can be considered

### **Clause 4.6 Exceptions to development standards cont.**

(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, and ...***

## Comment

In *Wehbe v Pittwater Council* [2007] NSW LEC 827, the Chief Judge of the Land and Environment Court, Preston J, developed the five point test for consideration of a SEPP 1 objection. The applicability of the Wehbe test to a request to vary development standards under Clause 4.6 of the Standard Instrument has been confirmed in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSW LEC 7.

As required by Clause 4.6(3)(a), the Wehbe test provides that compliance with a development standard can be demonstrated as being 'unreasonable or unnecessary' in **any** of the following five ways:

1. The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable and unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

## Height of Building

In accordance with the first test above, it is argued that the objectives of the standard are achieved notwithstanding the non-compliance with the standard as demonstrated in the following table.

**Table 1 Clause 4.3 Height of Building Objectives**

Objective	Consistent
<p>4.3 Height of Buildings</p> <p>(1) The objectives of this clause are as follows—</p>	
<p><i>(a) to establish the height of buildings consistent with the character, amenity and landscape of the area in which the buildings will be located,</i></p>	<p>The site is within the Queanbeyan CBD and identified in the CBD Master Plan as a key site. The proposed development is consistent with the vision for the site established by Council in the CBD Masterplan. The height of the building as proposed is below the overall height anticipated in the QDCP.</p> <p>The additional height will be virtually indiscernible at street level.</p>
<p><i>(b) to protect residential amenity and minimise overshadowing,</i></p>	<p>The proposal is accompanied by shadow diagrams demonstrating minimal impact on adjoining properties.</p>
<p><i>(c) to minimise the visual impact of buildings,</i></p>	<p>Articulation and setbacks of the building fronting Collett Street at street level and an additional 10m front setback for the residential levels 2-9 have the effect of reducing the appearance of height and bulk when viewed from ground level.</p> <p>The additional 10m side setback to the northern boundary of the site adjoining the Hiberina Lodge reduces the visual impact from this heritage item.</p> <p>The separation of the residential component into two towers has the effect of limiting the bulk of the development.</p>
<p><i>(d) to maintain the predominantly low-rise character of buildings in the Queanbeyan-Palerang Regional local government area,</i></p>	<p>Not applicable to this site/circumstances</p>

<i>(e) to ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,</i>	<p>The 30m height provides for the redevelopment of the CBD of Queanbeyan. The QPRLEP 2022 includes only a small number of CBD blocks in the 25-30m HOB. The LEP controls, including FRS coupled with the QDCP and CBD Master Plan provides a strategic framework for the revitalisation of the city centre. The proposal is consistent with the vision for the streetscape. The additional increase in height of less than 1m will be indiscernible.</p> <p>The proposal is supported by a visual impact assessment addendum to the Heritage report (<b>RFI Attachment 14</b>) reinforcing the suitability of the urban design response having regard to the character and context of the streetscape and locality.</p>
<i>(f) to protect the heritage character of the Queanbeyan-Palerang Regional local government area and the significance of heritage buildings and heritage items,</i>	Note: Heritage has been addressed in the SEE and HIA accompanying the DA. The northern elevation has a setback of >10m from the property boundary of Hibernia Lodge.
<b>Objective</b>	<b>Consistent</b>
<i>(g) to provide appropriate height transitions between buildings, particularly at zone boundaries.</i>	<p>Rather than rely of the QDCP building set back controls, the majority of the blocks in the CBD identified for redevelopment through increased height and FSR typically include a 25m HOB perimeter/road frontage and 30m mid-block HOB in the QPRLEP. This is a statutory height transition that does not apply in this case.</p> <p>In this instance the entirety of the block has a blanket 30m HOB. While the QDCP works alongside the QPRLEP, the intended outcome is a slightly higher density of development.</p> <p>The proposal considers the QDCP setback controls to their full extent and without variation to achieve this transition despite the additional opportunity provided by a full block HOB control.</p> <p>The variation to the height control for a small portion of the overall footprint of the site is not inconsistent with the transition objective.</p>

## Departures from the Development Standard

The 4<sup>th</sup> test in Wehbe is “development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing form the standard and hence compliance with the standard is unnecessary and unreasonable”.

The adoption of the QDCP provisions illustrating the application of the height controls in the CBD strongly suggest an intention by Council to consider an articulation zone of 2 m as part of a development proposal.

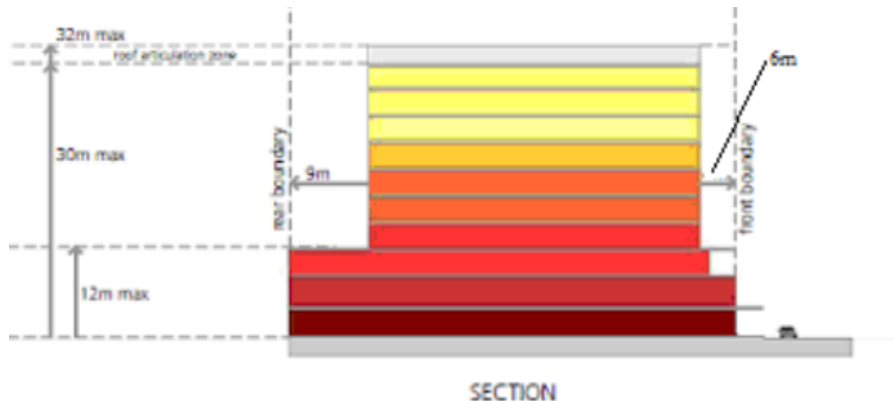
Previous decisions by QPRC, included the determination of the public administration building DA,2022.1022, 257 Crawford Street have seen the abandonment of the standard in circumstances where there are minor encroachments to the height. In that case, the encroachment represented a 32% encroachment in the height. In determining the application, consideration was given to the highest portion of the building being the lift overrun and building plant.

As noted above, the QDCP provides an example of the desired outcome for the redevelopment of the block bounded by Morisset and Collett Streets (refer **Figure 2** above).

Section 6.2.2 of the QDCP relates to Building Height controls and includes a number of objectives and development controls applied as relevant to a particular site. The compliance of the proposal with the development is addressed in the following table.:

**Table 2 DCP Building Height Controls (extract 6.2.2)**

Control	Consistent
<i>a) Building heights shall comply with the relevant Height of Buildings Map of QPRLEP 2022 as well as the following:</i>	
a. Ground and first floor levels (floor to ceilings) have a minimum height of 3.3m for potential future changes in use.	Complies
b. All other levels have a minimum floor to ceiling height of 2.7m	Complies
Control	Consistent
c. Buildings in the CBD (Monaro Street and Crawford Street) maintain a visual perception of 2 storey development along the street frontages with defined podiums no higher than 2 storeys (allowing for additional roofline articulation).	N/A
d. Height and setback limits for specific areas are summarised in Table 1 and in <b>Figures 1 to 4</b> below. A development site fronting two or more specified areas will be limited in height and the maximum podium level to the lesser numerical standard applying between the areas.	Complies. <b>Figure 3</b> (reproduced above in <b>Figure 2</b> ) shows the height and setbacks for Morisset Street. The Figure includes a finish building height of 29.9m plus a 1m articulation zone.



- e. Higher structures should be set well back to avoid overshadowing and impression of bulk.

Complies. The proposal is consistent with the Setback controls for Collett and Morisset Streets

		Street Height And Setbacks	Above Street Height	Maximum Height On Remainder Of Land
3.	Morisset Street	3 Storeys Zero (street) Zero (rear/side)	4-10 Storeys 6m (street) 9m (rear/side)	30 metres 10 storeys
6.	Collett Street (between Morisset and Rutledge Streets)	3 Storeys 6m (street) Zero (rear/side)	4-10 Storeys 10m (street) 9m (rear/side)	30 metres 10 storeys

The adopted controls in the QDCP area sufficient to imply that, despite the HOB provision in the QPRLEP, council foreshadowed the need to include a mechanism that excludes the services ordinarily included on the roof of a building from being calculated in the overall building height.

Clause 4.6 variation has also been successfully applied to other development in the CBD including the development of the QPRC Administration Building.

Despite the variation, the proposal achieves the underlying objectives of the height of building control. In accordance with the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827, this demonstrates that numeric compliance with the height control is unnecessary in this circumstance. This addresses the requirements of Clause 4.6(3)(a) by confirming that the objectives of the development standard can be achieved, notwithstanding the numeric departure.

The variation need only satisfy one of the five tests set out in *Wehbe*.

**Clause 4.6 Exceptions to development standards cont.**

(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:

.....

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

### ***Sufficient environmental planning grounds***

As noted above, decision of Preston CJ, in *Initial Action Pty Ltd v Woollahra Municipal Council*, clarified the written request need ensure that the relevant matters have been adequately addressed, not that a development that contravenes a development standard has a better environmental planning outcome.

The scope of what constitutes environmental planning grounds is wide. In relation to the height of the building in this instance, the contravention is minor.

The objects of the *Environmental Planning and Assessment Act, 1979*, (EP&A Act) are set out in section 1.3 and include the promotion of good design and amenity of the built environment.

The contravention of the standard is a result of topography and the design of the building to achieve a form where the two towers are symmetrical. The options of achieve the standard were to either reduce the height of the south tower or remove the parapet.

Either were considered to result in a perverse design outcome impacting the presentation of the development as a whole in the streetscape.

In this instance, the variation promotes a better design outcome by not having to reduce the height of the parapet on one tower, or remove the parapet altogether allowing for consistency in design and leading to a more orderly development outcome for the site.

### **Car parking**

The same considerations are required in relation to clause 4.6(3) for the variation to car parking.

#### ***Clause 4.6 Exceptions to development standards cont.***

(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, and ...***

In accordance with the first test in *Wehbe*, it is argued that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

Chapter 4 of the Housing SEPP Design of residential apartment development applies. The relevant provision is clause 148 non-discretionary development standards. Clause 148(2)a) states that *the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide*.

Part 3J makes reference to the RMS Guide to Traffic Generation Development (RMS Guide) or a council DCP whichever is lower.

The provision for delivery and service vehicles is specified in section 5.4.3 of the RMS Guide as “desirable” , it reads:

*The provision of at least one loading dock for residential use is **desirable**, although a dock intended for commercial uses may be sufficient.*

It is argued that this statement is insufficient to constitute a development standard. One service vehicle space has been provided and this can support the dual function as anticipated by the RMS Guide. Given provision of a space for service vehicles and the ambiguity of the control, this has not been considered a development standard that requires a written variation under clause 4.6.

The variation requested is to the rate for visitor parking to the allocated at a rate of **1 space per 5 units**. The proposal includes 12 designated visitor parking spaces.



There are no specific objectives to support the development standard other than the purpose of the standard being to provide the opportunity for visitors to park on site when attending the building to visit a resident.

The proposal includes an additional 29 (stacked) parking spaces that could be used for visitor parking for specific units. The availability of the 12 visitor parking spaces provided on site and 29 stacked parking spaces coupled with unmetered in Collett Street and public off-street parking immediately opposite the site satisfy the proposition that the additional visitor parking on site is unnecessary in this instance.

The Traffic Impact Assessment has undertaken a survey of parking available in the vicinity of the site (refer **RFI Attachments 4 and 14**). The documents provide an evidence base to support the availability of on street and off street parking around and adjacent to the development.

**Clause 4.6 Exceptions to development standards cont.**

(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:*

**(b) that there are sufficient environmental planning grounds to justify contravening the development standard.**

Consideration as to the planning grounds has been undertaken with reference to both the objects of the EP&A Act in section 1.3. and *Initial Action*. As noted above, it is not necessary that a better planning outcome be achieved but that adequate consideration has been given. In relation to visitor parking, it is necessary to consider parking as a whole and parking in relation to the operation of the building.

Reference is made to section 1.3 (c) to promote the orderly and economic use and development of land, and 1.3 (g) to promote good design and amenity of the built environment.

The building accommodates 160 apartments. The resident parking rate requires the provision of 120 spaces so not all of the units would enjoy a designated car park at all. It follows that the visitor parking required in the standard which in this case is 1 space per 5 units, would go to addressing this shortfall. This brings to total required to 152 spaces. The development provides 189 parking spaces for residents and 12 dedicated parking spaces for visitors.

The nature of the development, being 1 and 2 bedroom apartments centrally located in Queanbeyan is that they will provide a more affordable option for someone getting into the housing market. Object 1.3(g) of the EP&A Act relates to the promotion of good design *and amenity*. In considering amenity in the context of this development, the availability of public transport and propensity of car ownership in a regional locality are relevant. In 2021, the Queanbeyan urban area (ABS, 2021 UCL 102001) vehicle ownership was 95% (compared with 91% for NSW) and mode of travel to work by car 76.7% compared with by public transport 1.6%. This remains typical in regional communities even with access to public transport.

Allocating at least one car park to each dwelling, and an additional 29 car parking spaces as stacked or tandem parking directly benefits future residents and improves amenity. The removal of the tandem parking still results in a better outcome for residents than reducing the overall parking provision from 201 back to 152 spaces which would otherwise be the case if the relevant development standard were applied to both the resident and visitor parking.

The design of the building provides for on site parking. Utilising the space to the maximum capacity through the provision of parking for residents is a more economic use of the land than it would have otherwise been to reduce on-site parking for residents to only the minimum required to make way for the additional visitor spaces is not a good outcome when visitor parking can readily be absorbed in the immediate vicinity of the site.

It is not the case that a visitor space is allocated to every dwelling. It is assumed that visitor parking relates to parking available to people coming to the site, in this case to visit a resident.

The impact on visitors is considered to be negligible given the location of the development on the edge of the CBD and access to both on and off street parking opposite and surrounding the development. This has been

demonstrated in the Traffic Impact Assessment and additional information provide in response to the RFI, **Attachments 4 and 14**.

The approach to the provision of resident parking is proportionate to car ownership in Queanbeyan and location of the building on the edge of the CBD with proximity to surplus parking both on street and off street.

## 5. Conclusion

The above discussion demonstrates that the variation from the maximum height of building standard by approximately 0.9m (or 3% over the 30m HOB) is appropriate in the circumstances of the proposal, subject to the provisions of Clause 4.6 of the QPRLEP.

It has been demonstrated that the variation to the carparking standard is reasonable with the control deemed unnecessary in this instance given both the additional stacked parking provided and opportunity of on street and off street parking adjacent to the site.

Both standards discussed above are considered unnecessary having regard to the specific control in the circumstance of the case. The request adequately addresses the environmental planning grounds to support the variation.

This Clause 4.6 variation request is well founded as it demonstrates the following:

- » That the objectives of the standard, in the case of the height of buildings, are achieved notwithstanding the non-compliance with the standard.
- » Compliance with the height standard is unreasonable and unnecessary in the circumstances of the proposed development having regard to the QDCP which anticipates such a variation.
- » Compliance with the standard for parking is unnecessary in the circumstances of the proposed development having regard to the availability of additional residential parking provided on site over and above the requirement and opportunity for on street and public parking adjacent to the development.
- » There are sufficient environmental planning grounds to support the variations. The development achieves a good design and amenity for both the built form in the context of the streetscape, bulk and scale of the development and for future residents in terms of access to parking.