

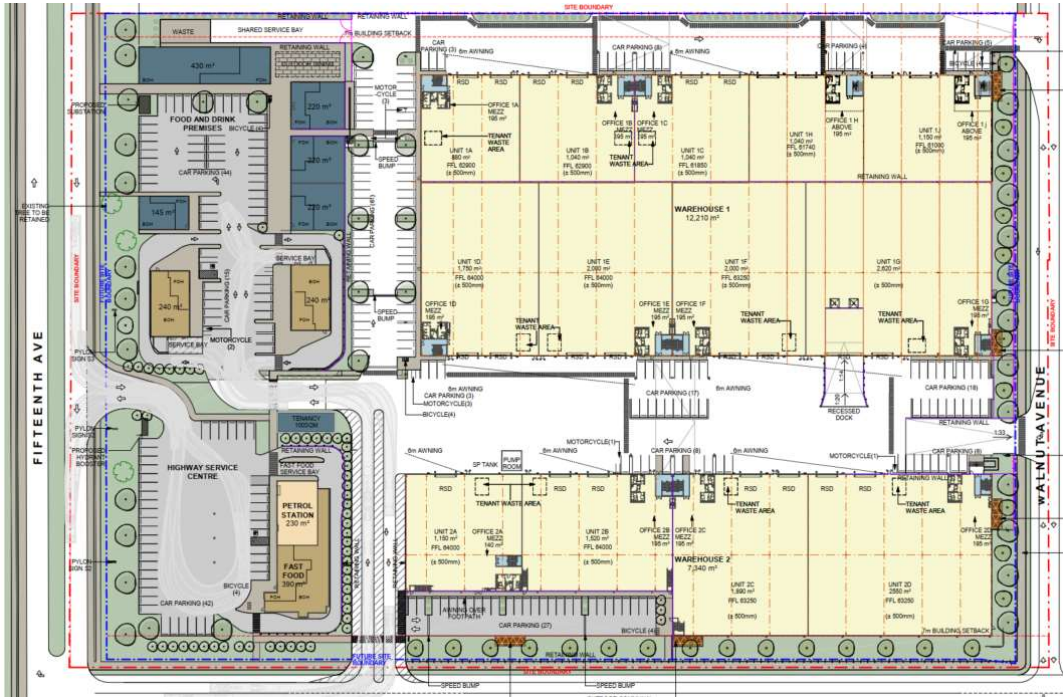


UPDATED CLAUSE 4.6 VARIATION TO HEIGHT OF BUILDINGS DEVELOPMENT STANDARD

Concept Development Application

575-599 Fifteenth Avenue, Austral

Summary Description	
Property:	Lot 384 in DP 2475; 575 Fifteenth Avenue, Lot 385 in DP 2475; 585 Fifteenth Avenue, and Lot 8 in DP 235953; 595-599 Fifteenth Avenue.
Development:	Two industrial warehouses with 13 units, restaurant and entertainment, food and drink and service station premises and subdivision of land.
Development Standard:	Clause 4.3 (Height of buildings) of Appendix 4 of <i>State Environmental Planning Policy (Precinct-Western Parkland City) 2021</i>
Development Plans:	Architectural Plans prepared by Reid Campbell, dated 31/8/2022, Issue D



Source: Reid Campbell, 2023

Figure 1. Site Plan

1 Background and Summary

1.1 Introduction

This Concept Development Application (**CDA**) is seeking consent for the staged development of the site and includes civil works, subdivision of land, 13 warehouses with associated offices, 9 food and beverage premises, service station. The CDA also seeks approval for Stage 1, 3A and 3B of physical works including:

- **Stage 1** includes the removal of trees and vegetation, site remediation, bulk earthworks, demolition of existing structures, dewatering of the dam at the rear of the site. It also includes associated civil works over the front portion of the site to deliver access to Fifteenth Avenue, internal access road and carparking area with associated services as well as the construction of a temporary detention basin at the north-western corner of the site. Once these works are completed, the land will be subdivided to create 1 Torrens Title industrial lots and 4 residue lots for future road dedications.
- **Stage 3** includes the decommissioning of the temporary stormwater management basin when it is no longer required and construction of the remaining 2 warehouses (Unit 1H and 1J) with associated offices.

The remaining food and beverage and service station components of the development will be the subject of future Development Applications, consistent with the proposed Concept Plan.

1.2 Location

The development is located at 575-599 Fifteenth Avenue, Austral (the **Site**) and within the Austral and Leppington North Precinct of the South West Growth Area. The key purpose of the NSW Government South West Priority Land Release Area was to contribute to addressing the existing housing supply storage and to accommodate growing housing demand within the Sydney Metropolitan Basin. As part of the rezoning and to support the increase housing supply, a portion to the north west of Austral and Leppington North Precinct is zone IN2 Light Industrial.

In a regional context, the Austral and Leppington North Precinct is located approximately 37 kilometres south west of the Sydney Central Business District, approximately 10 kilometres west of Liverpool Centre and approximately 15 kilometres north of the Campbelltown Town Centre.

The Precinct benefits from close proximity to major roads including the M5 and M7 Motorways and open space facilities such as Western Sydney Parklands. The area is currently comprised of market gardens and rural residential land uses (refer to **Figure 2**) but is undergoing significant change with recent approvals for urban purposes enabling construction works for urban development.



Source: Reid Campbell, 2023

Figure 2. Surrounding locality

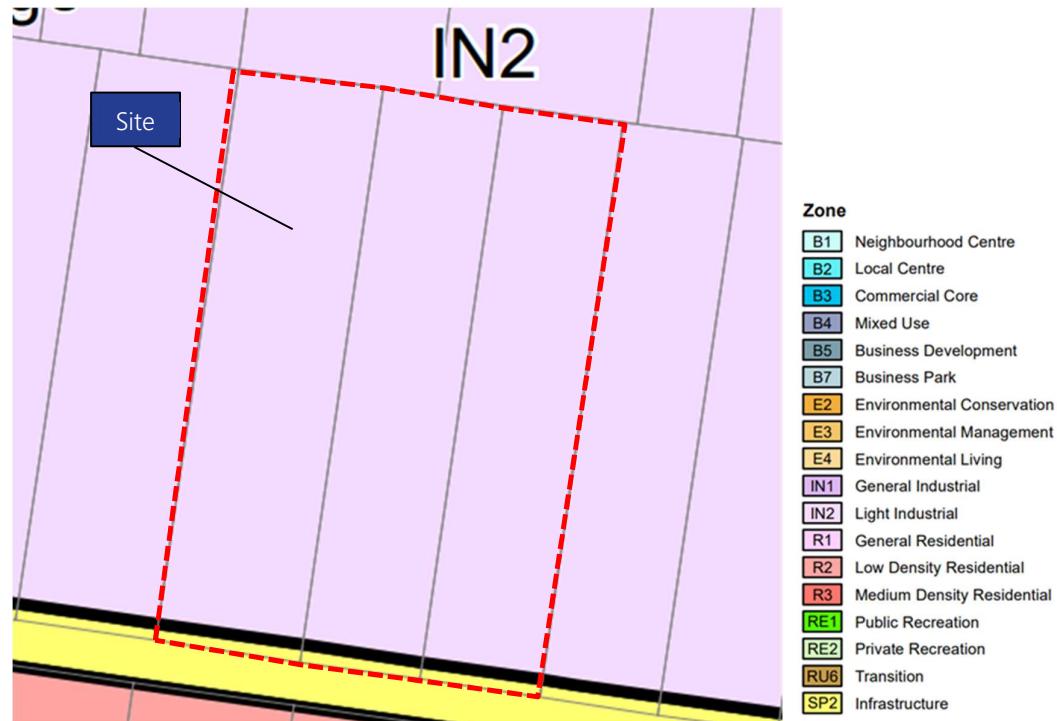
1.3 The Site

The Site is made up of 3 allotments of various sizes and is legally registered as Lot 384 in DP 2475; 575 Fifteenth Avenue, Lot 385 in DP 3475; 585 Fifteenth Avenue and Lot 8 in DP2235923; 595-599 Fifteenth Avenue, Austral. The Site is located to the north of Fifteenth Avenue with a frontage of 195m, depth of 292m and area of 5.61ha.

The Site is currently characterised as rural residential land with single and two storey dwellings with ancillary structures surrounding the dwelling. An existing dam is located to the far northern boundary of 585 Fifteenth Avenue with a number of trees that are scattered across the Site.

1.4 Zoning

The Site is zoned IN2 Light Industrial as shown in **Figure 3** and the proposed use as a warehouse and storage premises is permissible with consent under Chapter 3 and Appendix 4 of *State Environmental Planning Policy (Precinct – Western Parkland City) 2021 (WPC SEPP)*.



Source: NSW Planning Portal, 2022

Figure 3. Land zoning map

1.5 Summary of Clause 4.6 Request

This CDA includes industrial warehouses with portions at the northern end of the development exceeds the maximum 13m maximum building height under the WPC SEPP. A variation to the development standard is sought having regard to the existing site level and contours, compliance with the objectives of the standard, and a site responsive design that provides a high level of internal site amenity without adversely impacting the amenity of surrounding properties.

2 Authority to vary a development standard

The objectives of clause 4.6 of Appendix 4 of the WPC SEPP that applies to the Site seek to recognise that in particular circumstances strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the standard can be achieved as outlined below:

- (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.*
- (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.*
- (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 are sufficient environmental planning grounds to justify contravening 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 Planning Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Planning Secretary 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 Planning Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 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 Precinct Plan was made it did not include any of these zones other than Zone RU6 Transition, Zone E2 Environmental Conservation and Zone E4 Environmental Living.

- (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).*
- (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.*

3 Development standard to be varied

A variation is requested to Clause 4.3 *Height of buildings* in WPC SEPP which requires:

- (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 Site is subject to a maximum building height of 13m as illustrated at **Figure 4**.



Source: NSW Planning Portal, 2021

Figure 4. Height of buildings

Clause 3.3 of Chapter 3 of the WPC SEPP identifies where relevant definitions that relate to development are located and to be relied upon. For the purposes of building height, Clause 3.3 establishes that definition of building height has the same meaning as in the Standard Instrument. The *Standard Instrument – Principal Local Environmental Plan (2006 EPI 155a)* provides the following definition:

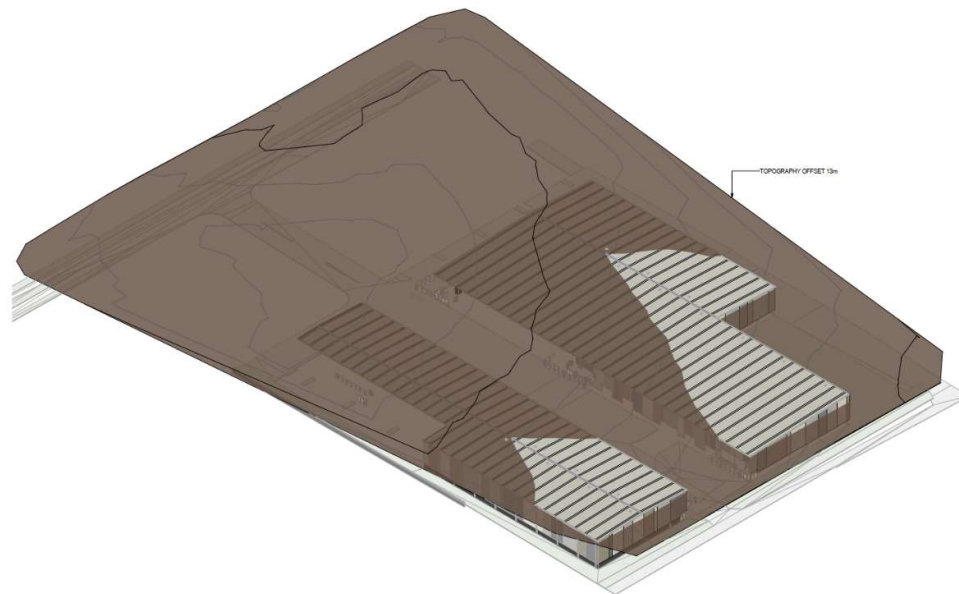
building height (or height of building) means—

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

3.1 Extent of variation

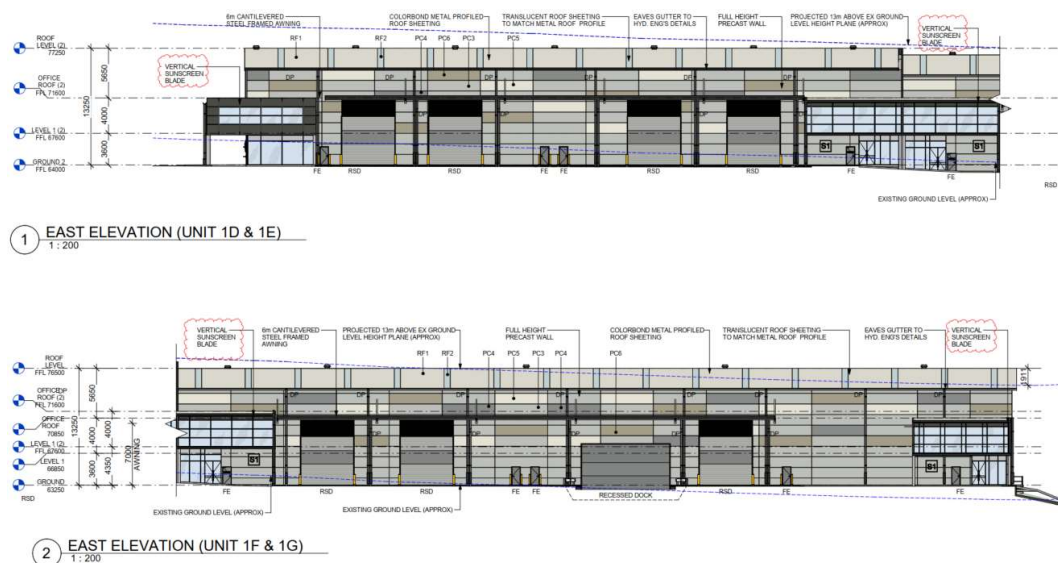
The Site has variable levels associated with the existing topography of the Site that has a fall of 4m in height from Fifteenth Avenue at the southern end of the Site (RL 65.0) to the northern boundary (RL61.0). Based on the existing ground levels and requirement of large flat building footprints for warehouse development anticipated by the zone, two parts of the warehouses in the northern portion of the Site have a maximum building height of 16m proposed. This represents a variation of the maximum building height from between 0.25m (0.1%) to 3.5m (24%) from the development standard. It is noted that the existing site is not flat and that the land slopes to the north and north west corner. The proposed height exceedance is predominately within the roof of the warehouses which presents a partial non-compliance with the development standard, refer to **Figure 5** below.



Source: Reid Campbell, ASK-09, Rev A

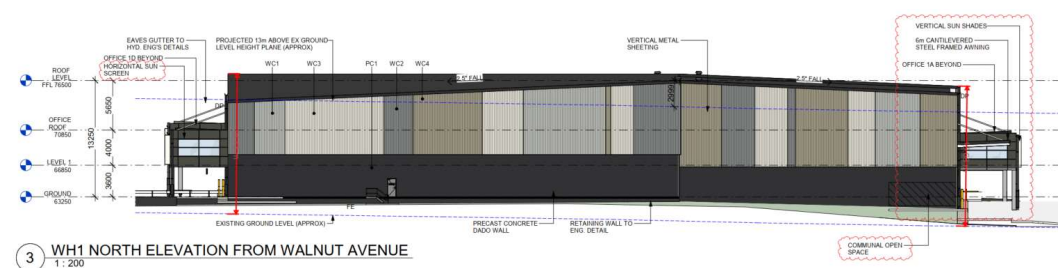
Figure 5. Height plane diagram

The proposed development generally maintains a building height of 13.25m across both buildings with the majority remaining below 13m above existing ground levels. Towards the rear of warehouse 1, a maximum height varies between 13.25m to 16.5m as shown at **Figure 6**. This is a result of the existing ground levels shown on the site survey plan. The maximum proposed height of the development is presenting on the northern elevation with 16m, which is measured from the existing ground level to the top of roof, as shown at **Figure 7**.



Source: Reid Campbell, 2023

Figure 6. East Elevation of Warehouse 1

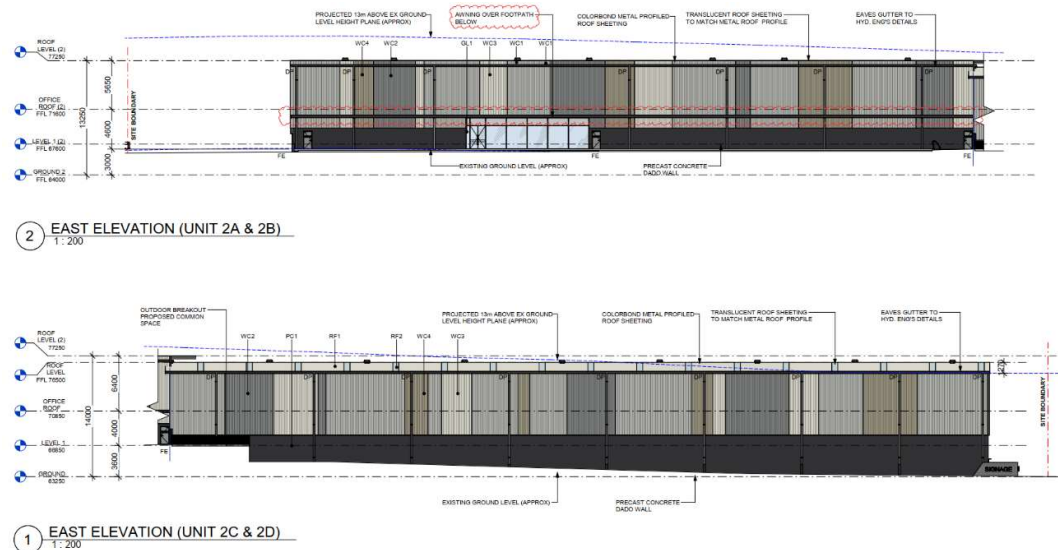


Source: Reid Campbell, A201, 2023

Figure 7. North Elevation of Warehouse 1

Within warehouse 2, the building towards the rear also exceeds the maximum height varying between 13.25m to 14.8m as shown in **Figure 8**. This is also a result from the existing ground levels shown on the site survey plan. The rear of warehouse 2 has been stepped down to reduce the amount of fill whilst maintaining a flat pad for the warehouse.

The variation to the height standard ranges from nil (i.e. lower than the maximum) to 3m. This represents a variation of between 0% to 23% to the maximum building height of 13m that applies to the land. The variability in the exceedance is reflective of the variable existing site levels, requirements of warehouse forms of development to have a flat ground level and larger floor plate and inefficiency in splitting levels between warehouse units and maintaining a functional driveway and drainage grade as discussed further below.



Source: Reid Campbell, 2023

Figure 8. East Elevation of Warehouse 2

3.2 Objectives of Clause 4.3 Height of building

The objectives of Clause 4.3 of Appendix 4 off the WPC SEPP are outlined below:

- (1) *The objectives of this section are as follows—*
 - (a) *to establish the maximum height of buildings,*
 - (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.*

All objectives are of specific relevance to the site and proposed development.

3.3 Assessment

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (Clause 4.6 (3)(a))

Clause 4.6(3)(a) requires the applicant to provide justification that strict compliance with the maximum building height requirement is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council (2007) NSWLEC 827*, Preston CJ established five potential ways for determining whether a development standard could be considered to be unreasonable or unnecessary. These include:

1. The objectives of the standard are achieved notwithstanding 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 or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

We note that whilst *Wehbe* was a decision of the Court dealing with SEPP 1, it has been also found to be applicable in the consideration and assessment of Clause 4.6. Regard is also had to the Court's decision in *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90 and *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7, which elaborated on how these five ways ought to be applied, requiring justification beyond compliance with the objectives of the development standard and the zone.

In addition to the above, Preston CJ further clarified the appropriate tests for a consideration of a request to vary a development standard in accordance with clause 4.6 in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118. This decision clarifies a number of matters including that:

- the five ways to be satisfied about whether to invoke clause 4.6 as outlined in *Wehbe* are not exhaustive (merely the most commonly invoked ways);
- it may be sufficient to establish only one way;
- the written request must be "sufficient" to justify contravening the development standard; and
- it is not necessary for a non-compliant development to have a neutral or beneficial effect relative to a compliant development.

It is our opinion that the proposal satisfies at least one of the five ways established in *Wehbe* that demonstrate that the development standard is unreasonable and unnecessary in this instance, for the reasons set out below.

1st Way – The objectives of the standard are achieved notwithstanding non-compliance with the standard

The proposal satisfies the objectives of the standard to the extent relevant to the current proposal, and compliance with the maximum building height standard in the circumstances is considered both unreasonable and unnecessary for the following reasons.

Objective (a) – to establish the maximum height of buildings

This objective is administrative in purpose and has no relevance to the application of the development standard.

Objective (b) – to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space

Austral and Leppington North Precinct is currently undergoing significant change from rural and rural residential land uses as a result of recent approvals for urban purposes. The proposed industrial development is consistent with the rezoning of the precinct which will provide employment opportunities and economic growth.

When the precinct is fully developed, the proposed increase in height is considered to be minor in nature and will not result in unacceptable view, privacy or overshadowing impacts to adjoining developments as the adjoining properties to the north, east and west that also have a maximum building height of 13m. Additionally, the warehouses do not have any no windows are proposed higher than 6.7m. Further the surrounding land to the north, east and west are also zoned IN2 Light Industrial and are likely to take a typical form for a range of uses that do not generate a need for specific solar access at ground level nor is there any public open space located (or identified for delivery) in proximity to the Site.

To the south of the Site is land zoned R2 Low Density Residential and while there has not been a DA lodged with Council for residential development the proposed development is sufficiently separated as a transit boulevard of 29.4m is situated in between. Additionally, overshadowing, and visual impact to the internal parts of dwellings and private open space will not be impact given the separation distance and that the height of the buildings at the southern portion of the Site do not exceed the maximum height of buildings control. The proposal is wholly compliant with this objective.

In the interim until adjoining land to the north, east and west is developed for similar purposes as per the IN2 zone, the areas where the maximum height of buildings control is exceeded are well setback from the boundaries as follows:

Adjoining Land	Adjoining Land Use	Setback
North	Mix of cleared and vegetated land with residents located over 315m away from the southern boundary	10m for half road width to be constructed, plus 6m landscaped setback Total – 16m
East	Market garden, residence located over 150m to the south of height exceedance	Minimum 7m landscape setback
West	Dam and market garden, residence located over 150m to the south of height exceedance	18m setback via perimeter access road and carparking areas

In support of this Clause 4.6 variation, a Visual Impact Assessment has been prepared by Ground Ink which provides an assessment of the proposed development from three viewpoints and adjoining properties. The first viewpoint at 550 Fifteenth Avenue looking north to the development concludes the view impact is minor/negligible with the support of a 20m front setback with planting along the frontage. The use of planting assists in screening the development but also assist in minimizing the visual impact of the building height exceedance that is primarily located at the rear of the development.

The proposed height exceedance from the second viewpoint of 470 Fourth Avenue looking west to the development will be negligible considering the future development of 555 Fifteenth Avenue will be similar in building height of approximately 10.5m. Additionally, the proposed planting of large canopy tree species assist in screening the development which will also minimize the visual impact of the extension.

Similarly, from the third viewpoint at 150 Gurner Avenue looking south to the development, the future development at 150 Gurner Avenue will be similar in building height of 13m (refer to **Figure 9**). The assessment concludes the visual impact is minor/negligible given the use of large planting and broad canopy native tree species within the rear setback.



Source: Ground Ink, 2023

Figure 9. Visual Viewpoint 3

In light of the above, it is considered that despite the height breach has negligible visual impact on the amenity of adjoining properties or district views towards the Site and remains consistent with the intention of the objective.

Objective (c) - to facilitate higher density development in and around commercial centres and major transport routes

The Site is located adjoining a major transport route (Fifteenth Avenue) which is planned to be upgraded and widened by Transport for NSW and will serve a Transit Boulevard function as per the Indicative Layout Plan and Development Control Plan prepared for the Austral and Leppington North Precincts.

Whilst the overall density and footprint of the development may not be impacted if the parts of the warehouse were lowered below the maximum height of building control, it would impact on the functionality and efficiency of the warehouse and future tenants parts of the warehouse building would have substandard internal clearances that would not cater for typical tenant demands and likely reduce the overall employment density generated from the Site.

The proposed increase in height is considered minor and a higher density development is encouraged and as such, is considered that the proposed development remains consistent with this objective.

2nd Way - The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

As noted above, Objective (a) is administrative in purpose and has no relevance to the application of the development standard and as such, compliance is unnecessary.

3rd Way - The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required.

As noted above, Objective (a) is administrative in purpose and has no relevance to the application of the development standard and as such, compliance is unnecessary.

4th Way - The development standard has been virtually abandoned or destroyed by the Council's own decisions

This consideration is not relevant in this case.

5th Way – The zoning of the site is unreasonable or inappropriate and consequently so is the development standard.

This consideration is not relevant in this case.

Are there sufficient environmental planning grounds to justify contravening the development standard? (Clause 4.6(3)(b))

There are two primary environmental planning grounds which support the contravention to the height of building development standard. These relate to:

- the original rezoning of the land not appreciating the nuances of the Site's topography and requirements of permitted warehouse uses;
- an exceedance of the height control could generally be avoided if a separate development for earthworks was proposed but doing so would serve to introduce an inefficiency to the planning and development processes for the Site;

Each of these grounds are detailed below:

Zoning and nuances of the site

Warehouses are permitted development within the IN2 zone that applies to the Site. It is generally accepted that a building height of 13m is required for large format warehouses to allow for grading of rooflines and associated ridgelines to provide internal clearance heights of 11m for the most efficient and feasible racking and storage systems.

In this instance, efforts have been made to transition levels across the Site to deliver compliant access road and drainage grades to fixed control levels at the northern boundary of the Site (i.e. future local road to the north and associated drainage grades to connect to Council's future regional stormwater management basin to the west). This has introduced a series of steps through the warehouse pads

from south to north through the Site. In taking this approach, earthworks have generally been able to be balanced over the Site whilst achieving compliant access road and drainage lines in accordance with Council's engineering specifications. It is only at the lowest point of the Site where there is an exceedance of the height of building control.

The proposed levels of the warehouses, loading areas and surrounding circulation pavement along the northern portion of the property have been nominated to be as sympathetic as possible to the existing terrain while also maintaining the balance of earthworks cut and fill across the Site. Here levels have been nominated to:

- a) minimise the volume of export leaving the Site, while
- b) maintaining the desired performance outcomes for the end user of the warehouse.

As such, level changes have been restricted to between each tenancy to ensure the levels at each of the respective loading and manoeuvring areas are as flat possible (crossfalls less than 4% in accordance with the requirements of AS2890.2 with a target crossfall of 1%).

Other factors that impact the design levels include:

- Location of carparking. Here changes in grade are restricted to a max 5-6% to ensure compliant crossfalls are maintained in accordance with the requirements of AS2890.1; and
- Downstream drainage constraints. Here levels have been nominated to ensure sufficient depth is achieved in the recessed loading areas, temporary stormwater basin, and surrounding hardstand and landscape areas to ensure sufficient fall to drain the site to both the future downstream of Regional Basin 18 (ultimate scenario) and the temporary tail-out line to Kemps Creek (interim arrangement).

As part of the adoption of a blanket height of building control of 13m over the whole of the IN2 zoned land, the WPC SEPP did not consider the nuances of the Site and its' topography and the ability for warehouse developments to devise a function site responsive design. This situation will be similar the other IN2 zoned land in the vicinity that will also be impacted upon by the same grading and height constraint for efficient and functional warehouses. In this instance, strict compliance with the height of building control would lead to either:

- more extensive earthworks over the Site and less functional grades to internal access roads that may hinder vehicle manoeuvrability and loading/unloading operations; or
- inefficient warehouses with lower internal clearance heights that would reduce typical storage volumes

Either scenario would result in a worse outcome for the future tenants of the development without any improved outcome for the adjoining properties.

Inefficiency of approval process that would achieve the same outcome

The Applicant has chosen to seek approval for the development of the Site as a CDA to provide Council with a holistic understanding of the full development outcome proposed for the Site. An alternative approach could be pursued to obtain approval for early works that would involve earthworks that would grade the Site upfront so that the future warehouse (of the same scale and height) could achieve numerical compliance with the development standard. However, this approach

creates far more inefficiency in the approval and delivery process and ultimately delay the delivery of new employment opportunities with the Austral Precinct. It would also unduly burden Council's resources with another Development Application noting that Council has routinely expressed to Applicant's the significant delays to the assessment process due to the significant volume of development activity in the Local Government Area.

In this instance, strict compliance with the height of building control would lead to unnecessary delays to the development of the Site to achieve the same outcome as well as place additional burden on Council's assessment teams resources.

Consequently, the proposal would be consistent with the following objectives of the EP&A Act at section 1.3:

- (c) to promote the orderly and economic use and development of land,*
- (g) to promote good design and amenity of the built environment,*

Is the proposed development in the public interest? (Clause 4.6(4)(a)(ii))

The proposed development is in the public interest because it:

- Facilitates a development that is not inconsistent with the objectives of the standard and the intent of the IN2 Light Industrial zoning of the site. Consistency, with the objectives of the standard has been addressed previously under Wehbe methods.
- Provides employment opportunity and economic growth within the Austral and Leppington North Precinct that is currently undergoing significant change from rural to urban.

In regard to the first point, the relevant objectives of the IN2 Light Industrial zoning of the site area are:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

The proposed industrial buildings will provide a series of warehouses to support a range of different scale logistics and storage based tenants and much needed employment opportunities in the Austral and Leppington North Precinct during construction after construction. The proposal development is located within an area transitioning to industrial character and reflects a form that is consistent with the desired future character associated within the IN2 zoning of the area.

Consideration of concurrence by the Planning Secretary (Clause 4.6(4)(b) & (5))

The capital investment of the development falls is anticipated to be over \$30 million and therefore is expected to be referred to the Sydney Western City Planning Panel for determination as 'Regionally Significant Development', pursuant to Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*.

Concurrence to the proposed variation is not required by the Secretary pursuant to clause 4.6(4)(b), as we understand that the Sydney Western City Planning Panel can assume the Planning Secretary's

concurrence in line with the *Assumed Concurrence Notice issued by the Secretary of the Department of Planning and Environment* dated 21 February 2018 (attached to DPIE Planning Circular PS 18-003).

Despite this, the proposed variation to the maximum height of building standard is not considered to be detrimental to any matter of significance for state or regional environmental planning.

In the circumstances of the application, there is no public benefit, if not a significant loss to the local community, in maintaining the development standard. To the contrary and consistent with the objectives of clause 4.6, allowing the variation will facilitate a development that achieves better and appropriate outcomes and represents an appropriate degree of flexibility in applying a development standard.

In relation to clause 4.6(5)(c), we note that no other matters have been nominated by the Secretary for considerations.

4 Conclusion

A variation to the strict application of Council's maximum building height standard is considered appropriate for the proposed at 575-599 Fifteenth Avenue, Austral.

The proposed height results in an optimum outcome for the site given the existing ground level and fall of the site and is responsive to the site context. There are negligible impacts resulting compared to those cause by a compliant height.

The proposal meets the intent of the height of building standard and in accordance with clause 4.6 of the WPC SEPP, demonstrates that the development standard is unreasonable and unnecessary in this case and that the variation is justified.