Revised October 2018

Clause 4.6 Variation Request

Tallawong Station Precinct South

SSD 9063

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Glossary and Abbreviations

Term	Definition
Concept Proposal	The overall concept for which approval is being sought
concept SSD application	A concept development application as defined in Section 4.22 of the EP&A Act, as *a development application that sets out Concept Proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications*
Council	Blacktown City Council
The Department	NSW Department of Planning and Environment
EP&A Act	*Environmental Planning and Assessment Act 1979* (NSW)
EP&A Regulation	*Environmental Planning and Assessment Regulation 2000* (NSW)
EIS	Environmental Impact Statement
Growth Centres SEPP	State Environmental Planning Policy (Sydney Region Growth Centres) 2006
ILP	Indicative layout plan
m	Metre
m^2	Square metres
Schedule 4 Cudgegong DCP	Blacktown City Council Growth Centre Precincts Development Control Plan – Schedule 4 Cudgegong Road (Area 20) Precinct
Secretary	Secretary of the NSW Department of Planning and Environment, or their delegate
SEPP	State Environmental Planning Policy
The Site	The subject site - Tallawong Station Precinct South as shown in Figure 6 of the EIS
SMNW	Sydney Metro Northwest
SSD	State significant development
SSDA	State significant development application
Sydney Metro Northwest	Construction and operation of a metro rail line together with eight new stations and the upgrade of the railway between Epping and Chatswood. The project is approximately 23 kilometres long (of which approximately 15.5 kilometres is located in underground rail tunnels), extending from Epping Station to just west of the proposed new Tallawong Station. The Sydney Metro Northwest, formerly known as the North West Rail Link, is Stage 1 of the overall Sydney Metro project with Stage 2 involving the construction and operation of a new metro rail line from Chatswood through Sydney's CBD to Sydenham (Sydney Metro City and Southwest).
Tallawong Station	The station previously known as Cudgegong Road Station
Tallawong Station Precinct South	The Site
TfNSW	Transport for NSW, Sydney Metro Northwest, the applicant for the concept SSD application
TOD	Transit oriented development

1. Introduction

This is a written request to seek an exception to a development standard under Clause 4.6 – Exceptions to Development Standards under clause 4.6, Appendix 6 of the *State Environmental Planning Policy (Sydney Growth Centres) 2006* (Growth Centres SEPP).

The development standard for which the variation is sought is Clause 4.3 Height of Buildings in Appendix 6 of the Growth Centres SEPP.

The clause 4.6 variation request relates to the proposal detailed in Concept State Significant Development Application (Stage 1 SSD Application) for the Tallawong Station Precinct South, as amended following public exhibition and consideration of submissions. The revised Concept Proposal is detailed in the Tallawong Station Precinct South Submissions Report.

1.1. Overview of justification for height variation request

The Concept Proposal seeks approval for a mix of buildings ranging from two storeys up to eight storeys. The Concept Proposal has been designed to support best practice transit oriented development (TOD) principles, providing increased residential density in immediate proximity of the new Tallawong Metro Station.

The proposed variation to the Height of Buildings development standard, as permitted under clause 4.6, fundamentally arises from the objective of delivering a new community based on TOD principles and having regard to the characteristics of the site. The proposed variation to the height standard is considered justifiable having regard to:

- the slope of the site
- the opportunity to create a vibrant, mixed use precinct with active street frontages by providing retail/commercial floorspace on the ground and first floor of buildings resulting in higher floor to floor ceiling heights
- the need to comply with the design criteria and design guidance within the Apartment Design Guide (ADG), for non-residential uses and to promote future flexibility of use and conversion to non-residential uses
- the need to provide lift overruns to access rooftop gardens which are intended to provide enhanced amenity for residents and a diversity of recreational opportunity
- the height of development approved in the vicinity of the site, including approvals to buildings to exceed the building height controls.

The request to vary the height to allow for slightly taller buildings is considered fully justified in the context of the circumstances of the project, and in terms of it satisfying the established tests associated with clause 4.6 variations. It is considered that flexibility in the application of the development standard is justified.

1.2. Project background

The Sydney Metro Northwest (SMNW) is the first stage of the overall Sydney Metro project. SMNW is delivering seven new stations and commuter car parking as well as upgrading Epping Station. It will provide, for the first time, a reliable public transport service to a region which has the highest car ownership levels per household in NSW.

The Tallawong Station Precinct South development forms part of the SMNW Urban Transformation Program to develop surplus government owned land around the proposed

metro stations. The SMNW provides a unique opportunity to integrate land use, transport and infrastructure planning in North West Sydney.

The Site is located within the Cudgegong Road (Area 20) Precinct which was one of the first release precincts to be developed as part of Sydney's North West Growth Area. As a result of the Sydney Metro Northwest project and the proposed Tallawong Station (formerly referred to as Cudgegong Road Station), changes to the planning controls for the Precinct were proposed to support longer-term development outcomes, and the principles of Transit Oriented Development, through increases in maximum building height within, and surrounding, the Town Centre (including the Site). The amendments surrounding Tallawong Station provide support for an overall dwelling yield for the Area 20 Precinct of around 4,400 dwellings and a population of around 11,250.

The site at Tallawong Station South Precinct (the Site) is one of eight urban transformation projects under the SMNW Urban Transformation Program. The focus of the program is the development of surplus developable government owned land around new Metro Stations at Cherrybrook, Castle Hill, Hills Showground, Northwest, Bella Vista, Kellyville and Tallawong as well as around the existing Epping Station.

The NSW Government's vision for the surplus land around the SMNW stations is to plan places that are integrated with the new world-class metro system and that combine best practice transit-oriented development (TOD) with innovative and sustainable urban design to create dynamic urban centres. The aim of the program is to create:

- mixed use areas that are active and walkable, and that capitalise on the fast and frequent connections provided by the new metro system
- attractive and well-designed public spaces and buildings
- creative, affordable and diverse housing solutions
- infrastructure to support the long-term growth of the corridor
- strong local economies by attracting long-term investment and a diverse range of jobs.

The proposed development supports best practice TOD principles by providing increased residential density in proximity of existing and planned transport infrastructure upgrades (such as the SMNW). The proposed infrastructure upgrades will provide residents with greater access to public transport and employment options, while promoting the use of sustainable travel options.

1.3. Clause 4.6 and case law

Clause 4.6 of Appendix 6 of the Growth Centres SEPP enables the consent authority to grant consent to development that departs from a development standard included in the SEPP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards, including height, that achieve better outcomes or that are in the public interest.

Clause 4.6 of Appendix 6 reads:

> *4.6 Exceptions to development standards*
>
> *(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) 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 Director-General has been obtained.

(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 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.

(6)…..(7)

(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.

In addition to the parameters set out in clause 4.6, there are a number of key decisions of the NSW Land and Environment Court that provide guidance in justifying a variation to a development standard. They are:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009
- *Micaul Holdings Pty Ltd v Randwick City Council* [2015] NSWLEC 1386
- *Moskovich v Waverley Council* [2016] NSWLEC 1015.

1.4. Clause 4.6 variation request

Consistent with the statutory requirements set out in clause 4.6, and as guided by the above case law, this request to vary a development standard:

- identifies the development standard to be varied
- identifies the extent of the variation sought
- establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances
- demonstrates that there are sufficient environmental planning grounds to justify the variation
- demonstrates that the consent authority can be satisfied that the proposal is in the public interest because it is consistent with the objectives of the standard and the objectives of the relevant zone(s).

Development consent can therefore be granted to the proposed development despite the proposed variation of the development standard because, pursuant to clause 4.6(4)(a), the consent authority can be satisfied that:

- this written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)
- the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone(s).

This report should be read in conjunction with the Stage 1 (Concept) SSD Application Environmental Impact Statement (EIS) prepared by MG Planning in relation to the Tallawong Station Precinct South and the Response to Submissions Report.

2. Development standard to be varied

2.1. Appendix 6 Growth Centres SEPP – Clause 4.3

The development standard that is sought to be varied as part of this application is clause 4.3 of Appendix 6 of the Growth Centres SEPP. This clause sets the maximum permissible height that is applicable to the subject development proposal.

Clause 4.3 is reproduced below and an extract of the Height of Buildings Map, to which the clause applies, is reproduced in Figure 1.

4.3 Height of buildings

(1) The objectives of this clause are as follows:

(a) to establish the maximum height of buildings on land within the Area 20 Precinct,

(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.

(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.

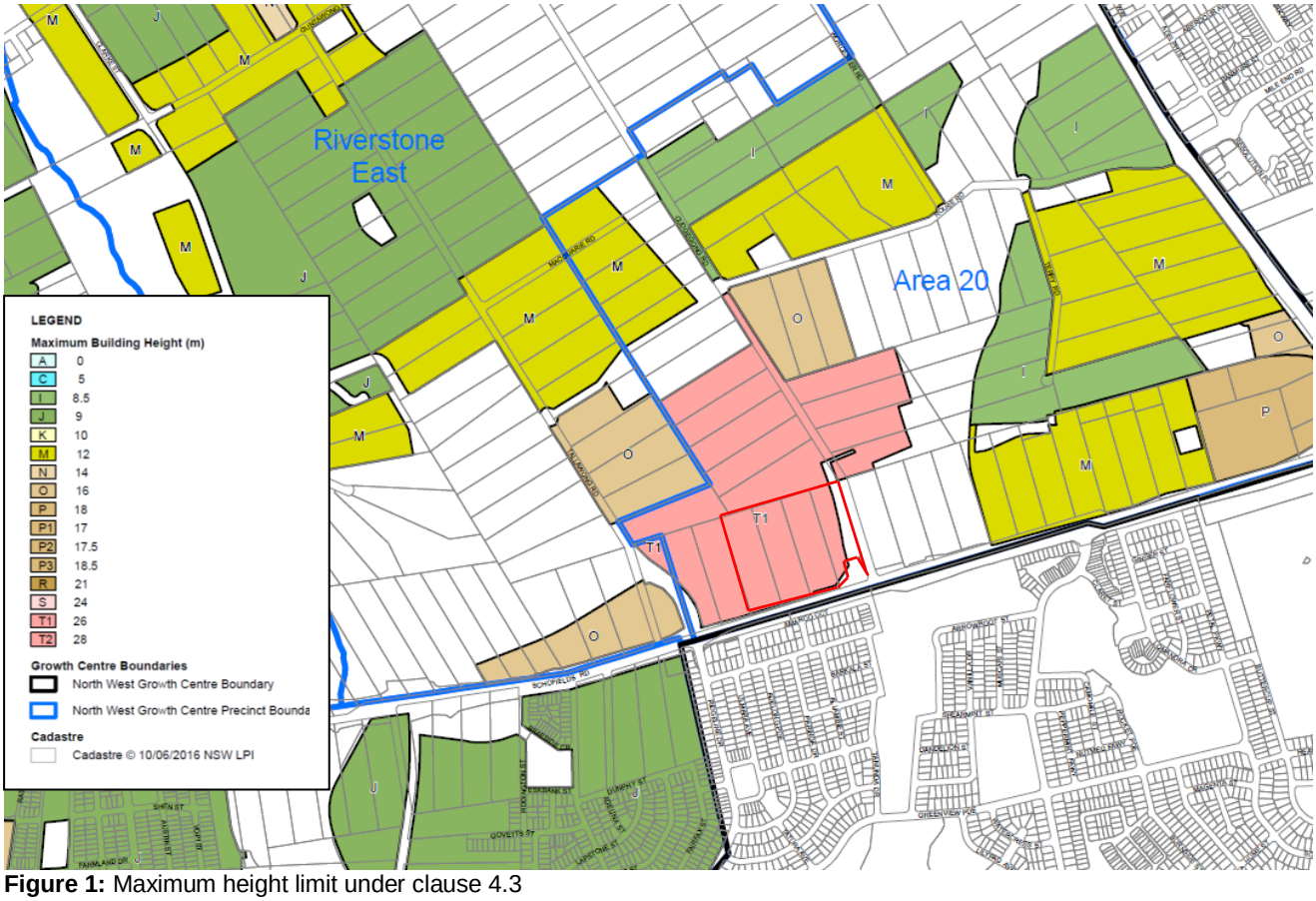


Figure 1: Maximum height limit under clause 4.3

2.2. The land subject to this variation

This clause 4.6 request to vary a development standard pertains to land at 75 and 81 Schofields Road and 38 Cudgegong Road, Rouse Hill. This land is generally bounded by Schofields Road to the south, Cudgegong Road to the east, Tallawong Road to the west and the future Tallawong Station to the north. The subject site (the Site) is shown in Figure 2.

The Site is generally rectangular in shape with a total area of approximately 7.8 hectares. It is situated within the Blacktown Local Government Area.

The Site is within the 'Area 20 Precinct' of the North West Growth Centre which was rezoned for urban development in October 2011. The plan for the precinct makes provision for the SMNW rail corridor and the new Tallawong metro station. A 1,000 space commuter car park for the new station will be located immediately west and partially within the Site, and is currently under construction. Also under construction to the west is the Sydney Metro Trains Operations Control Centre and Train Stabling Facility.

Figure 2: Subject site outlined in red

2.3. Site context

Site context is an important consideration when determining the appropriateness and necessity of a development standard. This particular site is strategically significant as it forms part of the SMNW Urban Transformation Program and provides a unique opportunity to integrate land use, transport and infrastructure planning.

The Site is located in the North West Growth Area which is intended to provide substantial land release areas for homes and jobs in Sydney's northwest. The Concept Proposal provides the opportunity for TOD located adjacent to the SMNW rail line and in close proximity to the

Rouse Hill Strategic Centre. The new train line will provide housing in the corridor with excellent access to employment in the Global Economic Corridor.

The Site has been earmarked for residential and mixed use development in accordance with the North West Priority Growth Area Land Use and Infrastructure Implementation Plan and the North West Rail Link Corridor Strategy as well as other strategic and statutory planning policies. Approval for the station development and related works, which are integrated with the subject development, has been granted (*North West Rail Link – Stations, Rail Infrastructure and Systems* CSSI (SSI_5414)) and construction works are well advanced.

The future land uses proposed for the Area 20 precinct are set out in the Indicative Layout Plan (ILP), as shown in Figure 3. Under the ILP, the Site is intended as medium to high density residential and mixed use while commuter car parking is located to the west and the new station is located immediately to the north, beyond which is the future local centre. An electrical substation and Second Ponds Creek Open Space Corridor are located to the east.

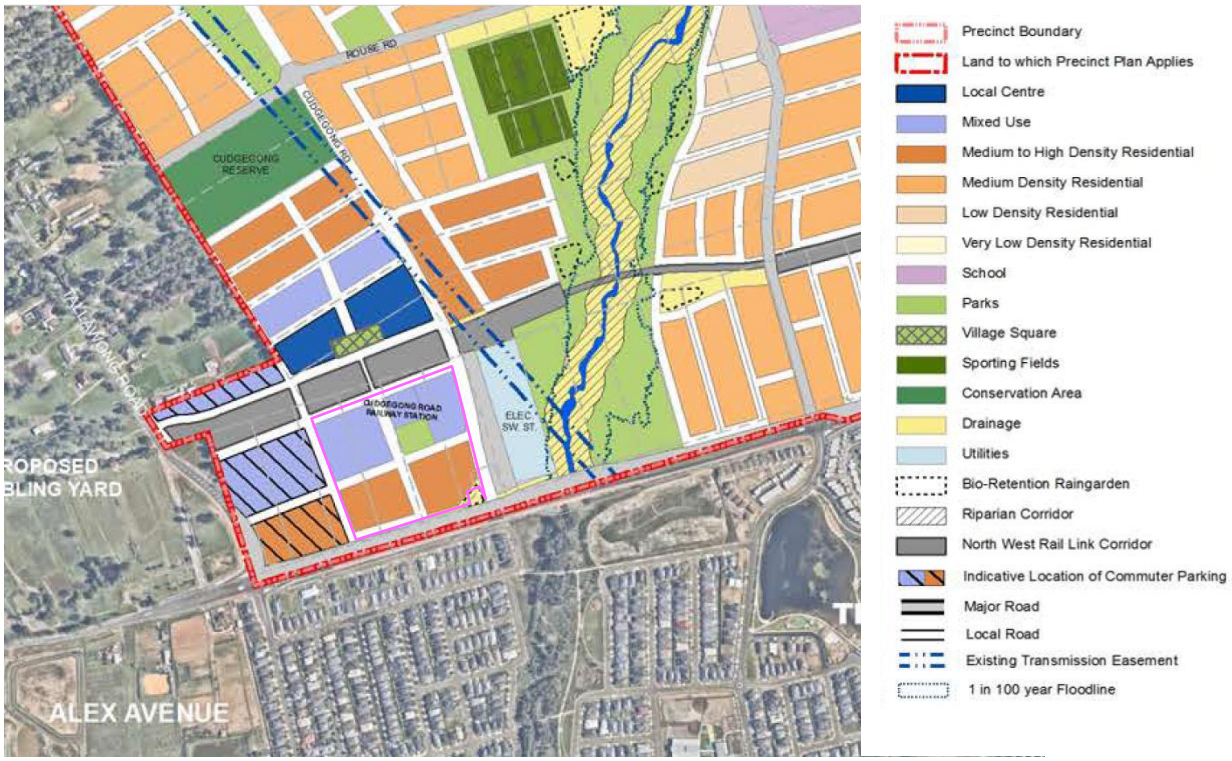


Figure 3: Indicative Layout Plan (subject site outlined pink)

2.4. Nature of this variation

Under the provisions of Appendix 6 of the Growth Centres SEPP, the maximum building height permitted on the Site is 26 metres, intended to provide for buildings up to eight storeys. The Stage 1 SSD Application seeks approval for a range of building heights from two storeys to eight storeys. Notwithstanding that the buildings do not exceed eight storeys in height, a number of buildings exceed the maximum building height of 26m. The extent of the non-compliance is shown in Figure 4 and Figure 5.

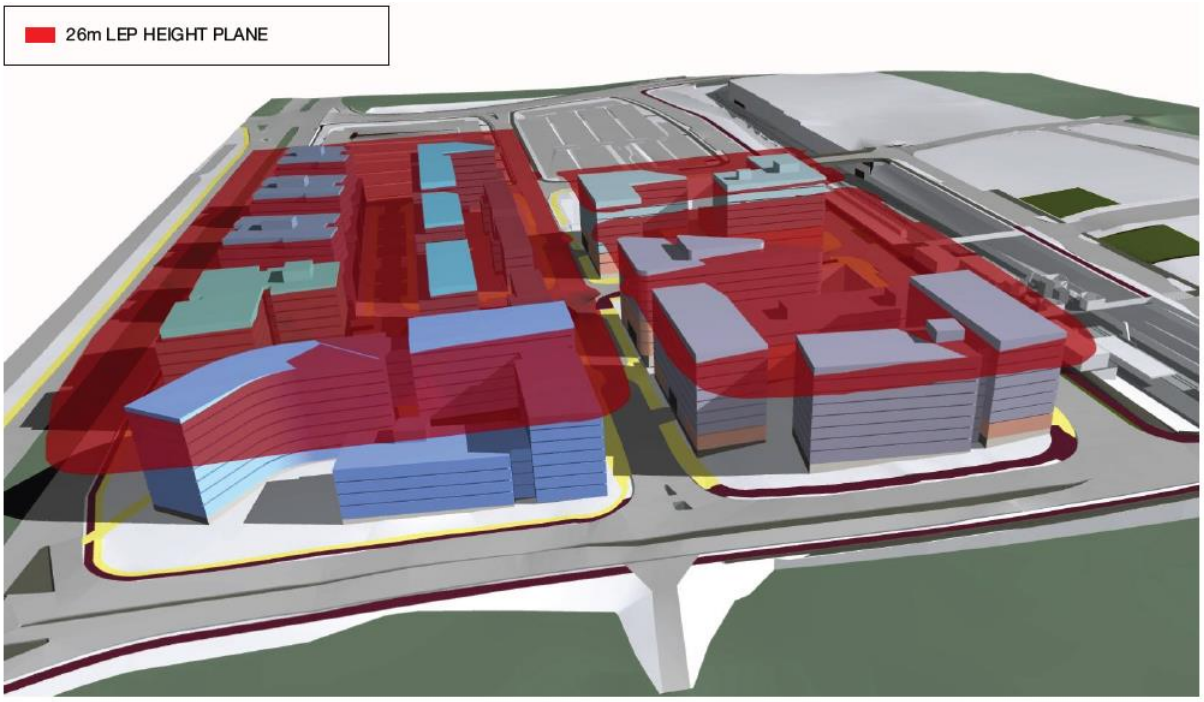


Figure 4: Plan looking west showing small areas of buildings above 26m height limit

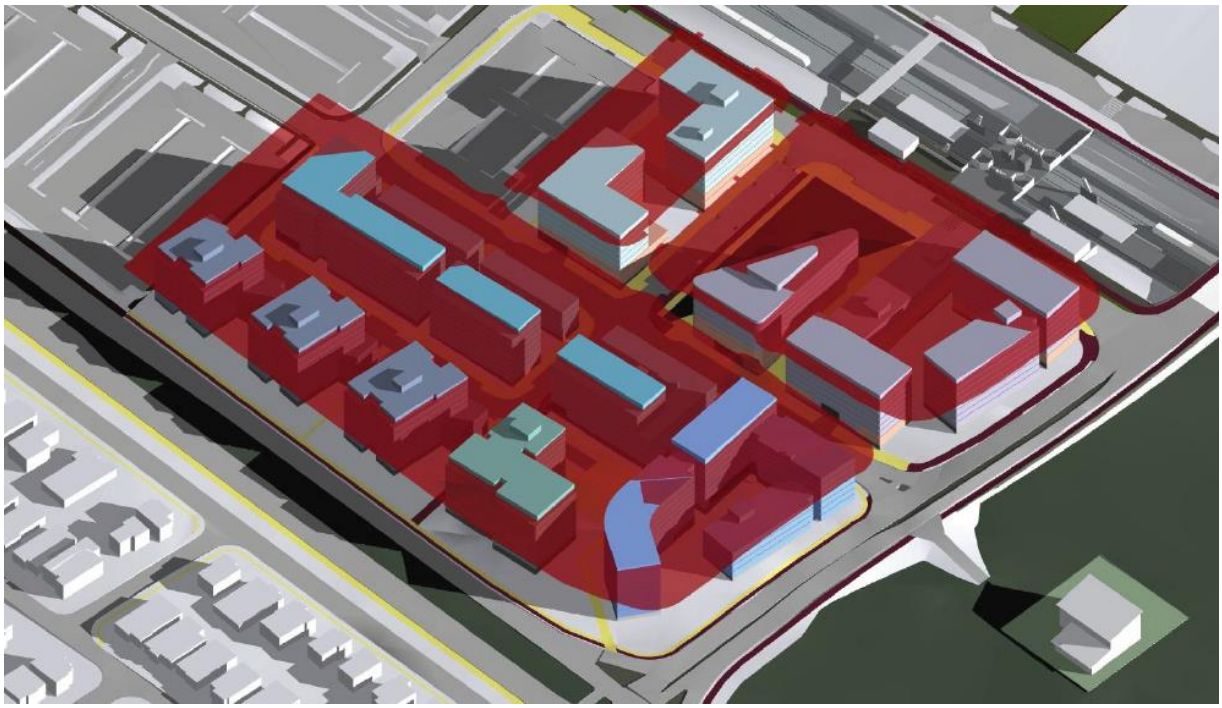


Figure 5: Bird's eye view of building encroachment above 26m height limit

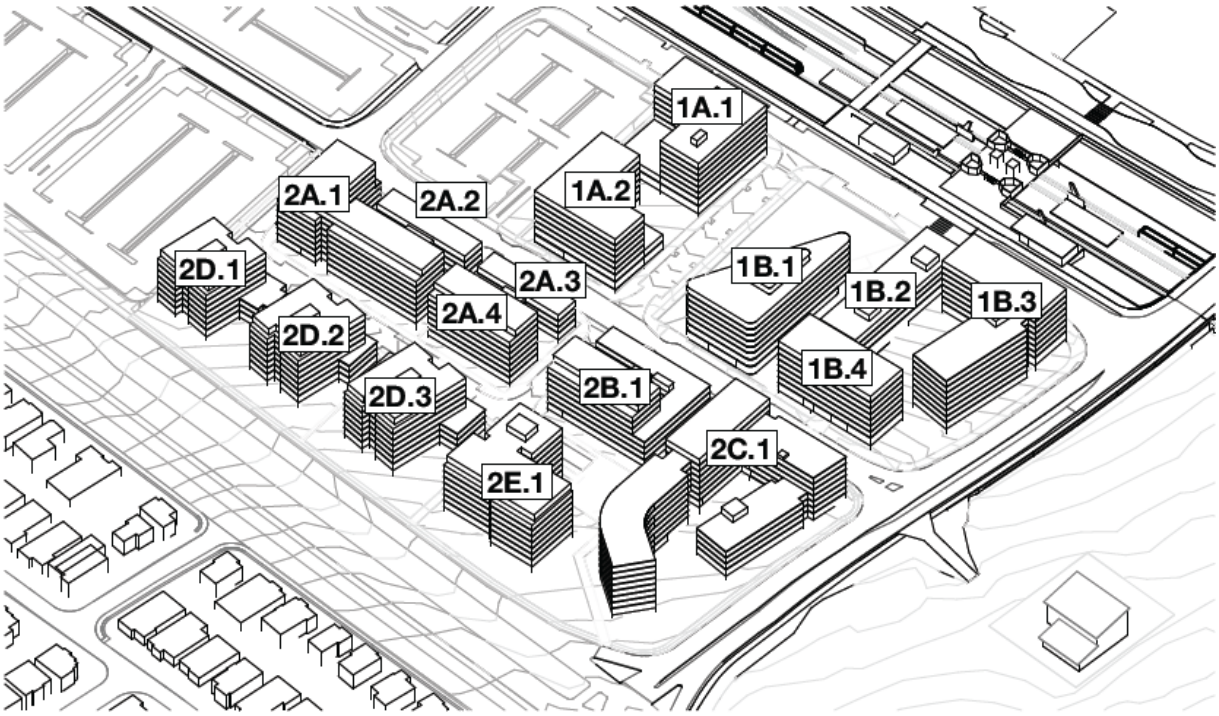


Figure 6: Building identification

The maximum variations for each building (building numbering identified in Figure 6), are set out below:

- The maximum height of **Building 1A.1** when measured to the top of the lift overrun is 31.5 metres. The variation sought is therefore 5.5 metres.
- The maximum height of **Building 1A.2** is 28.4 metres (no lift overrun). The variation sought is therefore 2.4 metres.
- The maximum height of **Building 1B.1** when measured to the top of the lift overrun is 29.8 metres. The variation sought is therefore 3.8 metres.
- The maximum height of **Building 1B.3** when measured to the top of the lift overrun is 29.9 metres. The variation sought is therefore 3.9 metres.
- The maximum height of **Building 1B.4** is 28.7 metres (no lift overrun). The variation sought is therefore 2.1 metres.
- The maximum height of **Building 2A.1** is 28.6 metres (no lift overrun). The variation sought is therefore 2.6 metres.
- The maximum height of **Building 2A.4** is 27.5 metres (no lift overrun). The variation sought is therefore 1.5 metres.
- The maximum height of **Building 2B.1** is 28.5 metres (no lift overrun). The variation sought is therefore 2.5 metres.
- The maximum height of **Building 2C.1** is 28.9 metres (no lift overrun). The variation sought is therefore 2.9 metres.

- The maximum height of **Building 2D.1** is 30.3 metres (no lift overrun). The variation sought is therefore 4.3 metres.
- The maximum height of **Building 2D.2** is 31.2 metres when measured to the top of the lift overrun. The variation sought is therefore 5.2 metres.
- The maximum height of **Building 2D.3** is 31.1 metres when measured to the top of the lift overrun. The variation sought is therefore 5.1 metres.
- The maximum height of **Building 2E.1** is 29.6 metres when measured to the top of the lift overrun. The variation sought is therefore 3.6 metres.

A summary of the building heights for all buildings is provided in Table 1.

Table 1: Key building height information

Building Number	Predominant height taken at point of least site fall (excluding lift overrun	Predominant height taken at point of greatest site fall (excl. lift overrun)	Maximum height of building (metres)	Extent of variation sought (metres)
Building 1A.1	26.7	28.4	31.5	5.5
Building 1A.2	26.7	28.4	28.4	2.4
Building 1B.1	26.7	27.4	29.8	3.8
Building 1B.2	14.3	18.2	21.3	Nil
Building 1B.3	26	28.5	29.9	3.9
Building 1B.4	26.7	28.7	28.7	2.7
Building 2A.1	25.85	28.6	28.6	2.6
Building 2A.2	13.45	15.1	18.2	Nil
Building 2A.3	13.45	15.1	18.2	Nil
Building 2A.4	25.85	27.5	27.5	1.5
Building 2B.1	25.85	28.5	28.5	2.5
Building 2C.1	25.85	28.9	28.9	2.9
Building 2D.1	25.85	27.2	30.3	4.3
Building 2D.2	25.85	2.1	31.2	5.2
Building 2D.3	25.85	28	31.1	5.1
Building 2E.1	25.85	28.5	29.6	3.6

Key points relating to the figures in Table 1 outlined below.

- **Predominant height with least site fall** - The predominant height of buildings taken at the point of least site fall shows that 12 of the 16 buildings are at, or lower than, 26 metres. The remaining buildings are only 700mm above the height limit.
- **Predominant height with greatest site fall** - The predominant height of all non-complying buildings taken at the point of greatest site fall shows that at this point 14 of the 16 buildings are no more than 10% higher than the 26 metre limit. The remaining buildings (Building 1B.4 and Building 2C.1) are no more than 11% higher than the maximum height limit.
- **Maximum building height** – The maximum building heights are a reflection of a number of factors:

- the additional 3.1 metres required for the lift overruns to access rooftop gardens which are intended to provide enhanced amenity for residents and a diversity of recreational opportunity.
- the need to make provision for commercial/retail floorspace in those buildings close to the new metro station consistent with strategic objectives.
- the need to comply with the higher ceiling heights in the ADG for ground and first floor levels so that retail and commercial floorspace can be provided as above.
- the need to comply with design criteria and design guidance within the ADG, for non-residential uses and to promote future flexibility of use and conversion to non-residential uses.
- the slope of the site which would result in subterranean apartments in some locations if the buildings were not slightly elevated.

The lift overruns comprise less than 10% of the floorplate of the buildings and in effect do not add to the building bulk. They are set back from the edge of the buildings and will not be visible from the surrounding areas. They are intended to provide access for communal space on the roof tops.

The building bulk and scale of the concept proposal is provided by the predominant height and not the maximum building height. As indicated above, the predominant height of the non-complying buildings at the point of greatest fall is in all but two instances less than 10% above the 26 metre height limit, and those cases exceeding 10% will be up to 11% above the height limit. The extent of the non-compliance is minor and does not reflect a significant departure from the height standard.

Further detail regarding the building heights proposed under the Concept Proposal is provided in the *Urban Design Report Response to Submissions* prepared by Bennett and Trimble (October 2018) and included in Appendix C. This information includes detailed building height calculations, sections and elevations as well as shadow diagrams.

3. Justification for contravention of the development standard

3.1. 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe), Preston CJ of the Land and Environment Court identified five ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary.

While Wehbe related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 where subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

The five ways outlined in Wehbe are:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way)
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way)
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way)
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 (Fourth Way)
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 (Fifth Way).

It was not suggested that the five ways were the only ways that a development standard could be shown to be unreasonable or unnecessary, nor does the development need to demonstrate satisfaction of more than one of five ways outlined.

This clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the height control pursuant to the First Way outlined in Wehbe.

In the judgment in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 the Chief Judge upheld the Commissioner's approval of large variations to height and FSR controls on appeal. He noted that under Clause 4.6, the consent authority (in that case, the Court) did not have to be directly satisfied that compliance with the development standard was unreasonable or unnecessary but that the applicant's written request adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.

3.1.1 The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way)

As noted in Section 2.1, the objectives of the building height development standard (under clause 4.3 of Appendix 6 of the Growth Centres SEPP) are:

(a) to establish the maximum height of buildings on land within the Area 20 Precinct,

(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.

An assessment of the building height in relation to these objectives is provided below.

Objective (a) to establish the maximum height of buildings on land within the Area 20 Precinct

The maximum height of buildings on land within the Area 20 Precinct is set out on the Height of Buildings Map. Notwithstanding, the Appendix 6 controls allow for non-compliance with the specified heights by virtue of the provisions of clause 4.6. The purpose of this report is to address the requirements of clause 4.6.

The 26m maximum building height applying to the Site was introduced in June 2015. Prior to this, part of the Site had a height limit of 12m and there was no height limit specified for the remainder of the Site. The height controls introduced in 2015 reflected the changing view that there was a need for greater density and height in those areas in close proximity to the new Tallawong Station. In justifying the new height controls, the *Cudgegong Road Station (Area 20 Precinct) Finalisation Report* (Department of Planning and Environment, 2015) states:

> *The combination of exhibited minimum densities with maximum FSR controls and height controls is considered to be reasonable and will allow for varied urban development outcomes across the Precinct, noting accessibility and proximity to key destinations such as the new station on Cudgegong Road, town centre, arterial road network and Rouse Hill Town Centre and more broadly across the Precinct. In proposing the increase to building heights in and surrounding the town centre, specific regard was given to the need to minimise visual impacts to Rouse Hill House.*

In other words, the basis for allowing additional building height and increased residential densities in certain areas in the Tallawong Station Precinct was their high degree of accessibility to public transport and services. Further, the building heights under the new planning controls had been determined having regard to the need to avoid adverse visual impacts on the State heritage listed Rouse Hill House.

An assessment of how the Concept Proposal has been designed to capitalise on the Site's proximity to public transport and services is provided in the discussion relating to Objective (c) below.

In relation to the visual impact of the concept design, a *Landscape and Visual Impact Assessment* (LVIA) has been prepared by AECOM and is provided in Appendix V of the EIS. The LVIA found that the project would have negligible impact on the views to and from Rouse Hill House due to intervening landform and vegetation cover.

In addition to the LVIA, a Statement of Heritage Impact has been prepared by OCP Architects (refer Appendix W of EIS) which provides an assessment of the impact of the Concept Proposal on Rouse Hill House. It notes as follows:

> *Analysis of the topography of the land that lies between Rouse Hill House and the site suggests that the potential impact upon the Rouse Hill House property or its extended visual curtilage would be very low. The property lies approximately 1.5 kilometres to the north of the site. Rouse Hill House and Farm is separated from the site by an undulating landscape including forested areas. It is considered therefore that the*

construction work would be barely visible from Rouse Hill House and Farm, and that the possibility of these works resulting in any appreciable negative heritage impacts upon this historic property and its curtilage would be very low. This is especially the case given there is already-existing urban development visible from Rouse Hill House and Farm.

The conclusions of both the LVIA and the Statement of Heritage Impact confirm that any impact on views to and from Rouse Hill House as a result of the Concept Proposal would be negligible. The underlying intent of the height control to avoid visual impacts on Rouse Hill House is therefore met by the Concept Proposal.

It should also be noted that the Concept Proposal complies with both the residential density and FSR controls that apply to the Site. The proposed FSR is 1.34:1 which complies with the applicable maximum FSR of 1.75:1.

The proposed development purely seeks to distribute "mass" across the Site to achieve a better planning and architectural, amenity, solar access and urban design outcome as will be discussed further in this report.

Conclusion on Objective (a)

This objective is essentially a statement that the planning control establishes building heights for the precinct. The underlying premise for the specified maximum building height would appear to be to encourage higher density development close to the Metro station while at the same time protecting views to and from Rouse Hill House. The Concept Proposal provides for higher density mixed use development that is integrated with the station. The overall built form, including the proposed variations to the building heights, will not result in adverse visual impacts to Rouse Hill House. It is therefore considered that the Concept Proposal is consistent with the original intent behind the nominated building heights.

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

The Concept Proposal facilitated by the proposed height variation has been designed to achieve a built form that reflects design excellence while protecting the amenity and solar access of adjoining buildings and open space. As noted in Section 2.4, the predominant height of the majority of buildings at the point of least site fall complies with the 26 metre height limit. In addition, all the buildings at the point of greatest site fall are 10% or less above the height limit, with only two buildings up to 11% above the height limit. It is the predominant height of the buildings, and not the maximum height, that is the visible building form.

The entire site has a fall of approximately 8m from the north-west corner to the south-east corner. A series of streets establish a grid across the site with a series of public spaces distributed across the varying levels. Given the requirement to create level building platforms within this topography and the intention for the ground floors of each building to address and activate each of the streets and public spaces, elements of the buildings do exceed the maximum building height limit. Where possible, buildings have been reduced in height, separated into smaller footprints or stepped mid-length to alleviate breaches of the height plane, but this is limited by core placements, accessibility needs, buildability issues and the desire to create a series of buildings with a range of heights to form different urban scales across the development. Additional stepping could result in non-viable building floor plates or the introduction of internal corridor stairs with an unnecessary adverse impact on apartment accessibility. In addition, further stepping could result in sub-terrain apartments, which has an undesirable amenity outcome for future residents and negative aesthetic impact on the streetscape and public spaces.

The additional height does not result in an additional storey and is partly offset throughout the development. In addition, while the lift overruns also result in non-compliance with the height limit, this is considered appropriate as the lift overruns are necessary to provide access to the rooftop open space, are contained within the central areas of the roof levels, are not visible from the street and will not result in additional overshadowing to adjoining properties as shadows will be fully contained within the roof area.

Visual impact

In terms of visual impact, the non-compliances with the building height control are minor and will not create adverse visual impacts in their own right. However, it is undoubtedly the case that the overall Concept Proposal will change the existing visual environment which is currently low scale and/or rural in nature. Notwithstanding, the intention is to create a dynamic urban centre that will set the benchmark for the future height and scale of the town centre consistent with the NSW Government's objectives. The building envelopes have been designed to respond to street widths, functions, landscape setbacks and to support the desired character of the precinct. Higher buildings have been located on those Sites adjacent to the Metro station and on the corners of streets in the precinct to reinforce the town centre character of the development.

Solar access

In relation to amenity and solar access, the proposed building forms have been designed to optimise access to daylight, natural ventilation and privacy, and provide appropriate building separation. Building massing has been arranged to minimise solar impact on neighbouring properties in mid winter. In particular, as part of the Response to Submissions the upper levels of the buildings addressing Schofields Road have been setback 1600-1800mm in order to reduce the perceived bulk of the buildings that front Schofields Road, the extent to which these buildings exceed the maximum building height plane and to minimise overshadowing. Under the worse case scenario of mid winter, there is no overshadowing of buildings on the south side of Schofields Road with shadows only appearing at 3pm in the front yards. At the equinox there is no overshadowing.

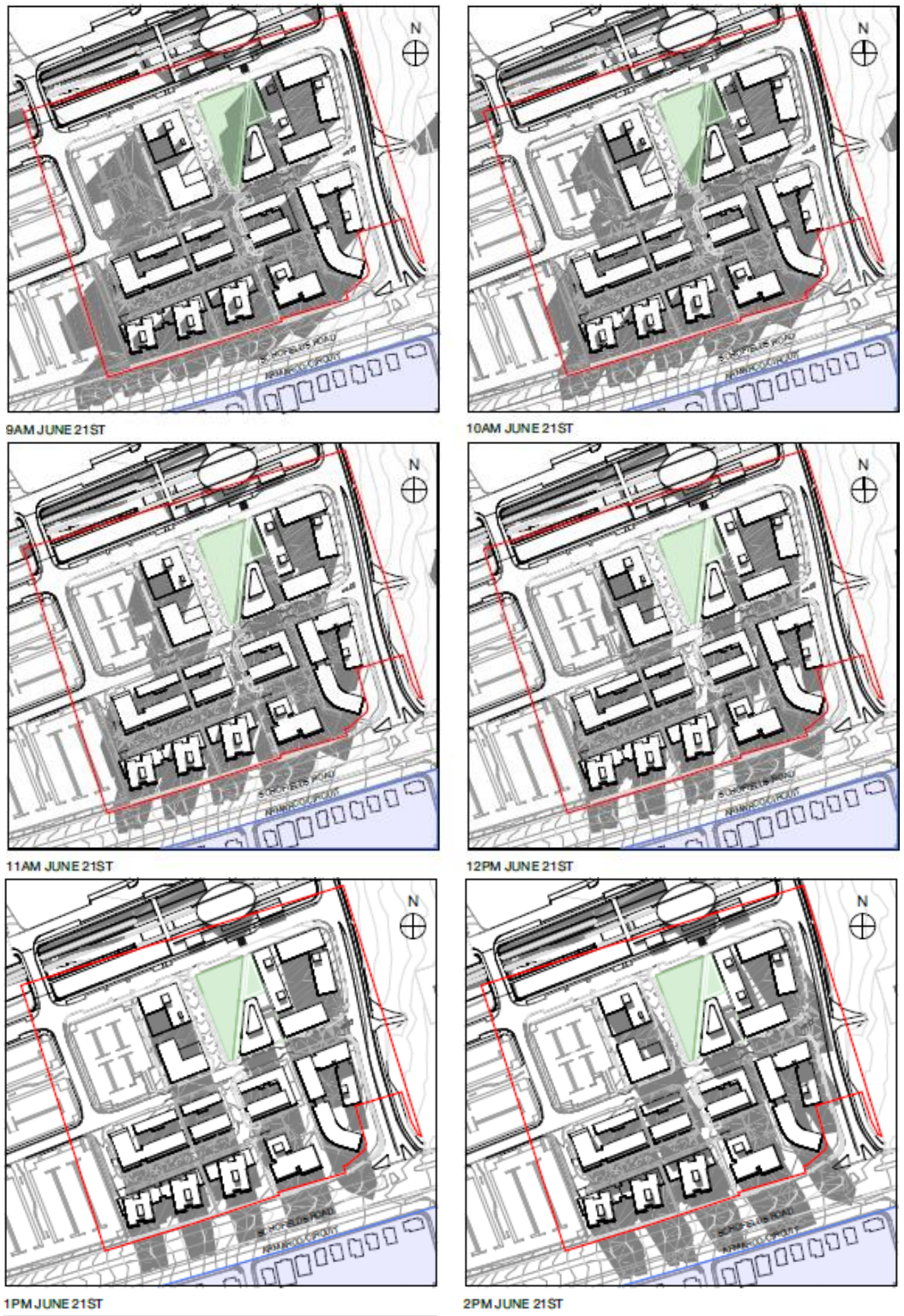
Following consideration of comments from the Department of Planning and Environment, Government Architect's Office and Blacktown City Council, changes have been made to the building layout to allow for improved solar access to the village park and the retail plaza as follows:

- **Village park** - The park area has been increased from 2,900m^2 to 3,411m^2 with the expanded area of parkland receiving good solar access. This is in addition to the original park area which already receives sunlight to an area greater than 50% of its site area between 11am and 2pm on 21 June. The expanded park has been achieved by reducing the footprint of Building 1.B1 at its northern end. This has reduced the overall gross floor area of the building by 522m^2.

- **Retail plaza** - As part of the revised Concept Proposal, the retail plaza has been relocated to the eastern side of Building 1A.2 to provide for significantly improved solar access and amenity. The relocation means that there will be a strong visual connection and pedestrian interface between the park and the retail plaza. The overall result will be a significantly improved public domain experience.

The updated shadow diagrams are shown on Figure 7 on the following pages.

Figure 7: Solar analysis showing overshadowing from buildings mid winter 9am to 2pm.



Additional shadow diagrams and solar analysis are provided in the Urban Design Report Response to Submissions at Appendix C.

A revised SEPP 65 Design Verification Statement has also been prepared by Bennett and Trimble addressing the nine design quality principles contained in the SEPP (see Appendix

E). The Verification Statement is supported by a preliminary ADG Compliance Assessment. As demonstrated in the Design Verification Statement and ADG Compliance Assessment, the Concept Proposal complies with the design principles and design guidance contained in SEPP 65, including those relating to solar access and other residential amenity considerations.

Conclusion on Objective (b)

It is apparent that notwithstanding the proposed variation, the building envelopes will not result in adverse impacts on the amenity of the locality. It has been demonstrated that the Concept Proposal facilitated by the proposed height variation has been designed to achieve a built form that reflects design excellence while protecting the amenity and solar access of adjoining buildings and open space.

To address issues raised in submissions relating to solar access to the public domain, the Concept Proposal has been modified by increasing the area of the village park and relocating the retail plaza. In both instances, significant improvements have been achieved by reconfiguring the building layout. Additionally setbacks to the top levels of the buildings fronting Schofields Road will minimise any overshadowing to properties on the southern side of Schofields Road to the front yards of homes after 3pm in mid-winter.

It is therefore considered that the Concept Proposal encompassing the proposed height variation meets Objective (b).

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

The fundamental driver for the Concept Proposal is to facilitate high density development around the Tallawong Station based on best-practice TOD and sustainable urban design principles. The future Tallawong Station Precinct South will be highly accessible, not only because of its proximity to the new Sydney Metro North West line but also because of improvements in bus services as well as pedestrian and cycle connectivity. The Sydney Metro itself will offer a rapid and frequent metro rail service connecting to jobs, services and strategic centres in the northwest. Metro train services will run every four minutes during peak periods.

The Concept Proposal encompassing the proposed height variation will, amongst other matters:

- deliver a mixed use development within 300 metres of the Tallawong Station that will provide a rapid and frequent metro rail service connecting to jobs, services and strategic centres in the northwest and across Sydney
- provide for integrated retail, commercial, recreational and community uses that integrate with the new station and also stimulate activity around the new station
- provide for the integration of land use and transport by aligning housing development with the NSW Government's investment in infrastructure
- ensure the orderly and economic use and development of land by creating a well-connected and sustainable community on surplus government land adjacent to a new Metro station
- achieve a balanced built form outcome that is consistent with the future built form framework and which achieves variation in the building massing and typologies
- provide for future flexibility in land uses, allowing for potential adaptability of residential floor space for commercial or retail uses at a later date.

The Concept Proposal is consistent with key strategic policies, including the *Greater Sydney Region Plan*, the *Central City District Plan* and *Future Transport 2056* in that it provides housing choice in a highly accessible location, contributing to the goal of achieving a 30 minute city and optimising infrastructure use. It will also provide for compact development and contribute to a low carbon future for Sydney.

Conclusion on Objective (c)

The Concept Proposal provides higher density development around a major transport route and local centre in compliance with this objective. The proposed height variation enables higher density development to be achieved close to the station consistent with NSW Government strategic policies. The new Metro station represents a significant public investment in transport infrastructure and the residential density facilitated by the height variation capitalises on this opportunity.

3.1.2 Other reasons why compliance is unreasonable or unnecessary

A further fundamental reason why compliance is unreasonable relates to the need for appropriately located and designed commercial floorspace to be provided as part of the Concept Proposal. The strategic rationale for the commercial floorspace and implications for building heights are set out below.

Strategic justification for commercial floorspace

Approximately 9,000m^2 of commercial floorspace is proposed within the Site, distributed across buildings located in the B4 Mixed Use zone. The need for this floorspace has been determined having regard to broader strategic objectives as well as the needs of the local resident, worker and commuter population.

The Retail and Commercial Land Use Analysis prepared by AEC for the Stage 1 SSDA (May 2018) provides a detailed economic and property market analysis that underpins the proposed commercial and retail floorspace distribution on the Site. Its key findings are summarised below:

- Development momentum and activity in Area 20, and the North West Growth Area more generally, indicates that there will be strong demand for additional retail/commercial floorspace outside the B2 Local Centre beyond 2021. Retail/commercial floorspace in the B4 Mixed Use land in the Tallawong Station Precinct South will therefore provide important supplementary retail, office and related spaces to meet the needs of residents, workers and commuters that are not met in the Local Centre.
- The commuter car park will drive high volumes of pedestrian and vehicular activity on a daily basis. Retail and complementary facilities will provide vital services that are directly accessible to local residents, workers and commuters alike.
- Local residents are likely to be characterised by two working parents with high levels of commuting. The Tallawong Station Precinct South can best support local residents by providing accessible, convenience style retail and other support facilities for households that are likely to have above average incomes but who are time poor.
- Commercial office floorspace is justifiable in the Tallawong Station Precinct South as it would be able to capitalise on the accessibility of the site and infrastructure connectivity. Commercial uses would also support jobs, generating demand for retail uses and offering the potential for more people to work closer to home.
- Demand for traditional office space within the immediate vicinity is strong. Anecdotal evidence from leasing agents indicates that traditional office space is fully occupied with strong demand from small businesses

- The global trend for workspaces with flexible tenure arrangements is generating increasing demand across the Sydney commercial market. Until recently co-working has tended to cluster within the Sydney CBD and surrounding markets, however there is increasing evidence that co-working offices are spreading to western Sydney. The success of co-working spaces is dependent on a range of factors including connectivity, amenity, accessibility, range of floorspace offered and sense of community.

Implications for building heights

In view of the findings of the AEC report, it is proposed to provide approximately 9,000m^2 of commercial floor space distributed in Buildings 1A.1, 1A.2, 1B.1, 1B.2, 1B.3 and 1B.4, all located within the B4 Mixed Use zone and located adjacent to the new metro station. Providing adequate commercial floorspace has meant that the buildings in the B4 Mixed Use zone will generally have a floor to floor height of 4.4m on the ground floor and 3.7m on the first floor (floor to ceiling height of 4m and 3.3m respectively). In addition all first floor buildings in the B4 Mixed Use zone are proposed to have a 3.7m floor to floor height to promote future flexibility of use in accordance with the design criteria of the ADG.

Provision is also made for 3.7m floor to floor ceiling heights (floor to ceiling height of 3.3m) on the ground floors of buildings in the R3 zone to provide for maximum flexibility of ground floor uses in the future, in accordance with the design guidance requirements of the ADG.

The proposed floor to floor heights correspond with the objective in the ADG that the ground and first floor levels of mixed use apartment buildings should have increased ceiling heights to ensure their longer term adaptability for other uses. This is shown in Figures 4C.1 and 4C.2 of the ADG, reproduced below.

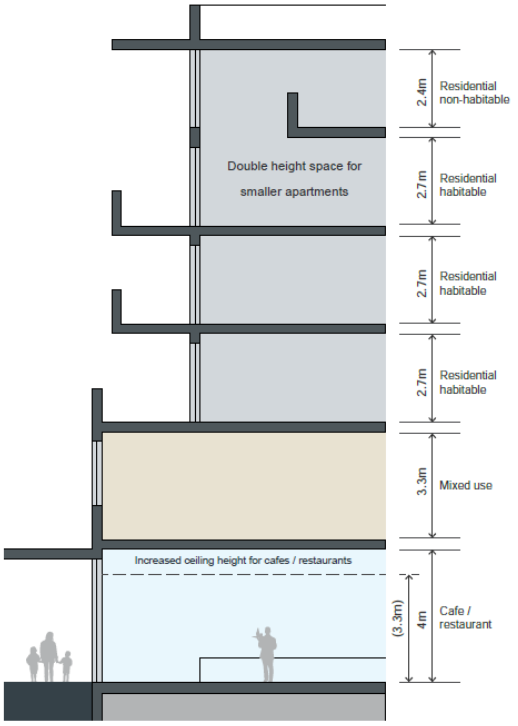


Figure 8: Excerpt from ADG (Figure 4C.1) showing the preference for greater than minimum ceiling heights for retail and commercial floors of mixed use developments to promote flexibility of use. The ADG notes that cafe and restaurant uses need greater minimum ceiling heights of 4m to allow for additional servicing needs

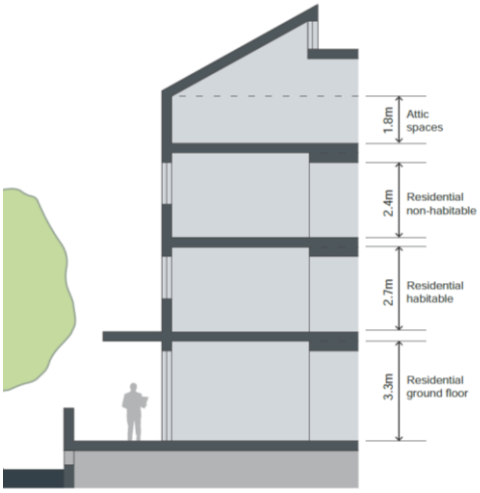


Figure 9: Excerpt from ADG (Figure 4C.2) showing that ground floors of residential apartments should provide for higher ceiling heights to allow for maximum flexibility of use.

The Concept Proposal has adopted the ADG recommendations, as shown in Figure 10.

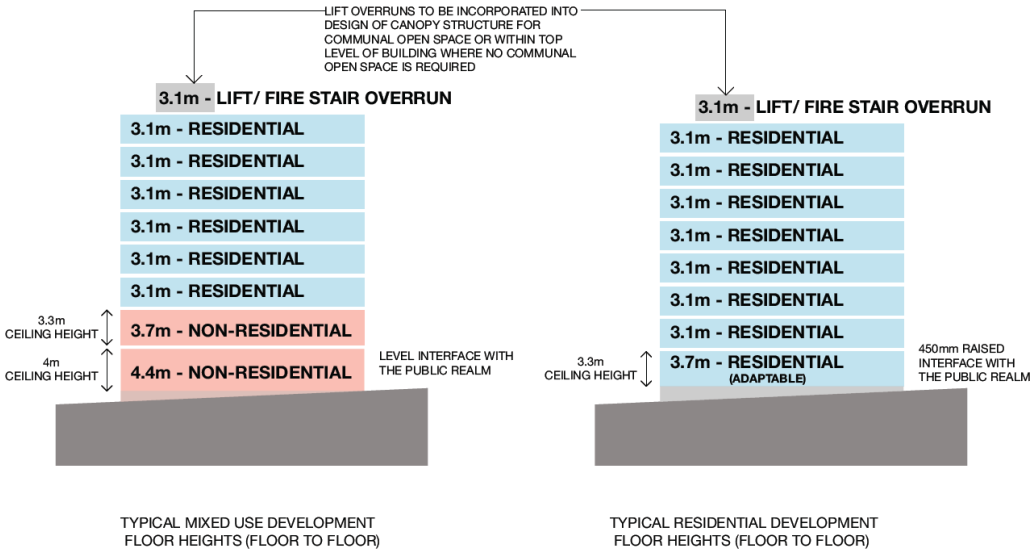


Figure 10: Typical development floor heights (floor to floor) under Concept Proposal showing adherence to ADG requirements for ground and first floors.

The need to provide for adequate commercial floorspace to meet the needs of future residents, workers and commuters, together with the associated need to ensure higher ceiling heights for commercial floorspace, has added to the overall height of the buildings. However, as discussed elsewhere in this report, the overall non-compliance with the height standard is not significant. It is considered that a better planning outcome for the Site as a whole, and the community generally, can be achieved as a result of the non-compliance.

3.2. Clause 4.6(3)(b) Environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify a flexible approach to the application of the height control as it applies to the Site. The non-compliance with the height control results from the opportunity to create an enhanced integrated TOD that is better assimilated with the Metro station, whilst also recognising the Site's contextual relationship and future desired character.

Locating higher density housing and employment uses at highly connected stations for mass transit infrastructure is a well recognised sustainability outcome in its own right. This is due to the increased modal split towards public transport and the lower carbon footprint of mass transit compared to cars.

The proposed development has been designed to achieve design excellence not only in the built form but also in the public realm. The higher density development has facilitated the provision of generous and well-defined public domain and parks, with extensive street tree planting and the delivery of a high quality town plaza and park immediately adjoining the Metro station. Further, in response to submissions to the exhibition of the Stage 1 SSD Application, the Concept Proposal has been revised to expand the area of the village park from 2,900m^2 to 3,411m^2 and to move the retail plaza further to the east. The expansion of the park has been achieved by reducing the size of Building 1B.1. Both these changes allow for significantly improved solar access to the public domain.

The Concept Proposal has also been amended to reduce the overall bulk of the buildings that front Schofields Road. The top floors of Buildings 2D.1, 2D.2 and 2D.3 have been set back 1600mm and the top floor of Building 1E.1 has been set back 1800mm. This will reduce the perceived bulk of buildings along Schofields Road as well as the extent to which these buildings exceed the maximum building height plane.

It is considered that there are sufficient environmental planning grounds to justify contravening the development standard being:

- non-compliance with the standard does not contribute to adverse environmental, social or economic impacts
- a variation to the standard is required to support a viable development on the Site. The proposal provides a high density mixed use and residential development that is appropriate for the Site's location and current/future setting adjoining the Metro station
- the proposal does not give rise to unacceptable impacts associated with an increased maximum building height, including overshadowing, traffic generation or bulk and scale. As noted above, the Concept Proposal has been amended to allow for improve solar access to the key public domain areas of the village park and retail plaza and to reduce upper floor setbacks of buildings along Schofields Road to reduce the perception of building bulk
- the extent of the height variations are minor and arise from:
    - the Site's sloping topography

- the need for lift overruns to provide access to the rooftop open space areas which will provide enhanced open space opportunities for residents.
- the need to provide appropriately located and designed commercial floorspace to meet the needs of local residents, workers and commuters and which in turn requires higher floor to floor heights for the ground and first levels in line with the ADG and the *Blacktown City Centre Growth Centres Precinct Development Control Plan Schedule 4 Cudgegong Road (Area 20)* Precinct (Schedule 4 Cudgegong DCP)
- the need to provide for future flexibility of land uses, to adapt to changing economic needs.

- the Concept Proposal will not impact on any heritage items and visual impacts are appropriate given the future context of the Site and surrounds
- the proposed variation does not contribute to adverse traffic impacts
- the Concept Proposal can capitalise on significant infrastructure investment and the opportunities created by forecast transport capacity
- the Concept Proposal does not result in adverse overshadowing, wind or other amenity impacts. As noted above, changes have been made to the building layout to provide for improved solar access to the village park and retail plaza
- the proposed development complies with the other controls in Appendix 6 as well as those contained in the Schedule 4 Cudgegong DCP.

The extent of the Site's topography and impact on building envelopes is shown on the Site Sections drawing of the Urban Design Report Response to Submissions at Appendix C.

The impact of the large floor to floor heights required for the lower levels of buildings on the overall height is discussed in Section 3.1.2 and shown in Figures 8-10.

The rooftop open space areas are shown in pink in Figure 11 below. There are around 4,600m^2 of rooftop open space provided for under the Concept Proposal. It can be seen from this image that there are numerous rooftop open space areas proposed which mean that lifts need to extend to above the top storeys of buildings to provide access to these areas.

The lift overruns are contained within the central areas of the roof levels. As a result, they are not visible from the street and will not result in additional overshadowing to adjoining properties.

The requirement for the lift overrun to provide access to the rooftop open space means that compliance with the height standard is not possible without the loss of considerable floorspace.

Figure 11: Proposed private open space under Concept Proposal (rooftop gardens coloured pink)

It is noted that a number of similar developments have been approved elsewhere in the release area, in close proximity to the site, which do not comply with the maximum height limit and exceed the intended eight storey height. These include:

- 44 and 56 Cudgegong Road, Rouse Hill (DA No SPP-17-00010)

  DA for 16 x 2 storey townhouses, 7 x 3 storey townhouses, 6 x 8 storey residential flat buildings and 2 x 10 storey residential flat buildings, comprising a total of 711 dwellings, 1,057 car parking spaces and associated landscaping, road construction and stormwater drainage works.

  The application sought approval for buildings ranging in height from 8 metres to 33 metres. It also sought approval to vary the building height by up to 27.3% above the maximum height limit.

- 60 Cudgegong Road and 99-107 Rouse Road, Rouse Hill (DA-15-1543)

  Staged DA for nine building envelopes ranging from 2-8 storeys, community park, total 732 dwellings. Approved by Land and Environment Court on 15.7.16. Modification for increase in building envelopes from 2-8 to 2-9 storeys approved by Council in March 2018. This site had a five storey height limit.

  Council considered that the approval of buildings above the maximum height control was warranted because buildings elsewhere on the site were proposed to be constructed below the maximum height control. That is, the better planning outcome for the site involved a variety of buildings at different heights, some above and some below the maximum height control, rather than all buildings on the site being constructed to the five storey height limit.

Council supports the approach to provide a variety of buildings at different heights. The proposal is consistent with the approach, without exceeding the intended eight storey height. A range of heights are proposed, including two, three, four, seven and eight storey building

forms. The proposed heights are compatible with the scale and character of the surrounding development.

Conclusion on clause 4.6(3)(b)

In light of the above, there are no environmental planning grounds that warrant maintaining and/or enforcing the numerical height standard in this instance. Rather, there are clear and justifiable environmental planning merits which validate the flexible application of the height control allowed by Clause 4.6 of Appendix 6 of the Growth Centres SEPP.

3.3. Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

3.3.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the height development standard, for the reasons discussed in Section 3.1 of this report.

3.3.2 Consistency with objectives of the zone

The Site is zoned B4 Mixed Uses and R3 Medium Density Residential. The objectives of the B4 land use zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To facilitate active retail, commercial, entertainment and community uses at ground level of mixed use developments.*
- *To provide for residential development that contributes to the vitality of the local centre.*
- *To ensure that residential development adjacent to the local centre does not detract from the primary function of the centre being to provide for retail, business, entertainment and community uses.*

The objectives of the R3 zone are:

- *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.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *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.*

The Concept Proposal in its entirety satisfies the zone objectives as:

- it provides for a mixture of compatible land uses, with provision made for around 9,000m^2 of GFA for retail, commercial and community land uses

- as noted elsewhere in this report, the fundamental premise of the project is to deliver land use and transport integration in order to maximum public transport use and facilitate walking and cycling
- active uses are proposed on the ground floor of buildings located around the future town park and the station in accordance with the requirements of Clause 6.5 of Appendix 6
- the Concept Proposal delivers around 1,100 dwellings in a range of different housing typologies
- the Concept Proposal provides for a modest amount of retail and commercial floorspace to meet the day to day needs of local residents, workers and commuters using the adjacent car park. The strategic need for the retail and commercial floorspace is discussed in detail in Section 3.1.2 of this report. The AEC Retail and Land Use Analysis accompanies the EIS (Appendix H of EIS) and demonstrates that the proposed retail and commercial floorspace will not detract from the primary function of the centre
- it delivers housing in a variety of forms, enables other land uses that provide facilities and services to meet the day to day needs of residents, and supports the well-being of the community by enabling community and recreation activities
- it provides for future flexibility in land uses, to accommodate the changing needs of the community and provision of services and facilities.

3.3.3 Overall public interest

In accordance with the requirements of Clause 4.6(4)(a)(ii), the proposed development and variation to the development standard is in the public interest because in general it achieves the objectives of both the development standard and the land use zones.

3.4. Other matters for consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Director-General (now Secretary) must consider the following matters:

> *(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.*

These matters are addressed in detail below.

3.4.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The variation of the maximum height development standard does not raise any matter of significance for State or regional planning. However, as noted elsewhere in the report, the proposal is consistent with the most recent metropolitan strategy, the Greater Sydney Region Plan, as well as the Central City District Plan, that give effect to the metropolitan goals and planning priorities, including those aimed at delivering more housing and jobs in highly accessible locations. It also provides strategically important commercial floorspace that will help make the centre viable, capitalising on significant infrastructure investment and the opportunities created by forecast transport capacity.

3.4.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

There is no public benefit in maintaining the height development standard in this instance. Maintaining and enforcing the development standard in this case would unreasonably constrain the orderly and economic development of this strategically significant site, and unnecessarily reduce the various community benefits this development brings.

The proposed variation arises because of:

- the opportunity provided by the Site's proximity the new Metro station and the need to ensure that development optimises the delivery of housing and supporting uses while making the best use of the government's investment in infrastructure
- the Concept Proposal which aims to improve residential amenity by providing rooftop open space necessitating access via lift/stair overruns
- the need to provide adequate commercial floorspace adjacent to the metro station which in turn will necessitate higher floor to floor heights in the lower levels of mixed use buildings in accordance with the ADG and Schedule 4 Cudgegong DCP requirements
- the need to provide for flexibility for future land uses
- the particular characteristics of the sloping site.

The proposed building envelopes in the Concept Proposal warrant a variation of the height control to allow a better outcome to be delivered. It is therefore considered to be in the public interest that a variation to the development standard is supported in this case.

3.4.3 Clause 5.6(5)(c): Any other matters required to be taken into consideration by the Secretary before granting concurrence.

To our knowledge there are no other matters that the Secretary is required to take into consideration when granting concurrence to this Clause 4.6 variation request.

4. Summary and conclusion

Compliance with the height development standard contained in Clause 4.3 of Appendix 6 of the Growth Centres SEPP is unreasonable and unnecessary in the circumstances of the case, and the justification to vary that standard is well founded. The proposed variation allows for a better planning outcome for the Site and recognises the particular circumstances of the proposal.

This clause 4.6 variation request demonstrates that:

- the objectives of the height development standard are achieved notwithstanding the variation to the numerical control
- the proposed flexible application of controls achieves better planning outcomes than would be achievable by strict adherence to the controls across the development site
- it is in the public interest as the proposal is consistent with the objectives of the B4 Mixed Use Zone and the objectives of the R3 Medium Density Residential Zone
- the concept proposal will result in minimal overshadowing of existing residential development in the vicinity of the site or future open space
- the proposed building envelopes are compatible with the future scale and character of the surrounding development and no additional adverse amenity or environmental impacts will arise as a result of the proposed height variation
- the proposed development provides floor to floor heights necessary to satisfy the strategic objectives of the local centre, and to provide flexibility for future non-residential uses
- the non-compliance with the development standard does not raise any matters of State and regional planning significance
- there is no public benefit in maintaining the height development standard adopted by the environmental planning instrument for this Site
- legal precedent has been addressed as part of this clause 4.6 variation request, and concludes the circumstances of this Site and the development proposal are such that they and this justification cannot be replicated.

Changes have been made to the Concept Proposal to increase open space provision, improve solar access to the public domain and reduce perceived building bulk and minimise overshadowing.

The clause 4.6 request demonstrates that the Concept Proposal will deliver a better overall outcome for the Site, and the broader community. The Concept Proposal optimises the opportunity to deliver a high quality residential and mixed use neighbourhood based on TOD principles and provides significant public benefits.

For the reasons set out in this written request, the Concept Proposal should be approved with the variation as proposed in accordance with the flexibility allowed under Clause 4.6 of Appendix 6 of the Growth Centres SEPP.