

MEMO



To Sydney East JRPP Members cc: Stephen Kerr – Director City Planning & Development
Luis Melim - Manager Development Services
Marta Gonzalez-Valdes – Coordinator Major Assessments

From Fiona Prodromou – Senior Development Assessment Planner
Rockdale City Council

Date 11-Nov-2014 File: DA-2014/335

**Subject 40-50 Arncliffe Street, Wolli Creek
Clause 4.6 – Variation to Development Standard (Height of Building)**

Background

On 10th November 2014, the applicant submitted to Council and the JRPP a “precautionary” Clause 4.6 – Exception to Development Standard, for the height of the development, on the basis that concern was raised by the JRPP that the proposal may exceed the maximum permitted height limit on site.

Planning Report

Councils planning report assessed the proposal on the basis that the butterfly roofs, fire stairs and lifts which provide equitable access to the common rooftop terrace areas atop both buildings form part of an overall “Architectural Roof Feature” under the provisions of clause 5.6 of Rockdale LEP 2011 as follows;

5.6 Architectural roof features

- (1) *The objectives of this clause are as follows:*
 - (a) *to permit variations to maximum building height standards for roof features of visual interest,*
 - (b) *to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.*
- (2) *Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*

- (3) *Development consent must not be granted to any such development unless the consent authority is satisfied that:*

(a) the architectural roof feature:

- (i) comprises a decorative element on the uppermost portion of a building, and*
- (ii) is not an advertising structure, and*
- (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and*
- (iv) will cause minimal overshadowing, and*

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

In this regard, it was deemed that given the proposed structures satisfy the provisions of this clause, a clause 4.6 exception to development standard for the height of the building was not required.

Notwithstanding the above, an assessment of the height of the buildings has been undertaken below under the provisions of Clause 4.6 – Exceptions to Development Standards, as a precautionary measure, should it be established by the JRPP that a clause 4.6 is required in this instance.

Rockdale LEP 2011

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

- (3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and*
- (3)(b) that there are sufficient environmental planning grounds to justify the variation.*

In considering the applicant's submission, the consent authority must be satisfied that:

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, 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 of the relevant zone.*

- 5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*
- 5(b) the public benefit of maintaining the development standard.*

The applicant has submitted a detailed justification to the proposed variation to the development standard. This justification has been considered in the assessment of this application.

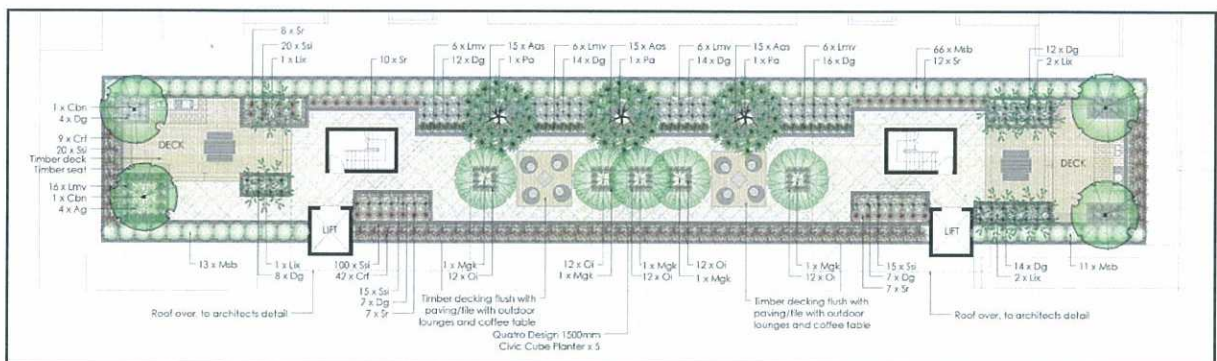
The proposed development comprises rooftop structure elements on site which exceed the maximum 28m height limit upon the subject site. The rooftop structure elements are



Building B - Level 7



Building B - Stairwell & Lift Core



Building B - Rooftop Level

The applicant's submission is supported in the context of clause 4.6 for the following reasons:

1. The proposal is generally consistent with the aims and objectives of Rockdale Local Environmental Plan 2011.
2. The proposal complies with the FSR requirement for the site and satisfies the objectives of the zone, providing a residential development which is compatible within the subject zoning of the site and surrounding Wolli Creek Town Centre.
3. The proposal will have a positive impact on the streetscape character of the locality and is consistent with the emerging character of re-development within the context of Wolli Creek.

4. The style, scale and built form of the building, rooftop structures and associated landscaping will reflect and complement the existing and likely future 'built environment' and desired character of the area.
5. The proposed height & roof top structures of the development are not dissimilar to recently approved developments within close proximity of the subject site and add visual interest to the development.
6. The proposal maximises amenity for future occupants of the development, providing weather protection to rooftop communal open space areas and is therefore in the public interest.
7. The proposed rooftop structures do not result in adverse amenity impacts to adjoining neighbours, or to properties within the context of the site.
8. The proposal is generally consistent with the objects of the EP&A Act, in particular, the orderly and economic use and development of land and ecologically sustainable development.
9. There are sufficient environmental planning grounds as noted above, in which to justify the contravention of the development standard.

Based on the above, the proposed variation to height is acceptable in this instance and is supported by Council. The proposal is consistent with the objectives of the control and is not likely to result in any significant precedent in the locality.



Fiona Prodromou
Senior Development Assessment Planner