

APPENDIX 1

UPDATED CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

HEIGHT STANDARD – CLAUSE 4.3 IN RYDE LEP 2014

Demolition of the existing structures and construction of a 6 storey mixed use development comprising 102 residential units, 3 commercial shops and basement parking for 122 vehicles

400-426 VICTORIA ROAD, GLADESVILLE

SUBMITTED TO
CITY OF RYDE COUNCIL

PREPARED BY
ABC PLANNING PTY LTD

DECEMBER 2016

CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS UNDER **RYDE LEP 2014**

This Clause 4.6 submission has been prepared to accompany the amended development application submitted to Ryde City Council for the demolition of the building and construction of a 6 storey mixed-use development comprising 102 residential units, 2 commercial shops and basement parking for 133 vehicles at 400-426 Victoria Road, Gladesville.

The proposal seeks a variation to the development standard contained within Clause 4.3 of the Ryde Local Environmental Plan 2014 – maximum height of 19m.

The interpretation and application of the height standard and variation has been supported by the accompanying legal advice from Chris Ewen SC. The legal advice contends that, given the already excavated nature of the site, that it would be inappropriate to assess the height if measured from the excavated level. It has been accepted by Council that it would be more appropriate to assess the height on the basis of an interpolated height taken from the front of the site down to the rear, as shown on the section below:

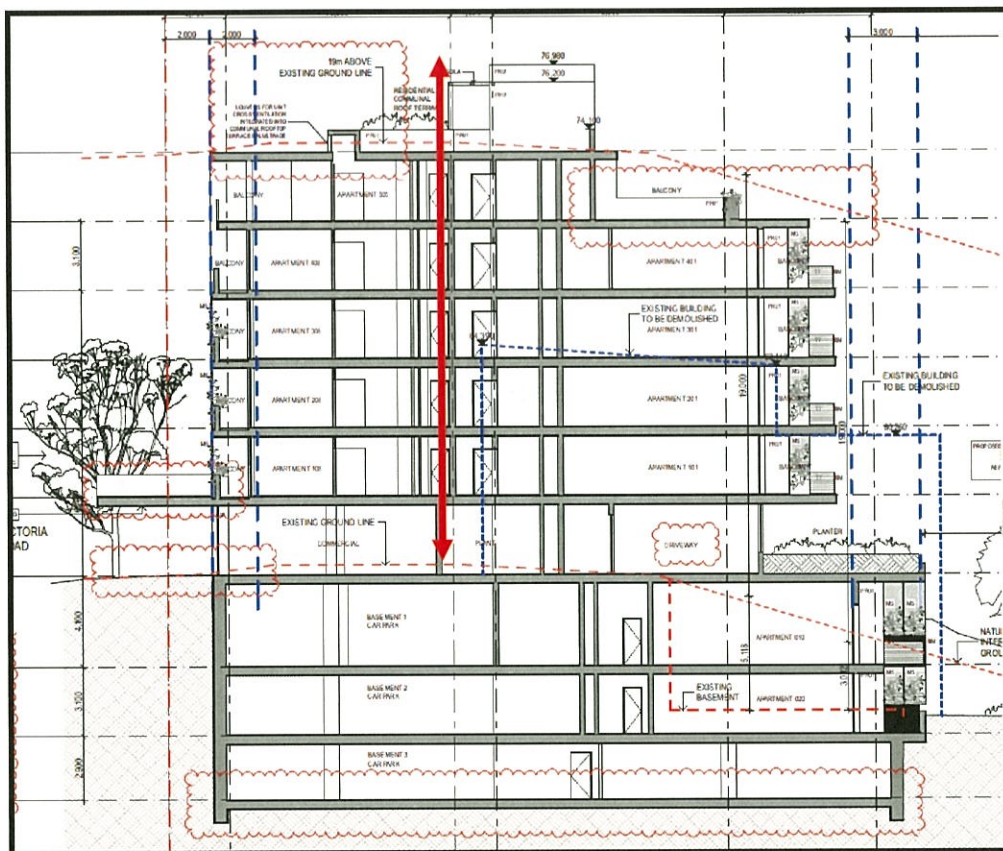


Figure 6: Section excerpt showing the extent of height variation as taken from the interpolated height

Such interpretation now restricts the degree of departure to the communal open space elements which include planter beds, pergolas, lift and stair access. The maximum variation is now 3.88m.

The amended development maintains the same *technical* maximum building height of 25.23m (as the top of the lift overrun at RL76.98 is unchanged) from the existing excavated basement level to the apex of the roof, which represents a variation of 6.23m.

The submission contends that strict compliance with the maximum height of 19m is unreasonable and/or unnecessary in the circumstances of the case and that the variation sought can be supported and that the Clause 4.6 exception to the development standard should be upheld.

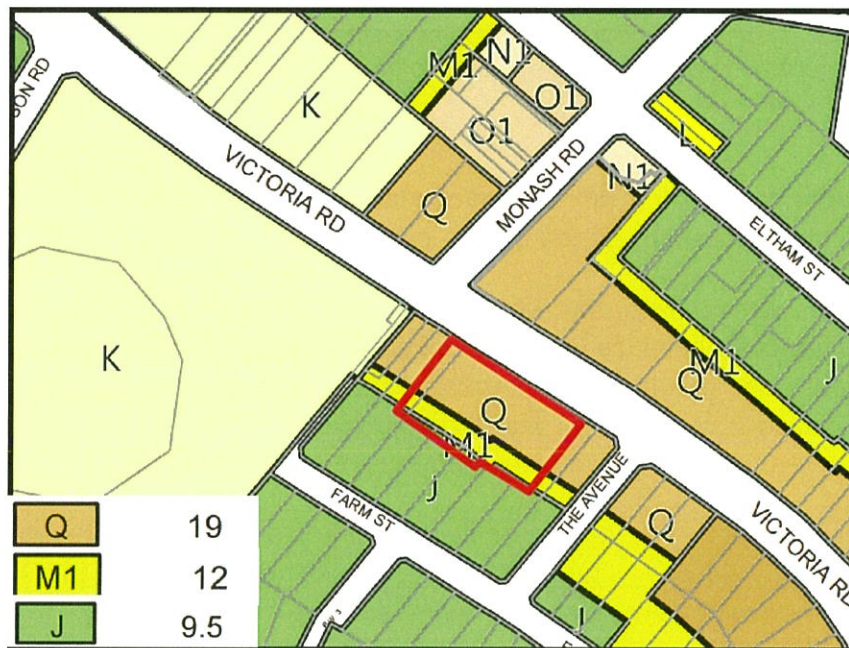


Figure 7: Building Height Map

Clause 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) 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 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 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.

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case – clause 4.6(3)(a)

I submit that compliance with the standard is unreasonable or unnecessary in the circumstances of the case because the proposal complies with the objectives of the standard and the zone. Please see the assessment under 4 – The proposed development will be in the public interest because it is consistent with the objectives for development within the zone in which the development is proposed to be carried out – clause 4.6(4)(a)(i).

In addition to consistency with the objectives of the standard and the zone, there are circumstances specific to the site and the proposed development that supports that compliance with the development standard is unreasonable or unnecessary.

The subject site is located at the interface of the R2 Low Density Residential zone (adjoining the south western boundary) and the B6 Enterprise Corridor zone, being the subject site.

The proposed mixed-use development has been designed to achieve a high quality internal and external living environment, which is demonstrated through the high degree of compliance with the objectives and design criteria contained within the Apartment Design Guide (ADG), in addition to the Ryde DCP controls.

The proposed variation to the LEP maximum height standard is considered reasonable and appropriate given that it is not associated with any adverse external amenity impacts, beyond that of a building with a compliant height.

The amended development now complies with the LEP height standard when viewed from Victoria Road. This also improves the relationship of the approved built form to the north-west.

Given the recessed location and siting of the proposed communal rooftop area and associated lift core and staircase, it is considered that there will be no additional adverse streetscape

amenity impacts in terms of overshadowing, privacy or loss of views or outlook would arise as a result of the non-compliance.

It is considered that the proposed design of the building, including the compact nature of the building envelope and positioning of the bulk and scale at the upper levels, rather than at the lower levels, accommodates for the increased and articulated rear setback, well beyond that required by the ADG.

Such design outcome results in high quality apartments that take advantage of the views whilst also being compliant with solar access, in addition to providing for greater separation distances between the subject site and lower density residential uses to the south west. It is considered that the proposed development therefore provides a better planning outcome than an otherwise compliant building envelope.

Overall, it is considered that the high degree of compliance and lack of external amenity impacts to neighbouring properties is confirmation that the proposed additional height is supportable by way of this Clause 4.6 Variation. Furthermore, it is considered that the additional height will not be responsible for any greater impacts than that which is contemplated by the LEP and DCP controls and will not result in any additional bulk or scale impacts beyond that of a complying development.

The recessed and articulated nature of the built form further minimises the perception of bulk and scale whilst the recessed upper level apartments further diminishes the visual impact of the additional height.

The absence of environmental impacts associated with the proposed height in regard to view loss, shadows and privacy further underlines the reasonableness of the height variation in this instance.

Importantly, it is also argued that the proposal has no bulk and scale impacts when viewed from either Victoria Road or from the neighbouring residential properties to the south west, beyond that contemplated by the LEP and DCP building envelope controls.

The combination of these aspects of the proposal as well as the increased separation distance afforded to the northern neighbours is confirmation that the circumstances outlined above are particular to the subject site and proposed development.

THE VARIATION ALLOWS FOR A BETTER PLANNING OUTCOME

It is considered that the variation provides for a better planning outcome for and from the proposed development as it allows for equitable access to a rooftop communal area which achieves solar access, unlike the passive planted communal area at the rear. The site's orientation and the significant slope in the land limit the ability to achieve a compliant degree of solar access within the rear portion. In contrast, the rooftop location of the communal open space achieves abundant solar access and excellent views to the south whilst its isolated location from neighbouring dwellings and recessed form avoids the potential for adverse visual

and acoustic impacts. As such, the location of the communal area is considered to be a better outcome than if provided in the rear setback area where active communal areas would have greater potential for adverse visual and acoustic impacts both within and adjacent to the development.

Furthermore, the proposed building footprint and bulk is setback further than the 12-metre separation distance required by the Apartment Design Guide. The built form towards the rear is heavily articulated and setback considerably further than the required rear setback which ensures that the combined visual bulk, privacy and overshadowing outcomes are better than a potentially compliant development.

The extent of deep soil landscaping at the rear of the subject site is also substantially greater than required which allows for a substantial vegetative buffer which embellishes the existing dense screen of mature vegetation on and adjacent to the site, within the rear yards of the lots addressed to Farm Street. The proposed design outcome provides for an effective landscape buffer and an appropriate transition between the subject site and south western neighbours, where the land is at the interface of the B6 Enterprise Corridor zone and the R2 Low Density Residential zone. The combination of the landscape outcome and the proposed separation distances of 20m – 48.4m between the rear of the dwelling houses and the rear of the upper levels of the built form ensures that a desirable and reasonable transition and relationship is achieved.

This demonstrates that there are no unreasonable visual privacy impacts despite the elevated nature of the apartments when compared with the residential dwellings, which are sited at the lower level of the sloping land.

The shadow diagrams also demonstrate that more than 2 hours of solar access to the internal living areas and rear yards of the dwellings is retained which is considered to be an exceptional result given the topographical difference between the site and dwellings to the south combined with the scale of development anticipated on the subject site.

The high level of articulation at the rear of the built form which provides for substantially greater separation distance than required minimises the degree of shadowing to a greater extent than a compliant development height with a continuous 12 metre setback, as required by the Apartment Design Guide (ADG).

The above points are considered to provide sufficient evidence to demonstrate that the development standard is unreasonable and unnecessary in the circumstances of the site and the proposed development, whilst also demonstrating that the height achieves a better planning outcome for and from the development.

I therefore submit that strict compliance with the standard is unreasonable and unnecessary in the particular circumstances of the case.

2. Sufficient environmental planning grounds to justify contravening the development standard – clause 4.6(3)(b)

The additional height is not responsible for any greater environmental impacts than a proposal with a compliant height. Given the lack of overshadowing, view and privacy impacts, there is no sound planning justification to reduce the proposed height.

It is also reiterated that there are no view impacts associated with the additional height, nor are there any adverse or unreasonable privacy impacts generated by the additional height.

The revitalisation of the subject site, the positive streetscape outcomes, the provision of a high quality and active frontage and the exceptional internal and external amenity outcomes associated with the proposed development is confirmation that there are sufficient environmental grounds to support the additional height in this instance.

In accordance with the *Four2Five Pty Ltd v Ashfield Council* judgement, it has been demonstrated throughout this report that there are specific circumstances particular to the subject site and proposed development that justify contravening the development standard. In particular, such circumstances include the sites topography, already excavated nature, the north south orientation, and the interface with the R2 Low Density Residential zone to the south west of the site.

It is considered that the proposed design has skilfully overcome the constraints to allow for a high quality mixed-use commercial and residential development. The placement of the bulk on the site and the exceedance in the height limit is reasonable and appropriate in this instance, given that it results in a better planning outcome, for and from the development.

3. Adequately addressed the matters required to be demonstrative by subclause (3) – clause 4.6(4)(a)(i)

Please see submission in relation to clause 4.6(3)(a)(i) and (ii) above.

4. 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 – clause 4.6(4)(a)(ii)

The proposed height variation is considered to be justified on the following basis:

Ryde LEP 2014 Height Objectives:-

4.3 Height of buildings

1. The objectives of this clause are as follows:

- a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,***

Assessment: The proposed variation does not compromise achievement of this objective as the building will present to the street frontage of Victoria Road as 5 storeys with a recessed 6th storey which is commensurate with a 19-metre statutory height limit. The proposed street frontage presentation is now compliant and is also in proportion with the broad expanse of Victoria Road which is 26 metres in width which is less than a 1:1 height to street width ratio. The proposed height is also compatible with nearby development directly adjoining and opposite the site which are also 5-6 storeys in height. The area along Victoria Road Gladesville is undergoing transition whereby outdated commercial sites have been rezoned for mixed use purposes with a similar building scale to that proposed. The following street elevation confirms the compatible outcome which demonstrates that the proposal will be in character with nearby development.

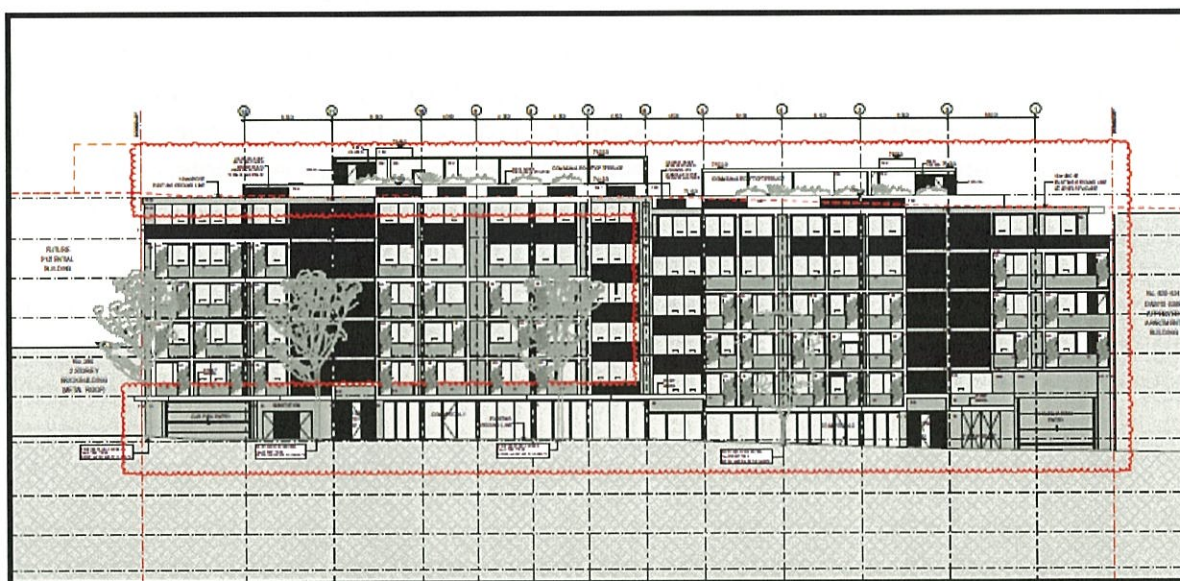


Figure 8: Streetscape elevation showing that the amended proposal complies with the height limit

Therefore, the proposed height satisfies the objective.

- b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,

Assessment: Despite the height variation, the proposal has sought to minimise overshadowing by setting the building back further than required by the Apartment Design Guide and Council's DCP. In particular, it is noted that Figure 4.6.23 shows a 6-metre rear setback from the properties addressed to Farm Street. In contrast, the proposal achieves a minimum 12-metre setback which is compliant with the ADG setback requirement where adjoining a low density zone (as is the case with the subject proposal). The rear setback is staggered and setback significantly greater than 12-metres (up to 23.5-metres) which not only minimises overshadowing but also ameliorates the visual bulk of the proposal when viewed from the rear yards and living areas of the Farm Street properties. The built form will also be

perceived as recessive when compared with the approved rear setback on the adjoining property to the north-west (The Vantage) which was approved with rear setback of 6m – 8m.

Furthermore, the combined separation distances between the neighbours to the south and the upper levels is in the order of 40-48-metres which is considered to be an expansive and reasonable separation distance and confirms that the degree of overshadowing has been minimised, despite the height variation.

The existing established tree canopies on and within the rear yards of the properties addressed to Farm Street is also relevant in the consideration of this objective as the existing and proposed landscaping will achieve an effective buffer between the two zones. These are considered to contribute to the compatibility of the proposed height.

The proposed height is also considered to improve the appearance of the area, as desired by the objective by replacing an outdated and detracting built form with a high quality and attractive building which is associated with an integrated landscape outcome.

The proposal replaces a building which has a driveway and loading areas in close proximity to the rear yards of adjoining dwellings whilst the replacement of the 24-hour gym which has exercise equipment and unscreened windows which directly overlook the neighbouring rear yards. In contrast, there will be no vehicle movements within the rear setback zone as the proposal includes a deep soil landscaped zone of over 707m² in area with additional tree planting which will supplement the existing mature screen of trees.

Therefore, the proposed height and associated built form/use will represent an improved and more compatible outcome, thereby satisfying this objective.

- c) *to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*

Assessment: The subject site represents a considerable land parcel of over 3200sqm with a 76-metre frontage to Victoria Road which allows for a desirable built form which will positively contribute to the Gladesville area. The street façade will sit comfortably alongside the approved development directly adjoining the site.

As stated in the Lot Isolation section of this Statement of Effects, the applicant (as well as the previous applicant) has sought to amalgamate with the south-eastern neighbouring property at 398 Victoria Road. Unfortunately, the owner of the site would not accept offers above market value whilst the architect has demonstrated that 398 Victoria Rd can be developed as anticipated by the controls independently and in a manner which would be compatible with the subject and adjoining development.

The site is well serviced by public transport whilst the long site frontage minimises driveway crossings to Victoria Road (which also represents a reduction from existing crossovers).

Therefore, the proposed height does not compromise the achievement of this objective.

d) to minimise the impact of development on the amenity of surrounding properties,

Assessment: As stated above, it is considered that the proposed height minimises impact on the amenity of surrounding properties by providing for a significant degree of articulation whilst providing a 700m² rear deep soil zone along with separation distances far in excess of that required and anticipated by the controls.

In particular, the overall separation distances of 20-48 metres are well in excess of that anticipated by the Apartment Design Guide and Council's DCP whilst the setbacks are also greater than those associated with the approved development to the north-west (The Vantage). The provision of trees in a substantial deep soil zone which will supplement the existing dense screen of trees further assists in minimising the visual bulk and height of the proposal.

The difference in topography must also be considered in this assessment. The sloping nature of the site ensures that the upper levels of the building would not be in one's typical line of sight/cone of viewing from the residential dwellings and rear yards. Furthermore, the built form is setback considerably greater than the existing building whilst additional landscaping will also minimise the perception of the height above the height limit.

For these reasons, it is considered that the height variation would be indiscernible from the primary vantage points of the neighbouring properties.

The shadow diagrams also confirm that the proposed height will maintain solar access to the living and private open space areas of the dwellings in the R2 Low Density Residential zone, despite being to the south and lower down the slope from Victoria Road.

The expansive separation distances, existing and proposed planting and lack of direct relationship between openings and rear yards ensures that there will be no unreasonable overlooking impacts. It is also reiterated that the proposal will actually reduce visual and acoustic privacy impacts when compared with the existing uses and closer proximity of existing loading and gym areas.

There will also be no view loss associated with the additional height sought on this site.

Further to the above, the additional height is predominantly associated with the rooftop communal area. This area is isolated from the dwellings to the south and will not generate any adverse shadow, privacy, noise or visual impacts due to its recessed nature from the level below. It is also a better result than if the communal area were located at the rear of the built form adjacent to the residential properties. The rooftop location also allows for achievement of the required solar access to communal areas under the ADG, which is in contrast to the passive communal area at the base of the southern end of the site. This rear setback area is better suited to being a passive planted area which achieves a substantial landscape buffer

without generating any adverse visual or acoustic impacts. Its communal nature also ensures that it can be effectively maintained.

It is considered that the above assessment confirms that the proposed development has minimised the impact of the development on the amenity of surrounding properties despite the height variation.

e) to emphasise road frontages along road corridors

Assessment: The proposed alignment and height of the built form along the Victoria Road frontage achieves this objective. The amended built form is now compliant with the height limit along Victoria Road. The proposed height will also be compatible with the 6-storey scale of development which is and will be further apparent (when The Vantage is completed) along both sides of Victoria Road. The high quality street façade which is fragmented into a series of modules with vertical and horizontal articulation is considered to contribute to a desirable streetscape outcome along the primary road corridor of Victoria Road.

CONSISTENCY WITH THE OBJECTIVES OF THE ZONE B6 ENTERPRISE CORRIDOR

Zone B6 – Enterprise Corridor

Objectives of zone

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To provide for residential uses, but only as part of a mixed use development.
- To promote sustainable development, including public transport use, living and working environments.

Assessment: The proposed mixed use commercial and residential development is permissible with the B6 Enterprise Corridor zone under the *Ryde LEP 2014*.

The proposal is considered to satisfy the zone objectives of the B6 Enterprise Corridor zone, in that the proposed mixed of commercial and residential land uses are compatible and consistent with that contemplated by the local centre zoning.

The proposal therefore provides for a mix of compatible land uses and an appropriate built form that acts as a transition between the B6 Enterprise Corridor zone to the south and the R2 Low Density Residential zone to the south.

Therefore, the proposed height will not compromise the achievement of the zone objectives.

OTHER MATTERS - CONSISTENCY WITH STATE AND REGIONAL PLANNING POLICIES

Assessment: The height variation allows for the sustainable, orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979* and is associated with a design that is considered to achieve a better planning outcome through the

provision of an increased separation distance between the subject site and south western neighbours. The proposed development also provides for increased densities in proximity to established transportation corridors, educational establishments, and employment opportunities, in accordance with the intent of the State Government Urban Consolidation Policy.

The proposed development does not prohibit the attainment of any State or Regional Planning Policies.

Conclusion

The above assessment has demonstrated that the height control is unreasonable and unnecessary in the circumstances and that there would be no public benefit in maintaining the development standard in this instance.

It has also been demonstrated that the proposed height meets the objective to an equal or better degree than a compliant development.

The provision of 102 high quality residential dwelling units which are compliant with solar access, daylight, ventilation, private open space and outlook represents a superior amenity outcome to the subject site, thereby achieving a better planning outcome. Furthermore, the revitalisation of the subject site and in particular this portion of Victoria Road with an active and attractive commercial frontage, is considered to be of a community benefit.

For reasons mentioned herein, this Clause 4.6 variation is forwarded to Council in support of the variation to the height standard associated with the development proposal at 400-426 Victoria Road, Gladesville and is requested to be looked upon favourably by Council.

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APPENDIX 1

CLAUSE 4.6 TO CLAUSE 6.7 OF RYDE LEP 2014
EXCEPTIONS TO DEVELOPMENT STANDARDS:
Variation to Ground floor development on land in B6 zone

Demolition of the existing structures and construction of a 6 storey mixed use development comprising 102 residential units, 2 commercial spaces and basement parking

400-426 VICTORIA ROAD, GLADESVILLE

SUBMITTED TO

RYDE COUNCIL

PREPARED BY

ABC PLANNING PTY LTD

FEBRUARY 2017

RYDE LEP 2014 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 submission has been prepared to accompany the development application submitted to Ryde Council for the demolition of the existing structures and construction of a 6 storey mixed use development comprising 102 residential units, 2 commercial spaces and basement parking at 400-426 Victoria Road, Gladesville.

The proposal seeks a variation to the development standard contained within Clause 6.7 of the *Ryde Local Environmental Plan 2014* – Ground floor development on land in the B6 zone.

It is understood that Council considers Clause 6.7 to be a development standard in regard to the interpretation and application of ground level.

The subject site could be construed as having 2 ground levels noting that the commercial level is aligned to the Victoria Road street/ground level whilst there is also a ground level at the rear of the site due to the sloping nature of the site which falls from Victoria Road down to the rear.

This Clause 4.6 variation therefore seeks a variation from the requirement that only commercial uses are permitted at ground level for the lowest level at the rear of the site.

The justification is based upon the objective of the Clause/development standard which seeks to provide for commercial uses/street activation at street level.

It is clear from the objective of the standard that it is intended that commercial uses be provided along Victoria Road for street activation and to contribute to the viability of the street level commercial/retail uses along Victoria Road.

The proposal satisfies the objective by restricting all uses at street level fronting Victoria Road to commercial uses and for lobbies and access to residential uses above and below.

Clause 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) *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 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 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.

1. Consistency with the objectives of the standard in the LEP

The following assessment addresses each of the relevant criteria under Clause 4.6:

Clause 6.7 Ground floor development on land in B6 zone of the RLEP:

1. The objective of this clause is to restrict certain development at the street level for buildings in Zone B6 Enterprise Corridor.
2. Development consent must not be granted for development on the ground floor of a building within Zone B6 Enterprise Corridor if the development would result in any part of the ground floor not being used for business or employment activities, other than any part of that floor used for the purposes of:
 - a) lobbies for any commercial, residential, serviced apartment or hotel component of the development, or
 - b) access for fire services, or
 - c) vehicular access.

Assessment: It is clear from the objective of the standard that it is intended that commercial uses be provided along Victoria Road for street activation and to contribute to the viability of the street level commercial/retail uses along Victoria Road.

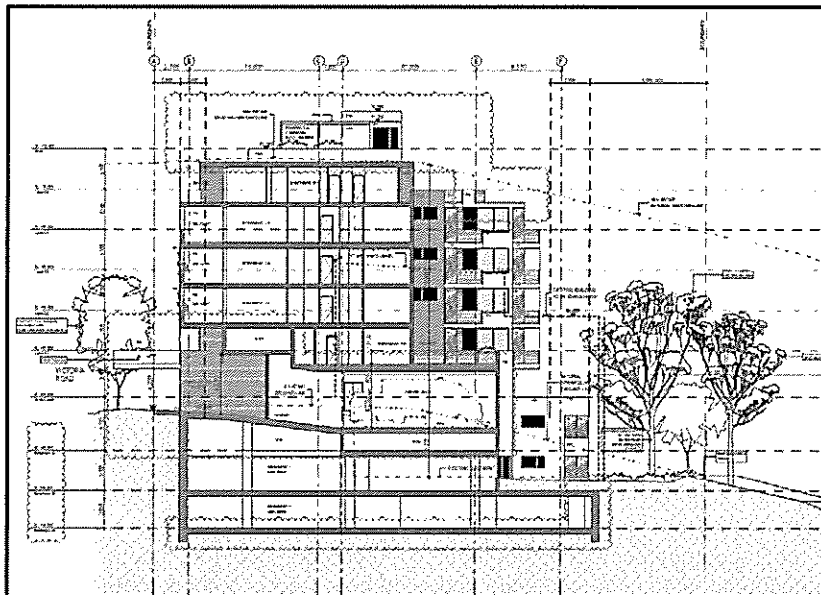


Figure 1: Section EE

The section excerpt above demonstrates that the residential interrelationship with the dwellings addressed to Farm Street is more appropriate than if they were commercial. The adjacency of residential dwellings at the lower end of the site minimises potential acoustic

impacts with commercial properties. The provision of residential properties at the base of the site at the rear also avoids potential acoustic impacts to the residential units above.

The proposal satisfies the objective by restricting all uses at street level fronting Victoria Road to commercial uses and for lobbies and access to residential uses above and below.

2. Consistency with the objectives of the B6 Enterprise Corridor

Objectives of zone:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting retailing activity.*
- *To provide for residential uses, but only as part of a mixed use development.*
- *To promote sustainable development, including public transport use, living and working environments.*

Assessment: The proposed mixed use commercial and residential development is permissible in the zone. The proposed development provides for a range of residential uses with two (2) commercial lots provided at the Victoria Road frontage, providing for activation and casual surveillance of the streetscape.

The two (2) commercial spaces are of varying sizes and are of an open plan nature which can support a range of business and office uses.

The provision of commercial uses at the street level is considered to promote employment opportunities and add to the economic viability of the Gladesville Town Centre and Victoria Road corridor precinct.

The provision of residential apartments on the subject site (particularly at the lower level adjacent to the passive communal ground level) is considered to accord with the zone objectives by way of encouraging and promoting sustainable development along transportation corridors and in close proximity to employment centres, educational establishments and community facilities and services.

Based upon the above, it is therefore considered that the proposed development achieves the objectives of the B6 Enterprise Corridor zone and that the variation does not raise any inconsistency with the zone objectives.

3. Consistency with State and Regional planning policies

Assessment: The proposed variation to Clause 6.7 allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*. The use of the ground floor/street level fronting Victoria Road activates the street front to Victoria Road and contributes to the viability of the B6 zone. Commercial uses at the alternate ground level at the rear would be unviable.

The variation is therefore consistent with the State and Regional Policies.

4. The variation allows for a better planning outcome

Assessment: The provision of residential units at the lower level at the rear rather than non-residential uses, achieves a better relationship with the passive landscaped communal area at the rear.

Therefore, there would be no public benefit in maintaining the development standard in this instance.

5. There are sufficient environmental grounds to permit the variation

Assessment: The residential use of the ground floor at the rear of the site minimises adverse visual and acoustic impacts from potential conflicting uses (i.e non-residential adjacent to residential uses).

Internally, there are also no factors which would demonstrate that the proposed variation is unreasonable or unnecessary in the circumstances given that the amenity of the proposed development far outperforms the typical amenity criteria outlined above.

The variation creates no adverse shadow, privacy or view impacts. Therefore, it is considered that there are sufficient environmental grounds to support the proposal.

6. The variation is in the public interest

Assessment: The above demonstrates that the proposed use of the street level as commercial and use of the rear lower ground level as residential achieves the objectives of the zone and objectives of the standard.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation Clause 6.7.

It is also noted that there is no public benefit maintaining the standard given that the proposed development achieves activation of the streetscape and contributes to the viability of the business zone, as desired by the Clause.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded to Council in support of the development proposal at 400-426 Victoria Road, Gladesville and is requested to be looked upon favourably by Council.

