

Council assessment of Clause 4.6 request

Visual representation and discussion of height offset

The figure on the following page identifies the portions of the development that exceed the 16 m height limit and the portions of the development that are below the 16 m height limit permitted under Appendix 4 Alex Avenue and Riverstone Precinct Plan 2010, *Sydney Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

Assessment of Clause 4.6 variation request

1 Consideration regarding if compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))

The underlying objective purpose of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered both unreasonable and unnecessary as the proposal provides a built form which is predominantly lower than the permitted height of buildings.

In the context of this Precinct, the topography of the land must be considered. The site slopes 4.25 m from the north-east corner of proposed Lot 1 down to the south-west corner of proposed Lot 1. As site benching and earthworks are required to meet civil grades and construction of the surrounding road network, compliance would be unreasonable in the circumstances.

This application is compatible with the emerging scale of development in the locality and is consistent with the scale of residential flat buildings approved in the immediate vicinity. The portion of the roof structures that exceeds the height limit are contained in the central areas of the roof levels, representing only point encroachments into the height plane. They are not visible from the street and will not result in additional overshadowing to adjoining properties as shadows will be fully contained in the roof areas.

The additional height does not result in yield in terms of the number of apartments of storeys and results in better designed buildings.

The proposal provides a better planning outcome because it suitably addresses the substantial fall across the site and provides a built form which achieves an appropriate level of solar access and provides suitable recreation areas and amenity for its occupants.

2 Consideration of sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b))

The proposal demonstrates sufficient environmental planning grounds to justify contravening the height of buildings development standard for the following reasons:

- The proposal promotes the orderly and economic use and development of the site because it provides a well-balanced built form which does not result in any increase in residential apartments or density is acceptable in the circumstance.
- The proposal promotes the social welfare of the community by providing suitable housing and good quality areas at the ground level including a centrally located east-west pedestrian access path and vista through the site.
- The proposed design includes stepped building forms which ensure that the changes in the landform are accommodated including allowing for basement access for waste vehicles and amalgamated basement levels which service all residents.

- The proposal promotes good design and amenity which creates a diverse and attractive neighbourhood based on strong urban design principles.

The Applicant's written request seeking to justify the contravention of this development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3) in Points 1 and 2 above.

3 The objectives of the standard are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Appendix 4 – Alex Avenue and Riverstone Precinct Plan 2010 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006	
Objectives of Clause 4.3 'Height of buildings'	How the proposal achieves the objective
a. To establish the maximum height of buildings for development on land within the Alex Avenue and Riverstone Precincts.	The maximum height limit on the site is 16 metres. Although the development exceeds the permissible height by up to 830 mm, the development does not achieve an additional residential level. The increase in height therefore does not impact on the density / floor area of the development. The increased height also has no impact on the scale of the development. The additional height simply accommodates the roof structure and parapets.
b. To protect the amenity of adjoining development and land in terms of solar access to buildings and open space.	The additional shadow impacts are negligible. The overshadowing caused by the non-compliance is due to the rooftop parapets only.
c. To facilitate higher density development in and around the local centre, neighbourhood centres and major transport routes while minimising impacts on adjacent residential, commercial and open space areas.	The site is located 900 m from Schofields Railway Station and the local centre. The building represents 5 storeys, and is 16 m in height when measured from the ground floor to the top of the roof parapet. The density of this development meets this objective.
d. To provide for a range of building heights in appropriate locations that provide a high quality urban form.	The site is considered suitable for the development given its proximity to the Schofields Railway Station and local centre. The additional height does not result in any additional yield and does not result in an additional storey. The proposed number of storeys is suitable given the site's proximity to transport and the retail and commercial centre. The objectives of the development standard are achieved as the development is representative of the building height anticipated for land near the Schofields Local Centre and does not result in a bulky appearance. The interesting and varied design elements used throughout the development assist with ensuring that it is consistent with the desired future character of the immediate locality.

Therefore, the proposal is in the public interest because the development is consistent with the objectives of this particular development standard.

4 The objectives of the zoning are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Appendix 4 – Alex Avenue and Riverstone Precinct Plan 2010 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006	
Objectives of the R3 Medium Density Residential zone	How the proposal achieves the objective
a. To provide for the housing needs of the community within a medium density residential environment.	The proposal provides for the housing needs of the community by providing 212 apartments and associated communal open space areas.
b. To provide a variety of housing types within a medium density residential environment.	The proposed residential flat buildings provide a mix of studio, 1, 2 and 3 bedroom apartments which contribute to the variety of housing types in this Precinct.
c. To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Not applicable to this application.
d. 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.	Not applicable to this application.

Therefore, the proposal is in the public interest because the development is consistent with the objectives for development within the R3 Medium Density Residential zone in which this development is to be carried out.

5 The concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]

This Clause 4.6 written request to vary a development standard in an Environmental Planning Instrument has been considered in accordance with Planning Circular PS 08-003 and the Secretary (formerly Director-General) of the NSW Department of Planning and Environment's concurrence is assumed as this request is adequate, does not raise any matter of significance for State or regional environmental planning and there is no public benefit in strictly maintaining the standard, as discussed below.

6 Contravention of the development standard does not raise any matter of significance for State or regional environmental planning [Clause 4.6(5)(a)]

There is no identified outcome which would raise any matter of significance to planning matters of State or regional significance as a result of varying the development standard as proposed under this application.

7 There is no public benefit in maintaining the standard [Clause 4.6(5)(b)]

When compared to providing a development which strictly complies with the height of buildings development standard, this application offers public benefit because it provides a development with a scale of 5 storeys which is consistent with the desired future outcome of this Precinct. The deletion of a level reduces the yield which can be achieved on this site and the availability of housing. The proposal offers improved outcomes for and from development. Therefore, there is no public benefit in maintaining strict compliance with the development standard in the circumstances of this case.

Based on the above assessment, permitting the proposed development on this site to vary the height of buildings development standard to a very minor degree achieves a better planning outcome. The Clause 4.6 variation request is considered reasonable and well founded in this particular circumstance and is recommended for support to allow flexibility in the application of the development standard.