

Council assessment of Clause 4.6 request to vary height of buildings development standard

Visual representation of height offset

The following figures identify the portions of the building envelope proposed in JRPP-16-03312 that exceed the 20 m height limit and the portions of the development that are below the height limit under Clause 4.3 Height of Buildings in Blacktown Local Environmental Plan 2015. The building height is measured from the existing ground level.

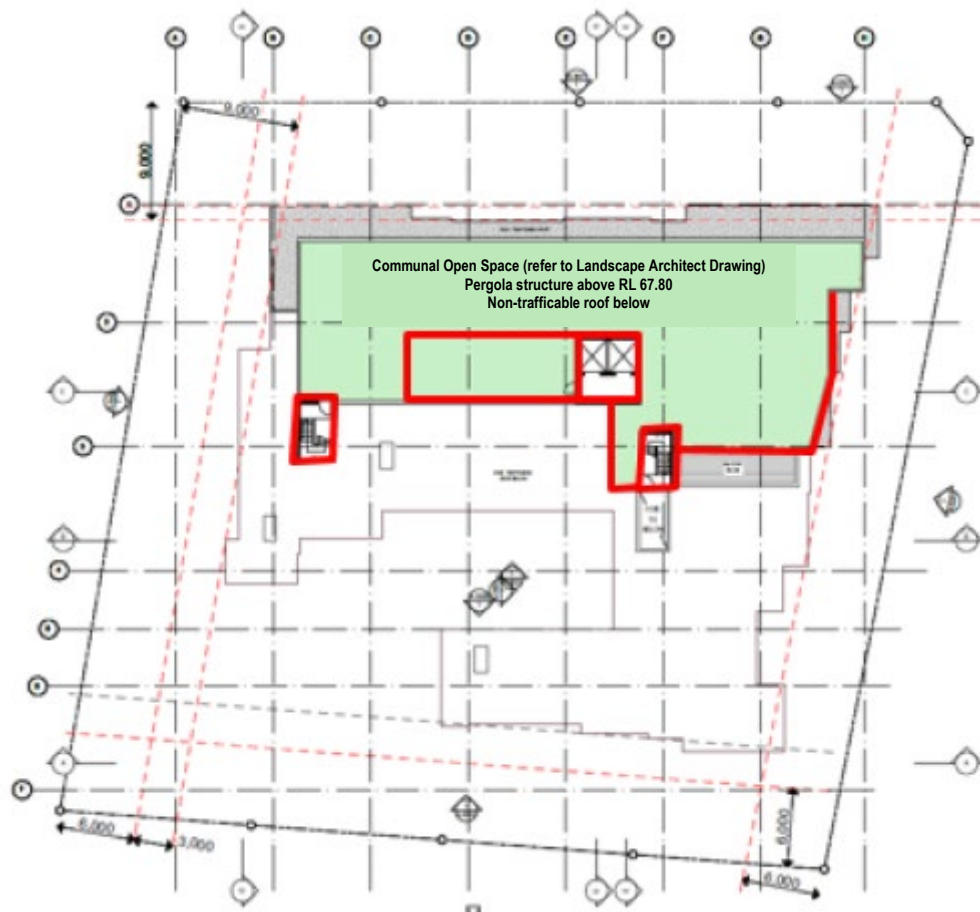


Figure 1: Roof plan - location and size of non-complying elements (outlined in red)

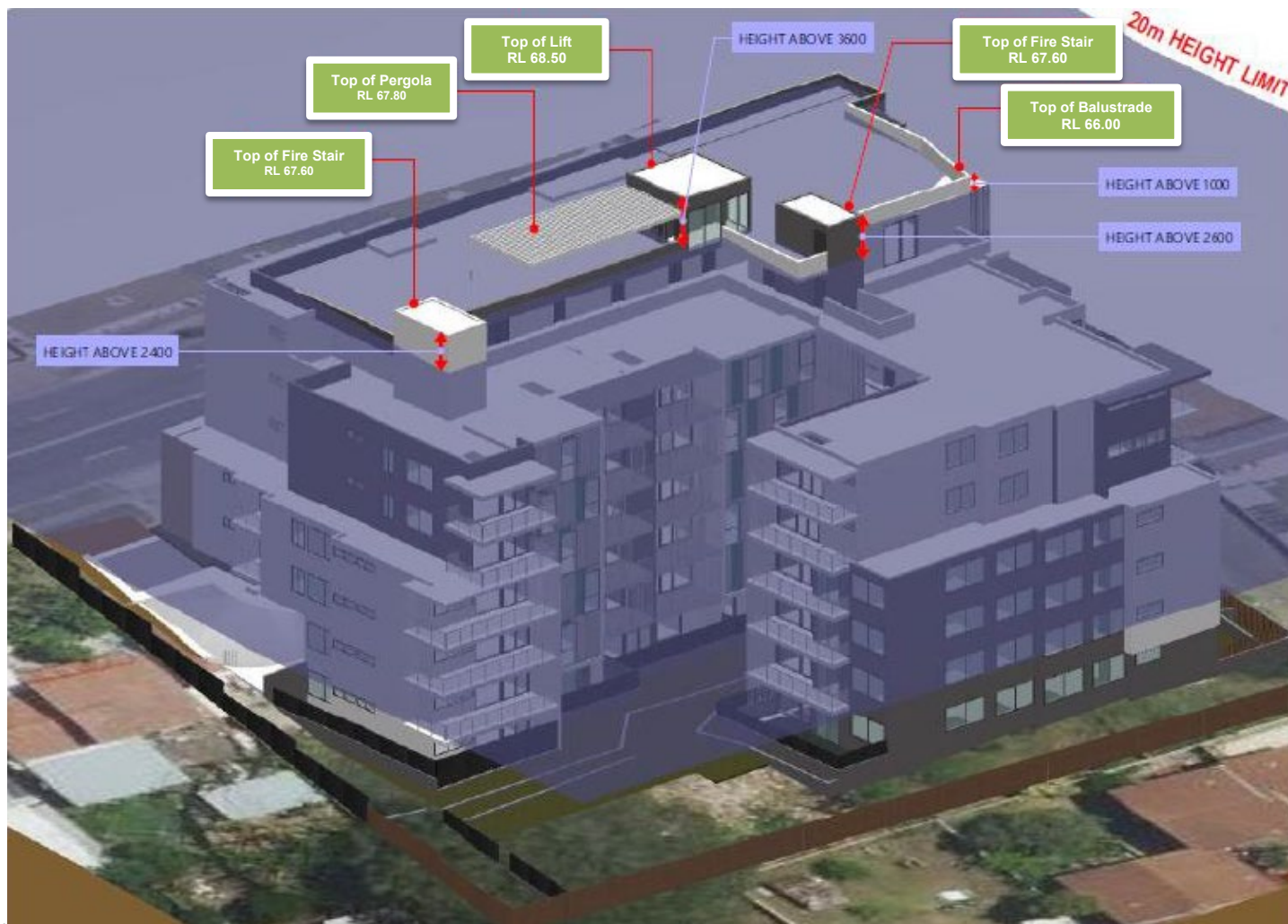


Figure 2: Aerial view demonstrating the components of the development which are above (shown in white) and which are below (shown in grey) the 20 m height plane relative to the ground level. Viewed from the south-east.



Figure 3: Aerial view demonstrating the components of the development which are above (shown in white) and which are below (shown in grey) the 20 m height plane relative to the ground level. Viewed from corner of George Street and Clancy Lane.

Assessment of Clause 4.6 variation request

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

The underlying objective of the height of buildings development standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered both unreasonable and unnecessary because:

- With regard to the proposed building, the parts of the proposed building envelope which exceed the height limit relate to the lift overrun, shade structure, 2 stair cores and balustrade/corner roof element over unit 5.05.
- The maximum building height is to the lift overrun at RL 68.6, which represents a variation of 3.6 m or 18%. The remaining points of variation are below this.
- The proposed building is appropriately stepped to reflect the slope of the site. This includes ensuring that the levels of the ground floor apartments are afforded with an appropriate amount of amenity given their relationship with the setbacks at the front and side of the site which present to George Street and Clancy Lane.
- The stepped building form means that some portions of the building are below the 20 m height limit to compensate for some parts of the building and rooftop plant and equipment above the building height limit.
- The stepped design generates a desirable amenity outcome for future residents and a positive aesthetic streetscape presentation.
- The portions of the roof structures that exceed the height limit do not result in excessive bulk and scale and do not result in adverse shadow and amenity impacts on surrounding properties.
- The additional height does not result in any additional yield and does not result in an additional storey, as the height variation is offset throughout the development.
- The lift overrun and stair cores are suitably placed so they are not visible from the street and will not create overshadowing to adjoining properties as shadows are generally in the roof areas.
- The additional height does not result in additional yield in terms of the number of apartments and results in a better designed building.

Despite the height exceedances, the proposal is a well-considered design which is compatible with the emerging nature and scale of development in the locality.

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 building development standard for the following reasons:

- The proposal promotes the orderly and economic use and development of the site because it provides a carefully considered design approach.
- The proposal promotes the social welfare of the community by providing suitable opportunities for solar access to apartments and to communal open space areas within the site.

- The proposed design comprises a stepped building form which ensures that the changes in the landform are accommodated, including allowing for access for waste vehicles, being a small rigid vehicle, to the Lower Ground level with access from Clancy Lane. The design allows for vehicular access from the entry driveway fronting George Street for residents and visitors into the Upper Ground level and 2 basement levels. In addition, the design also maximises deep soil areas which are co-located with communal open space areas at the lower ground level and the upper ground level.
- 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 the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

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

Blacktown Local Environmental Plan 2015	
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 Blacktown LGA	Although the proposed building exceeds the permissible height by up to 3.6 m, the development does not achieve an additional residential level. The increase in height does not impact on the density, floor area or scale of the development. The additional height simply accommodates the roof line, parapets and rooftop plant and equipment, including access to rooftop communal open space.
b. To minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space	<ul style="list-style-type: none"> • Minimise visual impact The additional building height is supported because it is visually negligible and generates a satisfactory streetscape outcome. This is particularly the case given the site is surrounded by land which is also permitted to be developed to a building height of 20 m with residential flat buildings. The proposed variation is compatible with the surrounding future developments and public transport infrastructure and will be visually imperceptible. • Solar access to buildings and open space of adjoining development and land The townhouses located on the adjoining lot to the south of the site are not overshadowed by the proposal. The future development of the adjoining sites is capable of redevelopment for RFB development, and can be designed to achieve a suitable level of amenity with regard to solar access, amenity and visual impact. Therefore suitable levels of amenity are afforded to the surrounding properties, including future redevelopment anticipated by BLEP 2015. Refer to the Sun Access Diagrams and Shadow Diagrams at attachment 5.
c. To facilitate higher density development in and around commercial centres and major transport routes	The proposal satisfies this objective to facilitate higher density development in and around commercial centres and major transport routes. It provides 81 apartments which are supported by the services currently offered by the Seven Hills Town Centre, the Seven Hills Railway Station and local bus services which are in close vicinity. The site and surrounds are well serviced for this form of residential development.

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))

Blacktown Local Environmental Plan 2015	
Objectives of the R4 High Density Residential zone	How the proposal achieves the objective
a. To provide for the housing needs of the community within a high density residential environment	The proposed development provides for the housing needs of the community by providing 81 apartments and associated lower and upper ground level and rooftop communal open space areas for passive and active recreation.
b. To provide a variety of housing types within a high density residential environment	The proposed development for a residential flat building provides a mix of 1, 2 and 3 bedroom apartments which contribute to the variety of housing types in Seven Hills.
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 high density residential environment	Not applicable to this application.

Therefore, the proposal is considered to be in the public interest because the development is consistent with the objectives for development within the R4 High 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))

The Clause 4.6 written request to vary a development standard in an Environmental Planning Instrument has been considered under Planning Circular PS 08-003. 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 maintaining the standard in this specific instance, as discussed in points 6 and 7 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 building development standard, this application offers public benefit because it provides a built form scale of part 6/part 7 storeys as viewed from the public domain, which is consistent with the scale anticipated by BLEP 2015. The proposal offers a public benefit in the form of providing a built form which is stepped with the slope of the site and accommodates the new levels required for this site which has a dual frontage. The proposal generates a positive development outcome which does not impact on the privacy or solar access of surrounding properties. The proposal also accommodates rooftop plant and equipment to properly service the development and access to a rooftop communal open space area. The proposal offers improved outcomes for and from development. Therefore, there is no public benefit in maintaining strict compliance with the development standard.

Based on the above assessment, the Clause 4.6 variation request is considered reasonable and well founded. It is recommended for support to allow flexibility in the application of the development standard.