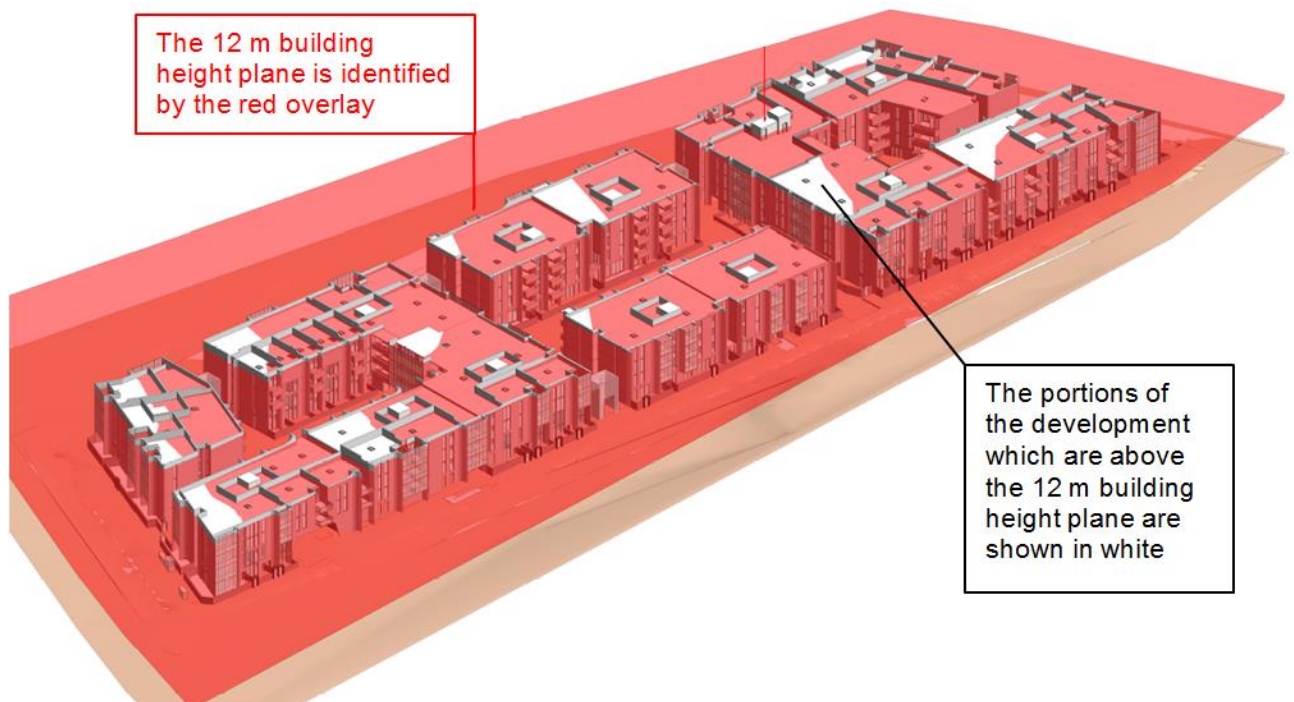


Council assessment of Clause 4.6 request

1 Visual representation of height offset

- 1.1 The following figure identifies the portions of the development that exceed the height limit and the portions of the development that are below the height limit.



2 5-part test assessment of Clause 4.6 variation request

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

Height

The objectives of Clause 4.3 Height of buildings are as follows:

- To establish the maximum height of buildings for development on land within the Area 20 Precinct
- To minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,
- To facilitate higher density development in and around commercial centres and major transport routes

- **Maximum height**

The maximum height limit on the site is 12 m. Although the development exceeds the permissible height by up to 1.19 m to the parapet, 2.4 m to the plant screening structures and 3.05 m to the lift overruns, none of the components which exceed the height limit relate to habitable room area. 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 rooftop services.

The Applicant has also identified that there is no specific correlation between the areas of height variation and the location of lower level apartments, with some areas of height variation not located above lower level apartments and conversely there are locations where the development is below the height control but lower level apartments have been provided. The height variations arise as a result of the varied topography across the site and the desire to deliver a 4 storey development in a 12 m height control.

- **Minimise visual impact**

The visual impact of the additional building height will not be visually perceptible as viewed from adjoining developments and the public domain. The additional height simply accommodates the roof structure and rooftop services.

- **Solar access to buildings and open space of adjoining development and land**

The additional shadow impacts do not impact on any surrounding land given the new public roads around the perimeter of the development site. The overshadowing caused by the non-compliance is due to the rooftop parapets and plant and equipment which is captured within the roof space itself.

- **Facilitates higher density development in and around commercial centres and major transport routes**

The site is located 1 km from Rouse Hill Town Centre and 750 m to Cudgegong Road Railway Station and the local centre. The building represents part 4 – part 5 storeys, and is 12 m in height when measured from the existing ground level to the top of the roof level. The density of this development meets this objective.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

The purpose of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered unreasonable.

3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

The purpose of the development standard would not be defeated if compliance was not required. However, 100% compliance is considered unreasonable as the variation is acceptable based on merit. The objectives of the standard, as outlined above, will still be achieved despite the variations.

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

Variations to the development standards of building height have similarly been considered in the Area 20 Precinct of the Growth Centre.

- JRPP-16-03325: appeal upheld at the NSW Land and Environment Court in August 2017 for the construction of 6 x 4 storey residential flat buildings included a variation of up to 25 % to the 12 m height limit.

- JRPP-14-01593 approved 3 August 2015 for the construction of 5 x 4 storey residential flat buildings included a variation of up to 5 % of the 12 m height limit.
- JRPP-14-00091 approved 15 December 2014 for the construction of 4 x 4 storey residential flat buildings included a variation of up to 5 % of the 12 m height limit.

Variations to the roof structure and lift overruns are consistent with deviations considered elsewhere within the Growth Centre.

5. The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone

Full compliance with the development control could be achieved, subject to the deletion of a level. Given the greenfield context of the site, the topography of the land must be considered. The site has a ridge within the development site, falling 7.4 m from the south-east corner of the site to the western boundary. 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. Therefore, the proposed height exceedance is considered to be a suitable planning outcome.

Based on the above assessment, the requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.