

Council assessment of Clause 4.6 request

Visual representation and discussion of height offset

The following figure identifies the portions of the development that exceed the height limit.



Figure 1: Site Plan demonstrating the portions and extent of the proposed development (hatched in red) which exceed the maximum permitted height plan.

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 generally lower than the permitted height of buildings.

Given the greenfield context of the site, the topography of the land must be considered. The high point of the site is approximately at the intersection of Farmland Drive at the east of the site. The portion of the site zoned for residential purposes has a fall of approximately 8 metres to the north towards Schofields Road, and approximately 10 metres to the west and south towards Eastern Creek. As site benching and earthworks are required to meet civil grades and construction of the road network, compliance would be unreasonable in the circumstances.

The proposed distribution of building mass across the site has been carefully considered in a master planned approach, and the height encroachments are minor only. Some relate to enabling resident access to rooftop communal open space areas. 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 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, the provision of recreational facilities at the ground and rooftop levels 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 by applying a master planned design approach which does not impact on the conservation of Eastern Creek and associated vegetation to the south of the site which is acceptable in the circumstance.
- The proposal promotes the social welfare of the community by providing rooftop communal open space areas for Buildings E, H, F, G, K, L and N in addition to good quality areas at the ground level including the creation of pedestrian through-site links and vistas throughout the site.
- The proposal promotes good design and amenity of the built environment.
- The proposed height of buildings does not result in any increase in residential apartments or density.
- The proposed height of buildings is offset with Building A being only part 3 / part 4 storeys instead of part 4 / part 5 storeys.

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.	<p>The maximum height limit on the site is 16 metres. Although the development exceeds the permissible height by up to 1.5 metres (9.3 %) for some portions of the roof parapet, lift and stair overruns (which includes the requirement to provide access to the rooftop communal open space areas for Buildings E, H, F, G, K, L and N) and rooftop shading structures.</p> <p>The increase in height does not impact on the density of the development. The increased height also has no impact on the scale of the development. The additional height simply accommodates the roof structures, rooftop services and access to the rooftop communal open space areas.</p>
b. To protect the amenity of adjoining development and land in terms of solar access to buildings and open space.	<p>The majority of the overshadowing caused by some of the rooftop parapets and plant and equipment, that exceed the building height, are captured within the roof space of this development. Sufficient solar access is afforded to the buildings and open space of this site.</p>

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
c. To facilitate higher density development in and around the local centre, the neighbourhood centres and major transport routes while minimising impacts on adjacent residential, commercial and open space areas.	The site is in close proximity to Schofields Railway Station and the future Local Centre. The site planning is consistent with the objective of facilitating higher density development in and around local centres and major transport routes.
d. To provide for a range of building heights in appropriate locations that provide a high quality urban form	The site and surrounds are well serviced for this form of residential and commercial development. The development offers a design which is interesting and modern, and is a high quality architectural design standard.

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 1,381 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 1, 2 and 3 bedroom apartments which contributes 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 of 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 of 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 creates the opportunity for access to rooftop communal open space areas for some buildings, and provides a scale of development which is consistent with the desired future outcome of this Precinct. 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, permitting the proposed development on this site to vary the height of buildings development standard 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.