

## Council assessment of Clause 4.6 request

### 1. Visual representation of height offset

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. The roof areas coloured in light grey and lift overrun areas coloured in dark grey, in the image below, exceed the 12 m maximum building height permitted under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 on this particular site.



The proposed non-compliance relates to the rooftop lift overruns for the rooftop communal open space areas on Buildings B and D which exceed the height by up to 0.4 m, and a small part of the skillion roof of Building C which exceeds the height by up to 0.2 m. Consequently, the proposed building height is 12.4 m at the highest point. This is a variation of 0.4 m or 3%.

The section plans below further illustrate the height non-compliance for each proposed building based on the slope of the land.



Section A - A  
1:200



Section B - B  
1:200



Section C - C  
1:200



Section D - D  
1:200

## 2. Assessment of Clause 4.6 variation request

### 2.1 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 purpose of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered both unreasonable and unnecessary for the following reasons.

In the context of this Precinct, the topography of the land must be considered. The site is sloping, which results in minor portions of the roof levels exceeding the height limit. Since the proposal has been designed in a way that the finished levels, roadworks and drainage will have negligible impact on the existing surface levels across the site, 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 rooftop features that exceed the height limit the most are the lift

overruns, which are contained in the central areas of the roof levels, representing only point encroachments into the height plane. They will not be 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 proposed minor encroachments to the overall building height do not result in additional yield in terms of the number of apartments or storeys and results in well designed buildings.

The proposal provides a better planning outcome because it suitably addresses the slope of 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.

**2.2 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 and is therefore considered acceptable in the circumstances.
- 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 pedestrian access path and vista through the site.
- 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 justifying the minor contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

**2.3 The objectives of the standard are achieved notwithstanding non-compliance with the standard [Clause 4.6(4)(a)(ii)]**

<b>Appendix 12 Blacktown Growth Centre Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006</b>	
<b>Objectives of Clause 4.3 ‘Height of buildings’</b>	<b>How the proposal achieves the objective</b>
a. To establish the maximum height of buildings	The maximum height limit on the site is 12 m. The majority of each building’s massing will comply with this height limit, including the majority of the respective roof level areas. The increase in height does not impact on the density of the development as no residential units are proposed above the height limit, only plant and equipment and the communal open space areas.  The objective of building height limits is to provide higher density development close to major transport routes without significant amenity impacts on adjoining development, and it is considered that this development will meet that objective.
b. To minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space	Given the low heights of the proposed buildings, the compliant street setbacks and the width of the existing and proposed surrounding roads, the proposal will result in shadows mostly contained within the subject site and the adjoining streets, and after 2 pm the proposed afternoon shadow impacts will be only onto the whole front yard of 160 Tallawong Road as a result of the skillion roof. But this land will have already had solar access between 9 am and 2 pm for 5 hours. Other adjoining properties will not be impacted by any overshadowing. Refer to the Shadow Diagram Plans at Attachment 6 for details.

**Appendix 12 Blacktown Growth Centre Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

Objectives of Clause 4.3 'Height of buildings'	How the proposal achieves the objective
	The parts of the building causing the primary height non-compliance are the lift overruns accommodating the rooftop communal open areas of Buildings B and D, and small portions of the roof parapets in the south-eastern corner of Building C. These elements are not highly visible from the public domain and do not cause serious shadow impacts or any overlooking issues to neighbours. Therefore, the proposed building heights are satisfactory and visual impacts are minimal.
c. To facilitate higher density development in and around commercial centres and major transport routes	The site is located approximately 2 km north-west of the future Local Centre and newly operating Tallawong Metro Station. The buildings contain 82 units in the form of 1, 2 and 3 bedroom apartments, which is representative of the density and housing demand anticipated for this site. The density of this development thus meets this objective.  The site and surrounds are well serviced for this form of residential development. The development offers an interesting and modern design which is supported by carefully considered passive and recreational outdoor areas to create a favourable living environment for the increased residential population.
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 82 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 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 will still be consistent with the objectives for development within the R3 Medium Density Residential zone in which this proposal is to be carried out.

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

The Clause 4.6 written request to vary the development standard 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 for these minor point encroachments only.

**2.5 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.

**2.6 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 4 storeys which is consistent with the desired future outcome of this Precinct and provides housing in close proximity to a centre and public transport. The proposal has articulated the roof line as an architectural feature, instead of just a flat roof and 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 minor degree achieves a better design 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.