

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

### Visual representation of height offset

The following figure identifies the portions of the building envelopes that exceed the 16 m height limit and the portions of the development that are below the height limit under Clause 4.3 Height of Buildings in Appendix 12 Blacktown Growth Centres Precinct Plan 2013 of *State Environmental Planning Policy (SEPP) 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 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:

- The parts of the proposed building envelopes which exceed the height limit relate to the roofline and parapets, some portions of the habitable room areas, rooftop plant and equipment, and services to enable access to rooftop communal open space areas (for Buildings A, E and F).
- The proposed buildings are appropriately stepped to reflect the slope of the site and to coordinate with the levels of the future roads. This includes ensuring that the levels of the ground floor apartments are afforded with an appropriate amount of amenity given their relationship with the new road levels.
- The stepped building forms mean that some portions of the buildings are below the 16 m building height limit to compensate for some parts of the buildings 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. This is particularly the case with regard to the adjoining site to the south which is capable of redevelopment for a mixed use development.
- 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 overruns are suitably placed so they are not visible from the street and will result in only minor additional overshadowing to adjoining properties, as shadows are generally contained in the roof areas and on the new public roads.
- The additional height does not result in additional yield in terms of the number of apartments and results in better designed buildings.

Despite the height exceedance, the proposal reflects a 5 storey development as viewed from the public domain as anticipated by the Precinct Plan, which is compatible with the emerging scale of development in the locality.

The proposal provides a better planning outcome by securing a building footprint which offers appropriate amenity for its future occupants and the surrounding properties.

## **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 carefully considered masterplanned 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, and a publicly accessible pathway and landscaping will be provided along the southern boundary of the site in place of a half width road.
- The proposed design comprises 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 the needs of residents. In addition, the design also maximises deep soil areas which are co-located with communal open space areas.
- 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).

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

Appendix 12 – Blacktown Growth Centres Precinct Plan 2013 of <i>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i>	
Objectives of Clause 4.3 'Height of buildings'	How the proposal achieves the objective
a. To establish the maximum height of buildings	<p>Although the proposed building envelopes exceed the permissible height by up to 3.7 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 areas for Buildings A, E and F.</p>
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"> <li> <b>Minimise visual impact</b> <p>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 adjoins land to the south and east which is permitted to be developed to a building height of 26 m in the form of mixed use developments and the future Cudgegong Local Centre. The site is also in the immediate vicinity of the rail corridor and associated infrastructure. In comparison to the future mixed use developments and Local Centre, the proposed minor exceedance will be visually imperceptible. The proposed variation is compatible with the surrounding future developments and public transport infrastructure.</p> </li> <li> <b>Solar access to buildings and open space of adjoining development and land</b> <p>The proposed building envelopes reflect a 5 storey development as viewed from the public domain. This is supported because it allows for sufficient solar access to the adjoining property to the south.</p> <p>The proposed building envelopes demonstrate that buildings A, D, C and B overshadow the building facades of the future mixed use development on the adjoining site to the south which is zoned B4 Mixed Use at 28 Tallawong Road, Rouse Hill and is owned by Transport for NSW. Refer to the shadow diagrams at attachment 5.</p> <p>The proposal was referred to Transport for NSW and Sydney Trains and their concurrence was provided, subject to conditions.</p> <p>We consider that the adjoining site to the south is afforded sufficient opportunity for solar access. The buildings are stepped with the slope of the site, with some portions of the roofline below the height limit and some portions of the roofline above the height limit, and the lift overrun structures have a small footprint.</p> <p>Therefore suitable levels of amenity are afforded to the surrounding properties, including future redevelopment anticipated by the Precinct Plan.</p> </li> </ul>
c. To facilitate higher density development in and around commercial centres and major transport routes	<p>The proposal satisfies this objective to facilitate higher density development in and around commercial centres and major transport routes. It provides 630 apartments which are supported by the services which will be offered in the future by the nearby Tallawong Railway Station (under construction) and future Local Centre. Our requirement for a publicly accessible pathway and landscaping along the southern boundary of the site also supports the opportunity for pedestrian access to the Local Centre and Railway Station.</p>

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))**

<b>Appendix 12 – Blacktown Growth Centres Precinct Plan 2013 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006</b>	
<b>Objectives of the R3 Medium Density Residential zone</b>	<b>How the proposal achieves the objective</b>
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 630 apartments and associated ground level and rooftop communal open space areas (to Building A, E and F) for passive and active recreation.
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	The proposal includes the provision of a neighbourhood shop to assist with servicing the day-to-day needs of the residents.
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))**

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 of maintaining the standard, 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 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 provides a built form scale of 5 storeys as viewed from the public domain which is consistent with the scale anticipated by the Precinct Plan. The proposal also accommodates rooftop plant and equipment to properly service the development and access to rooftop communal open space areas to Buildings A, E and F. 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 it be supported to allow flexibility in the application of the development standard which will be carried forward to the detailed DAs on this site.