

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 envelope that exceed the 32 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.

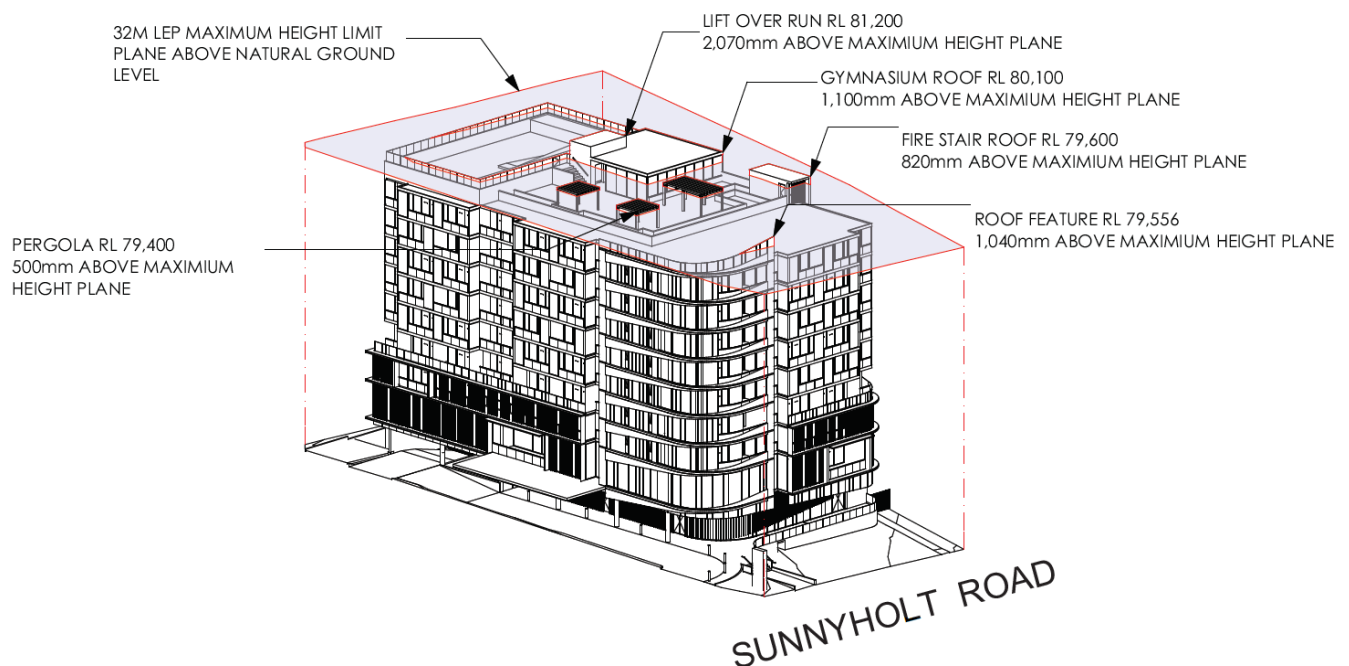


Figure 1: Extract from the Height Plane Diagram demonstrating the overlay of the 32 m height plane (shown in blue) and the parts of the development which are above the permissible height plane (shown in white and indicated by the arrows).

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 development which exceed the height limit relate to the lift and stair overrun to provide access to the rooftop recreation features, the pool fencing, pergolas, roofline of the gymnasium and a roof feature.
- Some portions of the building are below the 32 m building height limit and compensate for some parts of the rooftop elements being above the building height limit.

- 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 as they are generally centrally located on the rooftop.
- The additional height does not result in any additional floor area relating to hotel rooms or a conference room.
- The lift and stair overruns and gymnasium are suitably placed so they have minimal visibility from the public domain and will not generate additional overshadowing to adjoining properties as shadows are contained in the roof area.
- The additional height does not result in additional yield in terms of hotel suites and results in a better designed building which offers the opportunity for recreational areas for the enjoyment of hotel guests.

Despite the height exceedance, the proposal provides a hotel development which is compatible with the desired future character of the Blacktown Business Park.

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 social welfare of the community by providing suitable opportunities for hotel accommodation, conference facilities and a restaurant.
- The proposal promotes the orderly and economic use and development of the site because it provides a land use which is compatible with the emerging Blacktown Business Park.
- The proposal promotes good design and amenity of the built environment by providing a modern architectural layout and presentation with flexible hotel arrangements in the form of dual key suites, which suit the varied needs of guests.
- The proposal promotes the proper construction and maintenance of buildings, including the protection of the health and safety of occupants by providing safety barriers around the proposed rooftop pool, as well as shading structures in the rooftop recreational space.

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) 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))

Blacktown Local Environmental Plan 2015	
Objectives of Clause 4.3 'Height of buildings'	How the proposal achieves the objective
a. To minimise the visual impact, loss of privacy and loss of solar access to surrounding development and the adjoining public domain from buildings.	<p>The building height of the proposed development will appear as compliant as viewed from the public domain, as the rooftop structures are centrally located on the rooftop and will have minimal visibility.</p> <p>The proposal provides visual screening slats on the facades of the lower levels to assist with avoiding direct lines of sight to surrounding properties. All hotel suites have balconies which direct lines of sight from the hotel suites out, instead of down into the surrounding properties. These measures are effective in minimising loss or privacy for surrounding properties.</p>

Blacktown Local Environmental Plan 2015	
Objectives of Clause 4.3 'Height of buildings'	How the proposal achieves the objective
	<p>The proposed development generates additional overshadowing of the surrounding properties when compared to the existing building. However, the desired future development of the Blacktown Business Park anticipates this extent of overshadowing, and is acceptable.</p> <p>The part of the proposed building which exceeds 32 m does not result in additional shadow impacts as the overshadowing generated by the rooftop elements are contained within the roof area.</p>
b. To ensure that buildings are compatible with the height, bulk and scale of the surrounding residential localities and commercial centres within the City of Blacktown.	The desired future development of the Blacktown Business Park anticipates the height, bulk and scale proposed in this DA.
c. To define focal points for denser development in locations that are well serviced by public transport, retail and commercial activities.	The site is well serviced by public transport with bus services provided along Sunnyholt Road and retail and commercial activities in the Blacktown Central Business District. The proposal also contributes to services available to the locality by providing hotel accommodation and conference room facilities.
d. To ensure that sufficient space is available for development for retail, commercial and residential uses.	The proposal reflects an appropriate use of the space by providing 70 hotel suites and an ancillary conference room, offices and restaurant, which compliment the needs of the Blacktown Business Park.
e. To establish an appropriate interface between centres, adjoining lower density residential zones and public spaces.	The proposal is compatible with the desired future character of the Blacktown Business Park and the existing residences and Lynwood Park Reserve to the east on the opposite side of Sunnyholt Road.

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 B7 Business Park zone	How the proposal achieves the objective
a. To provide a range of office and light industrial uses.	The conference facility and associated office and meeting rooms provide support opportunities for the surrounding emerging Business Park and Blacktown area.
b. To encourage employment opportunities.	The proposal provides up to 12 staff at any one time, and provides hotel accommodation to service the needs of surrounding businesses.
c. To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.	Hotel and conference facilities provide support opportunities for the surrounding Business Park and Blacktown area.

Blacktown Local Environmental Plan 2015	
Objectives of the B7 Business Park zone	How the proposal achieves the objective
d. To ensure that development does not have an adverse impact on the scale and form of the surrounding area.	Building scale and form is consistent with the height anticipated by the controls, and is a positive contribution to the quality of the streetscape and desired future character of the Blacktown Business Park.

Therefore, the proposal is in the public interest because the development is consistent with the objectives for development within the B7 Business Park 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. The Secretary (formerly Director-General) of the NSW Department of Planning and Environment's concurrence is assumed by the Sydney Planning Panel as this request is adequate, does not raise any matter of significance for State or regional environmental planning that cannot be dealt with by the Sydney Planning Panel and there is no public benefit in strictly maintaining the standard in the circumstances of the proposal.

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 a public benefit because it provides additional rooftop recreational facilities for the use of hotel guests. The proposal offers improved outcomes for and from the development. Therefore, there is no public benefit in maintaining strict compliance with the development standard in this instance.

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.