

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

Visual representation of height of buildings

The following figures identify the portions of the building envelopes proposed in SPP-17-00051 that exceed the 14 m height limit and the portions of the development that are below the height limit of Clause 4.3 Height of Buildings in Appendix 12 Blacktown Growth Centres Precinct Plan 2013 of State Environmental Planning Policy (SEPP) (Sydney Region Growth Centres) 2006.

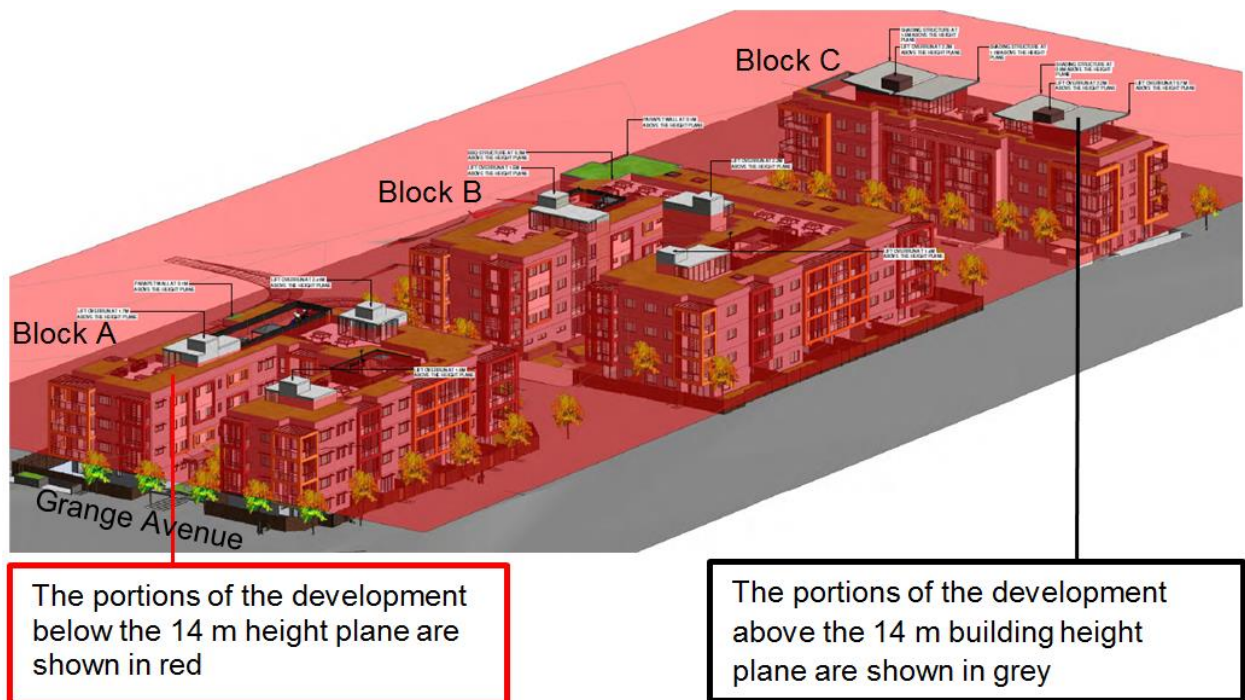
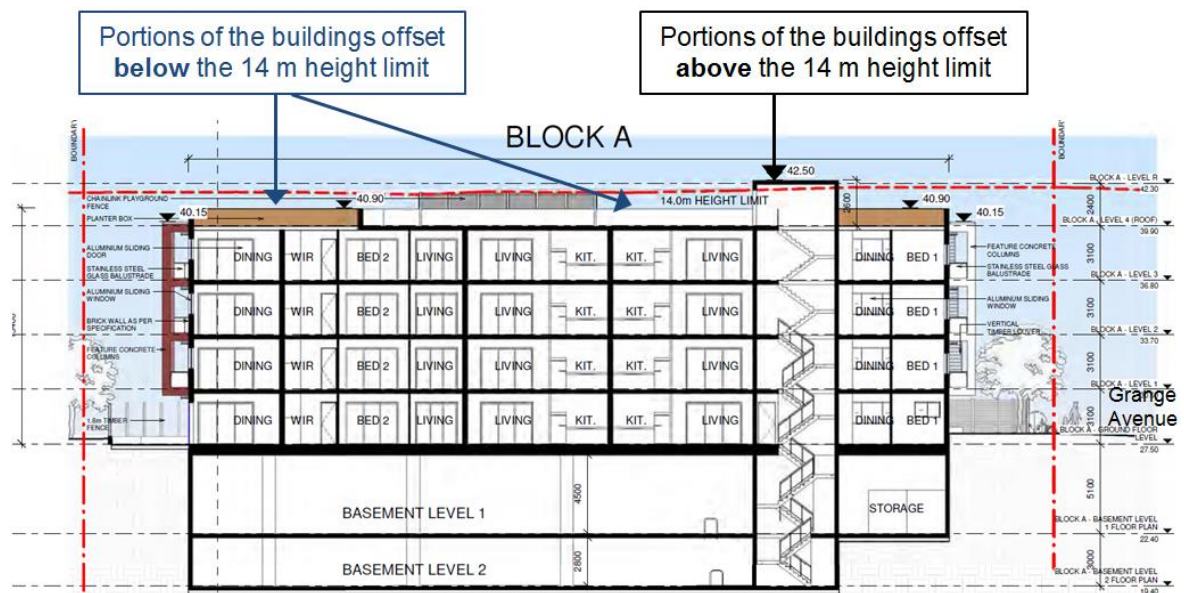


Figure 1: Aerial view demonstrating the components of the development above (shown in grey) and below (shown in red) the 14 m height plane.



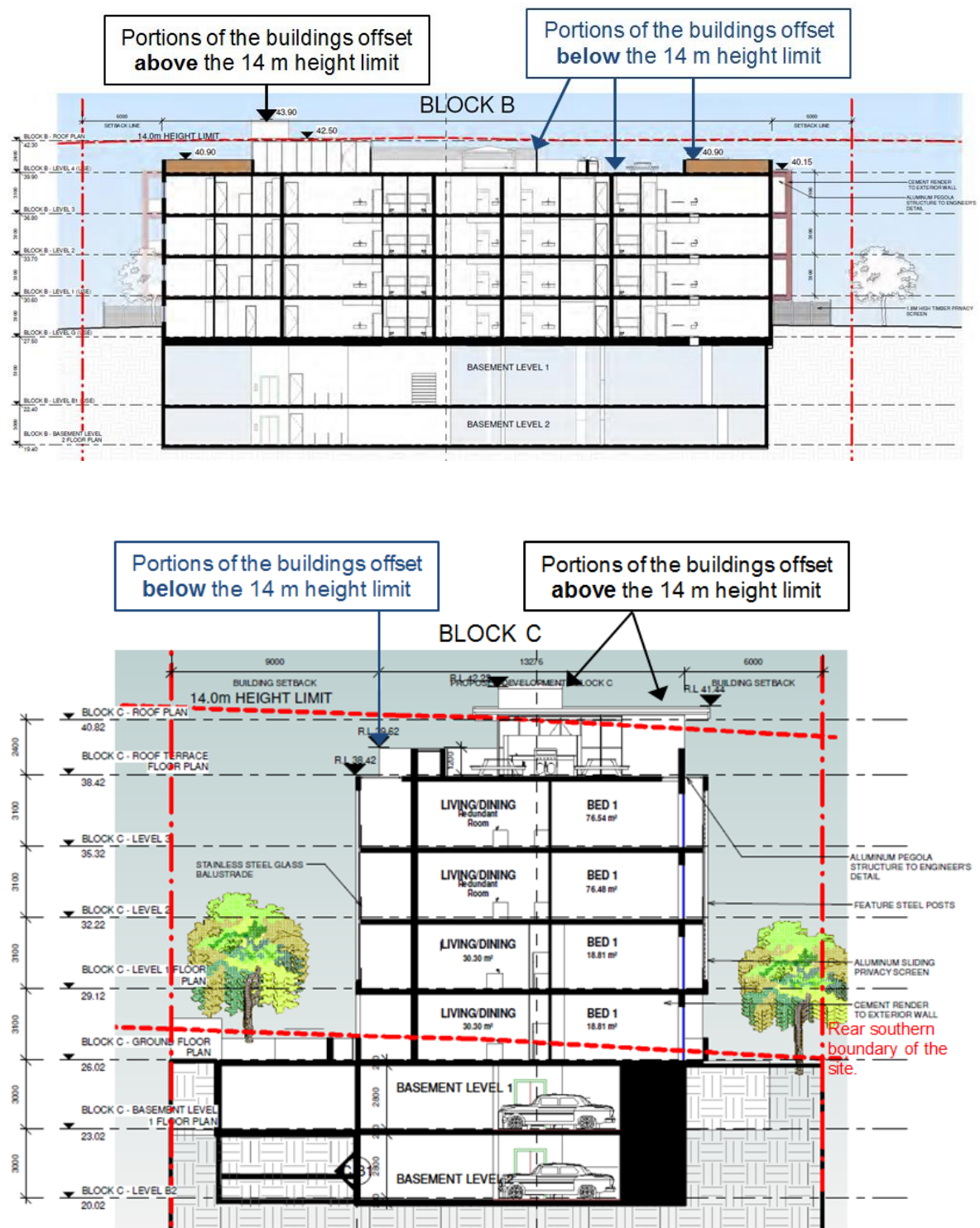


Figure 2: Extracts from the Section Plans taken through Blocks A, B and C demonstrating the components of the development above and offset below the 14 m height plane.

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. Compliance with the development standard is, in this circumstance, considered both reasonable and necessary. The reasons for this relate to the poor development outcome of Block C, including:

- The parts of the proposed building envelope which exceed the height limit result in additional overshadowing impacts on the adjoining properties to the south. The cumulative impact of the overshadowing from the compliant component of the development, as well as the part of the rooftop structures which exceed the height limit, severely detract from the ability for direct solar access to be received by the nearby properties, which are also capable of future residential flat building developments.
- The lift overruns are not suitably placed as they are visible from the street and will overshadow adjoining properties.
- Excessive rooftop structures to service the communal open space area in the form of 2 sets of lobbys, lift overruns, fire stairs, store rooms and bathrooms. There are no other communal open space areas provided on the site that are accessible to residents. The applicant has nominated some ground level setback areas as communal open space. However, these landscaped areas are inaccessible and not usable.
- The reliance on providing communal open space which is limited to the rooftop area is a poor amenity outcome for residents because it fails to contribute to the function of open space as set out in the Apartment Design Guide in the form of:
 - landscape character and design
 - opportunities for group and individual recreation and activities
 - opportunities for social interaction
 - environmental and water cycle management
 - opportunities to modify microclimate
 - amenity and outlook for residents.
- The rooftop communal open space areas are uninviting spaces that will be exposed to sun and wind. The provision of bbq facilities, tables and seating is insufficient to contribute to the appeal of the development and the wellbeing of residents. It also fails to provide outdoor opportunities for residents, connection to the natural environment and valuable 'breathing space' between apartment buildings.
- The building is not appropriately stepped to reflect the slope of the site and to coordinate with the levels of the future roads and adjoining sites. 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. In particular, the ground level apartments at the western end of the building are up to 2 m below the level of the new local road between Blocks B and C.
- The additional height does not result in better designed buildings, in particular because the proposal fails to provide appropriate on-site waste collection.

The proposal does not provide a well-considered design and is not consistent with the desired future character of urban development in this Precinct.

2. Consideration of sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b))

The proposal fails to demonstrate sufficient environmental planning grounds to justify contravening the height of buildings development standard for the following reasons:

- The proposal does not promote the orderly and economic use and development of the site because it fails to provide a design with suitable communal open space areas and arrangements for on-site waste collection.
- The proposal does not promote the social welfare of the community as it has not been demonstrated that there is suitable opportunity for solar access to apartments and to

communal open space areas of nearby sites that are capable of development for residential flat buildings.

- The proposed design for Block C does not provide stepped building forms that accommodate the changes in the landform; including failing to provide basement access for waste vehicles, and basement levels and loading facilities which service the needs of residents.
- The proposal fails to promote good design and amenity, and fails to create a diverse and attractive neighbourhood based on strong urban design principles.

The applicant's written request seeking to justify the contravention of the development standard has not 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 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>The proposal does not achieve the objective.</p> <p>The proposed height exceedance is considered to impact on the density, floor area and scale of the development. This is due to insufficient communal open space provided at the ground level at the expense of providing the primary communal open space area and its associated structures on the rooftop.</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.	<p>The proposal does not achieve the objective.</p> <ul style="list-style-type: none"> • Minimise visual impact <p>The additional building height is not supported because it is visually intrusive and generates a negative streetscape outcome.</p> <ul style="list-style-type: none"> • Solar access to buildings and open space of adjoining development and land <p>The surrounding sites are all overshadowed by the proposal. The applicant was requested to demonstrate that the adjoining sites to the south, specifically 162 South Street, will be capable of redevelopment in line with the Growth Centres SEPP and the Apartment Design Guide. This was not provided. There is insufficient direct sunlight available to the building anticipated on the adjoining site to the south due to the excessive overshadowing generated by Block C.</p> <p>Refer to the shadow diagrams at attachment 5.</p>
c. To facilitate higher density development in and around commercial centres and major transport routes.	<p>The proposal does not achieve the objective. However, the site is zoned to allow medium density residential development.</p> <p>The site is not currently serviced by a commercial centre. However, the site is 430 m to the east of the future Marsden Park Town Centre and will eventually be in the vicinity of a commercial centre.</p> <p>The site is not currently serviced by a major transport route. The Growth Centres SEPP has identified part of a transport corridor on the northern side of South Street, which is 115 m to the south of the site. The Transport Corridor extends towards the existing Schofields Railway Station to the east. However, the current</p>

	<p>zoning fails to secure this corridor as a complete public transport connection. Refer to the zoning map at attachment 3.</p> <p>No formal arrangement has been undertaken for the extension of the rail line from Schofields to this locality. The area is serviced by existing bus services only.</p> <p>The site and surrounds are not well serviced for this form of residential development at the present time.</p> <p>Despite this, the site is zoned to allow medium density residential development. Therefore, no objection is raised to the proposal in light of this objective.</p>
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Therefore, the proposal is not in the public interest because the development is inconsistent 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 12 – Blacktown Growth Centres Precinct Plan 2013 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.	<p>The proposal does not achieve the objective.</p> <p>The proposed development provides 132 new apartments. However, with regard to Block C, the proposal provides insufficient ground level and rooftop communal open space areas that demonstrate suitable opportunities for passive and active recreation. The proposal also provides a poor level of amenity for future residents and surrounding properties, and fails to provide infrastructure in the form of suitable road access.</p>
b. To provide a variety of housing types within a medium density residential environment.	<p>The proposed overall development for residential flat buildings provides a mix of 1, 2 and 3 bedroom apartments that would contribute to the variety of housing types in this Precinct.</p>
c. To enable other land uses that provide facilities or services to meet the day to day needs of residents.	<p>Not applicable to this application.</p>
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.	<p>Not applicable to this application.</p>

Therefore, the proposal is not in the public interest because the development is inconsistent with the objectives for development in the R3 Medium Density Residential zone.

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. Given the request is not supported as recommended by us, concurrence is not relevant. The

proposal is considered to result in a negative environmental planning outcome and there is public benefit in maintaining the development 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))

Contravention of the development standard raises matters of significance for State or regional environmental planning because it results in a poor design and amenity outcome which is inconsistent with the desired future character of the Precinct. This poor quality built form outcome affects the amenity of future residents and the ability for the redevelopment of surrounding sites which is in line with the intent of the Growth Centres SEPP, Precinct Plan and the Apartment Design Guide. The proposal sets an unacceptable precedent.

7. There is no public benefit of maintaining the standard (Clause 4.6(5)(b))

When compared to providing a development that strictly complies with the height of buildings development standard, this application fails to provide communal open space areas that compliment the streetscape presentation and are inviting areas for the enjoyment and use of residents. The proposed building generates excessive bulk that impedes on the redevelopment of surrounding sites in a manner that complies with the relevant controls.

The proposal does not offer a public benefit because it fails to provide a built form that is stepped with the slope of the site and accommodates the new levels required for the new public roads. The proposal generates a negative development outcome that impacts on the solar access of surrounding properties. The proposal provides excessive rooftop plant and equipment to properly service the development and access to rooftop communal open space areas. The proposal also fails to provide suitable waste collection arrangements. The proposal results in poor outcomes for and from development. Therefore, there is public benefit in maintaining strict compliance with the development standard.

Based on the above assessment, the Clause 4.6 variation request is not considered reasonable, nor well founded. It is recommended that the request is refused.