

#### 4.3.2 Blacktown Local Environmental Plan 2015

The *Blacktown Local Environmental Plan 2015* (BLEP) is the primary local environmental planning instrument that applies to the site. However, given that the site falls under the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centre SEPP), the development standards in the SEPP apply rather than the BLEP.

#### 4.3.3 Building Height

The proposed development is subject to a maximum building height of 16 metres in the Growth Centres SEPP. Each proposed building on the site includes similar design features that are above the maximum building height. These include the roof lobbies, which consist of the roof overruns and access points to common open space on the roof.

The figure below shows the actual areas throughout the development that predominately exceeds the maximum building height limit.

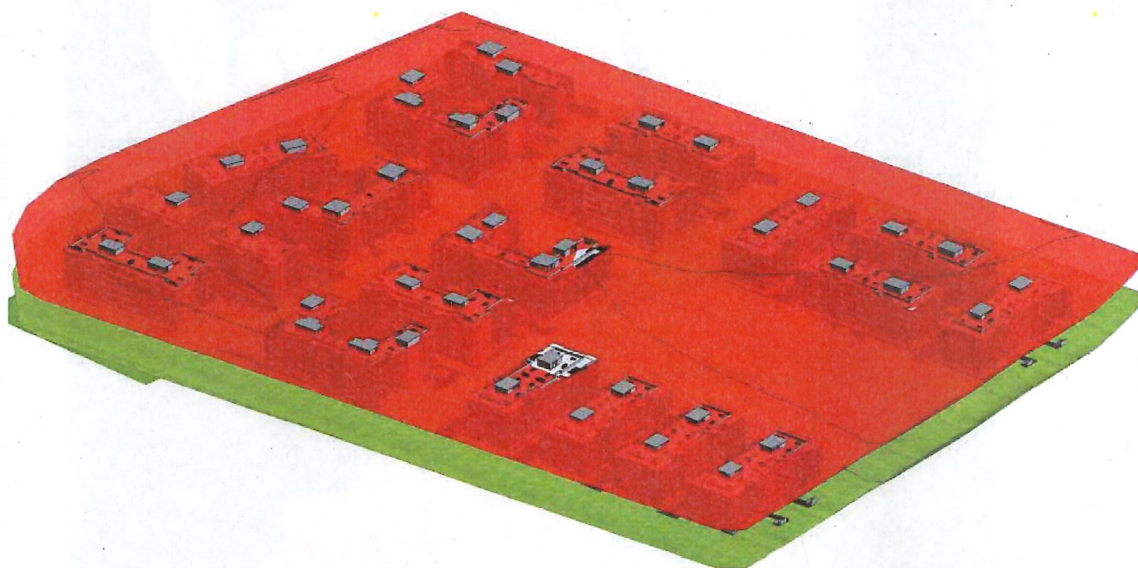


Figure 11. Lobby areas that exceed maximum building height

The footprint total area of the all roof lobbies for each building equates to approximately between 16sqm to 20sqm. The footprint of the area of non-compliance is considered to be minor in comparison with the overall building footprints generated by the proposal.

In relation to overshadowing, the shadow analysis diagrams enclosed with the architectural design plans identifies that the overall proposal would not have an adverse impact on the adjoining lands.

The lobby areas and lift overruns, also include fire stairs and roof structure. It is necessary to provide fire stair access to the roof level in case of an emergency. While

these elements exceed the maximum building height they also do produce a significant benefit to the overall function and residential amenity of the proposal.

These design features allow access to the common open space on the roof level. As such, the proposal is considered to generate a skilful design outcome in balance of the proposal versus the minor material environment impacts.

In consideration of the location of the proposed built form that exceeds the height limit, as well as the degree of exceedance and in review of likely impacts it is considered that the exceedance is completely acceptable for the site.

The proposal is supported by a clause 4.6 variation, which seeks a formal exception to the development standard and provides further justification.

#### 4.3.4 Cl. 4.6 Request for variation to height of building development standard

A request under clause 4.6 'exceptions to development standards' of Appendix 12 of the Growth Centres SEPP is made to vary Council's maximum building height development standard under clause 4.3 of Appendix 4 of the Growth Centres SEPP.

Clause 4.6 states:

*"4.6 Exceptions to development standards*

*(1) The objectives of this clause are as follows:*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard."*

#### **Objectives of the land use zone**

The site is zoned R3 Medium Density Residential. The objectives of the zone in the RLEP are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To support the well being of the community, by enabling educational, recreational, community, and other activities where compatible with the amenity of a medium density residential environment.*

The proposal meets the above by:

- The proposal offers residential accommodation, which meets the future housing needs of the area. It also provides a type of the development that is consistent with the intent of the land use zone;
- The proposal offers 20 buildings with excellent residential amenity in well sized apartments;
- The proposal does not generate any significant adverse impacts on surrounding properties; and
- The proposal is located near the a number of town centre, close to public transport, and in particular within 250 metres of the future Schofields Centre.

#### **Objectives of the building height development standard**

In accordance with clause 4.3 of the RLEP, the objectives of the maximum building height development standard area:

*(1) The objectives of this clause are as follows:*

- (a) to establish the maximum height of buildings for development on land within the Alex Avenue and Riverstone Precincts,*
- (b) to protect the amenity of adjoining development and land in terms of solar access to buildings and open space,*
- (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,*
- (d) to provide for a range of building heights in appropriate locations that provide a high quality urban form.*

The proposal meets the above by:

- As discussed in Section 4.3.3, the structure exceeding the maximum building heights for all buildings are relatively a small portion of area in comparison with the overall building footprint.
- The non-compliance does not generate any significant detrimental impacts than what would likely be generated by a complying development.
- The proposal is consistent with the intent of the zone and the future character of the area and promotes a high quality urban form.
- The proposal allows for satisfactory exposure for sky exposure and daylight surrounding buildings that would be achieved by a complying development.
- The proposal is consistent with other development in the area and offers a well resolved transition between building forms.

#### **Cl.4.6 Assessment**

The first test of clause 4.6, is whether the proposal meets the objectives of clause 4.6, which area:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

It is believed that the proposal does meet the above objectives as it offers a development that does not generate any significant environmental impacts. The proposal achieves a high quality design with excellent outcomes for the site.

The second test is under clause 4.6(3), which requires the proposal to be justified in regard to:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard."*

We believe that strict compliance with the development standard is unnecessary in the circumstances of the case, as the proposal would unlikely generate an adverse impact in regard to overshadowing on adjoining lands. Further, there are no view loss or significant adverse visual impacts generated by the proposal. As such, there is sufficient justification for the proposal on the environmental planning grounds to allow for the contravention of the development standard.

#### **Summary**

The proposed development is within the public interest because it is consistent with the objectives of the particular standard, providing a particularly high level of amenity for future residents whilst maintaining the current level of amenity to surrounding development.

Therefore, it is considered that strict compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards for Council to support the proposed development.

#### **4.3.5 Unit Sizes**

The proposed development has been assessed against the minimum unit size design criteria in the Apartment Design Guide (ADG). The ADG states that 1 bedroom units are to be a minimum of 50 sqm, 2 bedroom units are to be a minimum of 75 sqm in size where the unit includes two bathrooms, otherwise it only needs to be 70sqm where 1 bathroom is proposed and 3 bedroom units are to be a minimum size of 90sqm.

It was found that 100% of units comply with the minimum ADG unit size design criteria. Refer to architectural plans enclosed with this this report that provide detailed summary tables of each Block and apartment including unit sizes.