



Clause 4.6 Variation Request

Oran Park Podium Stage 2

Oran Park Town Centre

October 2018



Prepared for Greenfields Development Company

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A handwritten signature in black ink, appearing to read 'M Rodger', with a long horizontal stroke extending to the right.

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1 INTRODUCTION

On behalf of Greenfields Development Company, we submit this Clause 4.6 variation request which accompanies a Development Application which seeks approval for Stage 2 of the Oran Park Podium development, comprising a variety of retail experiences, residential apartment complexes and integrated open space areas.

The proposal represents a key milestone for the Oran Park Town community and South West Growth Centre, delivering an additional 16,000m² of retail floor space, two podium level residential apartment buildings and a podium level commercial building within the vibrant and modern Oran Park Town Centre.

The proposal is consistent with the overarching objectives of the current Part B Development Control Plan for the Oran Park Town Centre, in relation to the location of building height and the key corner elements.

This request has been prepared in accordance with the Department of Planning & Environment (DP&E) Guideline, Varying Development Standards: A Guide, August 2011, and relevant matters set out in the 'five-part test' established by the NSW Land and Environment Court.

This Clause 4.6 Variation request addresses the provision of lift overruns for the lower residential building and commercial building and should be read in conjunction with the associated Statement of Environmental Effects (SEE) and supporting documentation lodged with the Development Application.

The variation sought under this application is as follows:

- Residential Building 2 Lift overrun = 0.8m height exceedance
- Commercial Building Lift Overrun = 0.5m height exceedance

Scott Carver and the Oran Park Project team have also undertaken a detailed review of the Town Centre masterplan.

The review identified that the existing built form context and controls were not appropriate when considered in conjunction with the other components of the Town Centre, such as Town Park, and the planned introduction of a passenger rail station along the western edge of the Town Centre.

A separate Planning Proposal has been submitted to Camden Council which seeks support for modified building heights on the north-eastern corner of the site to deliver an iconic built form outcome.

Clause 4.6 of Appendix 1 Oran Park & Turner Road Precinct Plan allows the Consent Authority to approve a development which contravenes a development standard.

The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying development standards and to achieve better outcomes for development by allowing flexibility in particular circumstances.

Variations to building heights are consistent with the revised adopted building height plans for the Town Centre and area appropriate in the context of the site as a key iconic corner in the Town Centre framework.

2 SITE & CONTEXT

The subject site forms part of an existing large land parcel which incorporates both the development site and the existing Oran Park Podium Stage 1, and is legally described as existing Part Lot 3 DP 270899.

The development site is bordered by the existing Stage 1 retail centre to the east, Peter Brock Drive, Central Avenue to the West. The northern boundary comprises future stages 3 and 4 of the retail centre, and the existing Town Park.

Oran Park Town forms part of the South West Growth Centre, and was rezoned in December 2007. Since rezoning, the Oran Park Town project has delivered over 2,500 residential homes, Stage 1 of the Town Centre retail component, Camden Council administration building and significant open space and recreational facilities.

The development site is zoned B2 Local Centre under *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 – Appendix 1 Oran Park & Turner Road Precinct Plan* (the Growth Centres SEPP).

The site is highly accessible to both local and regional vehicular movements given its proximity to and the existing access arrangements to the basement car park along both Oran Park Drive and Peter Brock Drive.

Vehicular access to the site will be achieved via a number of access points including the existing basement car park entrances approved under Stage 1 and new access driveways from Central Avenue.

Figure 1: Locality Plan

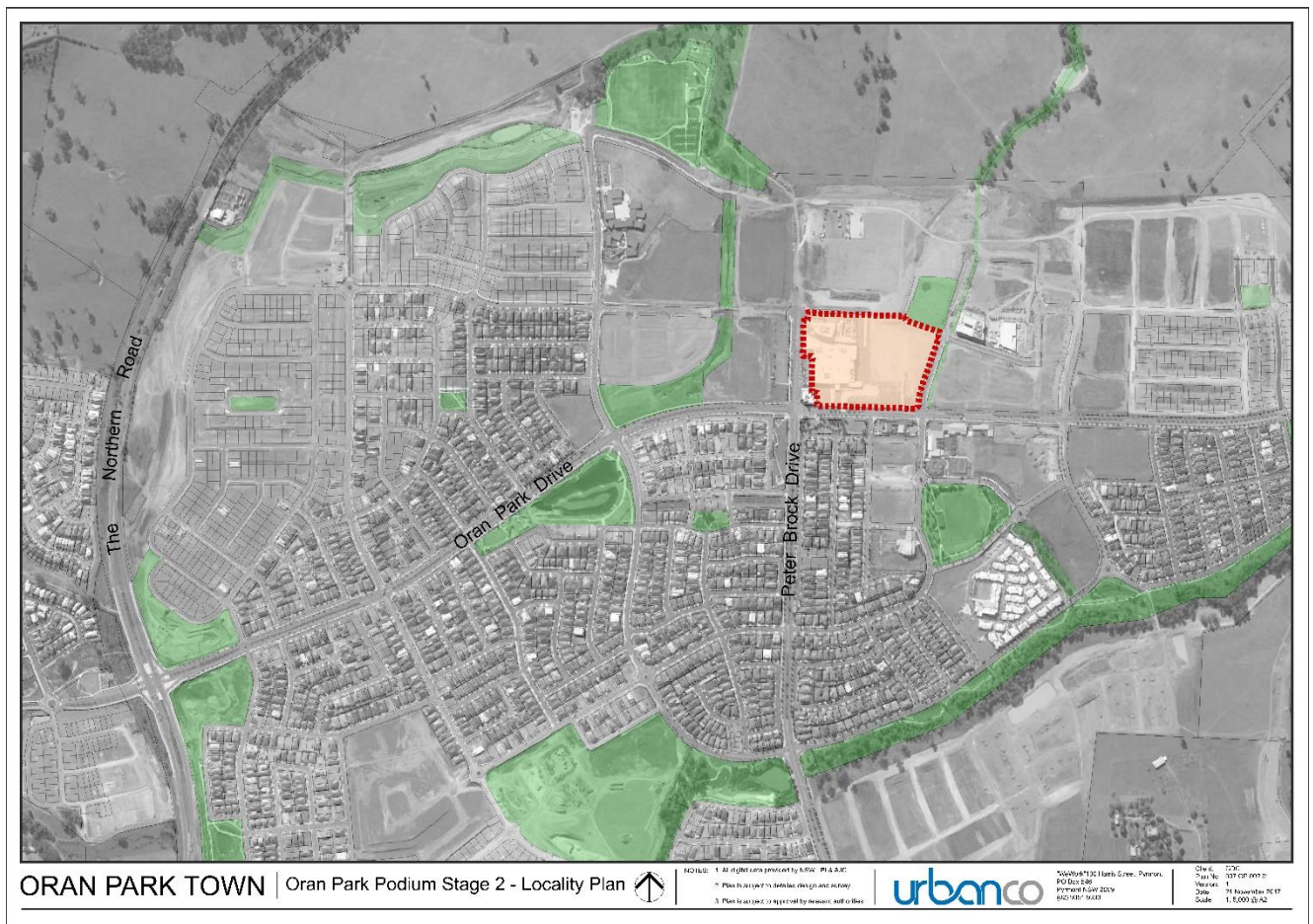
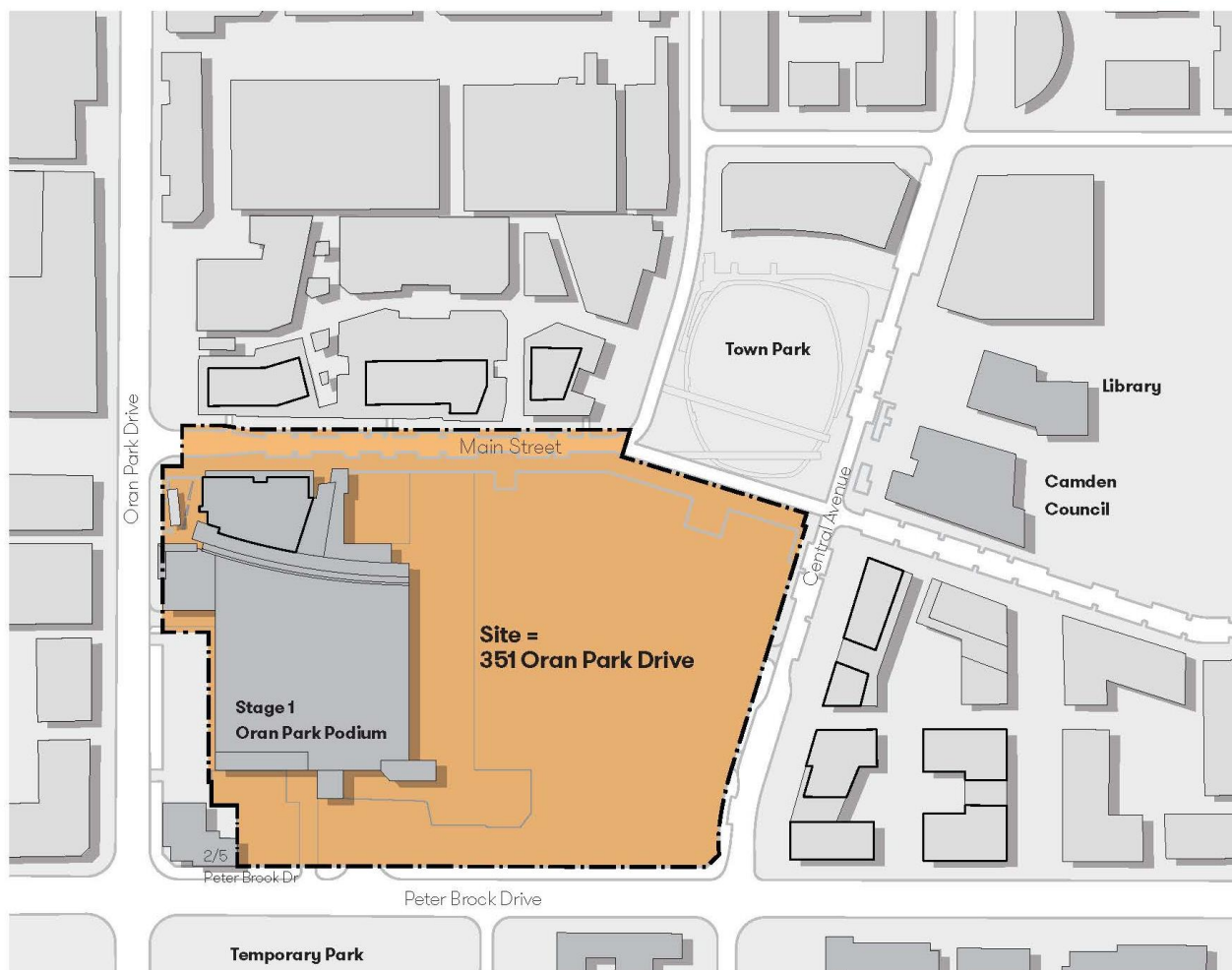


Figure 2: Site Plan (Scott Carver)



3 THE PROPOSAL

The Development Application seeks approval for the construction of an extension of the Oran Park Town Centre Podium complex. The proposal incorporates extension of the retail component, extension of the existing basement car park, continuation of Main Street (Podium Way), and the erection of two residential apartment buildings above the retail centre.

The proposal is a staged concept as described below.

Stage 1

- Extension of the retail component to accommodate small, medium and large-scale retail uses, food hall and restaurant dining with a Gross Leasable Floor Area of 16,050m²;
- Extension and minor reconfiguration of the existing basement car park to provide retail car parking areas;
- Construction of a second level basement carpark to provide parking for the residential buildings;
- Construction of new basement car park entries along Central Avenue;
- Delivery of the eastern portion of Main Street (Podium Way) and associated landscaping along the edge of Town Park;
- Construction of two residential apartment buildings above the retail complex with a total of 146 units;
- Construction of a central commercial building with a total commercial floor space area of 3,890m².
- Delivery of large scale roof-top common open space and communal facilities area for the residential apartment buildings above the retail centre; and
- Extension of the existing loading dock / service area situated along Peter Brock Drive.

This application is accompanied by detailed architectural, engineering and landscape plans which incorporate all proposed structures and site works. A detailed description of key components of the proposal is provided below.

Stage 2

- Two concept building envelopes for future residential buildings;

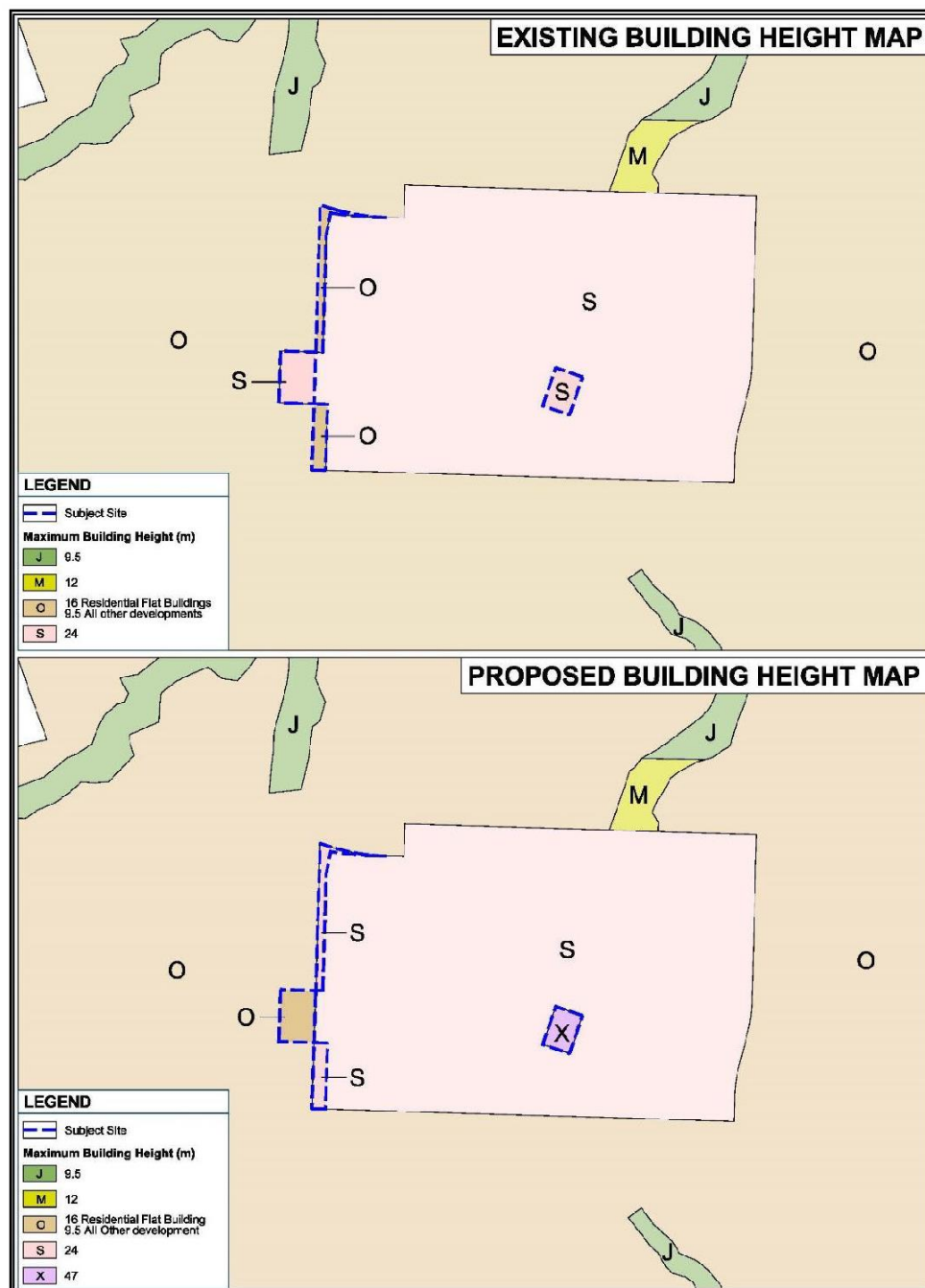
Future Development Applications to be submitted for the residential building layouts and construction.

4 TOWN CENTRE PLANNING PROPOSAL

As part of the Urban Design review and progression of the Oran Park Town Centre, Greenfields Development Company No.2 have lodged a Planning Proposal with Camden Council to be considered concurrently with this application.

The Planning Proposal is the preferred mechanism at this stage to address the main non-compliance with the SEPP building heights for the Residential 1 building.

Figure 3: Planning Proposal Adopted Building Heights (Design & Planning)



5 OUTLINE OF THE PLANNING INSTRUMENT AND PROPOSED VARIATION

a) What is the name of the environmental planning instrument that applies to the land?

The Environmental Planning Instrument pertaining to the site is State Environmental Planning Policy (Sydney Region Growth Centres) 2006 – Appendix 1 Oran Park & Turner Road Precinct Plan.

b) What is the zoning of the land?

The land is zoned B2 Local Centre zone under Appendix 1 of the Growth Centres SEPP.

c) What are the objectives of the zone?

The objectives of the B2 Local Centre zone under Appendix 1 of the Growth Centres SEPP read as follows:

- *To provide a range of retail, business, entertainment and community uses which serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure that residential development does not detract from the primary function of the centre being to provide for retail, business, entertainment and community uses.*
- *To ensure that residential development does not preclude the provision of active uses at street level.*
- *To provide for land uses of a higher order and density within the Local Centre Zone than are permitted within the Neighbourhood Centre Zone or the Mixed-Use Zone.*
- *To provide for residential development that contributes to the vitality of the local centre.*

d) What is the development standard being varied?

This variation request relates to Clause 4.3 Height of Buildings of Appendix 1 of Growth Centres SEPP, which prescribes maximum building heights for buildings within the Oran Park Precinct.

The variations are minor in the context of the scale of the proposal and are as follows:

- Residential Building 2 Lift overrun = 0.8m height exceedance
- Commercial Building Lift Overrun = 0.5m height exceedance

e) Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3 (2) requires that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Building Heights are shown on South West Growth Centre Height Of Buildings Map Sheet HOB_004. This map identifies that the site is subject to a maximum building height of 24m.

f) What are the objectives of the development standard?

The Objectives of Clause 4.3 Height of Buildings are as follows:

(a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,

(b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,

(c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,

(d) to provide appropriate height controls for commercial and industrial development.

g) What is proposed numeric value of the development standard

Building Heights are shown on South West Growth Centre Height Of Buildings Map Sheet HOB_004. This map identifies that the site is subject to a maximum building height of 24m.

The proposal seeks a variation of between 0.5m and 0.8m, representing a maximum 0.3% variation to the standard.

h) What is proposed in the development application?

The subject application seeks approval for the second stage of the Oran Park Podium mixed-use centre, comprising a variety of retail experiences, residential apartment complexes and integrated open space areas.

A detailed explanation of the proposal is included in Section 3 above.

6 FIVE PART TEST

Clause 4.6 provides appropriate flexibility in the application of development standards to achieve enhanced planning and urban design outcomes where appropriate.

As required under Clause 4.6 (3) the proposed variation to lot sizes is considered appropriate as follows:

(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The NSW Land and Environment Court had established the principle of a five-part test in determining whether compliance with a development standard is unnecessary (*Refer Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 & Wehbe v Pittwater Council [2007] NSW LEC 827*). The most common and appropriate manner of demonstrating that compliance is unnecessary, was whether the proposal met the objectives of the standard regardless of the variation.

The following discussion provides a response to each of the five (5) "tests" established by the court and demonstrates above that the objectives of the standard are achieved notwithstanding the noncompliance.

Test 1. The objectives of the standard are achieved notwithstanding noncompliance with the standard

The objectives of the lot size standard at Clause 4.3 are as follows:

(a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,

Comment: The proposal has been designed in a coordinated manner as part of a large scale mixed-use complex which forms part of an overall master-planned Town Centre project.

The proposed variations are minor in the context of the scale of the development.

The key elements of this objective are addressed below:

Solar Access

Detailed solar access diagrams have been prepared and submitted with the Development Application which demonstrate that the built form.

The proposed service cores and lift overruns do not result in overshadowing of any adjacent buildings.

Shadows from the lift overruns are wholly contained on the roof of the buildings.

Bulk & Scale

The bulk and scale respond to the both the existing Town Centre built form and the desired vision, scale and character of the Oran Park Town Centre.

The building design specifically responds to the site-specific design considerations and consistent with the principles of building height in the adopted DCP, concentrates building height on a prominent street corner.

The building form provides for activated street frontages with retail edge along the site boundary.

The building includes awnings at street level as required under the DCP.

In this regard, the lift core areas which exceed the building height will not be visible.

(b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,

Comment: Clause 7.3 *Building Envelopes / Bulk & Scale* of the Oran Park Town Centre Part B4 DCP addresses building height modulation and building envelopes within the Town Centre precinct.

The objectives of Clause 7.3 are:

- (1) To ensure that the bulk and scale of future development responds to the desired vision, scale and character of the Oran Park Town Centre and surrounding development.*
- (2) To encourage a variety of building heights within the Town Centre which respond to the site specific design considerations.*
- (3) To embody buildings with flexibility in their use over time.*

The bulk and scale of the buildings are generally consistent with the desired DCP character.

The lift overrun structure are not visible as they are centrally located within the building form.

The proposed lifts are important to ensure long term flexibility in the use of the buildings and their adaptability over time.

The proposal is considered appropriate in its context and the objectives of the DCP.

(c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,

Comment: The proposal specifically seeks approval for variation to the current mapped building heights to allow for higher density residential development within the Town Centre Core.

The proposal will deliver higher density apartment living within the Town Centre core, and significantly enhance housing diversity within Oran Park Town and the broader region.

The proposal is situated within the Town Centre core, delivering a highly accessible and walkable neighbourhood outcome for future residents.

As such, the proposal is consistent with the objective to deliver higher density residential development within the Town Centre.

(d) to provide appropriate height controls for commercial and industrial development.

Comment: The proposal seeks approval for a mixed-use development incorporating both retail, commercial and residential components.

The vast majority of the proposal complies with the relevant building height controls. Significantly, the main building components fully comply with the SEPP height limits.

The variation to the building heights relate only to a central lift core for each building. The provision of the lifts enhances flexibility in the use of these buildings and their adaptability over time.

The proposal is consistent with the objective.

Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

The application does not rely on this test for approval.

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The application does not rely on this test for approval.

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Camden Council have supported a similar variation to the permissible building height for the Town Centre commercial building approved under Development Consent 1526/2017.

This consent approved a 5m height variation, to allow for lift access to a rooftop terrace and roof structure of an internal atrium.

The building height variation proposed under this application is significantly less than the approved building height variation for the adjacent development and will achieve similar amenity enhancements.

We note that the proposed lift wells are not visible from ground level.

Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The application does not rely on this test for approval.

Given the discussion above, strict compliance with the development standard is unnecessary.

(b) There are sufficient environmental planning grounds to justify contravening the development standard

A detailed Statement of Environmental Effects (SEE) has been prepared and submitted with this application and provides a comprehensive environmental planning assessment of the proposed development.

The SEE has demonstrated that the proposal is predominantly compliant with the all adopted planning controls and guidelines for the site. The SEE has also demonstrated that there are no adverse environmental impacts as a result of the proposal.

Key long-term benefits associated with the proposal include:

- Increased retail and business services for residents;
- Enhanced Employment Opportunities;
- Completion of Town Park edge / interface;
- Enhanced Housing Diversity and Affordability; and
- Higher levels of Activation of the Town Centre

Requiring strict compliance with the building standard would impact on the ability to deliver a lift as part of the proposal.

It is our professional opinion that there are sufficient environmental planning grounds to justify variation to the maximum building height as:

- The proposal is consistent with the objectives of the zone and the objectives of the height control.
- The proposal does not result in any overshadowing impacts of either planned residential sites or streetscape areas.
- The proposed lift cores are not visible from street level due to the built form retail edge and street edge awnings.

7 IS THE VARIATION IN THE PUBLIC INTEREST

Support for this proposal will enable the delivery of a major extension to the existing Oran Park Town Centre Podium retail complex, which will espouse a broad range of social, economic and place making benefits to both residents of Oran Park Town and the broader region.

The two residential apartment buildings are situated directly above the retail centre, and will frame the southern edge of Town Park, provide iconic built form elements as key visual markers in the urban fabric of the Town Centre, and provide enhanced housing variety and affordability for future residents.

Overall, the proposed is considered to be in the public interest as:

- The proposed development will significantly expand the retail, business and ancillary services within the Town Centre servicing residents, workers and the broader community.
- Support for the proposal will significantly enhance the variety of residential housing located within the Oran Park Precinct, expanding housing choice and diversity.
- The delivery of apartments within the Town Centre will enhance housing affordability within the region.
- The delivery of residential apartments within the Town Centre core is vital to ensuring a diverse, activated and vibrant Town Centre.
- The delivery of the residential apartments will enhance the viability of local shops, restaurants and business within the Town Centre as well as enhance visitors and use of Civic facilities.
- The delivery of commercial office space will enhance the local employment opportunities for residents and the broader community.

8 CONCLUSION

This Clause 4.6 variation request seeks support for a minor variation to the current prescribed maximum building height relating to central lift core overruns for the commercial building and residential building 2.

The proposal is consistent with the overarching objectives of the current Part B Development Control Plan for the Oran Park Town Centre, in relation to the location of building height and the key corner elements.

Key long-term benefits associated with the proposal include:

- Increased retail and business services for residents;
- Enhanced Employment Opportunities;
- Completion of Town Park edge / interface;
- Enhanced Housing Diversity and Affordability; and
- Higher levels of Activation of the Town Centre

This report, and supporting plans and documentation have demonstrated that the site is highly suitable to accommodate the proposal, and is generally compliant with all relevant state and local government planning provisions.

Variations to building heights are consistent with the revised adopted building height plans for the Town Centre and area appropriate in the context of the site as a key iconic corner in the Town Centre framework.

The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying development standards and to achieve better outcomes for development by allowing flexibility circumstances.

This variation request has demonstrated that

- Compliance with the development standard is considered unreasonable and unnecessary in the circumstances;
- There are sufficient environmental planning grounds to justify the contravention;
- The proposal maintains consistency with the objectives of the B2 Local Centre zone;
- The proposal is consistent with the objectives of Clause 4.3 Building Height, despite the non-compliance;
- The proposed development is an appropriate response to the context of the site, and the breach of the standard is compatible with the existing and future character of the area; and
- Support for the proposed variation will have a positive environmental impact and is in the public interest.

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