

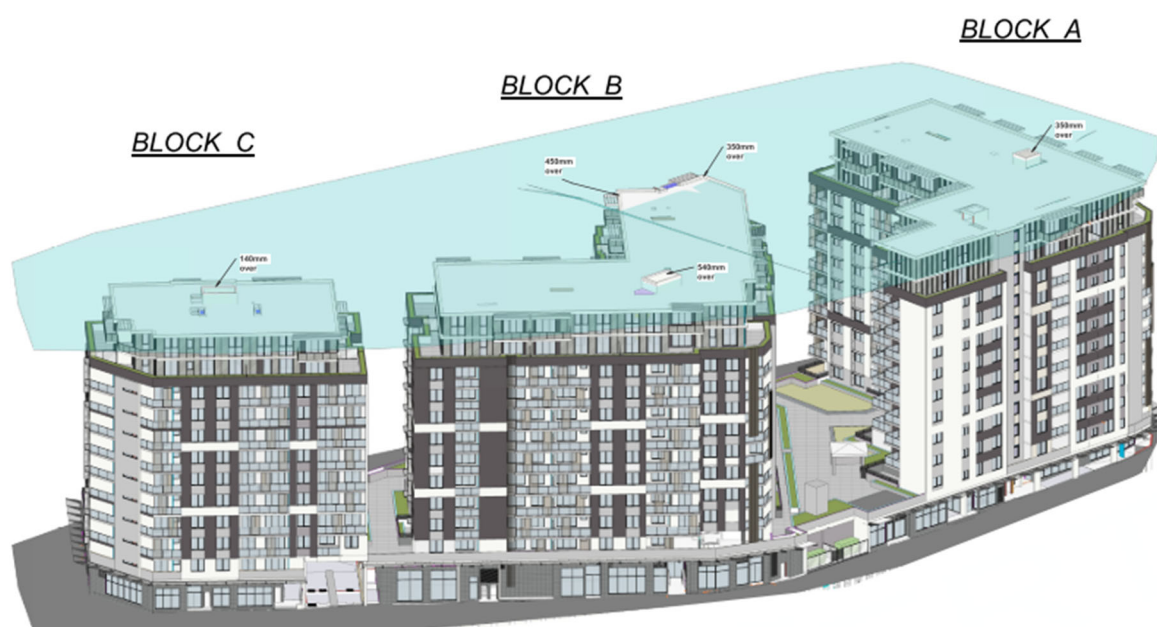
Council assessment of Clause 4.6 request

1 Overview

The applicant has lodged a Clause 4.6 request to vary the building height limit of 40 m under Clause 4.3 of Blacktown Local Environmental Plan 2015 (BLEP). A copy of the applicant's Clause 4.6 submission is at attachment 7.

2 Visual representation of offset

The maximum building height of 40 m under the BLEP is varied in this application to achieve a maximum height of 40.55 m (variation of 1.4%), specifically up to 40.45 m to the building parapet and 40.55 m to the lift overruns, as shown below against the 40 m building height plane:



A more detailed extent of height variation is depicted in the elevation plans at attachment 5.

3 Clause 4.6 variation considerations

Clause 4.6 requires consideration of the following matters and a town planning comment is provided to each item.

3.1 Consideration as to whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))

The applicant's written request has adequately justified that compliance with the height development standard is unreasonable and unnecessary in this instance. It is considered that the variation is unreasonable and unnecessary for the following reasons:

- To enforce 100% compliance in this circumstance is considered unreasonable as the proposal is compatible with the emerging scale of development in the locality.

- From the elevation plans, the bulk of the buildings are below the 40 m building height limit, except for a small part of the parapet of Block B on its northern side, and the lift overruns.
- The portion of the roof structures that exceed the height limit are required mainly for services, which are contained in the central area of the roof level, representing only point encroachments into the height plane. The proposed encroachments do not result in excessive bulk and scale and do not result in adverse shadow and amenity impacts on surrounding properties and would be barely discernible from the public domain.

3.2 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 does not create additional overshadowing, privacy and streetscape impacts and therefore will not have any adverse impact on its surroundings.
- The development is consistent with the objectives of the development standard and the objectives for development in the zone.

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

Applicable EPI	
Objectives of Clause 4.3 to be varied	How the proposal achieves the objective
To minimise the visual impact, loss of privacy and loss of solar access to surrounding development and the adjoining public domain from buildings.	The site and the surrounding areas are intended to become a new hub in the Western Sydney area by facilitating more mixed use commercial and residential developments. The recently gazetted Mount Druitt CBD Planning Proposal included this particular site to achieve up to 40 m building height with no FSR control. The proposed development in this regard is acceptable. The upper 2 floors will be recessed to reduce its visual impact, minimising the loss of solar access and privacy impacts to the street and to the surrounding land uses.
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 proposed building's bulk and scale will be compatible with the emerging scale of the locality which has been envisioned for the Mount Druitt CBD area.
To define focal points for denser development in locations that are well serviced by public transport, retail and commercial activities.	The site is surrounded by existing commercial businesses. Mount Druitt Hospital is located further to the east beyond the Luxford Court Shopping Centre and the Shopsmart Outlet Centre. Public recreation areas and the Mount Druitt Swimming Centre are located to the south and south-west, and community uses and educational facilities uses further afield. The site is also located close to the Westfield Mount Druitt shopping centre and bus/rail interchange. It also has access to the regional road network along Carlisle Avenue to the Great Western Highway and M4 and M7 motorways. Based on the site's proximity to those existing facilities, the proposed development is an appropriate focal point for a denser development.
To ensure that sufficient space is available for development for	The site has an approval for commercial/retail uses on the ground floor, a supermarket on the mezzanine floor, with

Applicable EPI	
Objectives of Clause 4.3 to be varied	How the proposal achieves the objective
retail, commercial and residential uses.	residential apartments above. Sufficient parking is also proposed with surplus for these uses in the basement levels.
To establish an appropriate interface between centres, adjoining lower density residential zones and public spaces.	The adjoining land uses are also zoned B4 Mixed Use. As established in the previous objective, the proposal will serve as an appropriate interface between commercial centres and public spaces.

Therefore, the proposal is in the public interest because the development is consistent with the objectives of this particular development standard.

3.4 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 as this request is adequate, does not raise any matter of significance for State or regional environmental planning and there is no public benefit in strictly maintaining the standard.

Based on the above assessment, the Clause 4.6 variation request is considered reasonable and is recommended support.