

Council assessment of Clause 4.6 request

1 Overview

The applicant has lodged a Clause 4.6 variation submission to vary the building height limit of 64 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 11.

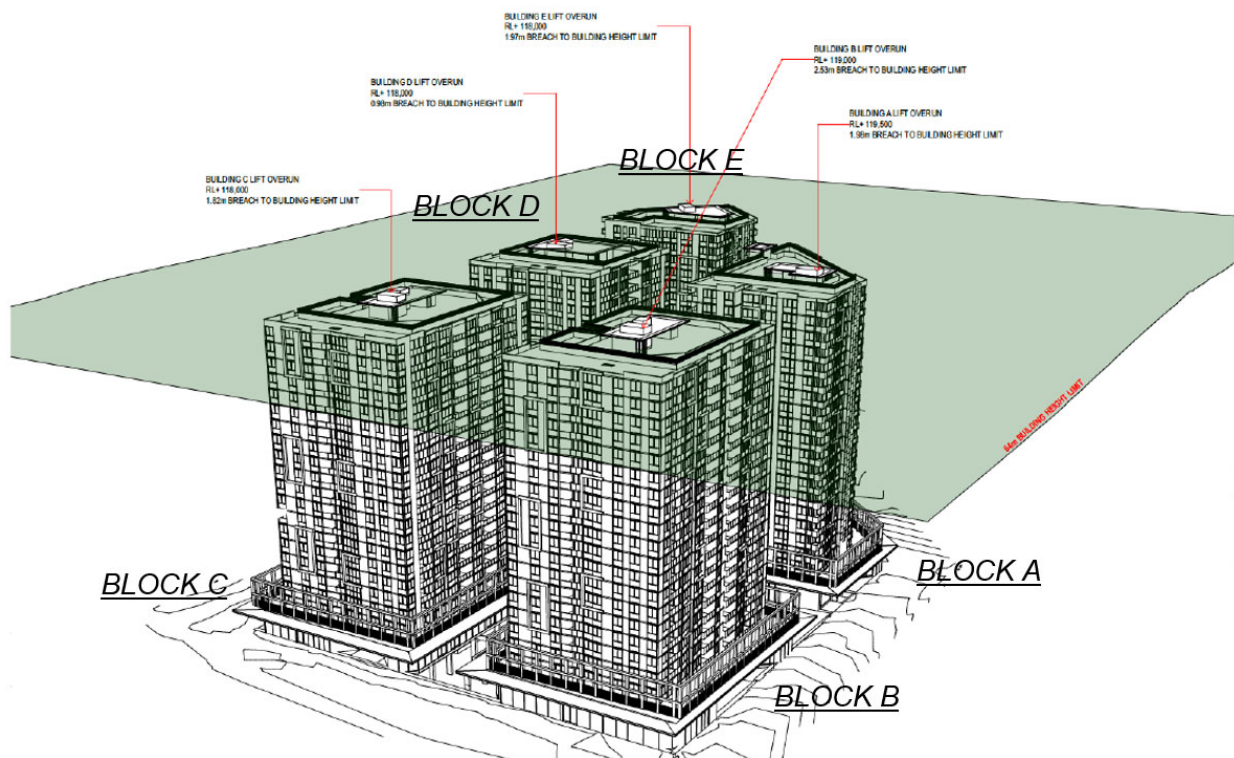
2 Visual representation of offset

The figure below identifies the portions of the development that are proposed to exceed the height limit of 64 m and the portions that are proposed to be below the height limit.

The maximum building height of 64 m under the Blacktown Local Environmental Plan 2015 is varied in this application to achieve a maximum height of 66.53 m (variation of 2.53%). As shown in the figure below, the variation only relates to lift overruns that sit above the height plane at various points across the site.

A summary of each variation for tower form is provided below:

- Building A = 65.98m (variation of 1.98m or 3.09%)
- Building B = 66.53m (variation of 2.53m or 3.95%)
- Building C = 65.82m (variation of 1.82m or 2.84%)
- Building D = 64.98m (variation of 0.98m or 1.53%)
- Building E = 65.97m (variation of 1.97m or 3.07%)



A more detailed extent of height variation is depicted in the elevation plans at attachment 8.

3 Clause 4.6 variation considerations

Clause 4.6 requires consideration of the following matters and a town planning comment is provided in respect of 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 underlying purpose of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered both unreasonable and unnecessary for the following reasons.

- This proposal is compatible with the emerging scale of development in the locality and is consistent with the future character of Mount Druitt CBD.
- The portion of the buildings that exceed the height limit are lift overruns 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/or amenity impacts on surrounding properties and would be barely visible from the public domain.
- The proposed encroachments to the overall building height do not result in additional yield in terms of the number of apartments or storeys.
- The proposal provides a better planning outcome because it provides access to the communal open spaces with access to sunlight for recreation purposes and the amenity of its occupants.
- A strict compliance to the proposed building height variation would be unreasonable in the circumstances.

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 in the public interest as it is consistent with the objectives of the development standard and the objectives for development in the zone.
- The proposal provides a better planning outcome because it provides access to rooftop communal space on the buildings with access to sunlight, suitable recreation areas and amenity for its future residential occupants.

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.	<p>The predicted overshadowing is as expected for the building on a site with the existing 64 m maximum height of buildings development standard.</p> <p>The parts of the building causing the height non-compliance are only the lift overruns .The lift overrun elements are situated centrally within the tower forms</p>

Applicable EPI	
Objectives of Clause 4.3 to be varied	How the proposal achieves the objective
	<p>and any shadows generated are captured on the roof of the buildings. These elements are not highly visible from the public domain and do not cause any overlooking issues to neighbours.</p> <p>Therefore, the visual, privacy and loss of solar access impacts of the proposed building are minimal and the proposal meets this objective.</p>
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.	<p>The site is located to the north of Mount Druitt Train Station, on the northern side of North Parade and is surrounded by a range of commercial, community service, public open space and car parking uses. To the north and north east of the site, there are a public recreation area, the Mount Druitt Library and a medical centre with associated on grade car-parking. To the east of the site, there is an on-grade car park associated with Community Services office building that is located further to the east. To the west of the site there are several two storey commercial buildings (Dawson mall) on the opposite side of Cleeve Close. The Westfield Mount Druitt shopping centre is located further to the west. The close distance from the site to the railway station and those existing facilities is desirable and is an appropriate focal point for a denser development.</p>
To ensure that sufficient space is available for development for retail, commercial and residential uses.	This objective will be achieved notwithstanding the non-compliance as the proposed built form accommodates a range of retail, residential and commercial uses within the built form.
To establish an appropriate interface between centres, adjoining lower density residential zones and public spaces.	<p>The adjoining land uses are also zoned B4 Mixed Use. As established in the previous objective, the proposal will still serve as an appropriate interface between commercial centres and public spaces. The lift overrun elements are situated centrally on the rooftops and will not be perceived from street level or public spaces</p>

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

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

Applicable EPI	
Objectives of zone B4 Mixed Use	How the proposal achieves the objective
To provide a mixture of compatible land uses	The proposal provides multiple uses within the building including commercial use at the ground floor (e.g. retail, food and drink premises), retention of the existing club and residential apartments
To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling	The proposal integrates the commercial and residential development within a walking distance of Mount Druitt Train Station and additional amenity within the CBD.

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

3.5 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 as this request is adequate, does not raise any matter of significance for State or Regional environmental planning and there is no public benefit of maintaining the standard, as discussed below.

3.5.1 Contravention of the development standard does not raise any matter of significance for State or Regional environmental planning.

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. The development meets the objectives of the zone and results in no detrimental impacts resulting from the minor height exceedance. The proposed development also satisfies the objectives of the standard.

3.5.2 There is no public benefit in maintaining the standard.

There is no public benefit in maintaining the standard in this instance, as when compared to providing a development that strictly complies with the height of buildings development standard, the impact of the proposal on the surrounding area is no different while this application also offers a public benefit because it provides additional rooftop recreational facilities for the use of the residents. Therefore, there is no public benefit in maintaining strict compliance with the development standard in this instance.

3.5.3 There are no other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

It is considered that all matters required to be taken into consideration by the Secretary before granting concurrence have been adequately addressed as part of this Clause 4.6 variation request to vary Clause 4.3 of Blacktown Local Environmental Plan 2015.

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