

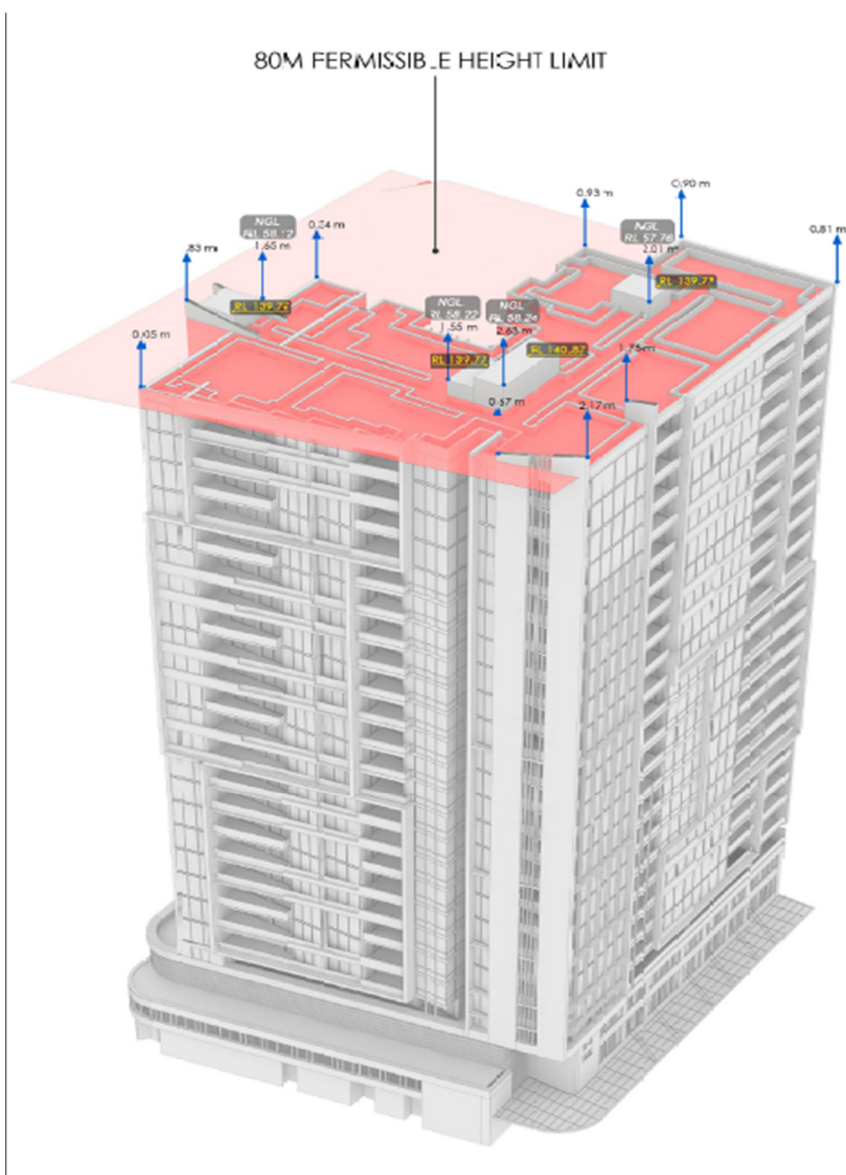
1 Overview

The applicant has lodged a Clause 4.6 variation submission to vary the maximum building height requirement of 80 m under Clause 4.3 of the Blacktown Local Environmental Plan 2015. A copy of the applicant's Clause 4.6 submission is at attachment 6.

The maximum building height of 80 m under the Blacktown Local Environmental Plan 2015 is varied to achieve a maximum height of 82.63 m (variation 3.29%) specifically to the:

- lift overruns, 82.01 m (variation of 2.51%)
- staircase roof, 82.17 m (variation of 2.71%)
- architectural feature
- building parapet 0.93 m (variation of 1.16%)

as shown below against the 80 m building height plane:



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

It should be noted that the applicant's Clause 4.6 request has indicated a maximum building height of 81.15 m (variation of 1.4%) to the lift overruns, which is inaccurate to the above findings and the architectural plans.

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 inaccurately and inadequately justified that compliance with the height development standard is unreasonable and unnecessary.

The request suggests that the proposal is, '...predominantly compliant with the maximum building height' (page 79 of the SEE dated November 2021).

The elevation plans in attachment 5, however, demonstrate that the 80 m height limit is varied on all elevations and by all of the rooftop features.

The request also suggests that, 'The overall height of the development presents as a compatible form of development within the evolving high-density development within the Blacktown North CBD Precinct.' (page 81 of the Statement of Environmental Effects, dated November 2021).

There is currently no development within the 80 m building height limit close to the site that exceeds the maximum limit. The site does have a current existing approval under JRPP-15-2087 for an 18-storey shop-top housing development (with a building height of 61.35 m), under the previous maximum height limit of 56 m. The current proposal has opportunities to comply given the additional 24 m current building height allowance.

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

The proposal demonstrates insufficient environmental planning grounds to justify contravening the height of the development. It does not address the height of building objectives under Clause 4.3 of the Blacktown Local Environmental Plan 2015.

Access to the rooftop for private open spaces is also not sufficiently justified as this will not provide a superior amenity to the future residents. The use of this area is considered unnecessary as it is not required given the minimum private open space requirements for the respective units is already addressed by the provision of balconies off these units on Level 24.

The proposed building design also has not considered its relationship with the surrounding current developments, which are much lower in scale. In particular, the development should demonstrate how the isolated existing single storey shops along Sunnyholt Road, separated by Zolyomi Lane on the eastern side, can be appropriately developed in a future context.

3.3 The objectives of the standard are not achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Applicable EPI - Blacktown Local Environmental Plan 2015	
Objectives of Clause 4.3 to be varied	How the proposal does not achieve the objective
To minimise the visual impact, loss of privacy and loss of solar access to surrounding	The proposal has not considered its relationship with the surrounding existing and future built form context. In particular, how that the existing single storey shops along

Applicable EPI - Blacktown Local Environmental Plan 2015	
Objectives of Clause 4.3 to be varied	How the proposal does not achieve the objective
development and the adjoining public domain from buildings	Sunnyholt Road, separated by Zolyomi Lane on the eastern side, can be appropriately developed in a future context. According to the solar access diagrams at attachment 5, the proposed shadow impacts are excessive, to the extent that it will cast shadows towards the residential areas on the eastern side of Sunnyholt Road and towards the commercial areas on the southern side of the railway corridor.
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 proposal is not compatible with the desired development outcome for the CBD area. There is currently no development of this scale nor one that exceeds the maximum building height above the 80 m limit. Furthermore, the development in its current form has numerous non-compliances to the Apartment Design Guide's requirements, including setback, as well as future resident amenity in relation to solar access and cross ventilation requirements.
To define focal points for denser development in locations that are well serviced by public transport, retail and commercial activities	The proposal has not exhibited design excellence for the CBD area and does not achieve a superior design outcome for a building of this scale.
To ensure that sufficient space is available for development for retail, commercial and residential uses	The proposed development is currently deficient in demonstrating adequate amenity to its future occupants, and has not been appropriately designed to encourage lane activation at ground level by the proposed commercial uses.
To establish an appropriate interface between centres, adjoining lower density residential zones and public spaces	As mentioned above.

Therefore, the proposal is not 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 not achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Applicable EPI - Blacktown Local Environment Plan 2015	
Objectives of B4 zone	How the proposal does not achieve the objective
To provide a mixture of compatible land uses	The proposal in its current form fails to integrate the varying land uses with a suitable waste management plan nor does it demonstrate adequate truck headroom clearance for waste collection. Should the headroom clearance be made higher, then this will result in a need for an additional height variation to the maximum building height which is unacceptable.
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 is considered unsuitable in this location as it has not demonstrated that it will be a positive feature or focal point within its surrounding developments and in the wider CBD context.

Therefore, the proposal is not 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 not 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 line with Planning Circular PS 08-003. The Secretary (formerly Director-General) of the NSW Department of Planning and Environment's concurrence is not assumed as this request is inadequate, and does raise any matter of significance for State or regional environmental planning and there is public benefit of maintaining the standard.

Based on the above assessment, the Clause 4.6 variation request is considered unreasonable and is not to be supported. The extent of variation between what is depicted in the architectural plans and the applicant's Clause 4.6 request is also inconsistent therefore inaccurate.