

Council assessment of Clause 4.6 request

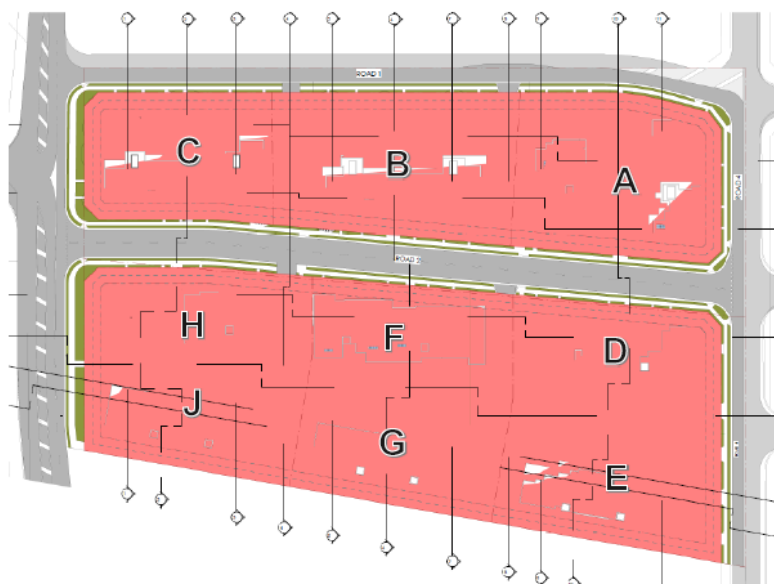
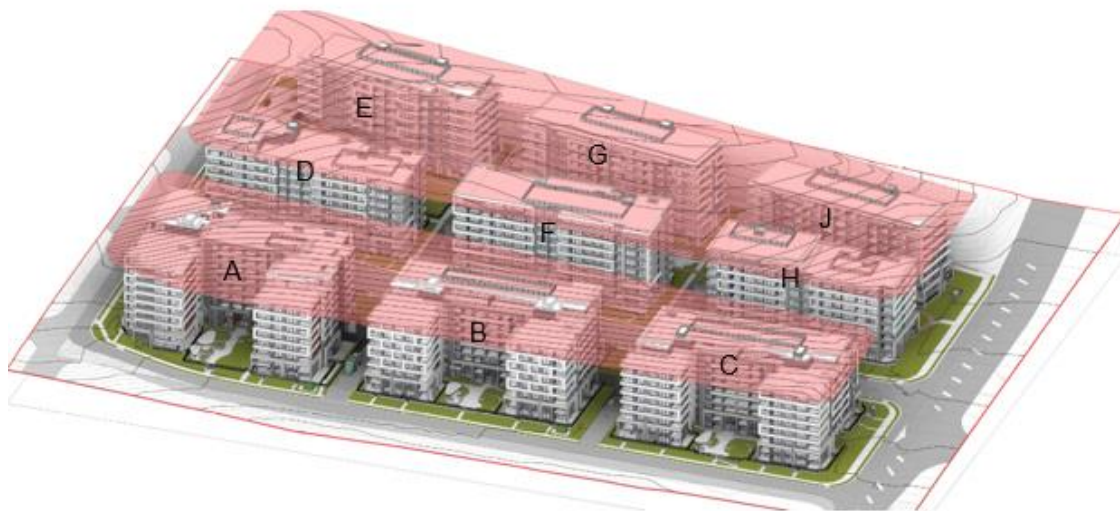
1 Overview

The applicant has lodged a Clause 4.6 variation submission to vary the building height limit of 26 m under Clause 4.3 of State Environmental Planning Policy (Precincts - Central River City) 2021. A copy of the applicant's Clause 4.6 submission is at attachment 8.

2 Visual representation of offset

The figure below identifies the portions of the development that are proposed to exceed the height limit of 26 m and the portions that are below the height limit.

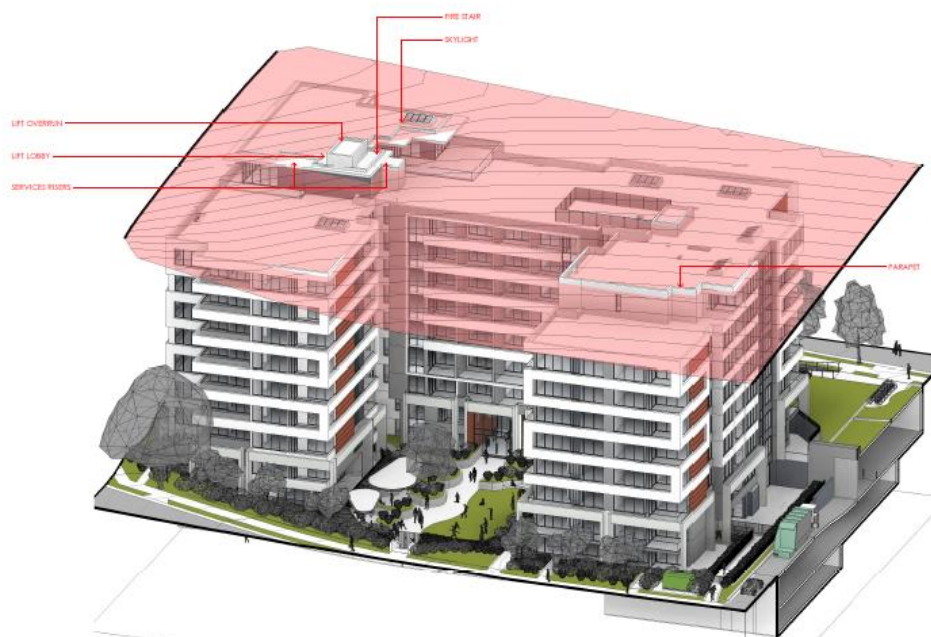
The maximum building height of 26 m under State Environmental Planning Policy (Precincts - Central River City) 2021 is varied in this application to achieve a maximum height of 28.08 m (variation of 8%). As shown in the figure below, the variation relates to lift cores, lift lobbies, plant and equipment, fire stairs, parapets, and skylights at various points across the site.



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

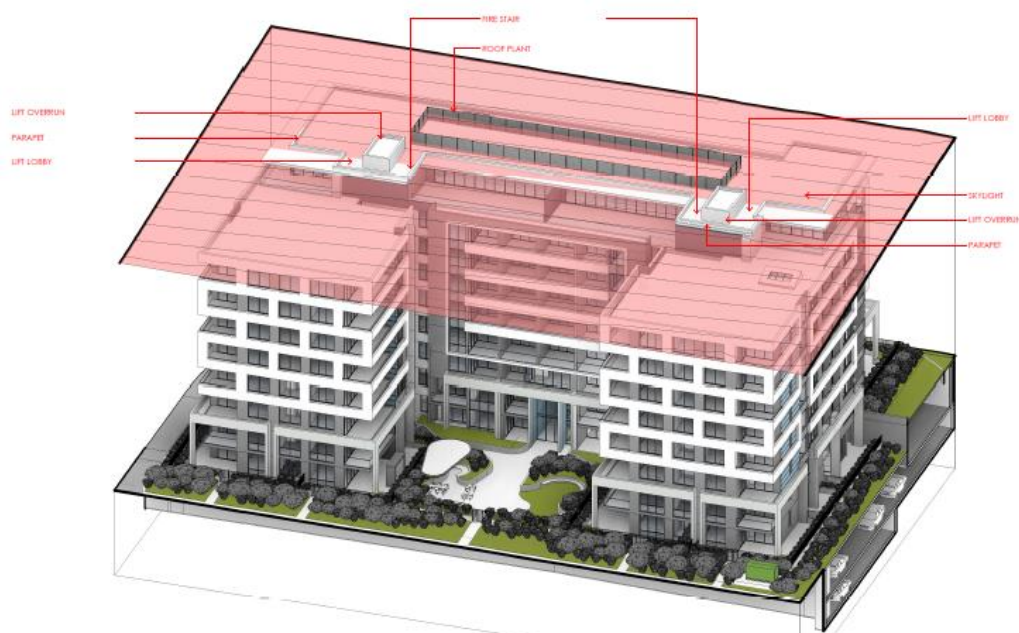
- Building A = 28.08 m (maximum variation of 2.08 m or 8%) lift overrun

Other elements of the building with lesser variation include the lift lobby, fire stairs, skylights, plant and equipment, and roof slabs and parapets.



- Building B = 27.89 m (maximum variation of 1.9 m or 7.3%) lift overrun

Other elements of the building with lesser variation include the lift lobbies, fire stairs, skylights and parapets.



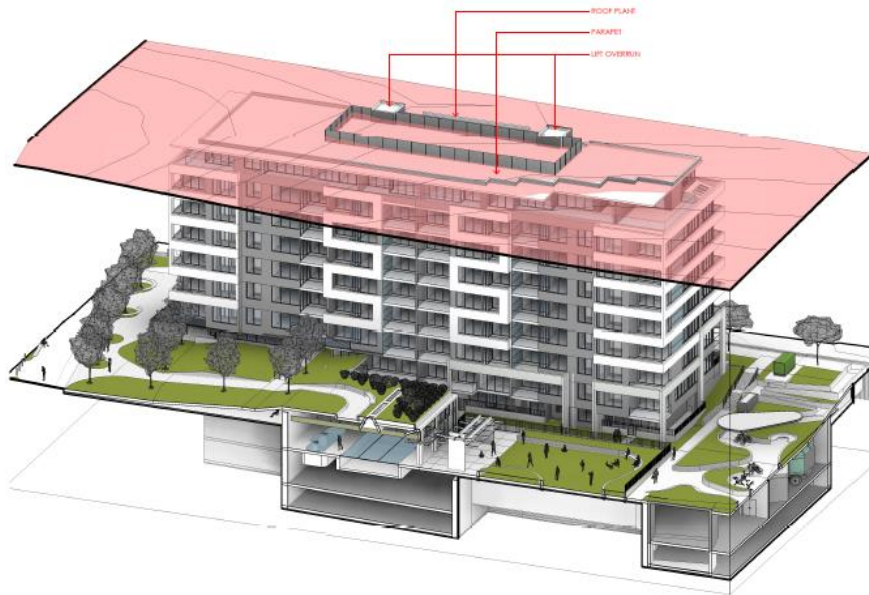
- Building C = 27.70 m (maximum variation of 1.7 m or 6.5%) lift overrun
Other elements of the building with lesser variation include the lift lobby, fire stair, skylights and parapets.



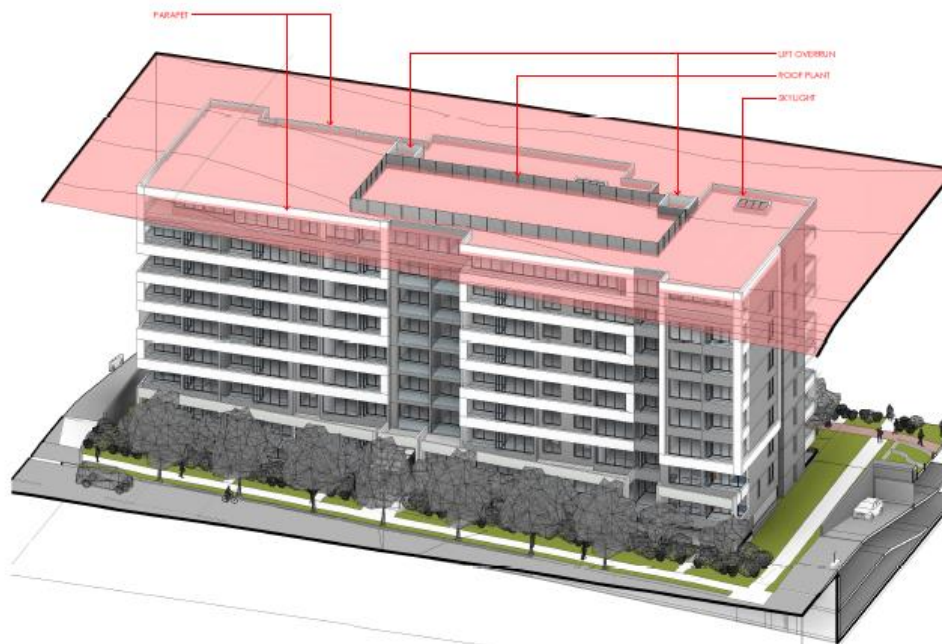
- Building D = 27.27 m (maximum variation of 1.27 m or 4.9%) lift overrun
Other elements of the building with lesser variation include plant fence, roof slab and parapets.



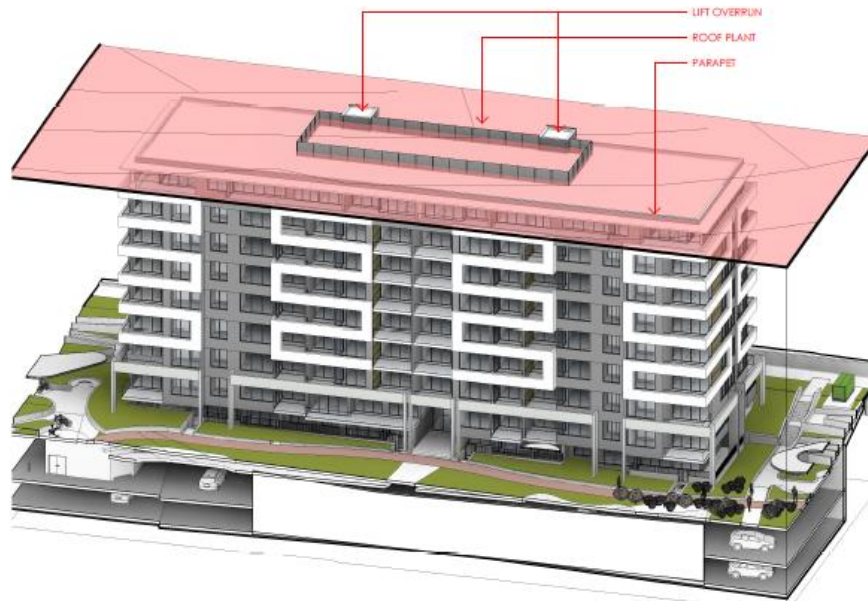
- Building E = 27.45 m (maximum variation of 1.45 m or 5.6%) plant fence
Other elements of the building with lesser variation include lift overrun, roof slab, parapets and plant room.



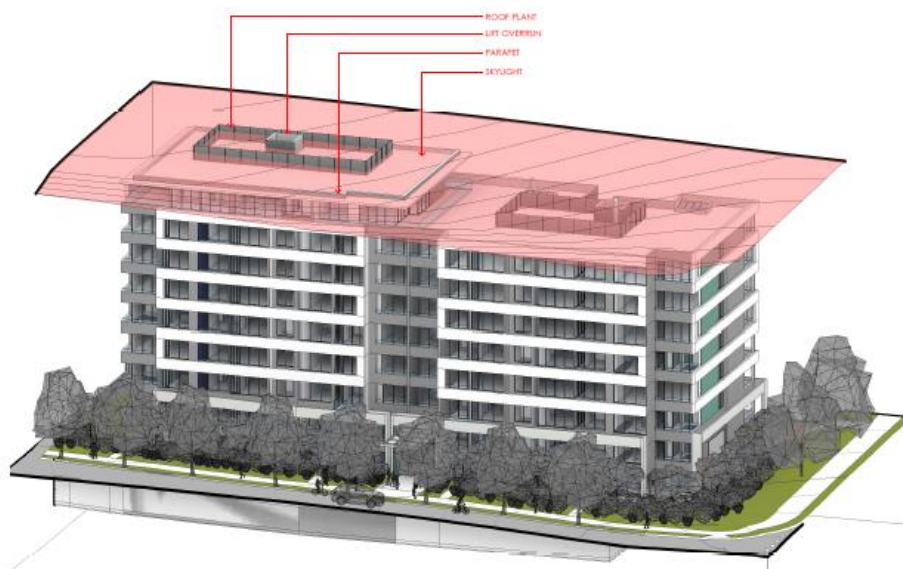
- Building F = 27.18 m (maximum variation of 1.18 m or 4.5%) plant fence
Other elements of the building with lesser variation include lift overruns, plant and equipment, roof slab, skylights and parapets.



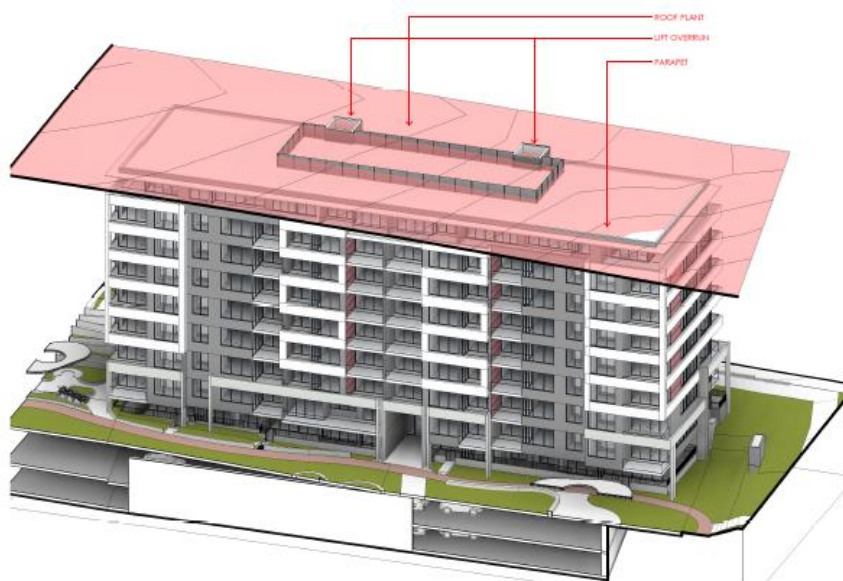
- Building G = 27.10 m (maximum variation of 1.1 m or 4.3%) plant fence
Other elements of the building with lesser variation include lift overruns, roof slab, parapets, plant and equipment.



- Building H = 27.15 m (maximum variation of 1.15 m or 4.4%) plant fence
Other elements of the building with lesser variation include lift overrun, roof slab, skylight and parapets.



- Building J = 27.05 m (maximum variation of 1.05 m or 4%) plant fence
Other elements of the building with lesser variation include lift overrun, roof slab and parapets.



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 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.

- The proposal is compatible with the emerging scale of development in the locality and is consistent with the future character of Riverstone East Precinct and the directly adjoining Tallawong Station Precinct.
- The portion of the buildings that exceed the height limit are lift cores, plant rooms and minor roof structures are just point encroachments. The proposed encroachments do not result in adverse shadow and/or amenity impacts on surrounding properties and would be barely visible from the public domain.
- The portion of the proposed encroachments to the overall building height do not result in additional yield in terms of the number of apartments or storeys.
- 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 development is in the public interest as it is consistent with the objectives of the development standard and the objectives of the R3 Medium Density Residential zone.
- The areas of non-compliance are non-habitable and are not considered to result in additional overshadowing, privacy, or streetscape impacts and will not have any adverse effect impact on its surroundings.

- The development is proposed on a sloping site, and the design responds to these site conditions with minor non-compliances located on the roofs of the buildings.

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 establish the maximum height of buildings	The proposal generally aligns with the 26 m height of building standard with minor point encroachments, including lift cores, plant rooms and other roof structures.
To minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space	<p>The predicted overshadowing is as expected for the proposed buildings on a site with the existing 26 m height of building standard.</p> <p>The parts of the buildings causing the height non-compliance are only point encroachments including lift cores, plant rooms and minor roof structures. These elements are generally setback so they are not visible from the public domain and do not cause any overlooking issues to neighbours.</p> <p>Shadow diagrams provided with the application indicate that overshadowing of the non-compliant elements remain within the site boundary.</p> <p>Therefore, the visual privacy and solar access impacts of the proposed building are minimal and the proposal meets this objective.</p> <p>The site is located approximately 1.6km from Rouse Hill House, a heritage item. The visual impact of the 26 m height on the heritage item was assessed as part of the Planning Proposal which increased the height of building control of the site from 16 m to 26 m. As part of the Planning Proposal, a Visual Impact Assessment was prepared by Ethos Urban which considered the impacts of the height increase on view corridors from Rouse Hill House and Estate. A letter has been provided by Ethos Urban for this proposal which concludes that the height increase results in negligible changes to the Visual Impact Assessment. The letter also concludes that the proposal is consistent with the conclusions of the previous assessment which concludes that the planning proposal will generate no apparent view loss or blocking.</p>
To facilitate higher density development in and around commercial centres and major transport routes	The site is located to the west of the Tallawong Metro Station and Local Centre. The proposal provides for high density development around the local centre and major transport route.

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 R3 zone	How the proposal achieves the objective
To provide for the housing needs of the community within a medium density residential environment.	The proposed development provides additional housing in a high amenity residential environment with direct access to the Tallawong Metro Station and local centre.

Applicable EPI	
Objectives of R3 zone	How the proposal achieves the objective
To provide a variety of housing types within a medium density residential environment.	The proposed development includes variety of housing types and a mix of 1, 2 and 3 bedroom apartments.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	The non-compliance does not impact on the ability for facilities or services to be provided in the area. The proposal includes a publicly accessible plaza with 2 retail premises, the site provides pedestrian connectivity to the Tallawong Station and future local centre.
To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.	The proposal supports the wellbeing of the community by providing communal areas throughout the site which can be used for by residents for appropriate activities.

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. Therefore, there is no public benefit in maintaining strict compliance with the development standard in this instance.

3.5.3 There are no 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 State Environmental Planning Policy (Precincts - Central River City) 2021.

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