

Council assessment of Clause 4.6 request

1 Overview

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

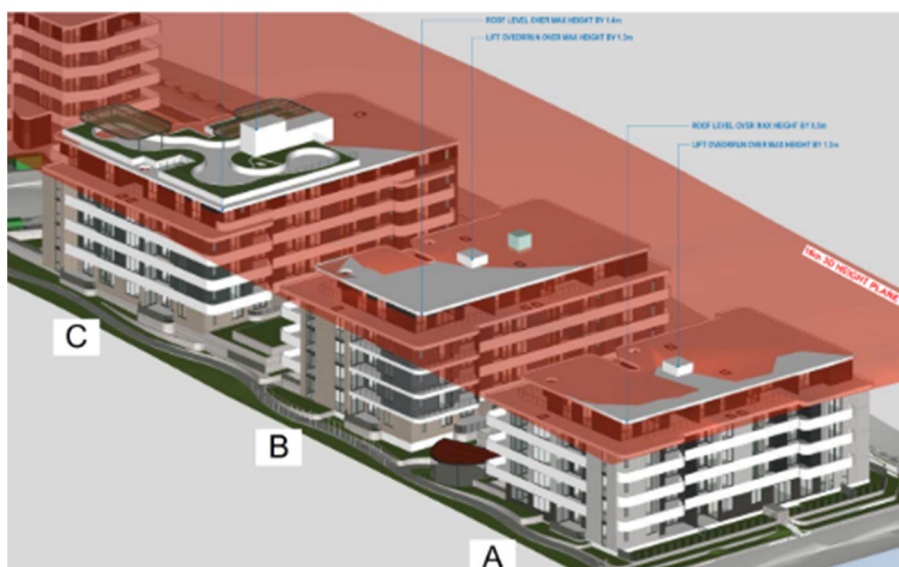
2 Visual representation of offset

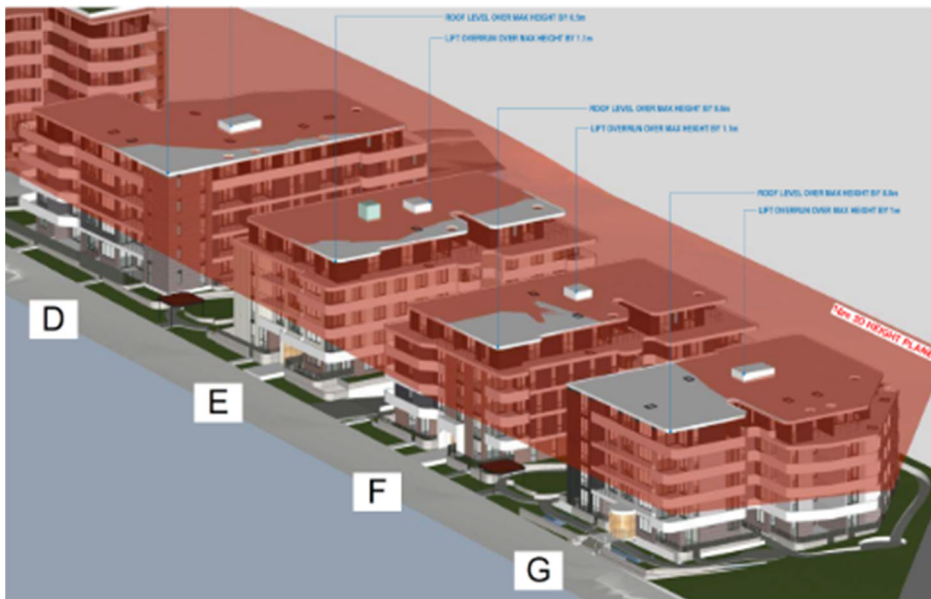
The following figures identify the portions of the development that exceed the height limit of 16 m and the portions of the development that are below the height limit.

The proposed structures coloured in grey (above the red blanket) in the image below exceed the 16 m maximum building height permitted under the State Environmental Planning Policy (Precincts - Central River City) 2021.

The proposed lift overrun to the rooftop communal open space on Building C exceeds the height by up to 4.7 m. Point encroachments to top of the lift overruns is also proposed on the other buildings ranging in height of between 1 m and 1.3 m (6% - 8.1% variation). Other height variations are also proposed between 0.5 m and 1.5 m (3.1% - 9.4% variation) to ceiling areas of habitable floor spaces and roof parapets, as follows:

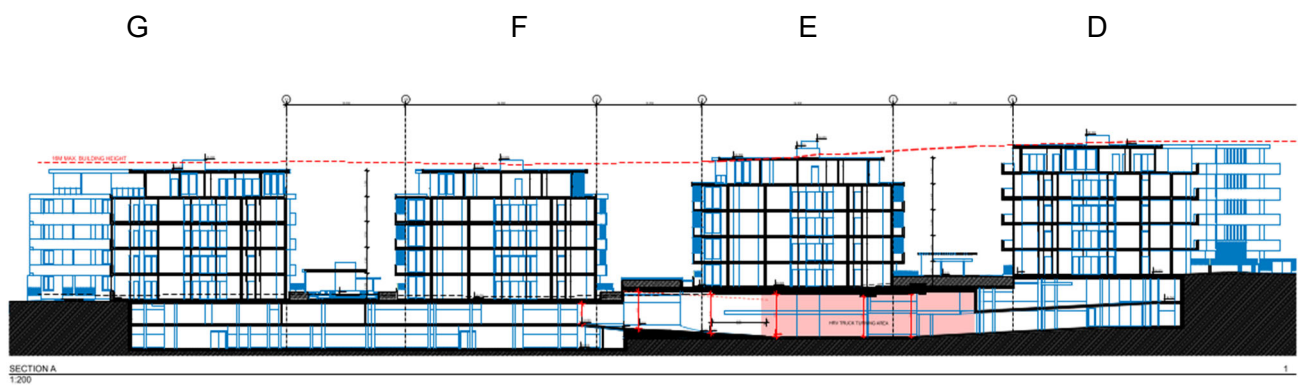
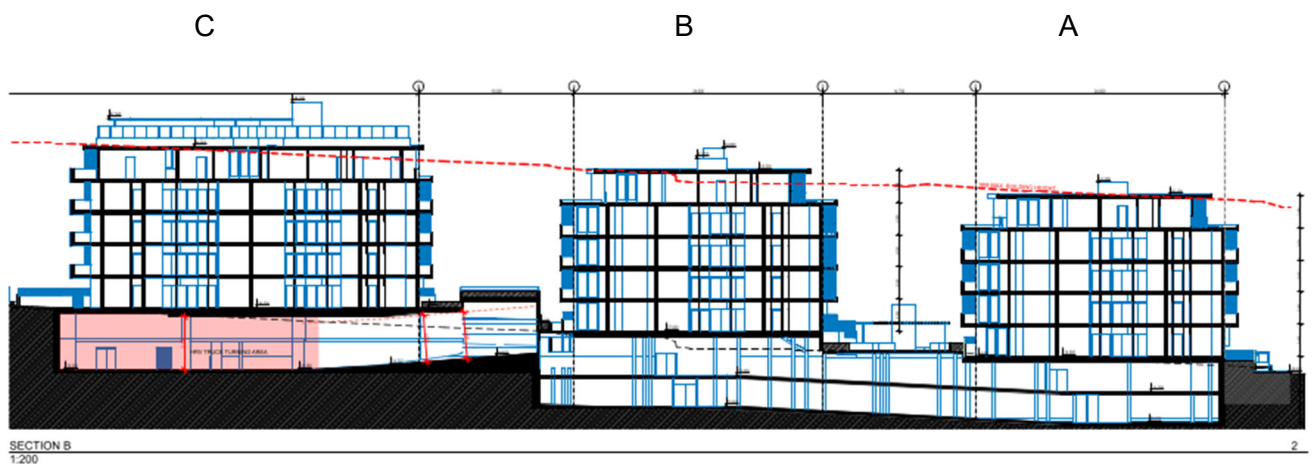
Building	Roof Encroachment	Lift Overrun Encroachment	Departure
Building A	0.5m	1.3m	8.1%
Building B	1.4m to Roof + Area of habitable floor space of 600mm	1.3m	8.1%
Building C	1.5m + Area of habitable floor space of 700mm	4.7m	29.3%
Building D	0.7m	1.0m	6.2%
Building E	0.5m	1.1m	6.8%
Building F	0.6m	1.1m	6.8%
Building G	0.8m	1.0m	6.2%





Consequently, the proposed building height is 4.7 m at the highest point to the lift overrun to Building C. This is a variation of 29.4%.

The sections and elevation drawings below further illustrate the height non-compliance.



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:

- In the context of this area, the site slopes downwards to Jerralong Drive and Pelican Road, but also to the eastern boundary. Suitable truck clearances into the basement levels also necessitate the additional floor to ceiling height which in turn, pushes the building height above the limit. The encroachment points are to the lift overruns, the communal rooftop area, small habitable areas in Unit B406 in Buildings B and Units C401 and C409 in Building C, and the parapet roofs.
- This application maintains compatibility with the emerging scale of development in the locality and is consistent with the scale of 5-storey residential flat buildings approved in the immediate vicinity.
- The lift overruns are contained in the central area of the roof level, representing only point encroachments into the height plane. The communal rooftop area and areas of the habitable spaces (as identified in Buildings B and C) will be consistently set back at least 9 m from both side boundaries and therefore unreasonable amenity impacts will be unlikely. The parapet roof encroachments are not highly visible from the street.
- The proposed encroachments will not result in additional overshadowing to adjoining properties as impacts from the lift overruns will be fully contained in the rooftop area.
- The proposed minor encroachments to the overall building height from the roof parapets and the ceiling areas of habitable spaces also do not result in additional yield in terms of the number of apartments or storeys. The proposed non-compliant ceiling heights to habitable areas are limited on Unit B406 (0.6 m encroachment above the 16 m limit but an overall encroachment of 1.4 m when the parapet roof is included) in Building B, and Units C401 and C409 (0.7 m encroachment above the 16 m height limit but an overall encroachment of 1.5 m when the parapet roof is included) in Building C. These encroachments will be offset from the parapet roofs of Buildings D, F and G which are below the 16 m height plane by 0.5 m, 0.8 m and 1m respectively.
- The proposal in its current form provides a better planning outcome because it allows appropriate waste collection for the site, provides suitable recreation areas and amenity for its occupants, and also provides a built form that achieves an appropriate level of solar access to the development itself as well as to the adjoining residential flat buildings to the east under construction.

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 presents neutral impact on its surroundings.
- The proposed rooftop area provides an attractive and comfortable communal space for the future residents, capable of being used for recreational purposes with adequate access to sunlight as well as shade. The proposal is therefore considered a suitable alternative for a communal open space other than the spaces provided on the ground floor, and will contribute to a positive outcome for the site.

- The development is in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone.
- The applicant's written request justifying the minor contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

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

Objective	Comment
To establish the maximum height of buildings for development on land within the Alex Avenue and Riverstone Precincts	Five storeys is not inconsistent with the desired character in the R3 Medium Density Residential zone and is expected in a 16 metre height control area where residential flat buildings are permissible.
To protect the amenity of adjoining development and land in terms of solar access to buildings and open space	<p>The parts of the building causing the primary height non-compliance are parts of the lift overrun and the rooftop communal open area. These elements will not be highly visible from the public domain and will not cause unreasonable shadow impacts or any overlooking issues to neighbours (refer to the shadow impact diagram Sheets 34 - 40 at attachment 5).</p> <p>The proposed building height is therefore satisfactory and visual impacts are minimal.</p>
To facilitate higher density development in and around the local centre, the neighbourhood centres and major transport routes while minimising impacts on adjacent residential, commercial and open space areas	<p>The site is located approximately 500 m east of Schofields Railway Station, and adjoins the future local centre and mixed-use zoned areas for future commercial and community services.</p> <p>The buildings will contain a total of 308 (1, 2 and 3 bedroom) apartments, which is representative of the density and housing demand anticipated for this site by prevailing planning controls. The density of this development meets this objective.</p> <p>The development offers an interesting and modern design, which is supported by carefully considered passive and recreational outdoor areas to create a favourable living environment for the increased residential population.</p>
To provide for a range of building heights in appropriate locations that provide a high-quality urban form	Given the above discussion, the proposal is considered to be in keeping with the emerging character of the locality.

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 site zoning (Clause 4.6(4)(a)(ii))

Objective	Comment
To provide for the housing needs of the community within a medium density residential environment.	The proposed development for 308 units within 7 buildings is not inconsistent with the desired character in the R3 High Density Residential zone in a 16 m height control where residential flat buildings are permissible.
To provide a variety of housing types within a medium density residential environment.	A range of 1, 2 and 3 bedroom apartments and also accessible apartments for the disabled will be provided.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.	N/A
To support the well-being of the community, by enabling educational, recreational, community, and other activities where compatible with the amenity of a medium density residential environment.	<p>The development offers an interesting and modern design that is supported by carefully considered passive and recreational outdoor areas to create a favourable living environment for the increased residential population.</p> <p>The adjoining western property is zoned for a future mixed-use development and the properties to the west of Pelican Road is zoned for a future local centre. Those properties are intended to service the community as an extension of Schofields Railway Station which is located approximately 500 m west of the site.</p>

Therefore, the proposal is in the public interest because the development is consistent with the objectives of the zone.

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 line 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.

The proposal is in the public interest as it provides increased residential capacity. When compared to providing a development which strictly complies with the height of buildings development standard, this application offers a public benefit because it provides for a high quality architectural and landscape design. The proposal offers improved outcomes for and from the development. Therefore, there is no public benefit in maintaining strict compliance with the development standard in this instance.

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