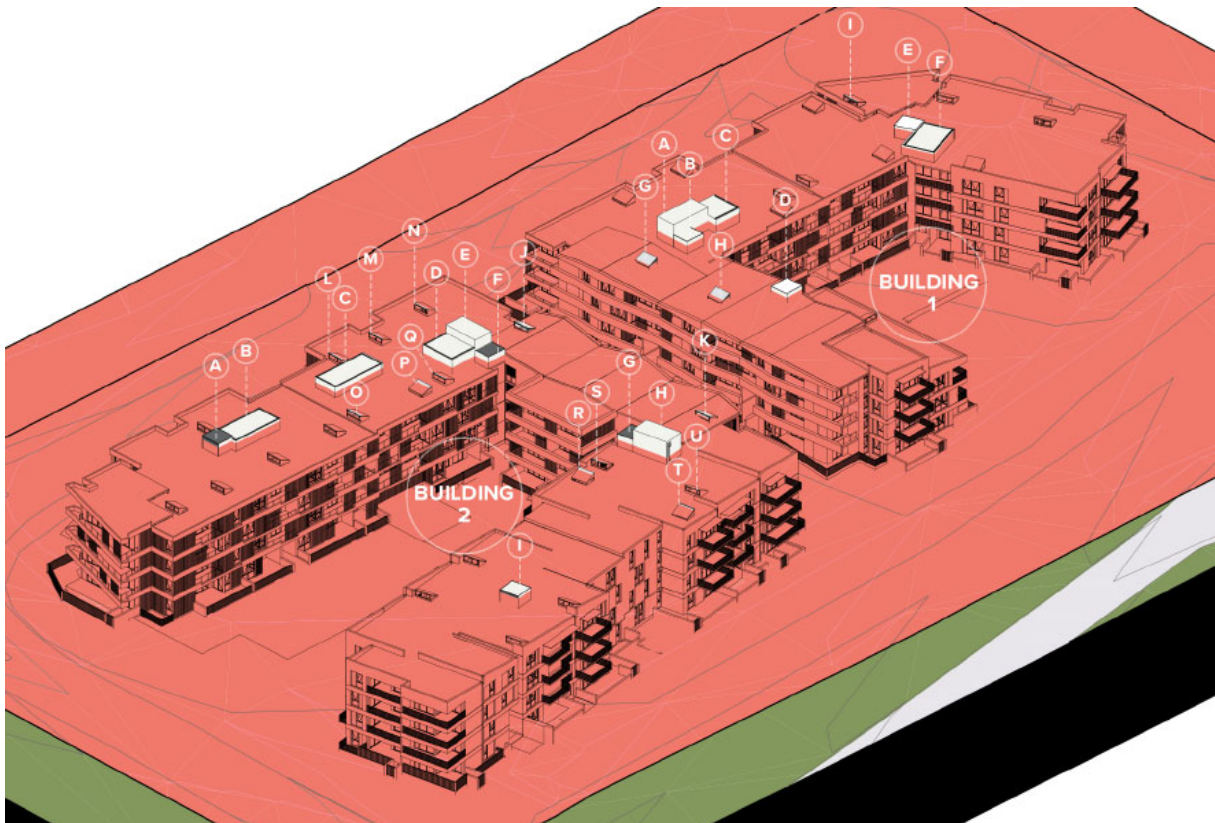


Council assessment of Clause 4.6 request

Visual representation of maximum height exceedance

The following figure identifies the portions of the proposed buildings that would exceed the height limit and the portions of the proposed building that are expected to be below the height limit. The areas of the building coloured in white exceed the 14 m maximum building height permitted under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.



The section plan below further illustrates the expected height non-compliance for the proposed buildings in terms of the finished ground level.



Assessment of Clause 4.6 variation request

1 Consideration regarding if 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 as the proposal provides a built form which is predominantly lower than the permitted height of buildings.

The objectives of the height of building control will remain satisfied as the variation is to accommodate largely rooftop features, by achieving good amenity for ground floor apartments in relation to external spaces and providing appropriate interfaces between the buildings and the landscape.

The visual impact of the encroachments of the lift overruns and maintenance access stairs is negligible from the public domain.

The proposal will achieve the number of storeys for RFBs as intended for the zone and building height limit while accommodating site conditions, including the finished ground levels as a result of bulk earthworks required for stormwater needs.

The rooftop lift overruns and plant are common for this building typology that will assist building maintenance needs and occurs for limited occasions in locations that ensure visual and shadowing impacts are minimised.

The proposal suitably provides a built form which can achieve an appropriate level of solar access and provides suitable recreation areas and amenity for its occupants. The proposal therefore is considered to achieve a better planning and design outcome for the site.

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 promotes the orderly and economic use and development of the site because it provides a well-balanced built form which does not result in any increase in residential apartments or density and is therefore considered acceptable in the circumstance.
- The proposal promotes the social welfare of the community by providing suitable housing and good quality areas at the ground level.
- The proposed design allows for basement access for Council waste vehicles and parking spaces which will service all future residents.
- The proposal promotes good design and amenity which creates a diverse and attractive neighbourhood based on strong urban design principles.

The applicant's written request seeking to justify the contravention of this development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3) in Points 1 and 2 above.

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

Appendix 12 Blacktown Growth Centres Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006	
Objectives of Clause 4.3 'Height of buildings'	How the proposal achieves the objective
a. To establish the maximum height of buildings	The maximum height limit on the site is 14 m. The vast majority of each building's massing complies with this height limit. The extent of encroachment into the designated height plane is 1.9 m to the top of the rooftop maintenance access stairs or a 14% variation when measured from the finished ground level. The height exceedance does not impact on the density of the development since no part of any apartment is expected to be above the height limit. The objective of building heights is to provide higher density development close to major transport routes without significant amenity impacts on adjoining development. It is considered that this development will meet that objective.
b. To minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space	The visual impact of the encroachments of the lift overruns and maintenance access stairs into the designated height plane is negligible from the public domain and apartments immediately surrounding the lift overrun and stairs because of their central position on the roofs limiting respective sightlines. The shadow impacts of the non-compliant portions of the building height limit are considered negligible in relation to the shadow that is cast from the compliant elements of the building. The height non-compliance will therefore not give rise to any unreasonable shadow impacts.
c. To facilitate higher density development in and around commercial centres and major transport routes	The site and proposed residential flat buildings are located to the west of Richmond Road which is a classified road due for significant upgrade by Transport for NSW in the near future. The building will ultimately be able to access Richmond Road via public roads in Precinct 2 approved under DA-19-00926.

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

Appendix 12 Blacktown Growth Centres Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006	
Objectives of the R3 Medium Density Residential zone	How the proposal achieves the objective
a. To provide for the housing needs of the community within a medium density residential environment	The proposal provides for the housing needs of the community by providing 202 apartments and associated communal open space areas.
b. To provide a variety of housing types within a medium density residential environment	The proposed residential flat buildings will provide a mix of 1, 2 and 3 bedroom apartments which contribute to the variety of housing types in this Precinct.
c. To enable other land uses that provide facilities or services to meet the day to day needs of residents	Pedestrian walkways are proposed throughout the site that will provide permeable pedestrian access to future public open space to the north of the precinct from surrounding residential areas.

Appendix 12 Blacktown Growth Centres Precinct Plan, State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Objectives of the R3 Medium Density Residential zone	How the proposal achieves the objective
d. 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	Although not proposed in this development, a school is currently under construction directly to the south of this development.

Therefore, the proposal is in the public interest because the development is consistent with the objectives for development within the R3 Medium Density Residential zone.

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 and 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, as discussed below.

6 Contravention of the development standard does not raise any matter of significance for State or regional environmental planning [Clause 4.6(5)(a)]

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.

7 There is no public benefit in maintaining the standard [Clause 4.6(5)(b)]

When compared to providing a development which strictly complies with the height of buildings development standard, this application offers public benefit because it provides a development with a scale of 4 storeys which is consistent with the desired future outcome for this Precinct. The proposal offers improved outcomes for and from development. Therefore, there is no public benefit in maintaining strict compliance with the development standard in the circumstances of this case.

Based on the above assessment, permitting the proposed development on this site to vary the height of buildings development standard to a minor degree achieves a better planning outcome. The Clause 4.6 variation request is considered reasonable and well founded in this particular circumstance and is recommended for support to allow flexibility in the application of the development standard.