

Memorandum

To Department of Planning, Housing and Infrastructure
Camden Council

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Copies

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From Christopher Serrano
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File reference

Subject Clause 4.6 - Height of Buildings

1. Part A Preliminary

1.1 Introduction

This Clause 4.6 Variation Request (Variation Request) has been prepared in support of a State Significant Development Application SSD-68013714 (SSDA) at 43-61 Turner Road, Smeaton Grange (the Site), for the construction and operation of a data centre and associated infrastructure and amenities, comprising the following scope of works:

- Infrastructure comprising civil works and utilities servicing.
- Construction of a two storey data centre comprising:
 - 12 data halls including fitout of IT Racks and equipment, associated cabling and supporting services
 - 27 backup generators
 - IT capacity of about 53 megawatts (MW)
- Construction of a guard house
- Diesel storage capacity of about 650 kilo litres (kL)
- High voltage substation incorporating 132/22 kilovolt (kV) transformers and associated switching and control buildings
- 68 standard car parking spaces (of which five would have EV charging), 2 car parking spaces compliant with the Disability Discrimination Act 1992, 10 shared bicycle parking spaces
- Hours of operation being on a 24 hours per day, 7 days per week basis.

The site is located within the Camden Government Area (LGA) and is zoned IN1 General Industrial, pursuant to *State Environmental Planning Policy (Western Parkland City) 2021* (WPC SEPP 2021). The proposal is classified as a data centre, which is a type of high technology industry.

A high technology industry is a type of light industry, which is permitted with consent in the IN1 General Industrial zone of the WPC SEPP.

The proposal is generally consistent with the objectives and provisions of WPC SEPP, with the exception of Clause 4.3 (5)(b) – Height of building for which this Variation Request is sought.

Specifically, the site is subject to a 15m height of buildings development standard prescribed by Clause 4.3(5)(b) of the WPC SEPP. The proposal seeks a maximum building height of about 23m, which exceeds the 15m development standard by 8m or 53%.

The proposal entails the following key components identified in Table 1 below.

Table 1: Development components

Project element	Proposed
Proposed maximum building height to top of roof	Approximately 21m
Proposed maximum building height to top of rooftop plant	Approximately 23m

This Variation Request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards prescribed under the WPC SEPP. It considers various planning controls, strategic planning objectives and existing characteristics of the site and concludes that the proposed variation is the best means of achieving the objects of encouraging the orderly and economic use and development of the site under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Development standard variation

This Variation Request has been submitted to assess the proposed non-compliance with Clause 4.3(5)(b) of the WPC SEPP and has been prepared in accordance with the requirements of Clause 4.6 of that policy.

Under the provisions of Clause 4.3(5)(b) of the WPC SEPP, the site is subject to a maximum height of buildings development standard of 15m. Clause 4.3(5)(b) of the WPC SEPP is reproduced below:

4.3 Height of buildings

.....

.....

(5) The consent authority may grant development consent for development on land within Zone B5 Business Development or Zone IN1 General Industrial, that does not exceed 15 metres in height above ground level (existing), if the land has frontage to—

(a) the following land as shown in the Oran Park Precinct Development Control Plan or the Turner Road Precinct Development Control Plan—

(i) Gregory Hills Drive,

(ii) Camden Valley Way,

(iii) The Northern Road,

(iv) *Dick Johnson Drive, or*

(b) land within Zone RE1 Public Recreation or Zone RE2 Private Recreation.

The provisions of Clause 4.3(5)(b) apply as the site is adjacent land zoned RE1 Public Recreation. The proposed building height of about 23m would exceed the maximum height of buildings by 8m or 53%. A significant portion of the height exceedance is attributable to rooftop plant.

The floor-to-floor heights required for a data centre development are precise and based on a required volumetric outcome for each data hall. The proposal provides significant floor-to-floor clearances of 8m on all levels.

The location of plant and equipment on the rooftop level, and surrounded by acoustic screening, is the best environmental planning outcome for the site in that it results in the best acoustic mitigation for the plant. The relocation of the rooftop plant to the ground floor level would significantly increase the footprint of the building and reduce any opportunity for landscaping across the site.

The rooftop plant technically results in an additional 2.4m of building height. The height of the roof level of the proposal without rooftop plant is about 21m, which reduces the variation of the 15m development standard.

The floor to ceiling heights proposed are reflective of the internal heights required to establish the future internal layouts whilst still remaining compliant with BCA Standards and fire engineering requirements, e.g. ceiling clearances and fire sprinkler systems. Accordingly, to achieve the data storage demands proposed for the site, the building heights are necessary as a compliant height would not be able to achieve the necessary data storage requirements. The specific volumetric outcomes required for a data centre are guided by the below requirements:

- Whitespace needing to accommodate bulk power and fibre cabling to meet the current cloud computing and AI demands;
- Minimum services and computer server clearance required below ceiling level within the whitespace to enable safe access and maintenance works; and
- High ceiling void needed to act as return air plenum which is essential to maintain efficient cooling to critical digital infrastructure.
- High efficiency heat rejection plants have been selected in order to minimised energy and scope 2 carbon emissions. The plants are required to be located externally. Placing them on the roof area further increase efficiency by preventing recirculation as well as minimising risks of bacterial growth contamination to occupants.

The building height variation is directly related to the proposed use of the site as a data centre and the necessary design responses.

The proposed building height has been measured from the ground level (existing) on the site to the highest point (ridge height) of the proposed data centre, in accordance with the definition of building height as defined in the WPC SEPP.

The proposed distribution of the built form and massing of the building across the site is also the result of the existing topography of the site as well as detailed analysis of the context of the Site and

its surrounds with a desire to deliver a positive architectural outcome. The proposed design outcome is a significant improvement from the existing vacant site as it is considered to be more aligned with the desired character of the immediate locality.

The particular circumstances of the site and the proposal warrant an appropriate degree of flexibility in the application of the development standard to achieve the best outcome for the site. In its current form, the proposal represents the most efficient use of the site which responds to the existing environmental constraints, compared to a development which is entirely compliant with the development standard.

2. Part B Thresholds that must be met

2.1 Interpreting Clause 4.6

Clause 4.6 of the WPC SEPP facilitates exceptions to strict compliance with development standards in certain circumstances. Clause 4.6(3) states (our emphasis added):

Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

*Note— The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be **accompanied by a document setting out the grounds** on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b)*

Accordingly, a successful Clause 4.6 variation must satisfy the below:

First Limb – cl 4.6(3)

Clause 4.6(3) provides that the consent authority must be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the following:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Cl 4.6(3)(a)); and
- b. that there are sufficient environmental planning grounds to justify contravening the development standard (Cl 4.6(3)(b)). To this end the environmental planning grounds advanced in the written request must justify the contravention, not simply promote the benefits of carrying out the development as a whole:

In the decision of *Rebel MH v North Sydney Council* [2019] NSWCA 130 (*Rebel*) Payne JA held (our emphasis added):

*“Although it was unnecessary finally to decide the correct construction of cl 4.6(4) in Al Maha, I agree with the construction advanced in that case by Basten JA, with whom Leeming JA agreed, at [21]-[24]. **Properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).** Clause 4.6(3) requires the consent authority to have “considered” the written request and identifies the necessary evaluative elements to be satisfied. To comply with subcl (3), the request must demonstrate that compliance with the development standard is “unreasonable or unnecessary” and that “there are sufficient environmental planning grounds to justify” the contravention. It would give no work to subcl 4.6(4) simply to require the consent authority to be satisfied that an argument addressing the matters required to be addressed under subcl (3) has been advanced.”*
[emphasis added]

Accordingly, a consent authority must be satisfied:

- a) that the Clause 4.6 variation application addresses the matters in Clause 4.6(3); and
- b) of those matters itself which means that there is greater scope for a consent authority to refuse a Clause 4.6 variation.

These matters are addressed in Section 4.3 and 4.4 of this Variation Request.

3. Part C Standards being objected to

3.1 Overview

The Site is zoned IN1 General Industrial and is subject to the underling objectives of the varied standard as well as the IN1 zone under the WPC SEPP.

3.2 Clause 4.3 building height control under WPC SEPP

Clause 4.3 the WPC SEPP identifies the following objectives:

(1) *The objectives of this clause are as follows—*

- (a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*
- (b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,*
- (c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,*
- (d) to provide appropriate height controls for commercial and industrial development.*

Pursuant to Clause 4.6, the Proposal seeks exception to the maximum permissible height of buildings control of 15m.

For clarity, building height is defined under the Dictionary accompanying the WPC SEPP as:

Building height (or height of building) means—

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

4. Part D Proposed variation to standards in clause 4.3(5)(b) of WPC SEPP

Pursuant to Clause 4.6 of the WPC SEPP exception is sought from the height of buildings development standard applicable to the site pursuant to Clause 4.3(5)(b) of the WPC SEPP.

4.1 Objectives of the standard

A key determinant of the appropriateness of a Clause 4.6 Variation to a development standard is the proposal's consistency with the underlying objectives and purpose of that development standard.

Clause 4.3 of the WPC SEPP sets out specific objectives. Those objectives under the WPC SEPP are responded to in Table 2 below:

Table 2: Consistency with the clause 4.3 objectives

Objective	Response
<i>(a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,</i>	The proposal is sufficiently separated from residential development and other land uses which are reliant on solar access. The adjoining RE1 land will achieve suitable solar access when the development is constructed.
<i>(b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,</i>	Not relevant as the proposal is not for residential development.
<i>(c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,</i>	Not relevant to the proposal.
<i>(d) to provide appropriate height controls for commercial and industrial development.</i>	The site itself is not mapped to contain a height of building control. Clause 4.3(5)(b) provides however that land adjacent RE1 and RE2 zoned land is not to exceed 15m in height. It is understood that the rationale for this control is to provide an appropriate transition between development and such zoned land. The height as proposed is considered suitable for the reasons outlined throughout this variation request.

4.2 Objectives of the zone

The Site is zoned IN1 General Industrial pursuant to the WPC SEPP. Therefore, consideration has been given to the IN1 zone objectives in Table 3 below:

Table 3: Consistency with the E4 zone objectives

Objective	Response
<i>To provide a wide range of industrial and warehouse land uses.</i>	The proposal seeks consent for a data centre which can be characterised as a "high technology" industry. The proposal will be located adjacent other warehousing and industrial developments within Smeaton Grange and shall contribute to the mix of industrial and warehouse land uses.
<i>To encourage employment opportunities and to support the viability of centres.</i>	The proposal provides for a data centre development that will create employment opportunities (direct and indirect). The data centre will support digitisation of services; high-speed

Objective`	Response
	wireless networks; data archiving and cloud storage; data-intensive technologies; and remote working and cloud-based working which have the potential to generate many forms of employment.
<i>To minimise any adverse effect of industry on other land uses.</i>	<p>The proposal seeks to minimise adverse impacts on other land uses, namely the adjacent RE1 zoned land that is intended to be used for public recreation purposes. The proposed data centre building is to be setback in the order of 30m from the RE1 zone, with a future public road included within this zone. The data centre building itself is considered to be sufficiently separated so as to not be overbearing in the context of the RE1 land cause the area to be unusable.</p> <p>In terms of acoustic impacts, the data centre has been designed to mitigate noise impacts to receiving environments through design mitigation such as screening and equipment selection.</p> <p>Visually, the proposal is to be designed to incorporate a variety of materials and colours that are characteristic of a high quality built environment and integrate with the surrounding context. Recessive colors and suitable articulation of the elevations ensure that building will set a high quality precedent for the locality, when viewed from private and public vantage points.</p> <p>The proposed development is considered to activate the site with respect to the RE1 land by providing the future public access road that will ensure access that would otherwise not be provided.</p>
<i>To enable development for the purpose of commercial offices only where it is associated with, and ancillary to, another permissible use on the same land.</i>	Not relevant to the proposal.
<i>To enable development for the purpose of retail premises only where it serves convenience needs, or where the goods or materials sold are of a type and nature consistent with construction and maintenance of buildings.</i>	Not relevant to the proposal.

4.3 Establishing if the development standard is unreasonable or unnecessary

Subclause 4.6(3)(a) (refer to Section 2.1) emphasises the need for the proponent to demonstrate how the relevant development standard is unreasonable or unnecessary in the circumstances.

The ways in which compliance with a development standard may be held to be “unreasonable or unnecessary” are well established. In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*), Preston CJ provided a non-exhaustive list through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), in *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 (*Initial Action*) the Court held that the common ways of demonstrating that compliance with a development standard is unreasonable or unnecessary as outlined in *Wehbe* are equally applicable to clause 4.6.

The five methods outlined in *Wehbe* include:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).
- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Method**).
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).

It is sufficient to demonstrate only one of these methods to satisfy clause 4.6(3)(a) of the WPC SEPP (*Wehbe*, *Initial Action* at [22], *Rebel* at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

However, in this case, it is demonstrated below that:

- (a) the First Method has been satisfied, and the objectives of the height of buildings standard are achieved notwithstanding the non-compliance with the numerical standard (see also Section 4.1 above); and
- (b) the Third Method has been satisfied, and the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

When considering whether a development standard is appropriate and/or necessary, one must take into account:

- the nature of the proposed variation;
- the site context; and
- the design of the proposed development.

Following the decision in *Initial Action*, it was established that Clause 4.6 does not require an applicant to demonstrate that a development which contravenes a development standard have a better (or neutral) environment planning outcome than a development that complies with the development standard.

By providing a building at the height proposed, a site layout is achieved that:

- enables plant and equipment to be located away from public view that can be screened;
- facilitates landscaping throughout the site that integrates and reduces the visual presence of the ground plane;
- allows car parking and access/egress provision which improves the road safety outcomes; and
- provides opportunity for architectural treatment at the upper levels that will contribute to set a desirable precedent for future development in the locality.

The standard is unreasonable and unnecessary in the circumstances of the case on the following basis:

- The proposal is consistent with the existing and desired future character of the site, the locality and the surrounding area. The proposal provides for a scale of development that when viewed from the streetscape and surrounding properties is not dominant in terms of bulk, scale, extent of hardstand or interface with the streetscape.
- Further to the above, the visual impact of the proposal is wholly consistent with the desired future character of the area, which has been shaped by not only the development standards prescribed by the WPC SEPP.
- The heights proposed are considered to be representative of market needs and demands for modernised data centre facilities, for which increased heights are required to be able to meet the operational needs and requirements of the end user involved.
- The overall height of the building stems from the floor-to-floor heights required for data centres which are precise at 8m and are reflective of the internal heights required to establish the future internal layouts, whilst still remaining compliant with BCA Standards and fire engineering requirements, e.g. ceiling clearances and fire sprinkler systems.
- The proposal's built form outcome is considered a key attribute in creating an internal building environment for the end users on the site, that would ensure the delivery of space and amenity that is required to support the operations of the end user involved; thereby, enabling the productive use of the site.
- It is noted that the proposal and the exceedance does not result in any additional or unacceptable impact on other land uses by way of visual impact, disruption of views, loss of privacy, loss of solar access, traffic impact or loss of on-street parking capacity of the like.
- Reducing the height to strictly meet the WPC SEPP development standard is considered unreasonable, as this would result in a less efficient use of the site.
- Further to the above, if the height exceedance was not permitted, the use of the site would be constrained despite there being no solar access or amenity impacts associated with the height exceedance. Further, if the height exceedance was not permitted, then the operational efficiency of the data centre would be stymied and the potential of the data centre unable to be realised

without any benefit to neighbouring properties or the public domain. In this regard the purpose of the standard would be thwarted.

Accordingly, the abovementioned justifications are considered valid, and in this instance the proposed variation is considered to be acceptable. The objectives of the development standard and the zone would be upheld as a result of the proposal.

4.4 Sufficient environmental planning grounds to justify contravening the developing standard

In *Initial Action*, Preston CJ observed that in order for there to be “sufficient” environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

The environmental planning grounds to justify the departure of the development building height development standard are as follows:

- The proposal is entirely consistent with the underlying objectives of the building height standard, as demonstrated in Section 4.1.
- The proposal is entirely consistent with the objectives of the IN1 zone, as described in Section 4.2.
- Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in Section 4.3.
- The proposal would integrate with both the local and regional context, specifically the IN1 zone that surrounds the site. The relationship of the development as proposed, with respect to height, would remain consistent due to the transition offered between the surrounding sites.
- The additional building height beyond the 15m development standard does not cause any adverse impact on existing development in the vicinity of the site by way of visual impact, disruption of view, loss of privacy and loss of solar access.
- The proposal is consistent with the bulk and scale of the broader precinct that is zoned IN1 General Industrial, which is intended to accommodate large, bulky purpose built facilities for warehousing and industry.
- The proposal provides compliant setbacks to boundaries and landscaping zones that provide separation and screening of the built form. The proposed landscaped building setback across the frontages of the site and ameliorates the visual impacts associated with the new built form.
- The proposal ultimately seeks to facilitate construction and operation of a new data centre. The proposed internal volumetric outcome is considered a key attribute in creating an internal building environment that would ensure the delivery of the data centre and thereby enabling the productive use of the site.
- The proposal has been architecturally designed to provide a materiality and form that sets a desirable precedent for future development and ensures that the visual impact of the building integrates with the surrounding environment.
- Compliance with the remaining development standards applicable to the site is achieved. There would be no measurable environmental or amenity benefits in maintaining the standard nor

would this support the provision of data centre and ancillary office which caters to the operational needs of the end users and the market needs of the industry.

- The proposed development would provide a compliant development with respect to traffic and parking planning grounds; and compliance with the noise emission and air quality emissions governed by the NSW EPA.

For the reasons outlined above, it is considered that the proposed variation to the building height development standard under Clause 4.3(5)(b) is appropriate and can be clearly justified having regard to the matters listed within clause 4.6(3)(b) under the WPC SEPP.

4.5 Objectives of the Environmental Planning and Assessment Act 1979

All planning determinations made under the EP&A Act are required to be made with regard to the objects of the Act in accordance with section 1.3 of the EP&A Act. Table 4 below assesses the proposed development against the objects of the EP&A Act.

Table 4: EP&A Act objectives

Objective	Response
<i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	The proposal is considered to promote the social and economic welfare of the community as it would contribute towards meeting the demand for increased employment opportunities within the Camden LGA, as identified in A Metropolis of Three Cities, and the Western District Plan. Specifically, the proposal would be of social benefit to the community situated within nearby community groups, as it would provide employment-generating opportunities for the immediate locality.
<i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	<p>The proposal has been assessed against the principles of Ecologically Sustainable Development in the ESD Report provided in the EIS.</p> <p>The Proposed Development would not create the risk of serious or irreversible damage to the environment.</p> <p>Ultimately, the Proposed Development would not create any threats of serious or irreversible environmental damage.</p> <p>The proposal would not impact on the conservation of biological diversity or the ecological integrity of the locality.</p> <p>The proposal does not require an Environment Protection License or other mechanism to compensate for any pollution generating activities at the site</p>
<i>to promote the orderly and economic use and development of land,</i>	The proposal would make use of a site that is currently considered to be under utilised, and result in the orderly and economically beneficial development of the land,

Objective	Response
	without resulting in any unacceptable economic, environmental or social impacts.
<i>to promote the delivery and maintenance of affordable housing,</i>	The proposal is not inconsistent with this objective.
<i>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	the proposal will not prevent the conservation of any threatened and other species of native animals and plants, ecological communities and their habitats
<i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	An Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared to promote the sustainable management of Aboriginal cultural heritage.
<i>to promote good design and amenity of the built environment,</i>	Section 4.1 satisfactorily addresses how the proposal responds to the character of the locality in terms of urban design.
<i>to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	Construction and maintenance of the building can be undertaken adhering to the objective.
<i>to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	The proposal represents an SSDA, for which it will be assessed and determined by the NSW DPHI.
<i>to provide increased opportunity for community participation in environmental planning and assessment.</i>	The SSDA would be subject to relevant statutory notification requirements. Additional stakeholder engagement and community consultation has been undertaken leading up to the exhibition of the proposal. Ongoing consultation would be undertaken by the Proponent throughout the project's lifecycle to ensure expectations are considered and met where required

4.6 Matters of state and regional significance

The proposed non-compliance with Clause 4.3 of the WPC SEPP will not give rise to any matters of significance for State or regional environmental planning. They will also not conflict with any State Environmental Planning Policy or Ministerial Directives under section 9.1 of the EP&A Act.

5. Part E Conclusion

For the reasons outlined above, it is considered that the variation to Clause 4.3(5)(b) of the WPC SEPP is well-founded in this instance and is appropriate in the circumstances. Furthermore, the Variation Request is considered to be well-founded for the following reasons as outlined in Clause 4.6 of the WPC SEPP.

The development is consistent with the objectives of the particular standard (refer to Section 4.1);

- The development is consistent with the objectives for development within the zone and long term strategic intentions to maintain and preserve employment land (refer to Section 4.2);
- Compliance with the development standard is unreasonable and unnecessary in the circumstances (refer to Section 4.3 as part of the First Limb satisfied);
- There are sufficient environmental planning grounds to justify contravening the development standard (refer to Section 4.4 as part of the First Limb satisfied);
- The proposal is consistent with the objectives of the EP&A Act (refer to Section 4.5);
- The development does not give rise to any matter of significance for the State or regional environmental planning and is consistent with the visions and objectives of the relevant strategic plans (refer to Section 4.6); and
- The objectives of the standard are achieved notwithstanding the non-compliance with the standard.

Overall, it is considered that the proposed variation to the maximum building height control is entirely appropriate and can be clearly justified having regard to the matters listed within Clause 4.6 of the WPC SEPP.

Given the justification provided above, the Variation Request is well founded and should be favourably considered by the Minister (or his delegate).