

Clause 4.6 Variation Request (Height of Buildings)

84 Tallawong Road, Rouse Hill

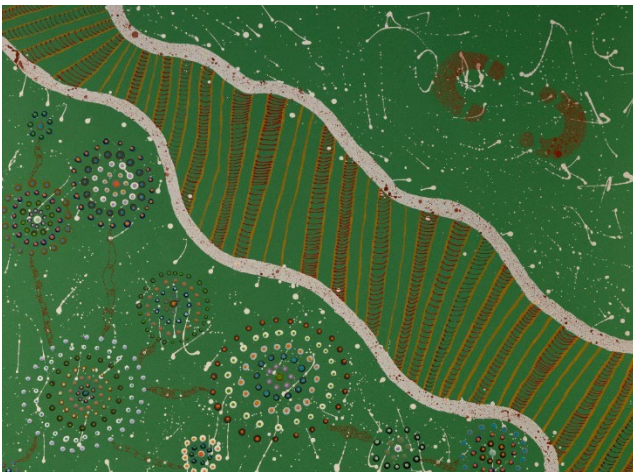
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Report Number 01 ToA Submission

Acknowledgment of Country

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Executive Summary

Background and Purpose

This Clause 4.6 Variation Request (the **Request**) has been prepared on behalf of LK Property Group Holdings Pty Ltd (**the Applicant**) and accompanies SSD-80287510 (the **SSD**) for residential development with infill affordable housing at 84 Tallawong Road, Rouse Hill (**the site**). This Request has been prepared to address the Secretary's Environmental Assessment Requirements (**SEARs**) issued for the project.

This Request seeks an exception from the maximum height of buildings development standard prescribed for the site under the combined provisions of Appendix 11, Section 4.3 of *State Environmental Planning Policy (Precincts—Central River City) 2021 (CRC SEPP)* and Chapter 2 of *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*. The building height development standards from each instrument which apply to the site are as follows:

- **CRC SEPP** (the primary environmental planning instrument which applies to the site): Maximum 12m
- **Housing SEPP** (Chapter 2, Part 2, Division 1 of the Housing SEPP allows for an additional 30% building height subject to the provision of affordable housing within the development): **Maximum 15.6m**, comprising:
 - 'Base' height of 12m as afforded under the CRC SEPP, plus
 - Additional height of 3.6m (being, 30% of the maximum permissible 12m) as provided by the Housing SEPP

Considering the 'base' maximum building height of 12m, plus the additional 30% afforded by the Housing SEPP, **the maximum building height permitted on the site is 15.6m**. This is a development standard capable of being varied by Section 4.6, Appendix 11 of the CRC SEPP.

Basis for the Variation Request

This SSD seeks consent to vary the maximum permissible 15.6m building height on the site, as detailed in this Request. The proposed development will achieve a maximum roof height of 18.49m, and a lift overrun height of 19.6m. This report provides an overview of these variations and justifications for them.

The variation is justified, based on the following key considerations:

Consideration 1: Compliance with the control in the circumstances of the proposed development is unreasonable and unnecessary on the basis that the development otherwise achieves the objectives of the development standard.

The proposed development can be demonstrated to meet the objectives of the development standard notwithstanding the non-compliance, as summarised below:

- The proposed development will remain consistent with the objectives of Section 4.3, Appendix 11 of the CRC SEPP which provides for the maximum 'base' building height for the site,
- The proposed development will remain consistent with the objectives of the R3 zone in which the site is located, and
- The proposed development is not found to result in unreasonable adverse visual or amenity impacts (including within and adjacent to the site) as a result of the non-compliances.

Consideration 2: There are sufficient environmental planning grounds to justify the proposed variation to the height of buildings development standard.

The environmental planning grounds on which the proposed variation are summarised as follows:

- The building height exceedances are the result of the site's underlying topography, whereby the maximum anticipated building height for the site (15.6m) is not consistently breached across the site,

- The approved, activated consents for the site have relied on variations to the height of buildings development standard in order to achieve the anticipated density outcomes, and
- Strict compliance with the development standards would result in an under-delivery of new diverse housing types within the locality, noting that the development will exceed the minimum required quantum of new affordable housing as required by Chapter 2 of the Housing SEPP.

Conclusion

The objectives of Clause 4.6 of Appendix 11 of the CRC SEPP are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

It is submitted that it is entirely reasonable for the consent authority to exercise the discretion to vary the building height standard as it will deliver better outcomes for the development as well as for the receiving environment. This is thoroughly demonstrated in this Request and through the supporting documentation, including:

- Architectural Design Report (prepared by Place Studio)
- ADG and overshadowing analysis (prepared by Place Studio)
- Visual Impact Analysis (prepared by Urbis)

1 Introduction

1.1 Purpose

This Clause 4.6 Variation Request (**Request**) has been prepared on behalf of LK Property Group Holdings Pty Ltd (**the Applicant**) and accompanies SSD-80287510 (**SSD**) for residential development with infill affordable housing at 84 Tallawong Road, Rouse Hill, NSW 2155 (**the site**). This Request has been prepared to address the Secretary's Environmental Assessment Requirements (**SEARs**) issued for the project, namely issue 1:

Table 1 SEARs requirements

Issue and Assessment Requirements	Supporting Documentation	Addressed in
1. Statutory Context <ul style="list-style-type: none">Identify compliance with applicable development standards and provide a detailed justification for any non-compliances.	<u>If required:</u> Clause 4.6 Variation Request (for any non-compliances with applicable development standards)	This Clause 4.6 Variation Request

1.2 Request to Vary the Development Standard

Address

84 Tallawong Road, Rouse Hill, NSW 2155

Date

30 October 2025

Basis of the Request

This Request seeks an exception from the maximum height of buildings development standard prescribed for the site under the combined provisions of Appendix 11, Section 4.3 of *State Environmental Planning Policy (Precincts—Central River City) 2021 (CRC SEPP)* and Chapter 2 of *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*. The building height development standards from each instrument which apply to the site are as follows:

- CRC SEPP** (the primary environmental planning instrument which applies to the site): Maximum 12m
- Housing SEPP** (Chapter 2, Part 2, Division 1 of the Housing SEPP allows for an additional 30% building height subject to the provision of affordable housing within the development): **Maximum 15.6m**, comprising:
 - 'Base' height of 12m as afforded under the CRC SEPP, **plus**
 - Additional height of 3.6m (being, 30% of the maximum permissible 12m) as provided by the Housing SEPP

Considering the 'base' maximum building height of 12m, plus the additional 30% afforded by the Housing SEPP, **the maximum building height permitted on the site is 15.6m**. This is a development standard capable of being varied by Section 4.6, Appendix 11 of the CRC SEPP.

1.3 Approvals Background

The site benefits from three (3) approved local Development Applications (**DAs**) for subdivision, demolition and construction of 2 x shop top housing buildings and 4 x residential flat buildings (all 4 storeys) with

associated car parking, stormwater drainage and landscaping (SPP-17-00031, SP-17-00032 and SPP-17-00033, plus various subsequent modifications). The approved subdivision would create 3 new allotments on the land, each comprising 2 residential flat buildings. It is noted that these consents are now operational and that works have physically commenced on the site. Refer to discussion in the accompanying Environmental Impact Statement (**EIS**) for further details.

The approved DAs were each granted consent with building heights exceeding the 12m maximum permitted under the then-in force planning instrument for the site (being Appendix 12 of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 [SRGC SEPP]*). The maximum height exceedances within each of the approved DAs are as follows:

Lot 1 (Buildings A & B)

- Roof level – up to 0.79m
- Lift overrun – up to 3.70m

Lot 2 (Buildings C & D)

- Roof level – up to 1.1m
- Lift overrun – up to 3.97m

Lot 3 (Buildings E & F)

- Roof level – up to 0.93m
- Lift overrun – up to 3.83m

The site plan at Figure 1 below illustrates the arrangement of buildings on the site. (Note that the plan is reproduced from the current SSDA, however the internal subdivision and arrangement of buildings remains the same as previously approved.)

Figure 1 Site plan, showing each of the allotments and buildings on the site



Source: Place Studio, 2025

It is noted that the previous DAs were made and approved prior to the introduction of the infill affordable housing provisions of the Housing SEPP came into force. The approved DAs did not contemplate affordable housing to be delivered on the site.

1.4 Content of this Request

This Request has been prepared in accordance with the *Guide to Varying Development Standards*, published by the NSW Department of Planning and Environment (now the NSW Department of Planning, Housing and Infrastructure) in November 2023.

This report will:

- Describe the site to which the Request applies, including its zoning
- Provide an overview of the proposed development
- Identify the relevant environmental planning instrument (**EPI**) and development standard to which a variation is sought
- Identify the extent of variation which is sought in numeric values
- Provide visual representations of the development standard to which the variation is sought
- Justify the proposed variation

2 Site and Proposed Development

2.1 Site Description

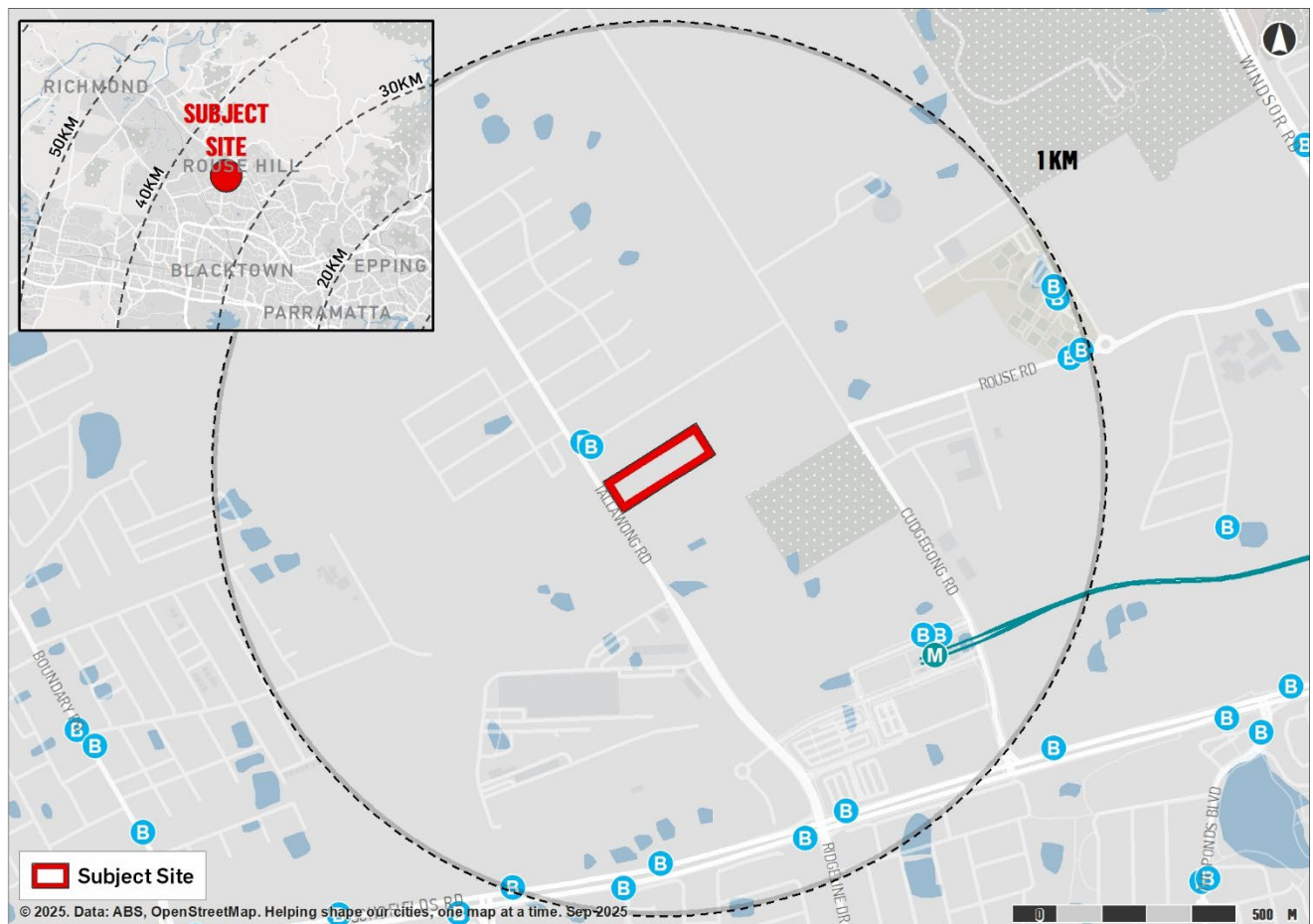
Key features of the site are summarised below.

Table 2 Site description

Feature	The site
Street Address	84 Tallawong Road, Rouse Hill, NSW 2155
Legal Description	Lot 63 in Deposited Plan 30186
Site Area	15,267m ²
Site Dimensions	The land is 82.105m wide and has a length of 246.47m
Easements and Restrictions	None.
Site Topography	The site has a consistent fall from the south-eastern corner to the north-western corner of approximately 12.5m.
Vegetation	Following the activation of development consent SPP-17-00031, the site has been cleared of vegetation.
Existing Development	<p>Following the activation of development consent SPP-17-00031, the site has been cleared of all previous built forms.</p> <p>A large dam is situated along the northern boundary of the site, which will be decommissioned and filled as part of SPP-17-00031, under which works are currently being carried out.</p>
Local Context	<p>The site is located within the new suburb of Tallawong, which forms part of the Riverstone East precinct (Stage 1). Stages 1 & 2 of the Precinct, which have already been subject to planning control amendments, will provide up to 3,500 new homes, a new primary school (which directly adjoins the subject site to the north) and a new community facility. The entire Riverstone East precinct, following the rezoning of Stage 3, will deliver up to 5,800 new homes.</p> <p>Tallawong will house a new town centre, to the north of the Metro, which will provide local-order services and jobs. At present, the locality has seen the delivery of a number of new low- and medium-density residential developments to the north and east of the subject site, which benefit from upgraded roads and proximity to Tallawong Metro Station. The site's immediate vicinity – being the block bound by Tallawong Road to the west, Cudgegong Road to the east, Macquarie Road to the north, and Implexa Avenue / Tallawong Metro Station to the south, remains largely undeveloped. The new town centre, immediately north of the Metro station, is however under construction.</p> <p>In August 2025, the NSW Department of Planning, Housing and Infrastructure (DPHI) resolved to initiate the rezoning of 31.8ha of land around Tallawong Metro Station (various lots along Tallawong Road, Schofields Road, Aristida Street, Conferta Avenue, Implexa Parade, Cudgegong Road, Torelli Street, and Grassland Street) to deliver up to 6,700 dwellings within the town centre.</p>
Adjacent Development North	The northern boundary of the site adjoins 100 Tallawong Road / 24 Macquarie Road, the site of the future Tallawong Public School.

Feature	The site
Adjacent Development East	East of the site is 95 Cudgegong Road and 105 Cudgegong Road (2 individual properties). 95 Cudgegong Road is subject to development consent SP-17-00041 which entails the construction of 2x 4-storey residential flat buildings comprising 208 apartments. 105 Cudgegong Road contains a private residential dwelling which is not subject to any recent development consents.
Adjacent Development South	The south of the site adjoins 74-74A Tallawong Road, which is subject to a recent development consent (DA-21-01954) for 36 2-storey dwellings across various new Torrens title and community tile allotments.
Adjacent Development West	The western boundary of the site fronts onto Tallawong Road, a 2-lane, 2-way local road.
Access Network	The area is serviced by Tallawong Metro Station, located approximately 760m south of the subject site (refer to discussion at Section 7.2 below). Tallawong is also serviced by public bus services connecting to the key centres of Rouse Hill and Marsden Park.

Figure 2 Location Plan



Source: Urbis, 2025

Figure 3 Site Aerial



Source: Urbis, 2025

Images of the site and its local context are shown below. All images were taken by Urbis in May 2024.

Figure 4 Site Images



Picture 1 The site, viewed facing east along Tallawong Road



Picture 2 Tallawong Road viewed facing north from the site



Picture 3 Macquarie Road, viewed facing east



Picture 4 Tallawong Metro Station and emerging high-density development to the south (future Tallawong town centre)

2.2 Proposed Development

This SSDA seeks modification of existing consents related to the site (SPP-17-00031, SPP-17-00032, and SPP-17-00033) in accordance with the consent authority's powers under s4.17(1)(b) and (5) of the *Environmental Planning and Assessment Act 1979*. Those powers enable a consent authority to amend conditions in existing consents as part of the approval of a fresh development application including allowing substitution of plan references in conditions.

More particularly this SSDA seeks consent for an additional 78 dwellings (including 70 affordable housing units) and 21 car spaces to deliver a total of 411 apartments and 526 car spaces within the development of 1 mixed-use and 5 residential flat buildings consistent with the infill affordable housing provisions of Chapter 2, Part 2, Div. 1 of *State Environmental Planning Policy (Housing) 2021*.

A comparison of the approved developments and the scope of the modifications are as follows:

Table 3 Comparison of approved and proposed schemes

Approved Under Existing Consents	Sought For Consent Under This SSDA	Total
Apartment Yield		
Lot 1		
112	+ 23 apartments	135
Lot 2		
112	+ 26 apartments	138
Lot 3 (including affordable apartments at Building F)		
109	+ 29 apartments	138
Affordable Apartments (Building F)		
0	70	70
Total		
327	+ 78 apartments	411

Approved Under Existing Consents	Sought For Consent Under This SSDA	Total
Parking		
Lot 1		
175	- 9 car spaces	166
Lot 2		
168	+ 22 car spaces	190
Lot 3		
168	+ 2 car spaces	170
Total		
511	+ 15 car spaces	526

Figure 5 Proposed Perspectives



Picture 5 West Elevation

Source: Place Studio, 2025



Picture 6 South Elevation

Source: Place Studio, 2025

3 Planning Instrument, Development Standard, and Proposed Variation

This section of the Request identifies the development standard, which is proposed to be varied, including the extent of the contravention. A detailed justification for the proposed variation is provided in Section 4 of the report.

3.1 What is the Planning Instrument You Are Seeking to Vary?

This Request seeks to vary **State Environmental Planning Policy (Precincts—Central River City) 2021**.

3.2 What is the Site's Zoning?

The site is zoned **R3 Medium Density Residential**.

3.3 What is the Development Standard to be Varied?

This Request seeks to vary **Section 4.3 of Appendix II of the CRC SEPP – Height of buildings**.

The objectives of Section 4.3 are reproduced below:

- (1) *The objectives of this section are as follows—*
 - (a) *to establish the maximum height of buildings,*
 - (b) *to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,*
 - (c) *to facilitate higher density development in and around commercial centres and major transport routes.*

3.4 Type of Development Standard

Section 4.3 Height of buildings is a **numerical development standard**, considering the development standard uses numbers to specify the requirement.

3.5 What is the Numeric Value of the Development Standard in the Environmental Planning Instrument?

The CRC SEPP prescribes a maximum building height of 12m for the site.

As described at Section 2.2, the proposed development will provide a quantum of residential units for the purpose of affordable housing, to be managed by a registered Community Housing Provider for a minimum period of 15 years. Where a development provides affordable housing, Section 18 of the Housing SEPP sets out an allowance for additional building height, as follows:

- (1) *This section applies to development that includes residential development to which this division applies if the development—*
 - (a) *includes residential flat buildings or shop top housing, and*
 - (b) *does not use the additional floor space ratio permitted under section 16.*
- (2) *The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus*

an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).

- (3) *The minimum affordable housing component, which must be at least 10%, is calculated as follows—*

$$\text{affordable housing component} = \frac{\text{additional building height (as a percentage)}}{2}$$

The proposed development will:

- Comprise 5x residential flat buildings and 1x shop-top housing building,
- Not use the additional floor space ratio permitted under Section 16 of the Housing SEPP to achieve the additional yield (noting that no FSR standard applies to the site), and
- Comprise over 17% affordable housing, which will be managed by a registered Community Housing Provider for a minimum period of 15 years in accordance with Section 21 of the Housing SEPP.

Section 18(2) of the Housing SEPP operates by providing that the maximum height of buildings resulting from the development to which the division applies, is the maximum permissible building height for the land plus an additional 30% of the maximum permissible height of buildings on the land under another EPI.

Accordingly, **the maximum permissible height of a building on the site is 15.6m**. This is a development standard capable of being varied under Section 4.6, Appendix 11 of the CRC SEPP.

3.6 What is the Difference Between the Existing and Proposed Numeric Values? What is the Percentage Variation (Between the Proposal and the Environmental Planning Instrument)?

Figure 6 below shows the proposed variations to the maximum height standard applying to the site and the development, in elevation and axonometric views.

Figure 6 Height variations across the development



Picture 7 Elevations, showing height variations across the site

Source: Place Studio, 2025



Picture 8 Axonometric view, showing height variations across the site

Source: Place Studio, 2025

The proposed variations to the height control varies considerably across the site, owing to the site's underlying topography. Accordingly, it is noted that **not all areas of the development breach the maximum permitted height**, and **in a number of locations the development will remain compliant with or under the maximum permissible building height**. For completeness, the table below provides a summary of building heights at all selected locations across the development, to demonstrate the locations where the height standard is breached.

Table 4 Numerical variation summary

Location	Proposed Height (m)	Variation (m)	Variation (%)
Building A			
N corner	17.99m	+2.39m	+15.32%
E corner	17.09m	+1.49m	+9.55%
S corner	12.35m	Complies with maximum permissible height	
W corner	11.4m	Complies with maximum permissible height	
Lift overrun (max.)	16.82m	+1.22m	+7.82%
Building B			
N corner	16.25	+0.65m	+4.17%
E corner	15.35m	Complies with maximum permissible height	
S corner	14.95m	Complies with maximum permissible height	
W corner	15.59m	Complies with maximum permissible height	
Lift overrun (max.)	17.9m	+2.30m	+14.74%
Building C			
N corner	16.04m	+0.44m	+2.82%
E corner	14.41m	Complies with maximum permissible height	
S corner	14.01m	Complies with maximum permissible height	
W corner	14.94m	Complies with maximum permissible height	
Lift overrun (max.)	16.53m	+0.93m	+5.96%
Building D			
N corner	16.75m	+1.15m	+7.37%
E corner	15.91m	+0.31m	+1.99%
S corner	15.15m	Complies with maximum permissible height	
W corner	16.07m	+0.47	+3.01%
Lift overrun (max.)	18.32m	+2.75m	+17.44%
Building E			
N corner	15.33m	Complies with maximum permissible height	

Location	Proposed Height (m)	Variation (m)	Variation (%)
E corner	15.56m	Complies with maximum permissible height	
S corner	13.96m	Complies with maximum permissible height	
W corner	16m	+0.40m	+2.56%
Lift overrun (max.)	16.31m	+0.71m	+4.55%
Building F			
N corner	17.95m	+2.35m	+15.05%
E corner	16.9m	+1.30m	+8.33%
S corner	16.45m	+0.85m	+5.45%
W corner	17.36m	+1.76m	+11.28%
Lift overrun (max.)	16.64m	+1.04m	+6.67%

Excluding the lift overruns, 12 of the 24 selected building locations (at the N, S, E, W corners) will **not** result in a height breach.

As demonstrated at Figure 6 above, the site exhibits a natural fall to the west (towards Tallawong Road), which has resulted in the varied building heights across the development.

4 Justification for the Proposed Variation

The *Guide to Varying Development Standards* identifies 5 common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary. An applicant must satisfy at least one of these matters.

The key questions used to demonstrate that compliance with a development standard is “unreasonable or unnecessary” are addressed below.

4.1 How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case?

a) Are the objectives of the development standard achieved notwithstanding the non-compliance?

Yes.

The objectives of Section 4.3 of Appendix 11 of the CRC SEPP are addressed below in relation to the proposed variation.

Table 5 Objectives of the development standard

Objective	Comment
(a) to establish the maximum height of buildings,	<p>As shown at Figure 6 above, the ‘base’ CRC SEPP maximum height plane of 12m is breached in some locations of the development at level 4 (that is, prior to the application of the Housing SEPP incentive height), owing to the site’s underlying topography.</p> <p>The additional building height which is able to achieved through the application of the Housing SEPP incentive is 3.6m. This corresponds to one additional building storey, which is applied consistently across all six buildings within the development in accordance with the provisions of Chapter 2 of the Housing SEPP.</p> <p>Having regard for the natural fall of the site to the west (approximately 12m, towards Tallawong Road), it is noted that building heights at the western end of the site generally remain consistent with (or under) the maximum permissible building height of 15.6m, while height breaches are generally found further to the east. This remains consistent with the existing approved developments, for which the maximum building height standard under the then-in force Sydney Region Growth Centres SEPP 2006 (which also provided for a maximum building height of 12m for the site) was also successfully varied as a result of the site’s topography.</p>
(b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,	<p><u>Visual impacts</u></p> <p>The Visual Impact Analysis provided with this SSDA concludes that:</p> <ul style="list-style-type: none"> ▪ The non-compliances do not block scenic or highly valued compositions, create low visual effects, and do not significantly impact the visual catchment,

Objective	Comment
	<ul style="list-style-type: none"> Minor non-compliances do not block scenic or highly valued compositions at the identified viewpoints, including any identified heritage views, and The proposal will not be visible from any sensitive public domain locations. <p>Amenity outcomes</p> <p>The proposed development, inclusive of the height exceedances, will:</p> <ul style="list-style-type: none"> Not affect the ability of the development to achieve key ADG amenity criteria including privacy (with the minimum building separation distances achieved), solar access, minimum unit sizes and dimensions, and cross-ventilation, and Not result in unreasonable additional overshadowing impacts to future development directly to the south of the site as compared with a compliant (15.6m) height plane, with additional impacts only exhibited between 1-3pm in mid-winter (refer to representative shadow diagrams, below; for full set please refer to the architectural drawings accompanying this SSD).
<p>(c) to facilitate higher density development in and around commercial centres and major transport routes.</p>	<p>The proposed development will achieve higher density development, including 70 new affordable housing units, in a key residential growth area which adjoins an emerging town centre and has ready access to high-frequency public transport (namely, public buses and Sydney Metro). The development is consistent with TOD objectives and will deliver additional housing diversity and choice within the Tallawong growth area.</p>

Figure 7 Representative shadow diagrams



Picture 9 Shadows at 9am in mid-winter



Picture 10 Shadows at 12pm in mid-winter



Picture 11 Shadows at 3pm in mid-winter

On the above basis, it is considered that the objectives of the development standard are met, notwithstanding the identified non-compliances.

b) Are the underlying objectives or purpose of the development standard not relevant to the development?

No.

The underlying objectives and purpose of the development standard remain relevant to the development and have been addressed above.

c) Would the underlying objective or purpose be defeated or thwarted if compliance was required?

Yes.

It is noted that the existing consents for the site, which have now been activated, required a variation to the maximum building height standard of 12m in various locations as a result of the site's underlying topography to achieve the four-storey built form anticipated by the site under the planning controls. The development as now proposed by this SSDA is consistent with this rationale, whereby the Housing SEPP incentive height of 3.6m translates to an additional building storey (an anticipated 5 storeys) which is consistently applied across each of the six buildings within the development site.

Were strict compliance with the development standard required, the project would:

- Not be consistent with the approved, activated consents for the site (demonstrating an inconsistency with objective 4.3(a)),
- Not result in materially improved visual and amenity outcomes for the development and neighbouring sites (noting that the development remains consistent with objective 4.3(b), notwithstanding the non-compliance), and
- Deliver a lower overall housing yield on the land and result in fewer affordable units, thereby limiting housing choice and diversity in this key growth area (demonstrating an inconsistency with objective 4.3(c)).

Accordingly, it is considered that the underlying objective and purpose of the development standard be thwarted if strict compliance was required.

d) Has the development standard been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard?

No, although there is precedent for a consent authority accepting a height variation on this site.

The development standard has not been abandoned or destroyed by Blacktown City Council's actions.

However, Blacktown City Council has previously accepted variations to the height standard on this site in the existing approvals, to achieve the anticipated four-storey built form (12m) as contemplated by the planning instrument applying to the site at the time the application was made. The height variations in the approved consents were the result of the site's underlying topography, whereby the 12m height could only be achieved through a variation to the development standard.

This SSDA relies on the same rationale for varying the maximum permissible building height of 15.6m (comprising the CRC SEPP 'base' height and the Housing SEPP incentive height), whereby an additional building storey is consistently applied across each of the six buildings. It is noted that, as with the existing approvals, the height breaches increase at the site's east which has a higher topography than the site's west.

As detailed above, the proposed development will remain consistent with the objectives of the development standard under the CRC SEPP and will result in the delivery of a significant quantum of new housing (including affordable housing) within this key growth centre.

Accordingly, while the development standard has not been abandoned or destroyed, it is evident that consent authorities have in the past accepted increased building heights on the site to achieve the anticipated building heights while accounting for the site's underlying topography.

e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?

No.

The proposed variation to the maximum height of buildings development standard under the CRC SEPP does not hinder the proposals' ability to achieve the objectives of the R3 zone in which the site is located, for the following reasons:

- The development will provide for the housing needs of the community within a medium density residential environment,
- The development will provide a variety of housing types, including a significant quantum of new affordable dwellings, within a medium density residential environment,
- The development will continue to provide a commercial tenancy at ground-floor level and will not inhibit the ability for other sites within the R3 zone to provide facilities or services that meet the day to day needs of residents, and
- The development is not expected to result in adverse social or community impacts, and will not inhibit the ability of other sites to support the well-being of the community through the delivery of other compatible land uses which are compatible with the amenity of a medium density residential environment.

On the above basis, it is considered that the zoning of the land is not unreasonable or unnecessary, and that the proposed development will remain consistent with the objectives of both the R3 zone and Section 4.3, Appendix 11 of the CRC SEPP.

4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes.

As detailed above, the site experiences a natural fall to the west (although the fall is not consistent across the entire site) which means that the five-storey built form as contemplated by the application of the 'base' building height of 12m (under the CRC SEPP) and the incentive 3.6m (provided by the Housing SEPP) will result in some discrete locations where the maximum permissible 15.6m standard is breached.

Fundamentally, the breach to the maximum building height standard will result in the provision of additional housing within a major growth area, on a site well serviced by transport and other key infrastructure. Exceedance of the building height standard will enable the development to deliver a significant quantum of affordable housing on this site, in exceedance of the minimum amount required to utilise the incentive building height under Chapter 2 of the Housing SEPP.

Detailed analyses prepared as part of this SSDA – including overshadowing analysis, amenity analysis (visual privacy, solar access, and cross-ventilation), and visual analysis – demonstrate that the building height exceedances will not result in unreasonable additional impacts on the development or on surrounding and nearby sites. In particular, as demonstrated in shadow diagrams accompanying this SSD in the architectural drawing package, it is noted that additional overshadowing will be evident between 1pm-3pm in mid-winter on these residential properties directly south. The development will not result in any additional impacts between 9am-12pm in mid-winter as compared to a fully compliant scheme (15.6m) and will therefore enable the southern adjoining properties to enjoy a significant amount of solar access consistent with the anticipated outcomes of the current planning controls.

It has also been found that the proposed development will remain consistent with the objectives of the R3 zone and of Section 4.3, Appendix 11 of the CRC SEPP notwithstanding the non-compliances. Refer to Section 4.1, above.

On balance, it is therefore considered that there are sufficient environmental planning grounds to justify contravening the development standard.

4.3 Is there any other relevant information relating to justifying a variation of the development standard?

Yes.

Previous approvals

The existing, activated consents associated with the site required the consent authority to consider variations to the 'base' maximum building height standard of 12m. The variations were approved on the basis of the approved development delivering the anticipated four-storey built forms as contemplated by the standard, and the consistency of the development with the zone and development standard objectives notwithstanding the non-compliance. The Clause 4.6 Variation Requests accompanying each of the existing, approved consents noted that the height variation was the result of the site's underlying topography, and that these exceedances were required in order for development on the site to achieve its anticipated development outcomes.

The building heights proposed by this SSDA rely on the same rationale, whereby the 'base' building height of 12m plus the incentive building height of 3.6m as contemplated by application of Chapter 2 of the Housing SEPP would result in an anticipated built form of 5 storeys (maximum height 15.6m). The proposed development consistently applies a single additional storey onto each of the approved four-storey built forms, and height exceedances above the 15.6m maximum are found in specific areas where the site's underlying topography results in parts of the additional fifth storey (and / or lift overruns) terminating above the maximum height plane.

Rationalised RLs at ground-floor level

It is also noted that the heights of the previously-approved components of the development (being ground-floor level to level 4) have been rationalised in this modified scheme, to reduce the extent of the height variances which would have otherwise resulted from the proposal following application of the Housing SEPP building height incentives. Specifically, ground-floor levels have been adjusted across the six buildings in the following manner:

Table 6 Rationalised ground-floor levels

Building	Approved East (RL)	Approved West (RL)	Proposed (RL)
A	53.00	51.75	50.88
B	54.50	53.00	53.10
C	55.95	54.85	54.04
D	57.80	56.65	56.65
E	58.95	58.05	57.16
F	60.25	59.25	59.78

As demonstrated above, the approved development comprised a range of RLs at the ground-floor level, having regard for the fall of the site. The development, as now proposed to be modified, has adjusted the RLs at ground-floor level to maintain a consistent level across each building, with all buildings except for Building D undergoing an overall reduction in RLs so that the development sits closer to natural ground level.

Impacts of additional height

As detailed above, the development proposed by this SSDA does not result in unreasonable adverse visual or amenity outcomes, and remains consistent with the objectives of the R3 zone and of Section 4.3, Appendix 11 of the CRC SEPP notwithstanding the non-compliances.

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