

Attachment C

Clause 4.6 Variation Request

4.5 REQUEST TO VARY DEVELOPMENT STANDARDS (CLAUSE 4.6) – HEIGHT OF BUILDING SLEP 2012

What is the development standard in question?

Clause 4.3 Sydney Local Environment Plan 2012

Under clause 4.3 the proposed development is required to have a maximum height of building that is indicated on the map. The map includes three height limits across the site including: 22m, 15m and 12m.

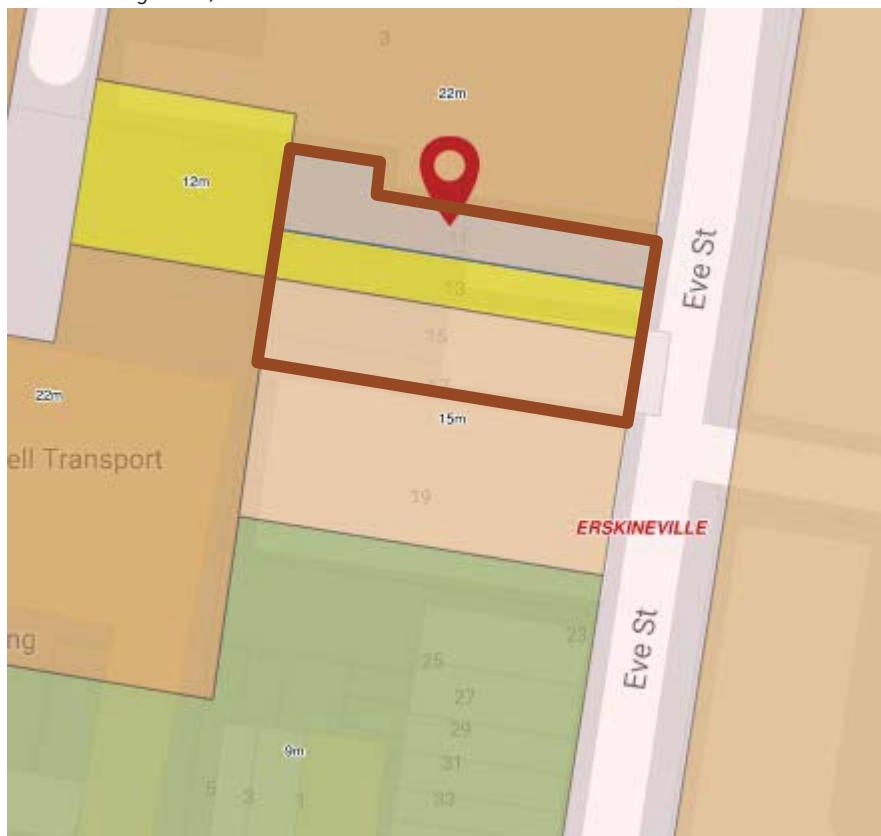


FIGURE 2: SITE OUTLINED IN RED

This clause is a development standard, and the provisions of clause 4.6 applies

Nature of the variation

The proposed height of building varies across the site. With a maximum of 17.46m (A) to the top of the lift over run and window hoods on the building fronting Eve Street.

The terraces at the rear of the site have a maximum height of building of 10.8m (B)

The maximum height to the top of the roof slab is 16.89m (C)



The non-compliance is minor and does not detrimentally effect the proposal as noted below.

What are the underlying object or purpose of the Standard?

The relevant objectives of this clause are:

- (a) to ensure the height of development is appropriate to the condition of the site and its context,
 - (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
 - (c) to promote the sharing of views,

Compliance with the standard is unreasonable or unnecessary in the circumstances.

1. OBJECTIVES ARE ACHIEVED NOT WITHSTANDING THE NON-COMPLIANCE
The LEP lists three relevant objectives:

1. to ensure the height of development is appropriate to the condition of the site and its context,

The proposal provides for a height of building that is exactly the same as the approved development to the immediate south of the site. It retains the step intended in the height of buildings from the building to the north as indicated in the Ashmore Precinct Masterplan.

The only relevant objective is that the height is appropriate for the site and context. The context consists of new residential flat buildings that have a height far greater than the proposed development.

It is understood that the purpose of the multiple heights was to facilitate a transition between the higher scale development to the north that contains 5 and 6 storeys transitioning to 4 storeys and then 2 storeys at the corner of Eve St and Coulsten St. However the translation of the masterplan has resulted in anomalies in the LEP maps.

Figure 5.129 in the Sydney DCP 2012 contradicts the height of building map, it provides for 4 storey buildings to be located across the entire site frontage.



It is unclear where the 12m height limit was intended to be located. It is possible that the 22m height limit was intended to stop at the boundary of 9 Eve Street.

A similar issue occurred on the adjoining site – where the boundary to the height limits did not align with the property boundary

The masterplan clearly intended that the heights across this site were to be consistent with the heights on the site immediately to the south. This is what has been proposed.

2. THE OBJECTIVES THAT ARE UNNECESSARY

- b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,

there are not heritage conservation areas or heritage items near by

- (c) to promote the sharing of views,

There are no views to, from or over the site.

3. THE DEVELOPMENT STANDARD HAS BEEN ABANDONED OR DESTROYED BY CONSENT THAT DEPARTS FROM THE STANDARD

The approved development to the south of the site was permitted to exceed the height limit. The deferred commencement consent and subsequent modification to that consent increased the height of building to the same height as what is being proposed by this development.
4. OTHER REASONS
 - o The building has to rise up 1.75m from the natural ground level to meet flood levels and therefore to accommodate the essential building amenities and units the whole building needs to be raised.
 - o The additional height is contained in the 'architectural expression' that relates closely to the buildings on either side of the development and forms part of the aesthetic quality and presence of the proposed development; and does not impede on the adjoining neighboring sites or in additional overlooking.

Environmental Planning Grounds to justify the variation

There are sufficient environmental planning grounds to justify a flexible approach to the application of the height control as it applies to this site. Strict compliance with the height standard would result in an odd array of heights access the street frontage. The proposed development has a consistent height and street wall that is entirely consistent with the heights on the site immediately to the south. This is what was clearly intended by the masterplan.

Furthermore the flood planning levels result in a building that is raised above street level and is a recognized environmental factor

We believe that the proposal is a high quality design which will provide high amenity for future occupants assisting in achieving the community vision for Ahsmore precinct and provides a balance of development to promote an appropriate balance of development and management of the environment that will be ecologically sustainable, socially equitable and economically viable. It is in the public interest that the building heights along Eve Street are consistent.

It is unreasonable and unnecessary in this instance to apply this development standard to this proposal. To do so would be contrary to the intentions of the masterplan.

4.6 SYDNEY DEVELOPMENT CONTROL PLAN 2012

CL	Control / Objective	COMPLIANCE / COMMENT
2.7.8	Ashmore Precinct	The proposed residential flat building, subject to conditions, is considered to be in keeping with the desired future character of the area by introducing an architectural building, with a mix of dwelling