

# **Attachment C**

## **Clause 4.6 Variation Request Height of Buildings**

## 23-25 Doody Street, Alexandria

### Justification for a Variation to a Development Standard

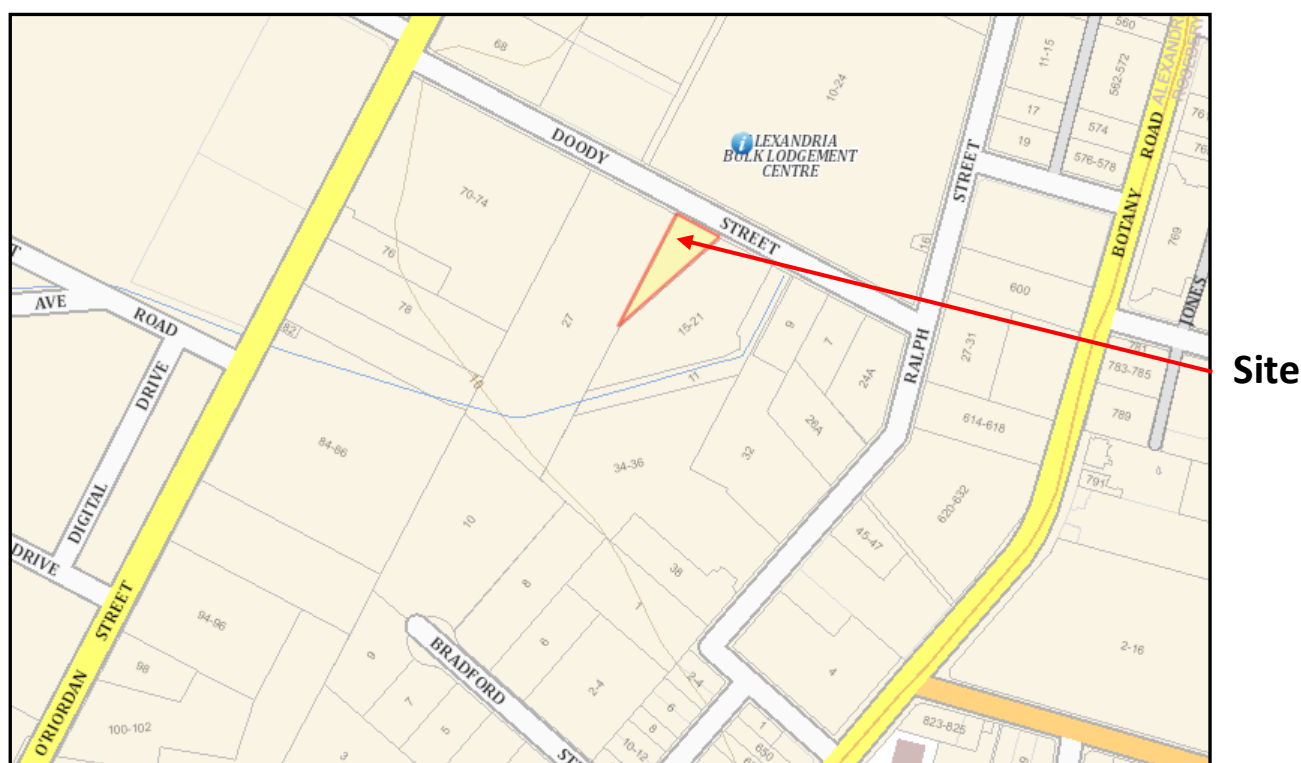
### Height Control – Sydney Local Environmental Plan, 2012.

#### 1 Purpose

A variation to the development standard for height contained in clause 4.3 of the Sydney Local Environmental Plan, 2012 (SLEP) is requested pursuant to the provisions contained in clause 4.6 of the instrument. The proposed development is assessed in terms of permissibility and environmental impact in the accompanying Statement of Environmental Effects (SEE).

#### 2 The Site and its Locality.

The subject site is located at 23-25 Doody Street, Alexandria. The land is described as lot 1 in DP 89681 in the Sydney City Council Area.



**Figure 1** Site Location

The land is regularly shaped with a total area of approximately 1,346.5m<sup>2</sup>. Physical details of the site and are contained in the accompanying SEE and the survey plan included in the drawing set.

The surrounding land uses are commercial and light industrial. The adjoining property to the east is the Max Brenner facility, while an unoccupied 4 storey commercial building and warehouse adjoins the site to the west. Located on the opposite side of Doody Street is the Australia Post mail sorting and business hub.

## 2.1 Proposed Development

The proposed development is to utilise the existing roof area to provide access to an open tiled terrace with an open pergola for tenants. Access provided by extending the existing staircases and lift shaft. The terrace and the existing service area, which is to remain, are surrounded by an existing parapet as shown in Figure 2, which is unchanged in height.

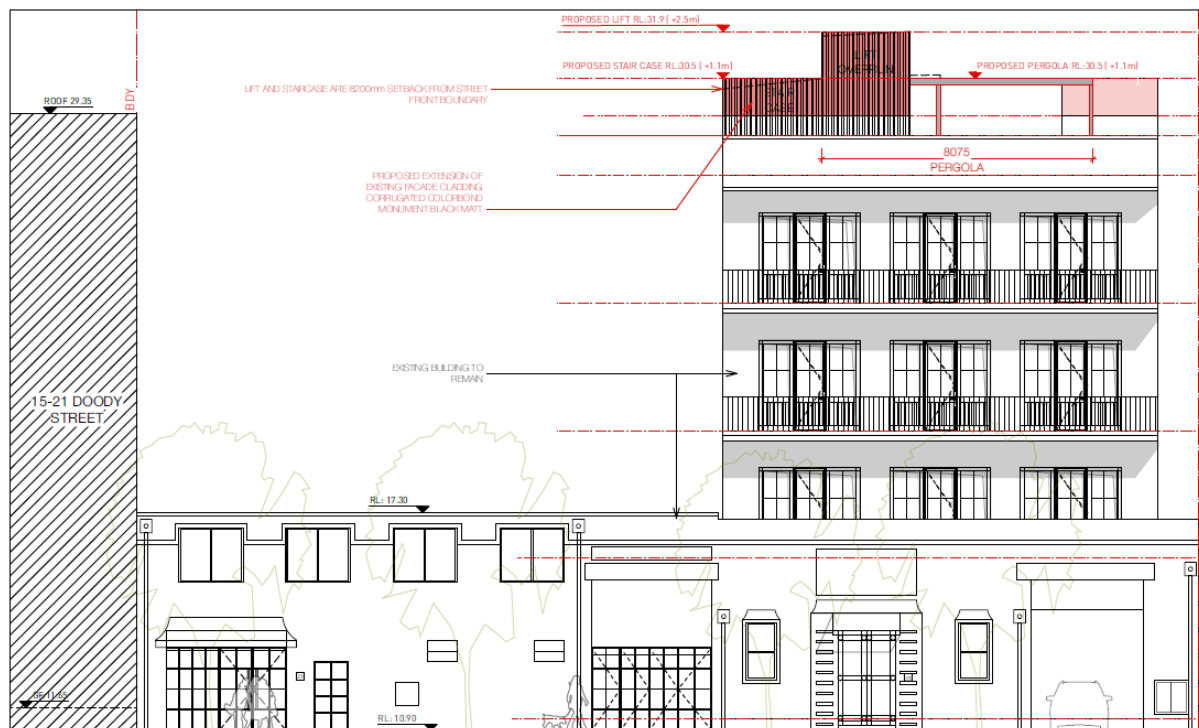


Figure 2 Proposed Development

## 3 The Development Standard and the extent of non-compliance

Clause 4.3 of SLEP provides that the maximum height of a building<sup>1</sup> on any land is not to exceed the maximum height for the land as shown on the relevant height map. The subject property is within an area mapped as “P” on the relevant maximum height map. Buildings on land in this area can have a maximum height of 18m. The approved height of the existing building is compliant at 18m.

The height of the building, to be changed by the proposed development is illustrated in Drawing DA 30 and Figure 2 showing the Northern Façade which faces Doody Street. The increase in the height of the building resulting from the extension of the lift shaft is 2.51m (or 13.9%) and the staircase and pergola by 1.1m (or 6.1%).

It is important to note that the apparent bulk and scale of the building when viewed from the public

<sup>1</sup> Building Height in the SLEP 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.

domain will not be changed by the proposed development as the location and height of the external walls and parapet are unchanged.

#### **4 Flexibility in the Application of Development Standards**

Clause 4.6 of SLEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. The purpose of this provision is to provide flexibility in the application of development standards and to achieve better environmental and planning outcomes.

In varying a development standard Council must receive in writing a justification from the applicant which demonstrates the following:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- There are sufficient environmental planning grounds to justify contravening the development standard;
- The proposed development will be in the public interest because it is consistent with the objectives of this standard and the objectives for development within the zone in which the development is proposed to be carried out;
- Whether the contravention of the development standard raises any matter of significance for State or Regional Planning; and
- The public benefit of maintaining the development standard.

#### **5 Justification**

The justification for a development proposal that extends internal access structures to allow the tenants of the building to utilise an area on the top of the building contrary to the development standard in SLEP is based on the following considerations, noting that a building is defined to include a structure or a part of a structure under the EP & A Act 1979.

##### **5.1 Compliance with the development standard is unnecessary.**

Compliance with the standard is unnecessary in this instance because:

- The apparent scale, bulk and setbacks of the building are unchanged by the proposed development, and
- The proposed development is consistent with the objectives of the E3 Productivity Support Zone in SLEP and is in the public interest as shown in the following table.

<b>Objectives</b>	<b>Consistency</b>
<ul style="list-style-type: none"> <li>To provide a range of facilities and services, light industries, warehouses and offices.</li> </ul>	<b>Complies</b> The proposed change is consistent with this objective in meeting the needs of occupants.
<ul style="list-style-type: none"> <li>To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.</li> </ul>	<b>Not Applicable</b>
<ul style="list-style-type: none"> <li>To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.</li> </ul>	<b>Not applicable</b>
<ul style="list-style-type: none"> <li>To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.</li> </ul>	<b>Complies</b> The proposal is designed to meet the emerging needs of business and industry in this locality.
<ul style="list-style-type: none"> <li>To provide opportunities for new and emerging light industries.</li> </ul>	<b>Complies</b> Modernised buildings are more attractive to new and emerging light industries.
<ul style="list-style-type: none"> <li>To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.</li> </ul>	<b>Not applicable</b>
<ul style="list-style-type: none"> <li>To encourage employment opportunities.</li> </ul>	<b>Complies</b> No loss of productive floor space is proposed. The facilities provided will encourage existing and new businesses.
<ul style="list-style-type: none"> <li>To promote land uses with active street frontages.</li> </ul>	<b>Not applicable.</b>
<ul style="list-style-type: none"> <li>To provide for land uses that support the viability of adjoining industrial land uses.</li> </ul>	<b>Not applicable</b>

- The development is also consistent with the objectives for the development standard for Height in clause 4.2 of SLEP as shown by the following table:

<b>Objective for the development standard</b>	<b>Compliance</b>
(a) to ensure the height of development is appropriate to the conditions of the site and its context,	<b>Consistent</b> The proposed extension of the stairwell and lift over run will increase the maximum height of the existing building, however, the building in its final form will

	still be consistent with the existing character of the neighbourhood.
<i>(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas of special character areas,</i>	<b>Not Applicable.</b> The development is not in a heritage conservation area or special character area and there are no heritage items in the immediate locality.
<i>(c) to promote the sharing of views outside Central Sydney,</i>	<b>Consistent.</b> The proposed development will not have any impact of views from other buildings in the locality.
<i>(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining area.</i>	<b>Not Applicable</b>

### 5.2 Compliance with the development standard is unreasonable.

Strict compliance with the standard would be unreasonable given the relatively small departure from the standard proposed and the lack of adverse environmental impacts on neighbouring properties.

In addition, the development will not have an adverse impact on the character and streetscape of Doody Street. Views of the stairwell and lift over run and the open pergola behind these structures will be limited from the public domain partly because of the position of the proposed changes and partly because of the heavily vegetated strip on the northern side of Doody Street.

A further indication that strict compliance is unnecessary is that the Land and Environment Court previously approved the construction of a building on the site which exceed the development standard for height (see case number 2017/00215154) in November 2017. The approved building height was to RL 31.65 (AHD) compared to the proposed height in the current application of RL 31.9 (AHD) – a difference of only 250mm.

### 5.3 The proposed variation is justified on environmental planning grounds

A variation to the height control is justified on environmental planning grounds because, as indicated in the accompanying Statement of Environmental Effects, the proposed development is compliant with other standards and controls in the Sydney Local Environmental Plan and Development Control Plan.

Other supporting considerations include:

- The increase in height does not alter the visual impact of the building.
- The increase in the building height will not reduce the environmental amenity of neighbouring properties through loss of views, again because the overall building setbacks are unchanged, and
- The purpose of the proposal is to improve the facilities provided for tenants.

#### **5.4 The proposed development is in the public interest**

The proposed development is in the public interest because it is consistent with:

- (a) the objectives of the standard for height (see above), and
- (b) the objectives for the development within the E3 Productivity Support Zone in which the development is located (see above).

#### **5.5 Matter of significance for State or Regional Planning.**

There are no matters of State or Regional Planning significant which have a bearing on this development application and the proposed variation of the development standard for height.

#### **5.6 The public benefit of maintaining the development standard.**

There is no public benefit involved in maintaining the standard and no precedent will be created if the standard is varied. On the contrary, the application of flexible standards to individual cases is of itself a public planning benefit.

### **6 Conclusion**

Under the proposed development application, the extension of stairway and lift overrun, and the construction of an open pergola exceeds the maximum height limit by approximately 2.51m. For the reasons given in this written statement, Council is justified in varying the development standard for height that applies to the proposed development at 23-25 Doody Street Alexandria.