

Revised Clause 4.6 Variation to Development Standard

Property Description: 364 – 374 Canterbury Road, Canterbury

Development: Mixed Use Development

Development Standard: Height of Buildings

Introduction

This clause 4.6 variation supports the amended plans noting the plans have deleted the roof terrace on the rear building. Notwithstanding, the proposal results in minor variations to the 18m height development standard including the communal roof terrace and associated structures on the building to Canterbury Road.

The application seeks variation to the 18m building height development standard contained in clause 4.3 – Height of Buildings contained in the Canterbury LEP 2012.

The proposed building has a variation of 2.9m to the 18m height control, with a minor variation of 1m at the front of the site – to Canterbury Road and a minor variation at the rear building Onslow Road. Further, the lift overrun and associate structures for the communal rooftop areas are 2.9m over the 18m height control. The lift overrun and rooftop structures are setback from the edge of the building form and will not be visually dominate when viewed from the Canterbury Road.

The building presents a 6 storey form to Canterbury Road and Onslow Street and Lane consistent with the 18m height control for development on Canterbury Road.

What is the zoning of the land?

The subject site is zoned B5 – Business Development under the Canterbury LEP 2012. The site is identified as a ‘key site’ under Schedule 1 of the LEP and mixed use development with commercial premises and residential units are permissible with consent.

What are the objectives of the zone?

The objectives of the B5 – Business Development zone are:

- *To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*

- *To provide for residential use in conjunction with mixed use development to create an attractive streetscape supported by buildings with a high standard of design.*
- *To support urban renewal that encourages increased use of public transport, walking and cycling.*
- *To encourage employment opportunities in accessible locations and along Canterbury Road.*

The proposed business premises and residential dwellings meet the objectives of the B5 – Business Development zone. The objectives of the zone are addressed at section 4.5 of the statement of environmental effects.

What are the objectives of the development standard?

The objectives of the development standard are at clause 4.3(1) of the Canterbury LEP 2012 as follows:

- (a) to establish and maintain the desirable attributes and character of an area,*
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,*
- (c) to support building design that contributes positively to the streetscape and visual amenity of an area,*
- (d) to reinforce important road frontages in specific localities.*

The proposed building meets the objectives of the building height development standard based on the following assessment:

- The development proposal has a 4 storey form to Canterbury Road with the upper levels (5th and 6th storeys) setback ensuring the variation to the 18m height control will not present unreasonable building height or scale to Canterbury Road.
- The portion of the building exceeding the 18m height control including the lift overrun and communal roof top structures will not generate unreasonable additional overshadowing, noting the variation at the front – northern portion of the site and the lift overrun/pergola structure is located centrally on the building. The rear portion of the building results in a minor variation to the 18m height control.
- The upper level of the building is setback from Canterbury Road presenting a well-articulated building contributing to development on Canterbury Road.

- The development proposal has been designed with a 3m setback to Canterbury Road and ground floor commercial space consistent with development on Canterbury Road.

How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The variation to the 18m building height development standard is acceptable in the circumstances of this case and compliance with the development standard is considered unreasonable and unnecessary based on the following:

- The development proposal presents a 4 storey building form to Canterbury Road with the upper level and portion of the building exceeding the 18m height control recessed 5m from the level below.
- The variation to the 18m height control measured to the ceiling – upper levels of the building is minor and to the lift overrun and roof terrace areas centrally located ensuring the built form will be viewed as 6 storey development to Canterbury Road and Onslow Street and lane.
- The variation to the 18m height at the front and rear portions of the buildings is approximately 1m above the height control. The building presents a 4 storey form to Canterbury Road and the portion of the building exceeding 18m in height is not visually significant.
- The lift overrun and communal roof terrace area exceeding the 18m height control is centrally located on each building and will not be visually dominant and do not contribute to unreasonable visual bulk and scale when viewed from the public domain or adjoining properties.
- The portion of the building exceeding the 18m height control will not result in unreasonable additional overshadowing, noting the minor variation to the built form is at the front and rear buildings, with the lift overrun and roof terrace structures centrally on the building to Canterbury Road.

How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The grounds for variation to the height control contained in this application confirm that achieving compliance with the controls is unreasonable in the circumstances as the underlying objectives of the controls are achieved.

Technical compliance with the controls would serve to hinder the attainment of the following the objects of the *Environmental Planning and Assessment Act 1979*:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*

The proposed upper level form results in a minor variation to 18m height control to Canterbury Road and Onslow Lane, and the lift overrun and communal roof terrace area exceed the 18m height control. The communal terrace area and associated structures contribute to the residential amenity of the development. The building height will not contribute to unreasonable building bulk or scale being compatible with the form and scale of buildings planned for Canterbury Road.

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

The development proposal has a variation to the 18m building height control contained in Clause 4.3 of the Canterbury LEP 2012; notwithstanding, the building has been designed to present a 4 storey form to Canterbury Road, with the upper level recessed 5m from the level below, consistent with the planning outcome for Canterbury Road.

The lift overrun and communal roof terrace structures are centrally located on the roof form and will not be visually dominant viewed from the public domain or adjoining properties and the lift ensures the communal areas are accessible and contribute to residential amenity.

The variation to the building height standard does not attempt to affect the planning outcomes for the broader locality; rather the variation does not change the overall building design consistent with the 6 storey height controls reflecting the scale and form of development planned for Canterbury Road. Further, the lift overrun and communal roof terrace structures are not visually dominant and the communal areas contribute to the residential amenity of the development.

In my opinion the application to vary the building height development standard is well founded and as addressed the development proposal does not hinder attainment of the Objects of the Act or the aims and objectives of the Canterbury LEP 2012. The variation to the building height standard should be supported.

Garry Chapman

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