

## Clause 4.6 Variation: Building Height

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RESIDENTIAL FLAT BUILDING DEVELOPMENT- 116-124 RESTWELL STREET,  
BANKSTOWN



**Prepared by:** Think Planners Pty Ltd

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**Consent Authority:** City of Canterbury Bankstown



116-124 Restwell Street, Bankstown

## QUALITY ASSURANCE

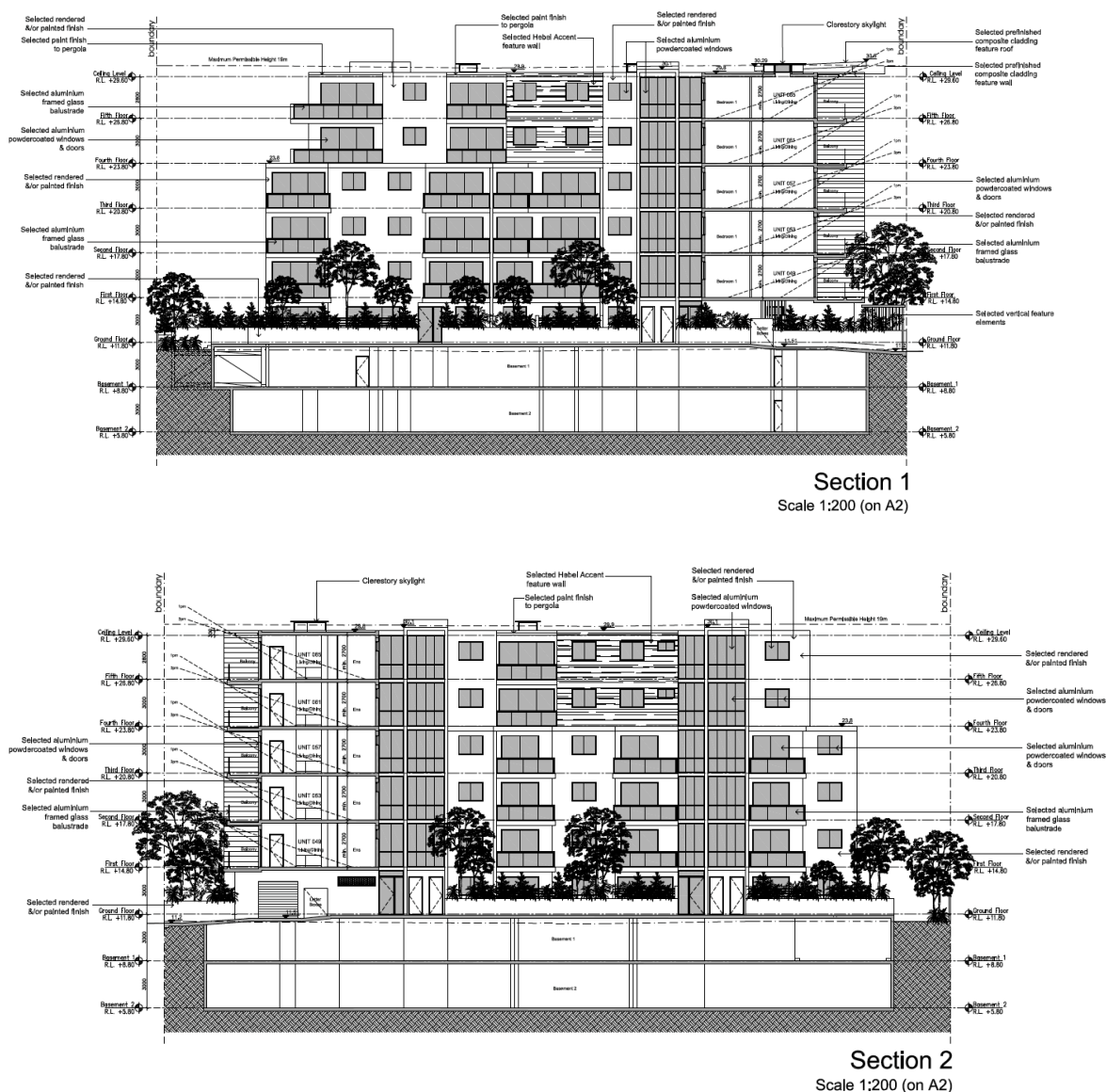
**PROJECT:** Clause 4.6 Variation – Residential Flat Building Development  
**ARCHITECT:** Design Cubicle  
**ADDRESS:** 116-124 Restwell Street, Bankstown  
**COUNCIL:** City of Canterbury Bankstown  
**AUTHOR:** Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
19 January 2017	Revised DA Lodgement Issue	Final	JW	AB

## Clause 4.6 Exception to Development Standards

As shown on the section below, the proposed development comprises a 6 storey residential flat building that predominantly complies with the 19m maximum building height control with the exception of small proportion of a structure associated with the upper level of the building, the top of lift cores and a feature roof. Further the clerestorey skylights that have been added throughout the design development of the proposal also marginally exceed the height control. These elements are a means of improving the design outcome on the site and improving amenity for residents and present a preferred outcome as compared to strict compliance to the height control.

Accordingly, a variation pursuant to Clause 4.6 of the Bankstown LEP 2015 is requested.



Extract from Architectural Plans: Section drawings

The extent of minor variation as is summarised as:

- North Elevation – feature roof
- South Elevation (Macauley Street) – approximately 500mm, feature roof and top of lift cores and minor portions of parapet walls as well as clerestory windows;
- East – approximately 500mm and lift core top and 1 clerestory window that is 300mm above the height limit.
- West (Restwell Street) – approximately 500mm, feature roof and lift core top as well as the top portion of some clerestory windows;

The design of the building ensures that the majority of habitable floor space is contained below the maximum building height line which indicates that the variation is not simply a means of achieving additional development yield on the site, but a site specific design response. As a result of ongoing discussions from Council's Engineering Department the design needed to be amended to provide a 300mm freeboard which sets the required floor level at RL 11.80AHD. This requirement means the building needed to be lifted to this level, which creates the minor protrusion into the height plane.

Further the introduction of the clerestory windows enables solar access and ventilation to these top floor units to improve amenity for occupants.

The top of lift cores are not visible from the street level as they are hidden well behind the main building line and will have no impact on the bulk and scale of the development. The lift cores are consistent with the underlying intent of the control and the variation is considered appropriate.

The roof features are composed of composite cladding and as stated above are an integral part of the building design and it can be seen in the photomontages included that the roof features create an interesting focal point adding interest and character to this streetscape.

The roof has been designed as a flat structure to minimise the potential impact of additional height for the building. This is considered a much improved outcome as compared to a simple flat roof form by adding interest to the roof for articulation and serves as a design feature of the development. These roof features are an integral part of the building design and can be seen in the photo montages included that the roof features create an interesting focal point adding interest and character to this streetscape.

The architectural roof features, as well as clerestory windows, could reasonably satisfy the requirements of clause 5.6(3) of the LEP however as they are connected to the small area of building that protrudes above the maximum building height plane they are addressed in this clause 4.6 for completeness.

Clause 4.6 of the Bankstown Local Environmental Plan 2015 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclause 3-5 which provide:

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

- (a) the consent authority is satisfied that:*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

- (b) the concurrence of the Director-General has been obtained.*

*(5) In deciding whether to grant concurrence, the Director-General must consider:*

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Each of these provisions are addressed in turn.

### **Clause 4.6(3)**

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.

The objectives of the building height development standard are stated as:

- (1) The objectives of this clause are as follows:*
  - (a) to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located,*

- (b) to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone R2 Low Density Residential*
- (c) to provide appropriate height transitions between development, particularly at zone boundaries,*
- (d) to define focal points by way of nominating greater building heights in certain locations.*

The current development proposal is consistent with the building height with the exception of a small area of the upper level of the building, the top of lift cores and architectural roof features. The proposal remains consistent with the objectives based on the following:

- a) The development proposal is consistent with the intent of the maximum height control and is predominantly below the 19m height limit
- b) The overall height of the development presents as a compatible form of development with the structure recessed back to downplay visual dominance as viewed from the public domain and adjoining properties
- c) The proposal has been designed to ensure that privacy impacts are mitigated that the proposal will not obstruct existing view corridors with appropriate side setbacks provided to promote view sharing opportunities
- d) Detailed shadow analysis demonstrates that the majority of the shadow cast falling on the surrounding street network
- e) The minor non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors
- f) The proposal is not located within a low-density area and the proposal represents an appropriate built form on the site.
- g) The introduction of clerestory windows improves amenity for a number of top floor units and subsequent occupants.

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

#### **Clause 4.6(4)**

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the R4 zone, being:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal ensures that the high density nature of the zone is retained and there is not a significant change to the character of the locality. In addition the proposal complements and enhances the local streetscape by virtue of the careful siting of the development and the landscape embellishment works within the front setback. As addressed previously the proposal presents as a 6 storey form that provides a quality address to its two (2) street frontages.

It is understood that the concurrence of the Director-General can be assumed in the current circumstances.

#### **Clause 4.6(5)**

As addressed it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality.

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances, specifically in relation to flooding impacts.

The proposal will not have any adverse effect on the surrounding locality, which is envisioned to be characterised by residential development of comparable height and form. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed. The objection is well founded and taking into account the absence of adverse environmental, social or economic impacts, it is requested that Council support the development proposal.