

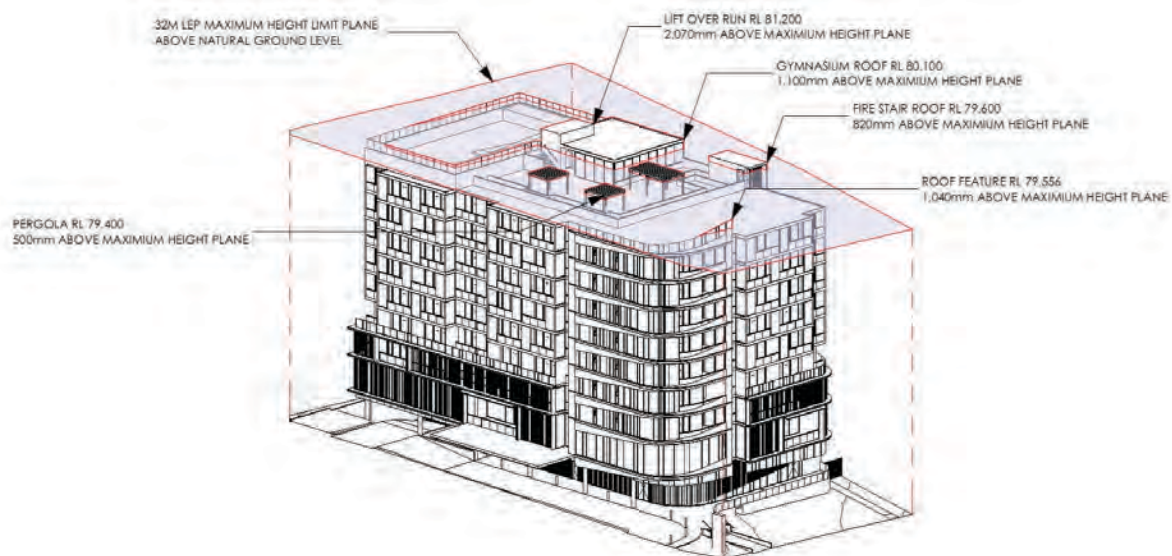
Hotel – 142 Sunnyholt Road, BLACKTOWN

### Applicant's Clause 4.6 Request to Vary the Height of Buildings Development Standard

As shown on the height plane diagram below the proposal comprises of a nine (9) storey building that predominantly complies with the 32m maximum building height control with the exception of the following:

- A small portion of the lift overrun (+2,070mm);
- A small portion of the roof structures associated with the gymnasium (+1,100mm);
- A small portion of the roof structures associated with the fire stairwell (+820mm);
- Pergola portion of structure (+500mm) and
- A small portion of the roof feature (+1,040mm).

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



The design of the building ensures that the 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. In this case the variation stems from the lift/stairwell overrun, gymnasium roof structure, pergola and roof feature.

It is noted that the lift & stairwell over-run and gymnasium roof structures are recessed and not visible from the street level and as addressed below the proposal continues to be consistent with the underlying intent of the control and the variation is considered appropriate.

#### Clause 4.6(3)

Blacktown 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 Secretary has been obtained.*

*(5) In deciding whether to grant concurrence, the Secretary 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 Secretary before granting concurrence.*

Each of these provisions are addressed in turn in the following pages.

### **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 minimise the visual impact, loss of privacy and loss of solar access to surrounding development and the adjoining public domain from buildings,*

*(b) to ensure that buildings are compatible with the height, bulk and scale of the surrounding residential localities and commercial centres within the City of Blacktown,*

*(c) to define focal points for denser development in locations that are well serviced by public transport, retail and commercial activities,*

*(d) to ensure that sufficient space is available for development for retail, commercial and residential uses,*

*(e) to establish an appropriate interface between centres, adjoining lower density residential zones and public spaces*

The current development proposal is predominantly consistent with the building height with the exception of a small portion of the lift/stairwell overrun, gymnasium roof structure and roof feature, pergola and the proposal remains consistent with the objectives based on the following:

- The development proposal is consistent with the intent of the maximum height control and will provide an attractive building that addresses Sunnyholt Road and also an existing right of way easement that run along the site's southern boundary.
- Non-compliance is minor in nature with the majority of the building being compliance with the building height control and with the lift/stairwell, gymnasium roof structure recessed, its impact to the streetscape is negligible as it will be visually unnoticeable when viewed from the street level. Furthermore, the roof feature will have a positive impact on the presentation of the building to the public domain.
- Due to the minor nature of the variation it will not have any adverse amenity impacts. In this regard it is noted:
  - The variation will be visually unnoticeable and will have no adverse impact on the physical bulk, height or scale of the development.
  - The variation will not lead to a reduction in solar penetration on site or to adjoining properties nor will it lead to sunlight loss or overshadowing.
  - The proposed variation will not lead to view loss or interrupt on views to and from the site.
- The proposal has been designed to ensure that privacy impacts are mitigated that the proposal will not obstruct existing significant view corridors.
- The proposed development will permit the site to develop to its full zoning potential whilst complementing the future vision envisioned for the site by providing an attractive hotel building that provides good address to the street frontage and complying with key planning controls applying to the proposal
- The proposal does not result in additional overshadowing to residential properties as the shadow cast by the development falls on the site and surrounding properties with only limited overshadowing to adjoining properties and this overshadowing would not be discernibly different as compared to a compliant height; and
- The minor non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors

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 B7 Zone, being:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To ensure that development does not have an adverse impact on the scale and form of the surrounding area.*

The proposal seeks to provide an important streetscape presence beyond the existing facades currently present within the Blacktown City Centre Business Park Precinct. In addition the proposal will complements and enhances the local streetscape by virtue of the careful siting of the development and the landscape embellishment works within the front setback.  
the proposal

It is understood that the concurrence of the Secretary can be assumed in the current circumstances.

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

As addressed it is understood the concurrence of the Secretary 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; and
- 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 that the minor-compliance does not lead to excessive bulk and scale and it will not set an undesirable precedent for future development within the locality.

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances.



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The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts. The proposal also not have any adverse effect on the surrounding locality. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested as part of the future development application to invoke its powers under Clause 4.6 to permit the variation proposed.