Clause 4.6 Variation Request

Clause 4.3 – Height of Buildings

Gosford LEP 2014

Proposed Point Clare Public School New Building

I Takari Avenue, Point Clare

April 2015

Prepared for Department of Education and Communities

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1. Introduction

This request is part of the Statement of Environmental Effects supporting the proposed development of a part two part three storey building at Point Clare Public School, at 1 Takari Avenue, Point Clare.

This written request is made pursuant to Clause 4.6 of Gosford Local Environmental Plan 2014, and justifies why compliance with the development standard in Clause 4.3 pertaining to Height of Buildings is unnecessary in the circumstances of the case, and demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development ranges from 7.3 m at the south-west corner of the building to 10.8 m at the south-eastern corner of the building. The height is one storey higher than the Gosford LEP's 8.5 metre height limit.

This request also explains how the proposed development will be in the public interest and how it is consistent with the objectives of the Height of Buildings standard and the objectives for the development within the R2 Low Density Residential Zone in which it is proposed to be carried out.

For the reasons set out, contravention of the development standard raises no matter of significance for State or regional environmental planning and there are no adverse amenity impacts as a consequence of the contravention. There is no public benefit in maintaining the development standard in this particular case.

The Minutes of the Pre-DA Meeting at Gosford City Council on 20 February 2015 in relation to height stated:

The concept is supported in principle but should be amended to address the following issues:

1. *The proposal is two to three storeys on Takari Avenue and is therefore exceeds height controls. Three storeys is considered acceptable as it adjoins the road and does not result in overshadowing of adjoining properties. The additional height also differentiates this important civic building from surrounding residences.*
2. *It is acknowledged that the proposal is only preliminary however the continuous length and uniform eave line of the new building could be reconsidered as this emphasises the bulk and scale and contributes to an institutional appearance. The use of articulation and variations in materials should also be considered.*
3. *Some of the existing mature trees on the southern boundary should be retained if possible to contribute to the canopy and disguise the bulk and scale.*

The need for a part two part three storey building has been based on the topography of the site and need to provide for access for students, and an education priority to maximise open freeplay area.

Point Clare Public School built in 1955 to accommodate 350 students, is situated on 1.4 hectares. As the population of Point Clare has increased so has the school, to a point where the student body now numbers 528.

The 1.4 hectare site is approximately half the size the Department of Education & Communities would allocate to a school to accommodate this student body. Over time the available open spaces have been covered by temporary buildings, thus reducing the space available for students to undertake outdoor activities.

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1.1 Clause 4.6

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The relevant criteria for the assessment of this request are expressly set out in Clause 4.6. In summary, they are that a written request from the applicant must be made to Council that seeks to justify the contravention of the development standard by adequately 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.

Council must be satisfied that the proposed development will be in the public interest because it is consistent with:

(i) the objectives of the particular standard; and

(ii) the objectives for development within the R2 Low Density Residential Zone in this case.

The concurrence of the Director-General (DG) must be obtained. It is assumed that Council enjoys delegated authority of the DG in this regard.

In deciding whether to grant concurrence, Council must consider whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the DG before granting concurrence.

We are not aware if there are any “other matters” required to be taken into consideration under subclause (5)(c) and assume there are none.

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2. Standard from which Variation is Sought

This request for variation is submitted in relation to the Height of Buildings standard contained in Clause 4.3 of the *Gosford Local Environmental Plan 2014.*

The maximum Height of Buildings control is 8.5m.

2.1 Deviation from the Standard

The proposed development is part two part three storeys in height and ranges from 7.3 m at the south-west corner of the building to 10.8 m at the south-eastern corner of the building. The height is one storey higher than the Gosford LEP's 8.5 metre height limit.

This variation arises due to the existing site topography and need to provide for access for students, and an education priority to maximise open space in the school grounds.

The Survey Plans are attached to the Development Application and show the slope of the land. The Demolition Plans show the existing temporary classrooms which have over time reduced the open space areas within the school grounds.

The Architectural plans and sections prepared by the NSW Public Works Government Architect's Office show the height together with the 8.5m height limit as a dotted line.

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3. Grounds for Clause 4.6 Variation

3.1 Objectives of the Development Standard – LEP 2014

The objectives of Clause 4.3 are:

(a) to establish maximum height limits for buildings,

(b) to permit building heights that encourage high quality urban form,

(c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,

(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,

(f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

3.1.1 Assessment against the relevant objectives of the Clause 4.3 LEP 2014

(a) to establish maximum height limits for buildings,

The subject site is shown below as identified by Green I on the LEP Height of Buildings Map. The height limit is 8.5m.

Figure 3-1: LEP 2014 Height of Buildings Map

(b) to permit building heights that encourage high quality urban form,

It is considered that the proposed development will provide a high quality urban form. This is further explained in the Architectural Statement provided in Section 3.4 of the SEE.

The Architect states that the design principles were:

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- To provide a positive and recognisable point of entry and identifiable street address.
- Minimise the building footprint to maximise the outdoor play space.
- To provide accessible connections to all areas.
- To provide terraced level playing surfaces through a sloping site.

Further, the design is to set a benchmark in 21st Century Learning and teaching environments for NSW schools. The proposed new prominent school entry point off Takari Avenue will enhance the address for the upgraded school creating a strong school identity.

c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,

Shadow diagrams have been prepared for the site to model the shadowing of the new buildings during the year.

Due to the side setbacks of the new buildings there would be no shadowing on any residential dwellings or the St John's Anglican Church.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,

The design strategy is to integrate the new buildings with outdoor terraced recreation spaces and COLA area. The rejuvenated outdoor areas will ensure a user friendly school on a sloping site. The organisation of these external areas ensures play spaces are accessible, easily supervised and maximises available site area.

In determining if compatibility is achieved, the planning principle for determining compatibility arising from *Project Venture Developments v Pittwater Council (2005) NSWLEC 191* is relevant. The planning principle states:

"Where compatibility between a building and its surrounding is desirable, its two major aspects are physical impact and visual impact." In order to test whether a proposal is compatible with its context, two questions should be asked:

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding site.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?"*

"…For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment…

…The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. In special areas, such as conservation areas, architectural style and materials are also contributors to character…"

Point Clare Public School is located on the corner of Brisbane Water Drive and Takari Avenue. The map indicates that the permissible height of buildings on the subject site and surrounding area is 8.5m.

The proposed building is located within an existing school and the school site contains an existing building (Block A) which is over 8.5m in height. The height of Block A is 8.903m.

The apparent height of the proposed building is similar to Block A.

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The proposed building is setback 7.343m from the Takari Avenue boundary, and 36.228m from the western side boundary. Takari Avenue is approximately 12m wide, and the proposed building is approximately 36m from the façade of the closest existing dwelling opposite. The setback of the existing Block A facing Takari Avenue is 7.448m.

The setbacks proposed protect the amenity of adjoining residents and residents opposite the school site. Overlooking is reduced due to the separation distance, and the planting of Turpentine trees in the setback area to Takari Avenue.

Visually the proposed buildings will provide a contemporary image of public education. The exterior image reflects the internal contemporary pedagogy to be provided by the creation of educational learning spaces that have an understanding of 21C educational needs.

Compatibility of built form is also achieved through the following design elements:

- Providing significant separation between adjoining and adjacent buildings. This reduces the impact of bulk and scale on surrounding built forms.
- The design while linear, reduces in height from three (3) stories at its eastern extent and adjacent to the existing two (2) storey building, down to two (2) stories as the site rises towards the western boundary.
- The overall bulk is reduced by the aesthetic and massing treatment where volume cut-outs and large window areas minimises the impact of the building. The contrast in colour and material between the ground floor brick base to the upper level cladding of compressed fibre cement, assists to ameliorate the façade scale. The joints within the compressed fibre cement panels are expressed to provide scale to the façade and the low pitch roofs reduce the building height. Development is provided with significant setback from boundaries.
- Together with the setbacks and articulation, materials and colours are varied. This contemporary façade design provides massing articulation and sectionalises the building, thus breaking up the apparent built form.

The proposal consolidates the footprint of the school buildings thereby providing for a larger school courtyard, an improved street address, and larger and better connected outdoor freeplay areas. This is achieved through removing ten demountables, demolishing the two buildings and construction of the new buildings fronting Takari Avenue.

The Landscape Plan submitted with the development Application shows that the proposal increases outdoor connectivity. Removal of the demountables provides connection between the new landscaped area to the west, new kitchen garden, existing basketball courts and to the new COLA. These open space areas are located within the central areas of the school site.

The option of stepping the new building down with the topography means that the building is not accessible to all students. Reducing part of the building to one storey only (in the south eastern area) would reduce the number of classrooms. It would result in the need to retain existing demountable classrooms thereby reducing proposed open space. It would have a deleterious effect on the landscaped setting within the school site, the outdoor connectivity within the school site and create a more cramped outdoor space for the students.

The site is already under area for a school of this student size. Point Clare Public School was built in 1955 to accommodate 350 students, and currently accommodates 528 students.

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The 1.4 hectare site is approximately half the size the Department of Education & Communities would allocate to a school to accommodate this student body.

For the above reasons, the height, bulk and scale of the proposed built form is compatible with the existing character of the surround area and complementary with the streetscape, and is consistent with the objective.

(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,

The proposed development will not have any negative visual impact to the area. The proposed development is located within an existing school with existing built forms that are different to those in the surrounding residential streets. The educational establishment provides an important facility for the residents of the surrounding areas and the buildings are purpose built for their educational functionality. In addition, as indicated above the existing Block A does not conform to the 8.5m height limit.

The proposed building is contemporary and its façade is articulated using recessed windows, screening, and different materials and colours thereby reducing its apparent bulk.

Please refer to the discussion in (e) immediately above.

(f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

In relation to overshadowing please refer to (c) immediately above.

The proposed development will not have any negative views to identify natural topographical features. The proposed development is located within an existing school with existing built forms different to those existing in the surrounding residential streets. The educational establishment provides an important facility for the residents of the surrounding areas and the buildings are purpose built for their educational functionality. In addition, as indicated above the existing Block A does not conform to the 8.5m height limit.

Please refer to the discussion in (e) above.

For these reasons the proposed development complies with the objective.

3.1.2 Objectives of the Zone – LEP 2014

The second consideration under clause 4.6(4)(a)(ii) is to ensure the development is consistent with the objectives for development within the zone.

The objectives of the R2 zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.

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- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing

Please refer to section 4.2.1 of the SEE in relation to the zoning objectives. The proposal is considered to be not inconsistent with the objectives of the zone, in that the works relate to an existing school and the proposal would provide the educational facilities to meet the day-to-day needs of both existing and future residences in the suburb of Point Clare and surrounds.

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4 Clause 4.6(5) Concurrence of the DG

We have assumed that the Council enjoys delegated authority from the DG to concur to this request.

That being so, the development raises no matter of State or regional significance.

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5 The Public Interest

There is no public interest in maintaining a height of 8.5m when the additional building scale which arises does not have an unreasonable material effect on the surrounding built form. The proposed development otherwise provides a compatible landscaped setting and setbacks indicating it is a reasonable density and intensity of development. The public interest is achieved for the following reasons:

- The proposal importantly provides increased outdoor freeplay area and connectivity within the school site.
- The proposal provides for the 21C educational needs of the community.
- The proposal provides accommodation needed to cater for the students
- The proposed development will not have any negative visual impact to the area. The educational establishment provides an important facility for the residents of the surrounding areas and the buildings are purpose built for their educational functionality.
- The design of the façade fronting Takari Avenue while linear, reduces in height from three (3) stories at its eastern extent and adjacent to the existing two (2) storey building, down to two (2) stories as the site rises towards the western boundary.
- The overall bulk is reduced by the aesthetic and massing treatment where volume cut-outs and large window areas minimises the impact of the building. The contrast in colour and material between the ground floor brick base to the upper level cladding of compressed fibre cement, assists to ameliorate the façade scale. The joints within the compressed fibre cement panels are expressed to provide scale to the façade and the low pitch roofs reduce the building height.
- Proposed setbacks from Takari Avenue contribute to the screening and softening of built form through planting an additional 13 Turpentine trees that grow to approximately 20 m in height.
- The proposed building will not reduce any existing views across or through the school site.
- The proposed building is well setback from the Takari Avenue boundary, and from the church to the west and creek to the north. The setbacks proposed protect the amenity of residents opposite the school site in terms of overlooking and overshadowing.
- The proposed building provides reflect the Educational Facilities Standards and Guideline requirements including minimum ceiling heights of 2.7m.
- The school site contains an existing building (Block A) which is over 8.5m in height. The proposal is similar in height to that building on the school site.

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