

APPENDIX A

CLAUSE 4.6 REQUEST – EXCEPTIONS TO DEVELOPMENT STANDARDS



Clause 4.6 Variation Request

Clause 4.3 – Height of Buildings
Warringah LEP

Proposed Manly Vale Public School Additions

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Prepared on behalf of NBRS Architecture

Prepared for Department of Education and
Communities

1. Introduction

This request is part of the Addendum to the Statement of Environmental Effects (dated June 2015) supporting the proposed development of demolition and construction of new school buildings at Manly Vale Public School, at 77 Sunshine Street, Manly Vale.

This revised Clause 4.6 Variation has been updated from the original Clause 4.6

Variation lodged as part of the SEE (dated June 2015) with new heights indicated in accordance with plans and details provided by NBR Architecture.

This written request is made pursuant to Clause 4.6 of *Warringah Local Environmental Plan 2011*, 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 includes construction of:

- Three new blocks (M, N, O and P) containing homebases and a library,
- A hall and linkway to the existing Administration Building

The heights of the new buildings are shown in the table below.

Table 1.1

New Building	Height	Height above requirement
Block M (Homebases)	Ranges from 7.7m on the south-eastern corner to 11.59m on the north-western corner	Ranges from complying to 3.09m over height limit.
Block N (Cola and Library)	Ranges from 8.30m on the north-eastern corner to 8.55m on the south-eastern corner	Complying to 0.05m over height limit
Block O (Homebases)	Ranges from 6.45m at south western corner to 8.89m at the north-eastern corner	Ranges from complying to 0.49m over height limit
Block P (Homebases)	Ranges from 11.7 m at north eastern corner to 7.96 m at south western corner	Ranges from complying to 3.2 m over height limit.
Lift adjacent to Block L	16.2m above adjacent ground	7.7m over height limit.
Hall	Ranges from 6.58m on the south-eastern corner to 9.26m on the north-western corner	Ranges from complying to 0.76m over the height limit

Height of buildings under the NSW Standard LEP Template is defined as

(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

In regard to the proposed lift within proposed Building P, the top of the lift shaft is RL77.30 and the highest point of the roof of Block P is RL 77.70. While the lift has a maximum height of around 10.8 metres it does not extend above the maximum roof height of proposed Building P. It is considered that the non-compliance of the lift with the numerical height control does not create any additional impact beyond that considered in this assessment of the overall height of Building P.

There is also a covered walkway connected to a lift between Block M and Block L. This provides improved accessibility between the existing administration building and Block L to the Block M school development. The top of this lift is approximately 16200 mm above natural ground level in the worst case but is still below the maximum height of the adjoining school building. This lift is located central to the site and is well screened by existing vegetation and adjoining school buildings. The non-compliance with the numerical height control in this isolated case will not be perceived from any public location, and will not create a loss of views, privacy or solar access to adjoining development. The numerical non-compliance with the height control for this lift is considered acceptable and appropriate for the operations of the school site.

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 topography of the site has influenced the architectural design. The design aims to maximise crucial outdoor playing space on the flatter areas towards the eastern part of the subject site, and by building the new classrooms on the raised western section of the site, with the new hall adjoining the existing administration building.

As a result, the ground levels under the proposed buildings can fall by 5 metres over 16 metres (the width of a building). This means that while the classroom buildings are approximately 8.5m high, sections of the building can be up to 11.7m out of the ground at localised areas.

While the maximum height of the proposed school buildings do not comply with the maximum height control of 8.5 m, most of the areas of non-compliance are less than 1 metre and the others areas are minor localized areas of non-compliance. It is considered that the proposed height, bulk and scale of the proposed buildings are acceptable given the context and setting of the built school campus and setback from surrounding development.

It is also noted that under the provisions of Clause 31A of State Environmental Planning Policy Infrastructure (Infrastructure SEPP) the development of classroom buildings and other similar school buildings as those proposed are permitted as complying development up to a height of 12 metres provided development is setback

5 metres from a side or rear boundary.

Given the topography of the site, it is noted that at the highest point, Block P extends to a maximum height of around 11.7 m, which complies with the height of school buildings deemed suitable for complying development on existing school site. Furthermore, Block P is setback in excess of 60 metres from any boundary with adjoining development. The built form of Block P also transitions well with the adjoining school campus development of Block M,N and O in a central location on the school grounds.

The areas on non-compliance with the height control are select isolated locations, with no impact to neighbouring properties due to visual privacy, acoustics, or overshadowing.

1.1. Clause 4.6

Clause 4.6 of LEP 2011 states the following:

(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 non

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 *Warringah Local Environmental Plan 2011*.

The maximum Height of Buildings control is 8.5m.

2.1 Deviation from the Standard

Table 1-1 provides the height of the buildings and also the deviation from the LEP requirement of 8.5m.

This variation arises due to the existing site topography, the aim to have a light impact on the existing environment under the buildings, maximum ceiling height requirements (2.7m) of the DEC EFSG, and the need 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 Architectural plans and sections prepared by the NSW Public Works Government Architect's Office also accompany the Development Application.

3. Grounds for Clause 4.6 Variation

The site contains Manly Vale Public School and is within the R2 Low Density Residential Zone as per Warringah LEP 2011.

3.1 Objectives of the Development Standard – LEP 2011

The LEP 2011 Clause 4.3 Objectives are:

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Each of these Objectives is discussed separately below.

2.1.1. Assessment against the relevant objectives of the LEP 2011

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*



Figure 2-1: Zoning extract

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..."



Figure 2-2: LEP 2011 Height of Buildings Map

Manly Vale Public School is located at 77 Sunshine Street, Manly Vale. The map indicates that the permissible height of buildings on the subject site and surrounding area is 8.5m.

The existing site has a number of constraints resulting in the proposed homebases (classrooms) and library building being located in the centre and to the north of the site. The school site is located on the eastern edge of an elevated knoll or spur and just below the crest. This knoll is sloping and DEC wish to retain the rock outcrops in their natural condition without cutting or excavation.

The buildings therefore will be elevated over the existing rock outcrops. The building design as a result has a light impact on the natural environment and conserves and preserves this natural element of the site. In addition, the proposal has the effect of minimising the building footprint and thereby reducing the building impact on the natural environment overall. Refer to 3.6 of the SEE for details relating to the architectural design concept.

As schools need to be access designed, it is not possible to follow the slope of the land and the buildings need to horizontally project as a result. The library (Block N) is located over a rock edge and leaves the rock outcrop exposed for interpretation purposes. The library acts as a cola and provides additional covered area for the students. In addition, the proposed buildings reflect the EFSG requirements including minimum ceiling heights of 2.7m.

The ovals and play areas require flat land, and therefore are proposed on the existing flat land to the south of the escarpment. There is an existing Administration Building on site which was recently constructed with BER funds. If the homebases and library was to be located to the south of the existing sandstone escarpment, then the administration building would require demolition which would not be considered by DEC.

If the proposed buildings were reduced to single storey in height, this would mean that the proposed buildings would have a much greater in footprint in the school site. The site is already under area for a school of the projected student size. The existing play area on the site is already compromised by the site topography, existing landscape features and the existing demountables. Reducing the height to single storey would have the effect of reducing the active play areas – making these areas cramped, and potentially impacting more on the natural environment of the site. Further bushfire issues would also arise and the proposal could impact on the streetscape visually.

The proposal consolidates the footprint of the school buildings thereby providing for a larger and better connected outdoor freeplay areas. This is achieved through removing 11 demountables.

In terms of bulk and scale, the aim was to design a development to minimise the built form presence in a predominantly low scale residential environment. The proposed new buildings are therefore set back from both the eastern and northern side boundaries. The new buildings will not be highly visible from Sunshine Street. The setbacks proposed also protect the amenity of adjoining residents and residents opposite the school site. Overlooking is reduced due to the separation distance.

The proposed buildings are discrete blocks joined by covered walkways. The new proposed buildings align with the existing administration building.

The fall of the roof is oriented to minimise built form from adjoining land and distant vistas, as discussed in the view section of the SEE.

The perceived bulk and scale of the proposed building is broken up due to the placement of the blocks on the site, the architectural elements, and proposed colours. In order to reduce the bulk the buildings are well setback from the southern boundary. This contemporary façade design provides massing articulation and sectionalises the building, thus breaking up the apparent built form. The colour scheme also provides apparent articulation.

Shadow Diagrams have been prepared for 9.00am, 12noon and 3pm. These show that the proposed heights of the proposed buildings will not overshadow any residential buildings adjoining or adjacent.

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 within the new buildings that build from an understanding of 21C educational needs.

Please also refer to the architectural / landscape design statement in Section 3.6 of the SEE.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Visual Impact

The existing Manly Vale Public School is located within a landscaped setting provided by the open spaces within the school grounds, and the bushland surrounding the site. The proposed development is located within an existing school with existing built forms different to those existing in the residential streets surrounding.

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 proposed buildings are contemporary and the façades are articulated using materials, fenestrations, balustrades, overhangs and colours that have the effect of reducing apparent bulk. The image projected is one relating to 21C education.

Proposed setbacks from Sunshine Street contribute to the screening and softening of built form through retention of the existing trees within the setback area.

The view from Sunshine Street shows that the existing landscaping contributes to reducing visual impacts by screening, so that only partial sections of the buildings would be visible from the neighbouring properties opposite in Sunshine Street.

The existing landscaping would soften the built form and enhance the development's presentation to the existing streetscape.

It is clear that even though the height is more than the height limit in the LEP 2011, the proposed school buildings on the site will have a greater scale in contrast to the dwellings in the residential zone. However the above shows that the proposal will not result in a loss of amenity of the neighbouring properties.

For these reasons the proposed development minimises visual impact. The increased height proposed does not give rise to unreasonable visual impacts and will positively contribute to the public domain as an important facility to the neighbouring residents.

Views

A visual analysis accompanied the development application of June 2015 and was prepared by the Government Architects Office. This visual analysis provides an assessment of the impact of the proposed development on the heritage conservation area from a visual perspective. That analysis shows that the new building has only minor impacts on the Manly Dam and Surrounds Heritage Conservation Area.

Please refer to Section 4.2.4 of the SEE for the View Analysis.

Privacy

The proposed building setback of Block L is 12.465m to the northern boundary. The setback to the eastern boundary is not altered. The proposed setbacks protect the amenity of adjoining residents, and overlooking is reduced due to the separation distance.

For this reason the proposal does not increase the privacy impact on the adjoining properties.

Solar Access

As demonstrated in the revised Shadow Diagram, the proposed development does not have a negative impact to the adjoining residential properties. The proposed additional height sought, does not increase the shadow impact on the adjoining properties.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Please refer to:

- The discussion related to visual impact and views in (b) above and Section 4.2.4 of the SEE;
- Table 4-1 of the Stormwater Management Concept Plan that indicates the pervious area associated with the proposed development is 75% of the site area.
- The following reports accompanying the Statement of Environmental Effects, the recommendations of which would reduce the impact on the bush environment:
 - Revised Species Impact Statement, prepared by Kleinfelder
 - Revised Arboricultural Report, prepared by NBRS Landscape
 - Revised Bushfire Threat Assessment Report (SFPP), prepared by Kleinfelder

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

Please refer to the visual impact and view analysis in Section 4.2.4 of the SEE.

The educational establishment provides an important facility for the residents of the surrounding areas and the existing and proposed buildings are purpose built for their educational functionality.

2.1.2. Objectives of the Zone – LEP 2011

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 low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

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 Manly Vale and surrounds. The consistency is discussed in Section 3.2 and Sub-Section 4.2.1 of the SEE.

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.

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 or distant vistas. 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 play 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 increased number of 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 façade of the proposed building is articulated using materials, fenestrations, balustrades, overhangs and colours to the facades that have the effect of reducing its apparent bulk
- Proposed setbacks from Sunshine Street contribute to the screening and softening of built form through retention of the existing trees within the setback area.
- The Visual Analysis indicates that the proposed buildings will not detrimentally impact on the bushland setting.
- The proposed building is well setback from the Sunshine Street boundary. The setbacks proposed protect the amenity of adjoining residents and residents opposite the school site in terms of overlooking and overshadowing.
- The proposed buildings reflect the EFSG requirements including minimum ceiling heights of 2.7m.
- The proposal retains a recently constructed administration building funded by the BER program in 2010