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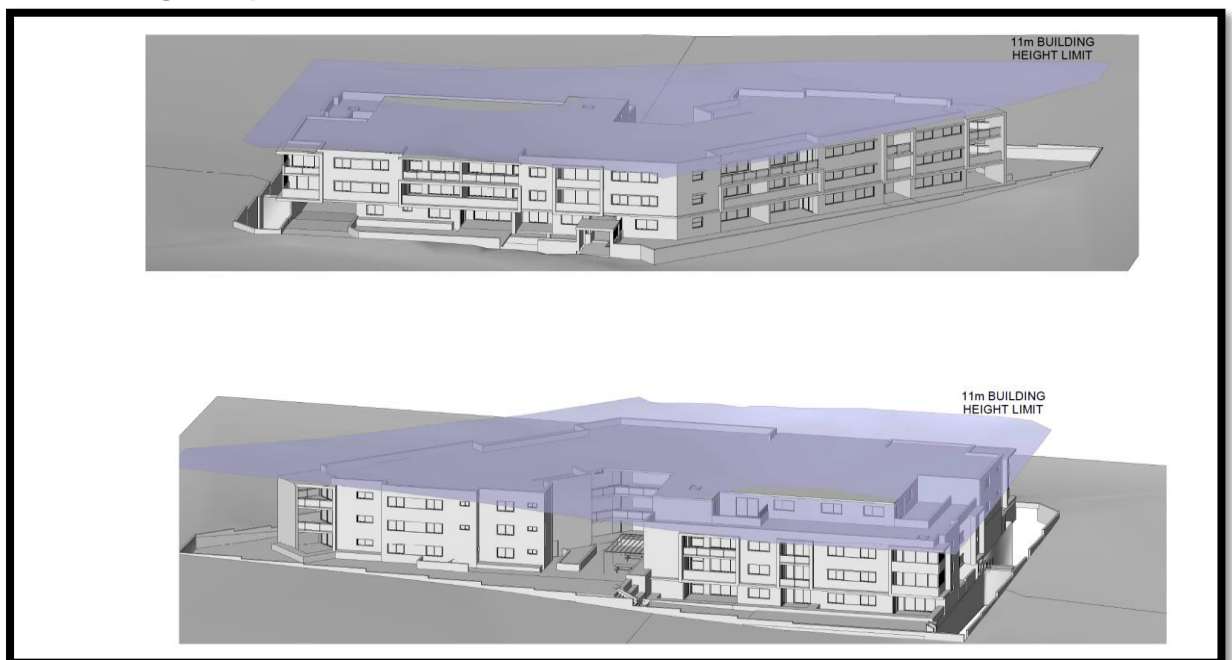
DA/523/2016 -CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING AT 8 BURBANG CRESCENT, RYDALMERE

I refer to the above development and Council's additional information letter dated 6 September 2016. This letter responds to point 6(b) of this letter and provides Council with an updated clause 4.6 departure to the 11m height control that applies to the site.

Updated Clause 4.6 Exception to Development Standards

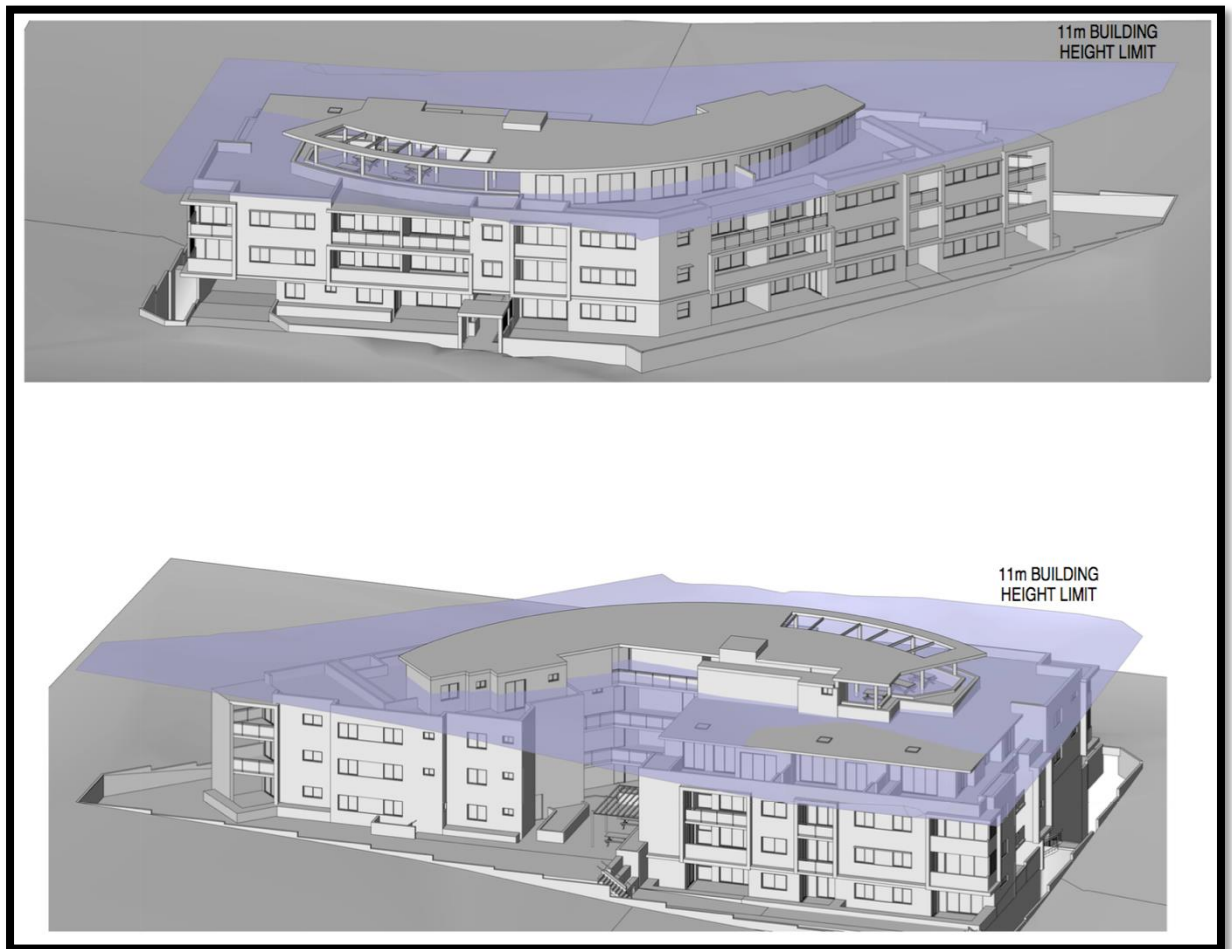
The proposal is non-compliant with Clause 4.3 – Height of Buildings that stipulates that the height of a building is not to exceed 11m on the subject site. It is noted that the main roof ridge line of the residential flat building complies with the 11m maximum building height requirement, however minor portion of two units on the top level and the roof structure and exceed the maximum building height requirement and as such does not comply with Clause 4.3. This is reflected on the section extract below and the 3D height plane.

Current Height Departure



As illustrated on the 3D shadow diagram on the following page, the height exceedance has been substantially reduced from the as lodged scheme. This is as a result of the proposal being reduced from 39 units to 36 units.

Previous Height departure



The following Section plan illustrates the minor height departure on the revised/current set of plans.



The extent of departure is as follows:

Small portions of Habitable rooms within units 27 and 28 are over the 11m height limit by a range of up 150mm (or 1.3%) at the highest point).

Small portions of the roof above units 27 and 28 are over the height limit by up to 250mm or (2.2%) at the highest point).

The non-compliance to height control is a direct result of applying the Affordable Housing SEPP 2009 which permits greater FSR and in the process of accommodating additional floor space, the development marginally encroaches upon the prescribed height limit. However, considering that the majority of the building form is contained below the maximum permitted height control with the top level recessed from neighbouring property to the south to minimise potential privacy and overshadowing impacts (as evident on the submitted shadow diagram), the variation is considered appropriate

Clause 4.6 of the Parramatta LEP 2011 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 sub clause 3-5 which provides:

(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.

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 maximum development standard are stated as:

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

(a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,

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

(c) to require the height of future buildings to have regard to heritage sites and their settings,

(d) to ensure the preservation of historic views,

(e) to reinforce and respect the existing character and scale of low density residential areas.

The development seeks to depart from the height control noting that the proposal remains consistent with the objectives of the clause and is a more appropriate outcome on the site because of the following:

- The proposal will provide a high quality urban form that relates well to the context of the site in terms of the natural topography and adjoining development;

- The proposal incorporates an Affordable Housing component of 50% which provides for a discernible public benefit and this additional floor space needs to be accommodated within the same building envelope of planning controls;
- The top level is pulled towards the street frontage to minimise overshadowing and potential privacy impacts to adjoining residential land parcels to the south.
- The proposal presents a suitable scale of development relative to surrounding development and future development within the locality given the provisions of the Parramatta LEP 2011.
- 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 a residential flat building that provides good address to Burbang Crescent whilst complying with key planning controls applying to the proposal.
- The development proposal has been designed to comply with key planning requirements, whilst providing an attractive building that addresses the context, streetscape whilst being consistent with the evolving high residential built form characters along the southern side of Burbang Crescent. The development provides a mix of dwellings that will contribute towards increasing housing choice, diversity and stock of the Parramatta LGA.

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.

The unique circumstances of the case that warrant support of the departure are:

- The steep topography of the site that falls to the rear and the desire to provide level access to all the units, without providing steps within corridors;
- The need to provide headroom to units 28 and 29. A height compliant scheme could be provided through the provision of BCA compliant 2.4m floor to ceiling heights to these units. This would however reduce natural cross through ventilation and light access for future residents; and
- The proposal is an affordable housing development which means the additional floor space needs to be accommodated within the building envelope given that the 50% additional FSR proposed under the ARH SEPP- the most logical way of achieving this is through a minor encroachment to the heights on a portion of the building where impacts to adjoining properties are limited.

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.*
- *To provide opportunity for high density residential development close to major transport nodes, services and employment opportunities.*
- *To provide opportunities for people to carry out a reasonable range of activities from their homes if such activities will not adversely affect the amenity of the neighbourhood.*

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. As addressed previously the proposal presents as a 3 storey form that provides a quality address its frontage to Burbang Crescent. 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:


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

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.

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

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 will not have any adverse effect on the surrounding locality, and is consistent with the future high density residential character envisioned for the subject area by virtue of its R4 Zoning. 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 proposed variation.

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.

Conclusion

We trust that the above clause 4.6 departure in conjunction with the additional information submitted by the architects will facilitate the favourable determination of this development application and that any remaining concerns can be conditioned.

Should you require any further information I can be contacted on 9687 8899 or 0405 530 095.

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