



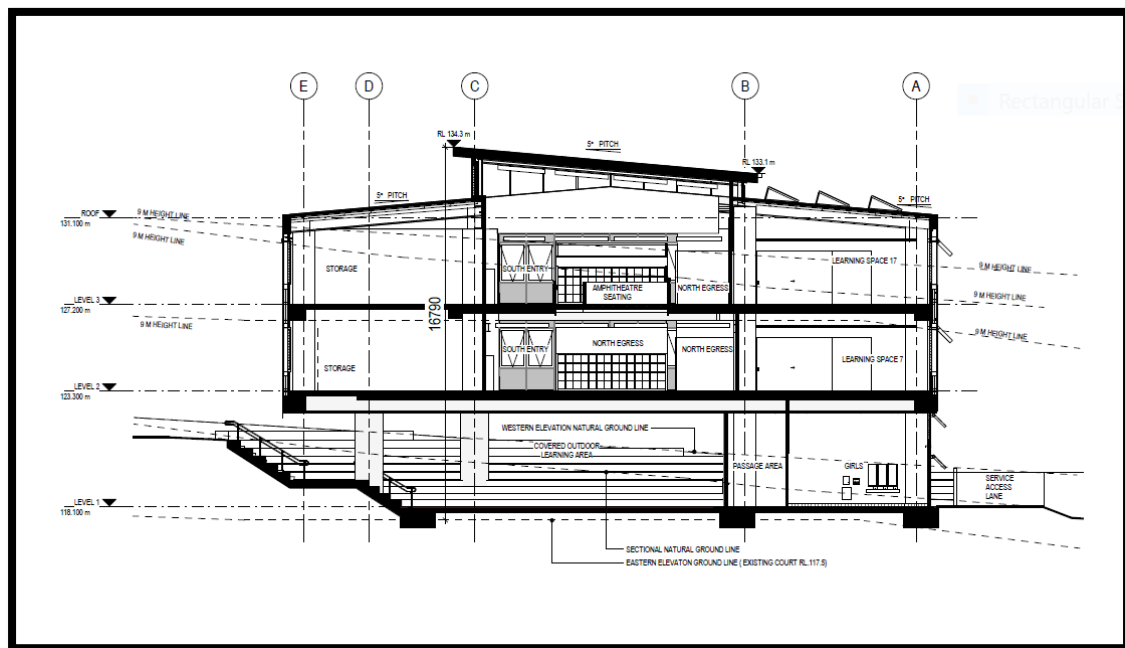
UPDATED CLAUSE 4.6 DEPARTURE -CARLINGFORD PUBLIC SCHOOL

MARCH 2018



ANNEXURE 1: CLAUSE 4.6 VARIATION – HEIGHT OF BUILDING

As shown on the section and streetscape perspective below, the proposed development comprises of a 2 -3 storey building that exceeds the 9m height control. Accordingly, a variation pursuant to Clause 4.6 of the Parramatta LEP 2011 is requested, noting the highest point on the roof is 16.8m above existing natural ground level..



Clause 4.6 of the Parramatta Local Environmental Plan 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 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:

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:

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

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

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

to ensure the preservation of historic views,

to reinforce and respect the existing character and scale of low density residential areas,

to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms, and to key areas of the public domain, including parks, streets and lanes.

The current development proposal exceeds the height control by up to 7.8m, however 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 will address Rickard Street
- The proposal does not present an attempt to attain additional development yield on the site given compliance with the FSR controls applying to the site.
- The non-compliance is partially a result of the City of Parramatta utilising the standard LEP template that replaced the former Special use zoning of the site with the low density R2 zoning that applies opposite the site. Prior to this LEP, a height control did not apply to the site;
- There are existing non-compliances on the site with the heritage listed building having a height of approximately 14.5m. Given this it would be unreasonable to not allow the new building to have a similar height;
- The variation will not have any adverse amenity impacts. In this regard, it is noted:
 - The variation will not lead to the reduction in solar penetration on site or to adjoining properties nor will it lead to excessive sunlight loss or overshadowing
 - The proposed variation will not lead to view loss or interrupt on views to and from the site

- The proposed variation will not lead to a reduction in privacy afforded to existing residents surrounding the site, given the separation distances provided.
- The proposal has been designed to ensure that privacy impacts are mitigated that the proposal will not obstruct existing view corridors with appropriate setbacks provided to promote view sharing opportunities;
- Detailed shadow analysis demonstrates that properties to the east still achieves adequate solar access to open space and living areas with this development only casting shadow within the front setback areas;
- The non-compliance to the height control has no unacceptable impact on the setting of any items of environmental heritage or view corridors; and
- The proposal adjoins the Carlingford Commercial precinct, is located in proximity to 5 storey residential flat buildings on the northern side of Keeler Street and the proposal represents an appropriate built form on the site.

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

- The desire to maximise open space on the site to benefit future students., noting that the school may need to continue to expand to cater for population growth within the catchment;
- The topography of the site and the desire to have level or non stepped floor plates that provide accessible access to all whilst maximising natural light penetration;
- The desire to integrate the new building with the existing built form and landscaping infrastructure and create a 'heart' for students within the site; and
- The desire for the new building to be accessible to the public after hours and the associated need to site the building so that public access afterhours is appropriate;

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 R2 zone, being:

- *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 non-residential land uses are located in a context and setting that minimises impacts on the amenity of a low density residential environment.*
- *To allow for a range of community facilities to be provided to serve the needs of residents, workers and visitors in residential neighbourhoods.*

The proposal ensures that the low 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.

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 maximum height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal and minor nature of the variation;

There is no public benefit in maintaining the development standard as it relates to the current proposal as the proposal is consistent with the underlying objectives of the control and the fact that the minor non-compliance does not lead to excessive bulk and scale and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality and based on the unique site attributes.

Strict compliance with the prescriptive building height requirement 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, which will be characterised by residential development of comparable height and character. 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 and the Sydney Central Planning Panel support the development proposal.