



Clause 4.6 Variation to Development Standards – Written Request

Clause 4.4 Floor Space Ratio *Kogarah Local Environmental Plan 2012*

Proposed Alterations and Additions to St George Christian School 47-69 Woids Avenue, Allawah

1.0 Introduction

DFP Planning is assisting St George Christian School (SGCS) in relation to a development application (DA) for alterations and additions to existing school facilities at 47-69 Woids Avenue, Allawah.

This clause 4.6 variation request seeks to vary the floor space ratio (FSR) control as it relates to part of the site.

This clause 4.6 written variation should be read in conjunction with the Statement of Environmental Effects (SEE) submitted with the DA and the response to Council's request for further information letter from DFP dated 3 January 2019 in relation to the amended plans for the proposed development.

The proposed development is partly located on land zoned R2 Low density residential. This part of the site is subject to a building height and floor space ratio development standards. That part of the development located on land zoned R2 does not comply with the relevant development standards. The non-compliances with the building height and floor space ratio development standards are linked in that the proposed building height enables additional gross floor area on the part of the site to which the maximum height and FSR controls apply.

This clause 4.6 variation should be read in conjunction with the written variation relating to the Height of Buildings development standard.

This clause 4.6 written variation supplants the written variation submitted with the DA.

The purpose of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards where it can be demonstrated that non-compliance with these standards is justified in the particular circumstances of the case. In this instance, it is considered that that variations sought are reasonable in the context of the site and proposed development and it is appropriate to allow flexibility in the application of the controls.

2.0 Amended Proposed Development

In response to feedback from Council and the Sydney South Planning Panel, the proposed development has been modified in the following manner:

- The proposed new building has been moved away from the boundary with No. 45 Woids Avenue and a setback of 5m (5,030mm) (at ground level) has been provided. (NOTE: The setback of the basement level will be 3,020mm).
- The basement car parking level has been reconfigured to reflect the increased side setback and work around existing trees, structures and buildings to be retained. A total of 39 car parking spaces (including one accessible space) will be provided in the basement.
- The building height adjacent to No. 45 Woids Avenue has been reduced to 3 storeys, with the exception of toilets on the 4th storey which will be recessed and setback 6,350mm from the boundary with No. 45 Woids Avenue.
- The 4th storey has been retained on that part of the building with frontage along the Bogie Lane.
- A 3rd level has been added to the existing main school building on the Woids Avenue site.

Notwithstanding, the development as now proposed still comprises alterations and additions to the school, including restoration works to the heritage listed church, as well as alterations and additions to the existing senior school building, including a four-storey addition (above a basement), and refurbishment and relocation of existing teaching spaces within the building.

In summary, the amended proposed development comprises:

- Demolition of the unsympathetic addition to the heritage chapel building;
- Removal of existing demountable building and associated bathrooms in the central portion of the site (NOTE: This work has been completed as part of a separate DA);
- Excavation and site works to accommodate a proposed 39 space basement car park to be accessed from Woids Avenue;
- Change of use for the properties at 47 and 49 Woids Avenue for educational purposes;
- Construction of a part three (3) and part four (4) storey school building (over basement car park) comprising various new learning spaces including technology and applied sciences (TAS) and general learning area (GLA) classrooms, and upgraded staff/administration space;
- Refurbishment of the existing two (2) storey junior school building fronting Bellevue Parade to provide for the relocation of before and after school care and an associated reception;
- Heritage conservation works to the existing chapel building;
- New COLA structure and outdoor sports court fronting Woids Avenue; and
- Associated landscaping and fencing works.

This clause 4.6 written variation relates to that part of the proposed development, which is located on 47 and 49 Woids Avenue, being that part of the school site zoned R2.

3.0 Site Context

SGCS is located at 51-69 Woids Avenue. SGCS also owns land at 48, 50, 54 and 56 Bellevue Parade and 47 & 49 Woids Avenue. The school also leases 58 Bellevue Parade.

The site is located in a residential area of Allawah which is characterised by a mix of detached dwellings and medium density built form. On the eastern side of Woids Avenue are a number of three (3) storey residential flat buildings that form a key character of the area. A 15m maximum building height control and floor space ratio (FSR) control of 1.5:1 applies to the land on the opposite side of Woids Avenue. On the opposite side of the site, the prevailing character of development on the western side of Bellevue Parade is predominantly one and two-storey detached dwellings.

The prevailing built form of the school currently comprises buildings ranging from two (2) to four (4) storey in height. These buildings serve a range of teaching and administrative functions. The existing four-storey built form at the site is located in the southern portion of the site. The school (and its associated buildings) are a key feature of the existing character of the area.

4.0 Site Planning and School Building Design Analysis

The school has acquired 47 and 49 Woids Street which provides an opportunity to undertake a refurbishment and reconfiguration of the school in a manner not previously available. The school is seeking to consolidate the Middle School and Senior School learning area onto the Woids Avenue part of the school site and locate the Junior school and main administration spaces on the Bellevue Parade side of the site.

The acquisition of 47 and 49 Woids Avenue has enabled the school to reconfigure and increase the open space within the school to provide additional playground space and a new sports court facility. The redevelopment also provides the opportunity to remove some existing demountable or modular buildings which will also allow for additional play space.

The design approach has considered the Woids Avenue streetscape, its sloping topography and the existing heritage listed chapel building. The chapel is located in the middle of the site, setback from the street frontage. A larger scale 2 storey built form is built to the rear of the chapel.

The work will be undertaken in three stages.

The first stage of work will involve construction of a new three/four storey classroom building over basement carpark to 47 and 49 Woids Avenue Allawah, along with refurbishment and additions to the existing adjoining school campus. The new building will comprise a basement carpark and plant areas, classrooms dedicated to science, art and general learning as well as areas for student toilet amenities, break out spaces and staff and administration facilities on the upper floor. This building will be connected to an existing two storey classroom to the immediate south east, which will also be extended to create one larger building.

The second stage of works involves refurbishment and additions to existing classroom buildings to the south east of Stage 1. The existing unsympathetic addition to the heritage listed Chapel will be demolished, and the Chapel will become a focal point for the School. This will be reinforced by the creation of an atrium and new circulation spines that will create strong axial lines through the campus that link the secondary, middle and primary school campuses together. To the south west of the Chapel, the existing wood tech workshop will be refurbished and expanded, and student services will be upgraded. Staff office facilities will be established on the second floor of this building with a staff breakout and lounge space on the other side of the atrium, and a third level will be added to this existing building to create a student learning centre for inquiry-based learning and breakout areas for group work. In the initial application this student breakout area was proposed on the upper floor of the building proposed at 47 Woids however, as part of this amended proposal it has been relocated to address the

concerns of the Council and the Planning Panel with respect to the interface with the dwelling on the adjoining site at 45 Woids Avenue.

The final stage of works proposed as part of this application involves the relocation of the primary school from a small two storey demountable building into the classrooms presently occupied by the middle school. The demountable building will be refurbished to provide before and after school care facilities on the ground floor level (relocated from its current position in the Chapel) and an enlarged reception area. The upper floor of this building will remain as small classrooms suitable for a variety of elective subjects for middle and senior school.

The built form of the Stage 1 works of the amended proposal has had regard to the surrounding built form along Woids Street which primarily comprises three to four storey apartment blocks, with some two storey detached houses to the north.

5.0 Kogarah Local Environmental Plan 2012 (KLEP)

5.1 Zoning and zone objectives

The majority of the site is zoned SP2 Infrastructure (Educational Establishment), and no building height and floor space ratio controls apply to the SP2 zoned land. A small portion of the site being Lots A & B in DP331079 (47 and 49 Woids Avenue) is zoned R2 Low Density Residential. 47 and 49 Woids Avenue are subject to a FSR (and building height) control under Kogarah LEP 2012 however there are no such controls over that part of the site zoned SP2.

47 and 49 Woids Avenue comprise of 888m² of a total of 9,452m² or 9% of the total site area.

All properties owned by the school when the current Kogarah LEP was drafted (including 51-69 Woids Avenue, and 56 and 50 Bellevue Parade) were zoned SP2 Educational Establishment with no maximum height and FSR controls.

47 and 49 Woids Avenue were acquired by the school after the current LEP was drafted but prior to its gazettal on 26 May 2017. As such, it is our opinion that the site's current zoning reflects an anomaly due to the timing of the acquisition of the land by the school. Consequently, the same anomalies relating to Height of Buildings and Floor Space Ratio controls also apply. Relevantly a key objective of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards.

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.*

Although the school use of the R2 zoned land is not consistent with the first objective of the R2 zone, the school is a land use that provides for facilities and services to meet the day to day needs of residents and therefore it is consistent with the second objective. Development within the R2 zone is unlikely to be consistent with both objectives.

The objectives of the SP2 zone which applies to the bulk of the school site are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The proposed alterations and additions to the existing school are works that are consistent with the first objective of the SP2 zone.

5.2 Clause 4.4 Floor Space Ratio

Clause 4.4 Floor Space Ratio states:

- (1) *The objectives of this clause are as follows:*
 - a) *to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,*
 - b) *to limit the bulk and scale of development.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The FSR map indicates that a maximum FSR of 0.55:1 applies to that part of the site which is zoned R2, i.e. - 47 and 49 Woids Avenue. No FSR control (or building height limit) applies to the remainder of the school site. Therefore, this written request focusses principally on the portion of the site to which the 0.55:1 maximum FSR development standard applies.

Figure 1 is an extract showing the floor space ratio controls relating to 47 and 49 Woids Avenue (the 'pinned' property is 47 Woids Avenue) and surrounding land.

Figure 1 shows that land not zoned SP2 Infrastructure (Educational Establishment) within the block bound by Woids Avenue, First Avenue, Bellevue Parade and Church Lane, is subject to a FSR of 0.55:1. This FSR applies to land zoned R2 Low density residential.

Figure 1 also shows that land zoned R3 Medium density residential on the eastern side of Woids Avenue and north of First Avenue is subject to a FSR of 1.5:1. The R3 zoned land to the north-east of the intersection of First Avenue and Woids Avenue has an FSR of 2:1. This is evident in the extract from the Land Use zoning map extract included at **Figure 2**.

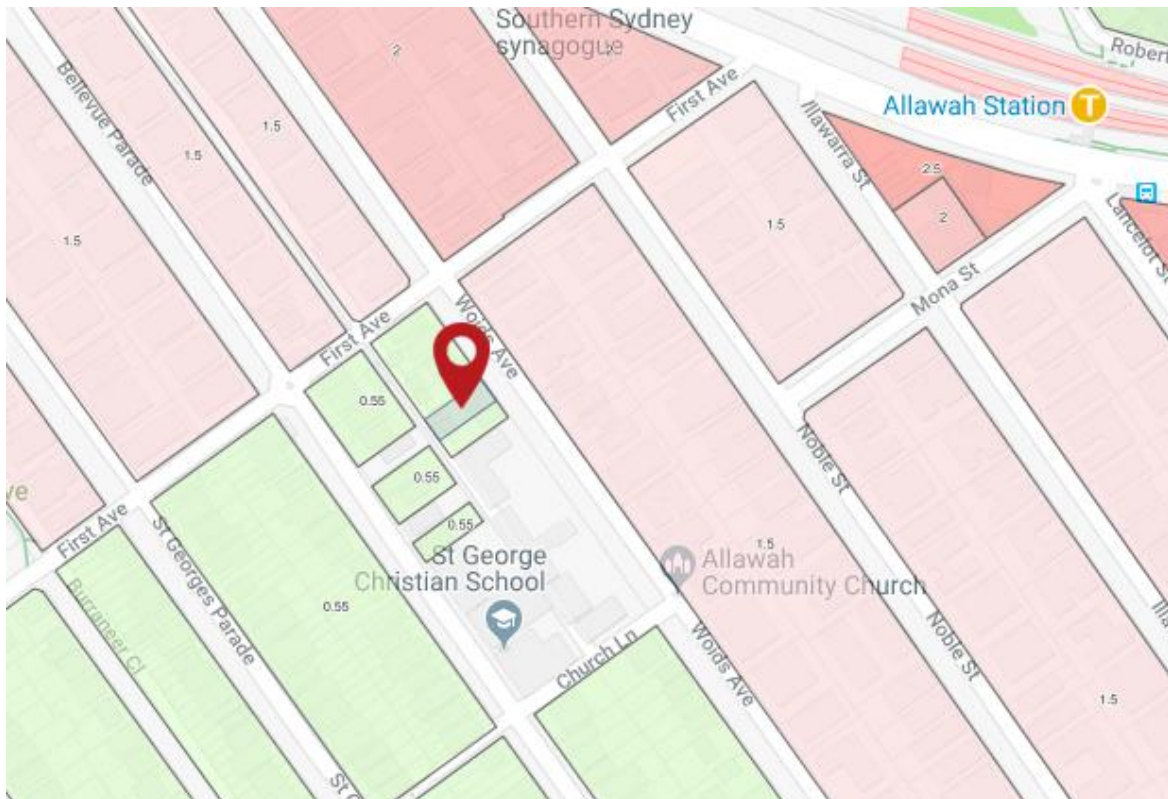


Figure 1 – Extract from FSR map accompanying Kogarah LEP 2012 (Source: NSW Planning Portal)

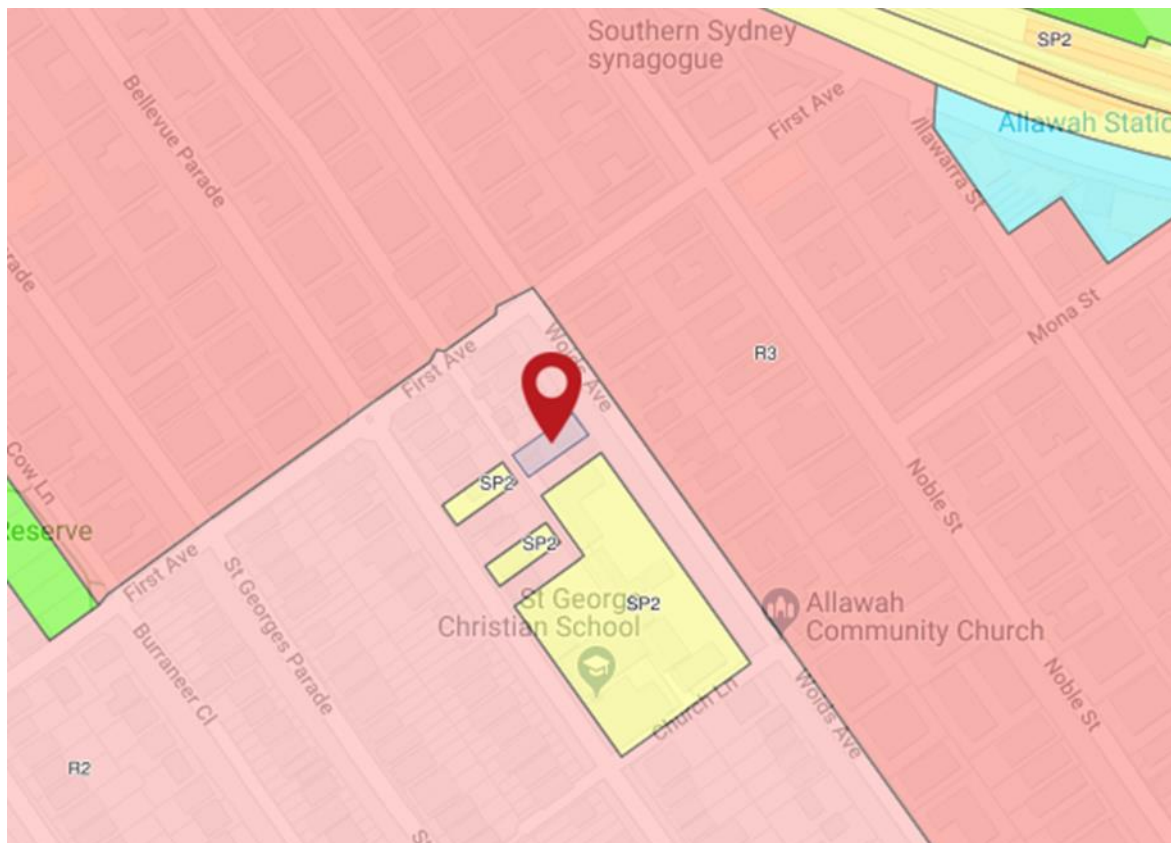


Figure 2 – Extract from Land Use Zoning map accompanying Kogarah LEP 2012 (Source: NSW Planning Portal)

FSR is defined in the KLEP as *the floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

Gross Floor Area (GFA) is defined in the dictionary of the KLEP as follows:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

Relevantly to this development, basement is defined in the dictionary of the KLEP as follows:

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

5.2.1 Proposed FSR

The FSR of the part of the proposed development located on 47 & 49 Woids Avenue is 1.40:1 (based on a total gross floor area of 1,244m² and a total site area (of 47 and 49 Woids Avenue) of 888m²). This FSR is 0.85:1 greater than the FSR development standard of 0.55:1.

Walkways and breakout rooms have been included as well as the end of trip facilities which are located in the basement. **Attachment 1** are plans showing those areas of the building on 47 and 49 Woids Avenue which have been included as gross floor area. All exclusions and calculations have been made pursuant to the LEP definition of GFA.

5.3 Clause 4.6 Exceptions to Development Standards

Sub-clauses 1 and 2 state 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.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

A variation to the FSR development standard for the site is not expressly excluded from the operation of this clause and accordingly this standard can be varied.

5.4 Sub-Clause 4.6(3) – Written Request

Sub clause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:

- (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.*

As noted above the proposed development does not comply with the FSR development standard pursuant to clause 4.4 of the KLEP as it relates to 47 and 49 Woids Avenue. Notwithstanding, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as discussed in this written variation.

Further, with respect to clause 4.6(3) this request has also had regard to the principles established in *Four2Five Pty Ltd v Ashfield Council*, in that it is considered that there are sufficient environmental planning grounds to justify contravening the development standard.

The environmental planning grounds particular to the site and the proposed development are detailed below:

- The proposed additions have been sited and designed to support the educational needs of the school, whilst seeking to minimise the environmental impacts of the proposal on adjoining properties and existing buildings at the site.
- The L-Shaped built form is the logical development pattern to integrate in the existing buildings and reflects the existing arrangement of the demountable building which has been relocated.
- The L-Shaped form opens the site to provide greater separation to the heritage listed chapel and provides outdoor play space, integrated with existing play space.
- The building design has sought to avoid variations in floor level (i.e. off-set floor levels), extensive retaining walls, off-set basement levels or sloping basement levels as this would require deeper excavation to accommodate the basement level.
- Concentrating building bulk towards the northern portion of the site allows the bulk of the additional overshadowing to be contained within the school site rather than onto adjoining residential properties. Further, the proposed development will result in a greater building separation to the heritage chapel which will enjoy a greater prominence under this scheme.
- The proposal is consistent with the zone objectives applying to the site as it provides for an educational establishment land use that will meet the day to day needs of residents.
- The relationship between the northern part of the proposed building and No. 45 Woids Avenue is acceptable as the setback also provides opportunities to undertake extensive landscaping between the building and No. 45 Woids Avenue as demonstrated in the amended landscape plan submitted to Council as part of the response to Council's request for further information.

It is also noted that the side setback has increased from the original proposal and the building height has been reduced in this location thus minimising impacts.

- The redistribution of floorspace to other parts of the school results in better integration of buildings on the site and relative to surrounding development. The scale of the proposed development (as amended) is considered to be appropriate based on existing development on the school site and within the area generally. In this regard, the prevailing built form of the school comprises two (2) to four (4) storey buildings and built form on the opposite side of Woids Avenue is characterised by three (3) storey residential flat buildings. These elements make a significant contribution to the character of the area and the proposed development fits with this character.

5.5 Sub-Clause 4.6(4) – Justification

Clause 4.6(4) provides that 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.*

Furthermore, Sub-clause 4.6(5) provides that in deciding whether to grant concurrence, the Secretary must consider:

- (a) *Whether contravention of the development standard raises any matter of significance for State 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.*

These matters are discussed in **Section 6**.

6.0 Justification for the exceedance of the 0.55:1 Floor Space Ratio Standard

The Department of Planning and Environment guidelines on varying development standards recommend consideration of the provisions of clause 4.6 and the five-part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 as follows:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Tests 1, 2 and 5 are particularly relevant to the proposed development. Tests 3 and 4 are not directly relevant to the proposed development as it is our opinion that the underlying object of the FSR standard could be achieved (albeit to a lesser degree and with an inferior planning outcome) under a compliant scheme. Further, there is no indication that Council has abandoned the development standards through their own actions.

Clause 4.6(4)(a)(ii) matters, being the objectives of the FSR development standard and the objectives of the R2 zone (which applies to part of the site) and the SP2 zone (which applies to the bulk of the school site), and the relevant Wehbe tests are discussed below.

6.1 Objectives of the Floor Space Ratio Development Standard

The stated objectives of clause 4.4(1) of Kogarah LEP 2012 are as follows:

- a) *to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,*
- b) *to limit the bulk and scale of development.*

The proposal is consistent with the relevant objectives of the development standard under clause 4.4 as discussed below.

With regard to **objective (a)**, the desired future character for the site and the immediate vicinity of this part of the site is mainly one of medium density residential development. The existing school is a key element of the existing character of the area.

In this regard land on the opposite side of Woids Avenue is zoned R3 Medium density residential. The FSR development standard applying to the R3 zoned land is 1.5:1. The FSR for that part of the proposed development which is located on the R2 zoned land is 1.40:1, which is less than the maximum FSR permitted in the nearby R3 zone – refer **Figures 1 and 2**.

Therefore, a density greater than that envisaged by the R2 zone applying to this part of the site is the prevailing character of development in the immediate vicinity of the site.

The proposed development will enable the ongoing operation of the school as an established land use in the area that will meet the day to day needs of residents. The proposed works are compatible with the existing and desired future character of the area as the proposal will not result in any unacceptable impacts on adjoining properties in terms of visual privacy, additional overshadowing, or acoustic impacts. Consistency with the zone objectives of the land is discussed in detail at **Section 6.2**.

In relation to **objective (b)**, the proposed development is for alterations and additions to an existing educational establishment that are similar in scale and intensity to existing development on the school site and in the surrounding area. The proposed additions have been sited and designed to support the educational needs of the school, whilst minimising the environmental impacts on adjoining properties and existing buildings on the site.

6.2 Zone Objectives

The site is zoned part SP2 Infrastructure (Educational Establishment) and part R2 Low Density Residential. The objectives for the SP2 and R2 zones are as follows.

R2 Low Density Residential Zone Objectives

- *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.*

SP2 Infrastructure (Educational Establishment) Zone Objectives

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Further to the discussion already provided in **Section 5.1**, the proposed development comprising alterations and additions to an existing educational establishment, is consistent with the relevant objectives of both the R2 and SP2 zones in that:

- The predominant character of Woids Avenue in the vicinity of this part of the school site is medium density development;
- This facility will service a demand for educational services in an existing residential area;
- The proposed development provides a service to meet the day to day needs of residents in the locality;
- The new four storey building element has been sited away from the heritage item and will be constructed using contemporary building materials, thus allowing for the Chapel to 'read' as a free-standing element which is sited closer to Woids Avenue;
- The proposed development will provide additional permanent teaching/learning spaces without resulting in any unacceptable impacts;
- The development will result in a built form outcome is compatible with the characteristics of the low and medium density residential environment within which it is located;
- The development will provide permanent, high quality educational facilities to accommodate the growing demand for educational services in the area;
- The site is located in a predominantly medium density residential area. As discussed previously, the location and design of the proposed building on 47 & 49 Woids Avenue responds to the opportunities and constraints of the site and will not result in any unacceptable impacts to the residential amenity of the neighbourhood; and
- The proposed development provides for alterations and additions to existing educational infrastructure that will facilitate its ongoing use.

It is therefore considered that the development proposal is consistent with the objectives of the SP2 and R2 zones and the exceedance of the FSR standard will not result in development which is inconsistent with the objectives of the zones that apply to the site.

6.3 The Grounds of the Objection to the FSR Standard

The proposed variation to the maximum FSR development standard has been considered in light of the abovementioned objectives and potential environmental impacts and strict compliance is considered to be unreasonable and unnecessary for the reasons discussed below.

- The proposal is consistent with the relevant objectives of the FSR development standard and it has been shown that there are sufficient environmental planning grounds to justify a contravention of the development standard in this instance.
- The proposal is consistent with the objectives of the zones applying to the site as it provides for enhancement of an existing educational establishment land use that will meet the daily needs of residents in the area.
- Only 9% of the site area is subject to a FSR control and therefore flexible application of the FSR control is considered appropriate to enable a cohesive built form to be achieved across the site. To design the alterations and additions to achieve strict compliance with

the FSR control applying to only a small portion of the site would restrict a wholistic approach to site planning at the school that responds to the environmental opportunities and constraints of the site and considers key residential interfaces to adjoining and nearby properties. Flexibility is appropriate given that there is not uniformity in the application of the planning controls that apply to the site.

- As discussed in **Section 5.0**, the zoning and maximum floor space control (and height of building development standard) applying to the land 47 and 49 Woids Avenue are anomalous due to the timing of the acquisition of the land in relation to the drafting of the latest KLEP amendment. Current buildings on the school site have been assessed on a merit basis (due to the absence of built form controls) and the proposed density is consistent with that which has been considered appropriate by Council in the past.
- The proposed development is of a similar scale to existing buildings at the school site and is compatible with the existing character of the area.
- The proposed additions have been sited and designed to support the educational needs of the school, whilst seeking to minimise the environmental impacts of the proposal on adjoining properties and existing buildings at the site. Consolidation of teaching spaces in a permanent building will minimise the footprint of buildings at the site whilst maximising outdoor play and learning spaces.
- The L-Shaped built form allows the proposed additions to integrate with the existing buildings and opens the site to provide greater separation to the heritage listed chapel and provide quality outdoor play space that integrates with existing play space.
- The new building element has been sited to be well set back from the heritage item and will be constructed using contemporary building material, allowing for the Chapel to 'read' as a free-standing element which presents prominently to Woids Avenue.
- Concentrating building bulk towards the northern portion of the site allows the bulk of the additional overshadowing to be contained within the school site rather than onto adjoining residential properties. The built form is consistent with the prevailing built form along Woids Avenue which is medium density.
- The building design has sought to integrate with the existing school building development to minimise variations in floor levels.
- The non-compliance with the floor space development standard allows for an orderly use of the land, that provides for a well-designed school classroom building, within the environmental capacity of the site. The siting and design of the proposed building minimises impacts on the residential amenity of adjoining properties in terms of visual privacy and overshadowing.

Accordingly, as demonstrated above, strict compliance with the FSR development standard is both unreasonable and unnecessary in this instance.

6.4 Secretary's Consideration

Clause 4.6(5) of KLEP also requires the Secretary, in deciding whether to grant concurrence, to consider the following:

- “(a) whether contravention of the development standard raises any matters of significance for state or regional environmental planning”*

The breach of the FSR development standard is not of state or regional significance.

“(b) the public benefit of maintaining the development standard”

The proposed development is for alterations and additions to an existing educational establishment. Given the nature of the proposed land use (which is permissible by virtue of clause 35 of the Education SEPP), and that the development standards only applies to 9% of the site area, there is a greater public benefit in providing flexibility in relation to the application of the FSR development standard. Maintaining strict compliance with the maximum FSR standard would result in an inferior built form and site planning outcome.

The proposed additions have been deliberately sited and designed to support the educational needs of the school and to accord with the prevailing character of development in the immediate vicinity, whilst at the same time, minimising the environmental impacts of the proposal on adjoining properties and existing buildings at the site. The proposed development is considered to be in the public interest as it will facilitate the ongoing use of the site for the purpose of an educational establishment serving the day-to-day needs of residents in the area.

“(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.”

47 and 49 Woids Avenue were acquired by the school after the current LEP was drafted by Council. As such, the R2 zoning is an anomaly due to the timing of the acquisition of the land. Consequently, the same anomaly relating to the floor space ratio development standard also applies.

7.0 Conclusion and Recommendation

DFP has assessed the proposed alterations and additions to St George Christian School against the relevant provisions of clause 4.6 of the KLEP and prepared this written request which provides justification that compliance with the maximum FSR development standard is unreasonable and unnecessary in this circumstance.

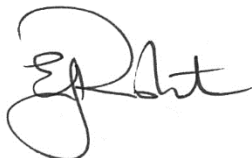
The proposed L-Shaped built form is the logical development pattern to integrate in the existing buildings and reflects the existing arrangement of the previous demountable building which has been relocated. The design opens the site to provide greater separation to the heritage listed chapel and provides outdoor play space, integrated with existing play space.

The location and siting of the proposed school building additions has been informed by a detailed site analysis which has resulted in a design which manages the site constraints and integrates with existing school buildings whilst minimising the impact of school development on adjoining and surrounding residential properties. The design of the proposed built form has considered the external impacts of the additional building height and incorporates a number of design measures to ensure that the school usage is compatible with the neighbouring residential dwellings and the character of the area more generally.

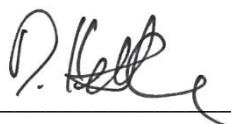
The proposed development is consistent with the objectives of the R2 and SP2 zone and the exceedance of the FSR development standard does not result in development which is inconsistent with the relevant zone objectives. The proposed development is also consistent with the objectives of the FSR development standard under the KLEP.

The exceedance of the FSR development standard does not result in unacceptable amenity impacts on adjoining residential properties and it is considered that the proposal will not be contrary to the public interest. The justification within this written request is considered to be well founded.

Yours faithfully
DFP PLANNING PTY LTD

A handwritten signature in black ink, appearing to read 'ER', written over a light blue horizontal line.

ELLEN ROBERTSHAW
PARTNER
erobertshaw@dfplanning.com.au

Reviewed: _____

The signature is a handwritten name in black ink, written over a horizontal line.

Attachment 1

GFA Calculation Plan