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planning consultants

Clause 4.6 Variation to Development Standards – Written Request

Clause 4.3 of *Kogarah Local Environmental Plan 2012* - Height of Buildings Development Standard

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 building height development 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 FSR 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 the standards is justified in the particular circumstances of the case. In this instance, it is considered that the variation sought is reasonable in the context of the site and proposed development and it is appropriate to allow flexibility in the application of the height of building development control.

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 applies to the land on the opposite side of Woids Avenue. This is equivalent to a four-storey built form. 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 areas 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 building height (and FSR) development control under Kogarah LEP 2012 however there is no height control 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 anomaly 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 4.3 Height of Buildings

Clause 4.3 Height of Buildings states:

- (1) *The objectives of this clause are as follows:*
 - a) *to establish the maximum height for buildings,*
 - b) *to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
 - c) *to provide appropriate scale and intensity of development through height controls.*
- (2) *The height of the building on any land is not to exceed the maximum height for the land on the Height of Buildings Map.*

The Height of Buildings Map indicates that a maximum building height of 9m applies to that part of the site which is zoned R2, i.e. - 47 and 49 Woids Avenue. As noted above, no maximum building height limit (or FSR control) applies to the remainder of the site. Therefore, this written request focusses principally on the portion of the site to which the 9m maximum height control applies.

Building Height is defined in the dictionary of the KLEP as follows:

- “building height (or height of building) means:***
- (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.”*

5.2.1 Height of the Proposed Development

Based on the amended proposal, the maximum extent of the breach of the 9m building height limit is 4.215m (being the top of the skillion roof over the staff room area which sits at RL63.568). This part of the building is setback 8m from the boundary with 45 Woids Avenue¹. The extent of height breach of the amended development is less than that of the original proposal. The greatest exceedance of the height limit for the development as originally proposed was a 4.55m protrusion associated with the lift overrun. However it must also be remembered that the original proposal was setback only 3m from the northern property boundary. The minimum setback is now 5m. This increases to 6.35m to the toilets located on the roof level. The setback to that part of the building with the maximum height exceedance is 8m.

Attachment 1 is a building height plane plan. This plan illustrates the 9m height plane as it relates to the R2 zoned part of the school site. The remainder of the school site on which the development is occurring is not subject to a height of building development standard under Kogarah LEP. 2012.

¹ The response to Council's request for further information (DFP letter dated 3 January 2019 indicated that this part of the building was setback 8.03m from the boundary with 45 Woids Avenue.

As is shown in the building height plan at **Attachment 1**, part of the second floor and the extent of the third floor (including proposed terrace and administration areas) exceed the building height limit. There is also a small breach of the 9m height plane associated with that part of the COLA shade structure which is located on 47 and 49 Woids Avenue.

The drawing at **Figure 1** (which is an extract from the height plane plan at **Attachment 1**) identifies those parts of the proposed development which exceed the 9m building height development standard.



① 9m HEIGHT PLANE STUDY - VIEW 01



② 9m HEIGHT PLANE STUDY - VIEW 02

Figure 1 Height Plane Study Extract for amended proposal (NBRS Architecture)

5.3 Clause 4.6 Exceptions to Development Standards

Sub-clauses 1 and 2 of clause 4.6 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 building height 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 Height of Buildings development standard pursuant to clause 4.3 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 proposed height has regard to a predominant 3 and 4 storey built form in the vicinity of the site and the 15m building height limit opposite the proposed buildings. The existing dwelling on 45 Woids Avenue (and 43 Woids Avenue) are imposing 2 storey dwellings.
- 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 building adjacent to the boundary with No. 45 Woids Avenue has been designed in accordance with the complying development standards for side setbacks as detailed in Schedule 2 of the Education SEPP. In this regard, a building with a height of less than 12m is required to be setback a minimum of 5m from an adjoining residential property boundary. In this instance, the maximum height of that part of the building setback 5m from the boundary is 11m.

For those parts of a building greater than 12m but less than 15m in height, the complying development standards require a side setback of 8m. Those parts of the building greater than 11m in height have been setback more than 8m from the side boundary.

- The provision of a planter along the northern edge of the terrace area, as demonstrated in the sight line elevation plan at **Figure 2** provides privacy for both residents of No. 45 Woids Avenue and the school population. The northern corner of the planter exceeds the 9m height limit by 1.5m, however this element does not constitute a significant feature of the building or dominate the streetscape in order to improve privacy between the buildings.
- 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 height of the proposed buildings fits with this character.

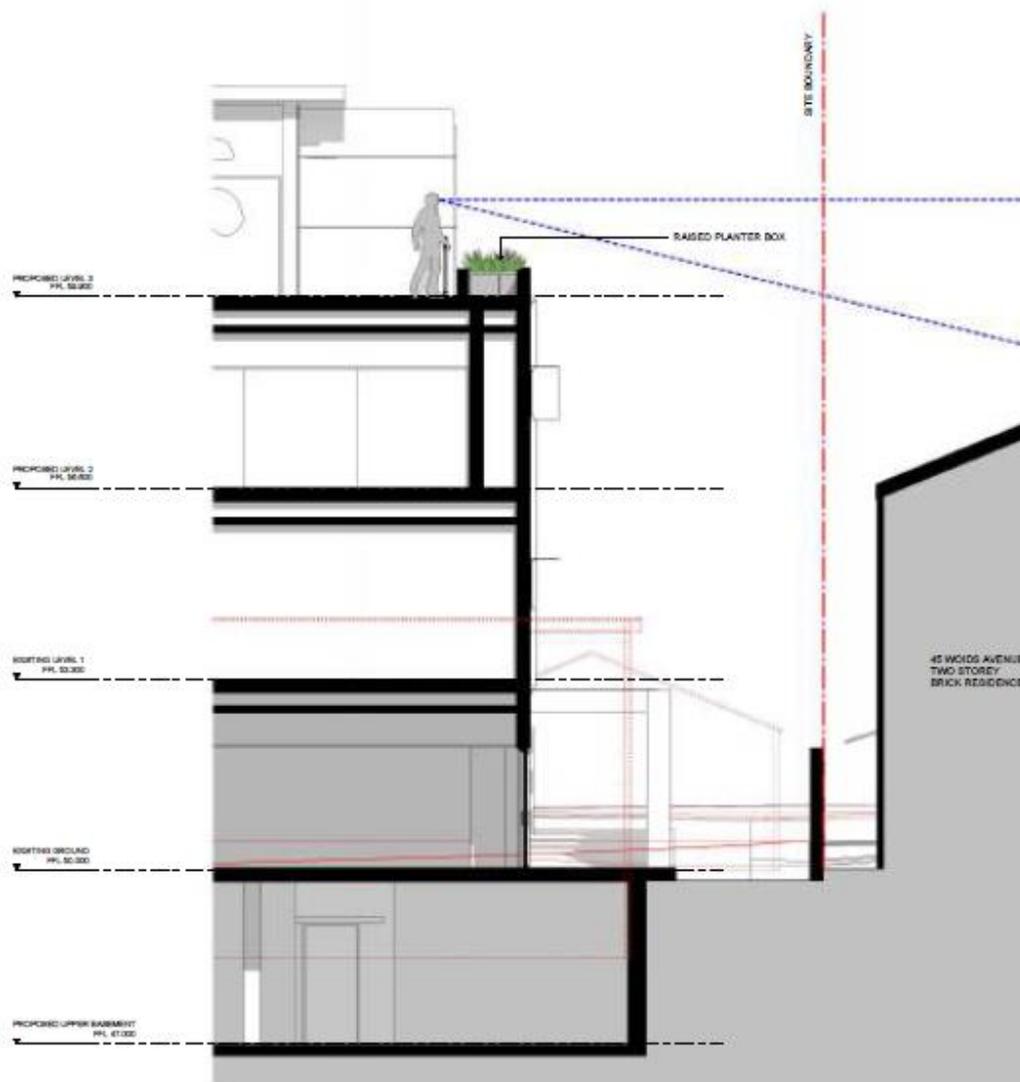


Figure 2 Sight lines between proposed building and No. 45 Woids Avenue

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 9 metre Building Height 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 building height development 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 standard through their own actions.

Clause 4.6(4)(a)(ii) matters, being the objectives of the building height 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 Height of Buildings Development Standard

The stated objectives of clause 4.3(1) of Kogarah LEP 2012 are as follows:

- a) *to establish the maximum height for buildings,*
- b) *to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
- c) *to provide appropriate scale and intensity of development through height controls.*

The proposal is consistent with the relevant objectives of the development standard under clause 4.3 for the following reasons.

With regard to **objective (a)**, the proposed works have been sited to integrate with the existing buildings located in the SP2 zone. The works extend into the northern portion of the site which is subject of the 9m maximum building height control. There is no maximum building height control on that part of the site zoned SP2. 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 site constraints and integrates with existing school buildings whilst minimising the impact of school development on adjoining and surrounding residential properties.

In respect of **objective (b)** the additional overshadowing and visual privacy impacts of the proposed development have been considered in relation to adjoining properties. The main concentration of additional overshadowing is within the school site and to the private open space of 52 Bellevue Parade which is located to the west of the proposed building works. Shadows cast by the proposed building affect the private open space of 52 Bellevue Parade between the hours of 9 and 11am at June 21 (midwinter), however more than 50% of the private open space will receive solar access between 9am–3pm on June 21. 45 Woids Avenue is located to the north of the proposed school building works and not will have its private open spaces or habitable rooms impacted by overshadowing from the proposed building. The majority of additional overshadowing will be contained within the school site.

The key interface in terms of visual privacy is with the existing two-storey residence at 45 Woids Avenue. **Section 4.0** of this written request outlines the various measures that have been incorporated to ensure impacts on the privacy of residents of 45 Woids Avenue is protected and that the development is compatible with the character of the area more generally.

As previously discussed, 47 and 49 Woids Avenue were acquired by the school after the current KLEP was drafted by Council and the maximum height and FSR controls reflect an anomaly due to the timing of the acquisition of the land. In this sense and in relation to **objective (c)** the current maximum height control is appropriate for a low-density residential area. However, the predominant built form along Woids Avenue is 3 storeys opposite the site and 4 storeys towards the northern end of Woids Avenue and therefore, the prevailing character in the vicinity of this part of the site is one of medium density developments.

Furthermore, given that the bulk of the school site is not subject to any building height controls, the ‘test’ should be whether the development is suitable for the site having regard to potential impacts. In this regard, it is considered that the development as proposed is appropriate having regard to the built form outcomes and potential environmental impacts including privacy and overshadowing.

The proposed development is for alterations and additions to an existing educational establishment that is similar in scale and intensity to development currently on the school site. The proposed development provides an appropriate scale and intensity for the proposed educational use which is not inconsistent with the height of buildings in the immediate vicinity.

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 which is compatible with the characteristics of the 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 building height development standard will not result in development which is inconsistent with the objectives of the zones that apply to the site.

6.3 Grounds of the Objection to the Maximum Building Height Development Standard

The proposed variation to the Height of Buildings 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 building height 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 building height development standard and therefore flexible application of the height 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 building height controls (which apply 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 height control (and FSR 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 a built form of predominantly three and up to four storeys 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 which includes a number of three and four storey buildings.
- 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 3 storey built form presents to Woids Avenue, which is medium density in character rather than Bellevue Parade which is low density.
- 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 building design has sought to integrate with the existing school building development to minimise variations in floor levels.
- The non-compliance with the height of buildings 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 building height 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 building height limit 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 standard only applies to 9% of the site area, there is a greater public benefit in providing flexibility in relation to the application of the development standard. Maintaining strict compliance with the maximum height 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, whilst seeking to minimise 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 height of buildings 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 height of building 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 that 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 building height 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 building height development standard under the KLEP.

The exceedance of the building height development standards by a maximum of 4.215m 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' followed by a stylized flourish.

ELLEN ROBERTSHAW
PARTNER
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Reviewed:  _____

Attachment 1 Building Height Plan