

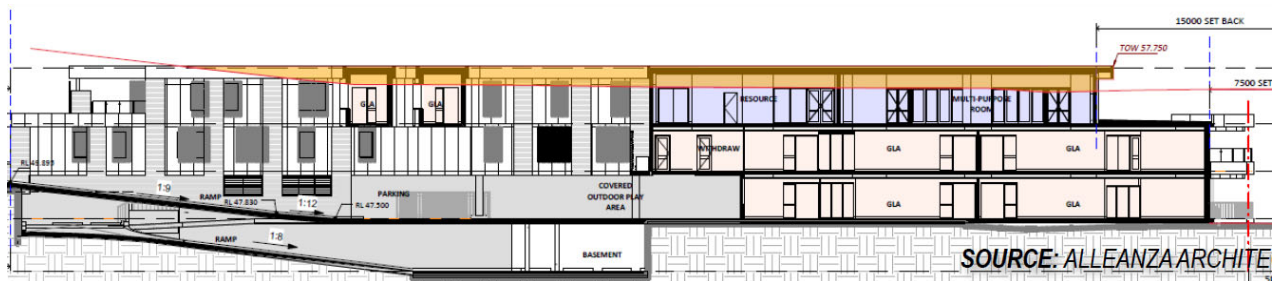
Council assessment of Clause 4.6 request

1 Overview

The applicant has lodged an amended Clause 4.6 variation request to vary the 9 m maximum building height prescribed by Blacktown Local Environmental Plan 2015 by 1.8 m or 20%. The overall height of the building is proposed to be 10.8 m. A copy of the applicant's Clause 4.6 submission is at attachment 2.

2 Visual representation of the height plane exceedance

The 1.8 m portion of the building that will encroach into the height plane is highlighted in orange below.



3 Clause 4.6 variation considerations

Clause 4.6 requires consideration of the following matters and a town planning comment is provided to each item.

3.1 Consideration as to whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))

- 3.1.1 The underlying objective purpose of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered both unreasonable and unnecessary as the proposal provides a built form that is predominantly lower than the permitted height of buildings.
- 3.1.2 The objectives of the height of building controls are satisfied by ensuring that the majority of the building is within the 9 m standard. The building is designed to have a centralised taller built form above a lower ground floor level car park to minimise visual and acoustic privacy impacts and overshadowing impacts to adjoining residential developments to the south of the site. Lower, wider and more compliant buildings could have been proposed, but that would pose a greater impact on the environment given the biodiversity values of the site that are not impacted under the current proposal.
- 3.1.3 The elements of the building that encroach the height plan have been reduced by stepping the top floor further away from the town houses to the south as requested by Council. This has also reduced its solar impact on these dwellings to nil and is therefore a much better outcome than originally proposed. The portion of the building that is closest to the southern dwellings is now only 7.5 m high and 2 storeys which is compatible with the 2-storey townhouses. A privacy screen has also been included on the level 2 verandah that faces the townhouses, to mitigate potential privacy impacts.

- 3.1.4 The visual impact of the encroachments of the building is negligible from the public domain as the site itself is relatively isolated. It has a public reserve to the west, Francis Road overpass to the east as well as 2 roads and a railway corridor to the north. None of these items are subject to a height limit. The height of the building at the Beames Avenue frontage is also only 7.8 m, being well within the 9 m height limit.
- 3.1.5 The townhouses to the south are also separated from the site by a drainage reserve. The closest point where the encroachment of the building into the height plane begins is now 30 m from the closest dwelling, which is a considerable separation. This further reduces the visual impacts on the dwellings.
- 3.1.6 It is common for school developments to have a bulkier built form that exceeds the height plane in residential areas to accommodate the size of learning areas, staff rooms, amenities and internal circulation areas. Whilst Council generally only accepts rooftop plant and equipment above the height plane, this principle applies to residential developments such as residential flat buildings. Since this is a school, it is considered that there will be no precedent set by supporting a variation to the maximum building height limit in this instance.

3.2 Consideration of sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b))

The proposal demonstrates sufficient environmental planning grounds to justify contravening the height of buildings development standard for the following reasons:

- 3.2.1 The proposal promotes the orderly and economic use and development of the site because it provides a well-balanced built form for a primary school development and is therefore considered acceptable in the circumstance.
- 3.2.2 The proposal promotes the social welfare of the community by providing an additional educational establishment with good access to service the growing population of the City.
- 3.2.3 The proposed design presents as a 2-storey building when seen from the front and the rear which is where the building is most visible. This reduces its visible bulk and scale whilst ensuring there are no solar impacts to surrounding developments.
- 3.2.4 The proposal promotes good design and amenity which creates a diverse and attractive neighbourhood based on strong design principles.
- 3.2.5 The Applicant's written request seeking to justify the contravention of this development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

3.3 The objectives of the standard are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Blacktown Local Environmental Plan 2015	
Objectives of Clause 4.3 'Height of buildings' to be varied	How the proposal achieves the objective
(a) to minimise the visual impact, loss of privacy and loss of solar access to surrounding development and the adjoining public domain from buildings	<p>This objective is satisfied by ensuring that the majority of the building is within the 9 m standard. The building is designed to have a centralised taller built form above a lower ground floor level car park to minimise visual and acoustic privacy impacts and overshadowing impacts to adjoining residential developments to the south of the site.</p> <p>Lower, wider and more compliant buildings could have been proposed, but that would pose a greater impact on the environment given the biodiversity values of the site that are not impacted under the current proposal. Stepping the top</p>

Blacktown Local Environmental Plan 2015	
Objectives of Clause 4.3 'Height of buildings' to be varied	How the proposal achieves the objective
	<p>floor further away from the townhouses to the south has reduced the solar impact on these dwellings to nil.</p>
<p>(b) to ensure that buildings are compatible with the height, bulk and scale of the surrounding residential localities and commercial centres within the City of Blacktown</p>	<p>Land to the south of the site is zoned R2 Low Density Residential with a height limit of 9 m, which could allow for 3-storey built forms, albeit that existing buildings in this townhouse development are a maximum of 2 storeys in height.</p> <p>The proposed development includes a maximum 3-storey built form over a lower ground floor car parking level but will appear as a 2-storey building from the street to the north and residential properties to the south. The 3-storey built form is only visible at the centre of the site and when viewing the development from the east (Francis Road overpass) and west (recreational land).</p> <p>From the south, the development will appear as a 2-storey built form given that the third floor is setback at least 15 m from the rear southern boundary of the site and 7.5 m further back than the first floor.</p> <p>Overall, the development has been amended to be more sympathetic to the overall low-density residential character of development in the locality and surrounding the site by appearing as a 2-storey development to the street and rear and providing increased setbacks, articulation and fixed privacy treatments that integrate into the overall design and aesthetic quality of the development.</p> <p>The amended proposal is therefore considered to be compatible with the height, bulk and scale of the residential locality to the south of the site and within the wider City of Blacktown.</p>
<p>(c) to define focal points for denser development in locations that are well serviced by public transport, retail and commercial activities</p>	<p>The application does not propose a denser development than would otherwise be expected for a school. As detailed above, lower compliant buildings could be proposed with the same density achieved across the site. Such built forms would pose greater impact on the environment and the locality and would be inconsistent with the objectives of the development standard and zone.</p> <p>The site is well serviced by public transport, retail and commercial activities. The proposed school is located where access to collector roads and public transport routes is readily available.</p> <p>The site has vehicular access to Beames Avenue and is also accessible for pedestrians from Francis Road via an existing pedestrian path adjacent the site's eastern boundary. The site is close to Rooty Hill train station, which is also situated on Beames Avenue 750 m to the east. The site is also close to 3 bus stops in Rooty Hill, with an additional bus zone proposed on Beames Avenue directly next to the site.</p>
<p>(d) to ensure that sufficient space is available for development for retail, commercial and residential uses</p>	<p>The proposed development of residential zoned land for educational purposes ensures the development is appropriately located close to housing and will avoid using commercial and retail zoned land for the same purpose.</p>
<p>(e) to establish an appropriate interface between centres, adjoining lower density</p>	<p>The proposed development is stepped to the rear of the site to ensure that it responds to the most sensitive land use being the residential development to the south and achieves</p>

Blacktown Local Environmental Plan 2015	
Objectives of Clause 4.3 'Height of buildings' to be varied	How the proposal achieves the objective
residential zones and public spaces.	<p>a 2-storey built form with a maximum height of 7.5 m for a depth of 15 m into the site, which is well below the maximum building height limit of 9 m.</p> <p>The proposal allows for a centralisation of the building to the western side of the site only to provide a built form that is compatible with the local context and sensitive to other nearby land uses whilst retaining key biodiversity values mapped vegetation on the eastern portion of the site.</p> <p>The site is adjoined by a railway corridor to the north, a road and overpass to the east that has a height of approximately 12 m above the subject site levels, a drainage channel and residential development 20 m to the south and a public recreation park to the west containing trees that are up to 20 m in height. The site itself contains significant and dense vegetation to the rear south-eastern corner with heights up to 20 m. Therefore, the proposal is considered to establish an appropriate interface between the development and the adjoining low-density residential zone to the south and public spaces to the west and east.</p>

Therefore, the proposal is in the public interest because the development is consistent with the objectives of this particular development standard.

3.4 The objectives of the zoning are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii))

Blacktown Local Environmental Plan 2015	
Objectives of the R2 Low Density Residential zone	How the proposal achieves the objective
To provide for the housing needs of the community within a low density residential environment.	Not applicable as the proposal is not for housing but is still a permissible use in the zone under State Environmental Planning Policy (Transport and Infrastructure) 2021.
To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.	<p>The development enables a land use other than residential, to provide school and community facilities and services that will meet the day-to-day needs of local residents.</p> <p>The development provides a community benefit and successfully achieves this objective by meeting the day-to-day needs of the local community and local residents.</p>
To enable certain activities to be carried out within the zone that do not adversely affect the amenity of the neighbourhood.	The development enables educational and community activities to be carried out within the zone that will not adversely affect the amenity of the neighbourhood as outlined in 3.1 above

Therefore, the proposal is in the public interest because the development is consistent with the objectives of this particular development standard.

3.5 The concurrence of the Secretary has been obtained (Clause 4.6(4)(b))

This Clause 4.6 written request to vary a development standard in an Environmental Planning Instrument has been considered in line with Planning Circular PS 08-003. The Secretary (formerly Director-General) of the NSW Department of Planning and Environment's concurrence is assumed as this request is adequate, does not raise any matter of significance for State or regional environmental planning and there is no public benefit of maintaining the standard, as discussed below.

- 3.5.1 Contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

There is no identified outcome which would raise any matter of significance to planning matters of State or regional significance as a result of varying the development standard as proposed under this application.

- 3.5.2 Is there any other matters required to be taken into consideration by the Planning Secretary before granting concurrence?

There are no other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

Based on the above assessment, permitting the proposed development on this site to vary the height of buildings development standard to a minor degree achieves a better planning outcome. The Clause 4.6 variation request is considered reasonable and well founded in this particular circumstance and is recommended for support to allow flexibility in the application of the development standard.