

Clause 4.6 exception to development standards request NSLEP 2013, clause 4.3 - Height of buildings

Shore Physical Education Centre (SPEC) (SSD 7507)

Submitted to
NSW Planning and Environment

Prepared on behalf of Sydney Church of England Grammar
School



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1.0 Preliminaries

1.1 Land to which this variation applies and overview of the proposal

This exception to development standards request is provided in support of a development application (DA) seeking approval for the following development on part of the Sydney Church of England Grammar School (Shore) Senior School campus on Blue Street at North Sydney along with 4 and 5 Hunter Crescent and 16 William Street, North Sydney (the site):

1. Demolition of the existing 1970s 25m swimming pool and associated structures, gymnasium, change rooms, weights room, two squash court etc in the south-eastern corner of Shore Senior School and the residential flat buildings at 4 and 5 Hunter Crescent and 16 William Street
2. Construction of new buildings to be known as the Shore Physical Education Centre (SPEC) and alterations/additions to existing buildings comprising:
 - (a) Aquatic Centre accommodating a 50m indoor swimming pool (eight lanes)
 - (b) Multipurpose Sports Complex including three basketball courts with tiered seating, gymnasium, weights rooms and other training facilities, change rooms, reception area, staff facilities and amenities
 - (c) 11 new classrooms, flexible learning spaces, seminar rooms, other teaching and staff spaces
 - (d) Alterations to BH Travers Stage 1 including change room and other upgrades
 - (e) A net increase of 38 car parking spaces
 - (f) Loading facilities on the Ground Floor of the proposed SPEC
3. New open spaces/courtyards, tree removal/replacement and landscaping of the site including landscaped roof terraces
4. Use of the completed buildings as an *educational establishment* including extension of Shore onto 4 and 5 Hunter Crescent and 16 William Street
5. Business identification sign.

Pursuant to *State Environmental Planning Policy State and Regional Development 2011 (SEPP SRD)*, the proposal is a State Significant Development (SSD).

This document has been prepared by Robinson Urban Planning and should be read in conjunction with the Environmental Impact Statement (EIS) that accompanies the DA.

1.2 Relevant environmental planning instrument

This exception to development standards request relates to North Sydney Local Environmental Plan 2013 (NSLEP 2013).

1.3 Relevant development standard

This exception to development standards request relates to the height of buildings standard at cl. 4.3(2) of NSLEP 2013 which states:

4.3 Height of buildings

...

- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The height standards for the site are 12m and 8.5m, as shown on **Figures 1 to 3**.

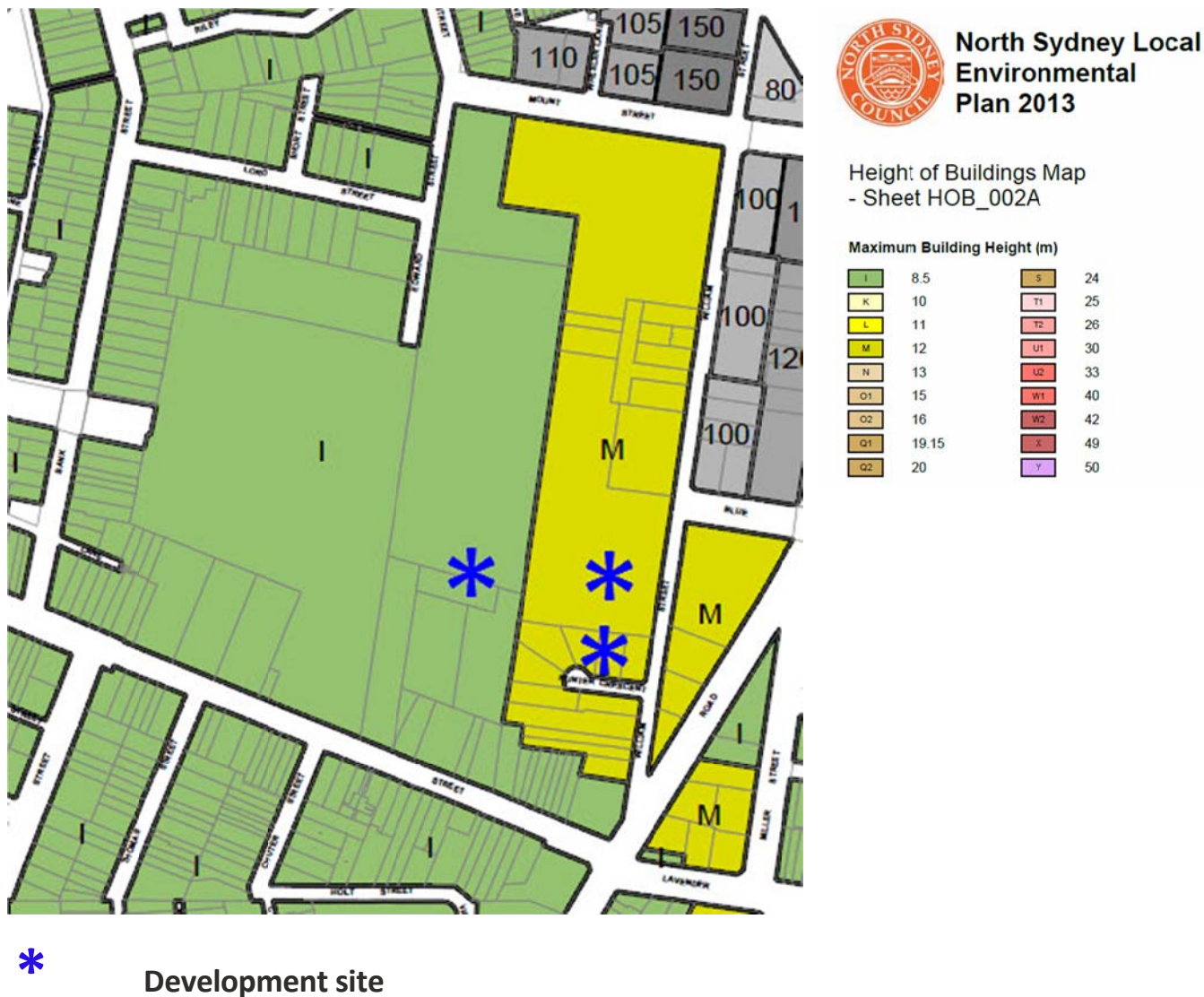


Figure 1 – NSLEP 2013, Height of Buildings Map

Figure 2 – Overlay of NSLEP 2013 Height of Buildings Map on the existing site plan (Source: Cox Richardson, A-DA-0009)

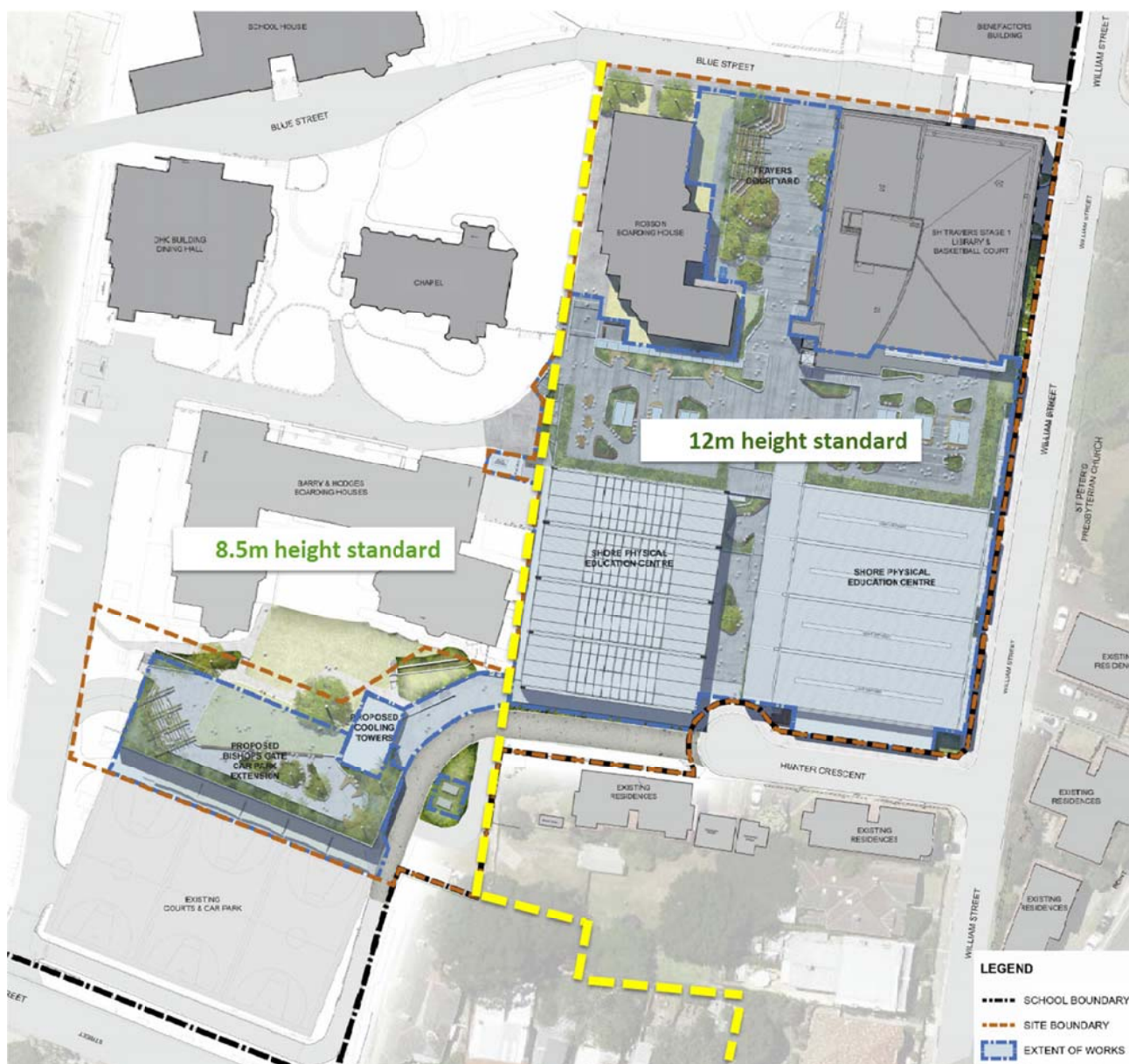


Figure 3 – Proposed SPEC site plan showing 8.5m and 12m height of building standards (Source: Cox Richardson, mark-up of A-DA-0012)

1.4 Existing consent

As detailed in Section 2.2 of the EIS, North Sydney Council (on 19 October 1998) approved DA 336/1998 which proposed a new Shore Senior School library, gymnasium and swimming pool facility. On 29 October 1999, the Council approved a Section 96 application (A3150/99) which modified the approved plans.

This consent has been commenced (Stage 1 of the approved works comprised the existing library building which is complete). Stage 2 of the approved works, comprising a new gymnasium and swimming pool facility, has not been constructed but could proceed to a construction certificate without any further approvals.

The approved Stage 2 building, as illustrated by **Figure 4** below, occupies the site which is subject to this exception to development standards request.

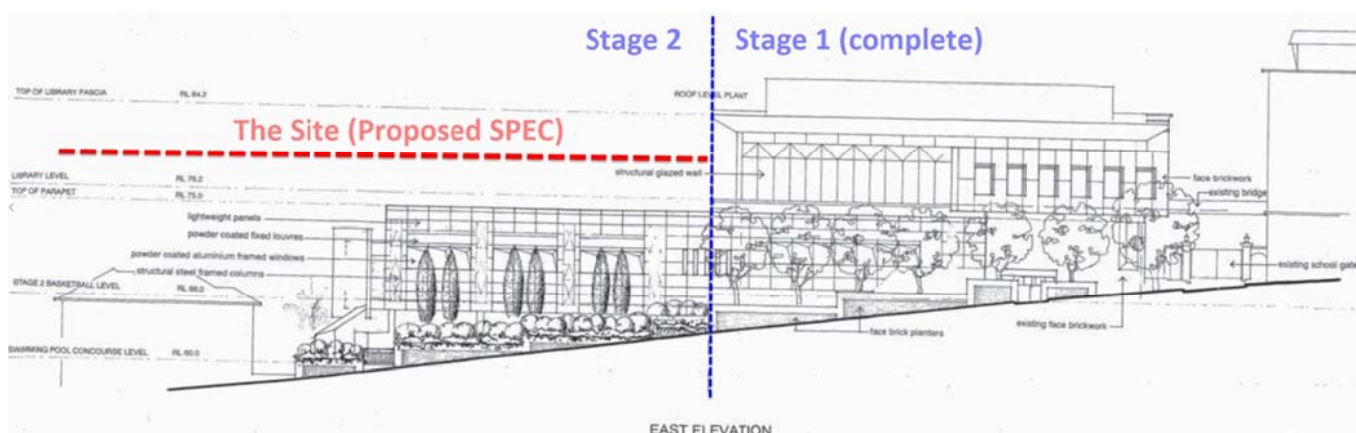


Figure 4 – Approved/commenced development: Library, gymnasium and pool facility (DA 336/98)

1.5 Proposed variation to the standard

Table 1 compares the existing, approved and proposed *building height*¹ on the site; noting compliance with the applicable height standards under NSLEP 2013. It shows the following non-compliance/compliance for the proposed SPEC:

- The proposed Multipurpose Sports Complex has a maximum height of 16.3m which does not comply with the 12m height standard (exceeding the 12m standard by up to 4.3m)
- The proposed Aquatic Centre has a maximum height of 9.7m which complies with the 12m height standard
- The proposed extension of Bishopsgate car park has a maximum height of 4.37m which complies with the 8.5m height standard.

¹ Pursuant to NSLEP 2013:

building height (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

ground level (existing) means the existing level of a site at any point

Other information supporting this exception to development standards request includes:

- Existing and proposed site plans at **Figures 2 and 3** marked up to show the position of the 8.5m and 12m height standards
- Elevations at **Figure 5** which compare the following:
 - 12m height standard
 - Existing building envelope
 - Approved building envelope (DA 336/1998)
 - Proposed SPEC building envelope

The additional non-compliance of the proposed SPEC, above that existing on the site and approved by DA 336/1998, is highlighted in yellow

- **Figure 6** which shows in plan the portion of the proposed SPEC which exceeds the 12m height standard
- **Figure 7** which compares in 3D the 12m compliant building envelope with the proposed SPEC highlighting the area of non-compliance
- **Figures 8 and 9** which compare existing photographs of the site and photomontages of proposed SPEC (as viewed from William Street and Hunter Crescent)
- **Figure 10** which illustrates in section the location of the railway easement that traverses the site and limits excavation depths
- Height plans at **Attachment 1** showing the entire Shore campus at North Sydney and nominating existing, approved and proposed buildings on the site that exceed the 8.5m and 12m height standards showing that the height standards have been effectively abandoned across the Shore campus (see later).

Table 1 – Existing, approved and proposed assessment of compliance with NSLEP 203 height standards

Proposed building	NSLEP 2013 height standard (m)	Height (m)/compliance		
		Approved buildings (DA 336/1998)	Existing buildings	Proposed SPEC
• Multipurpose Sports Complex	12	x 11.06 – 15.50	x 10.28 – 14.63	x 8.50 – 16.30
• Aquatic Centre	12	-	-	✓ 8.20 – 9.70
• Bishopsgate parking structure	8.5	-	✓ 3.17	✓ 3.78 - 4.37 (Including cooling towers at rear)

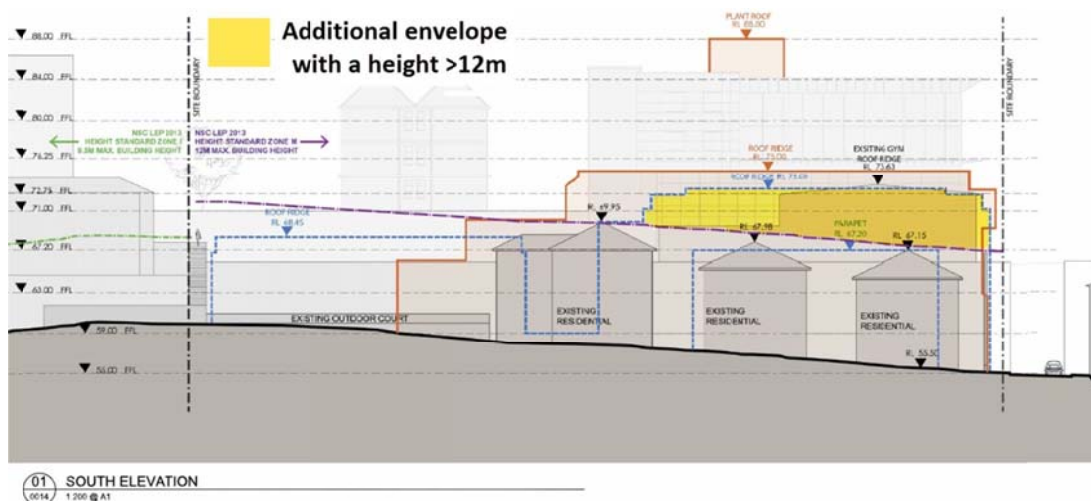
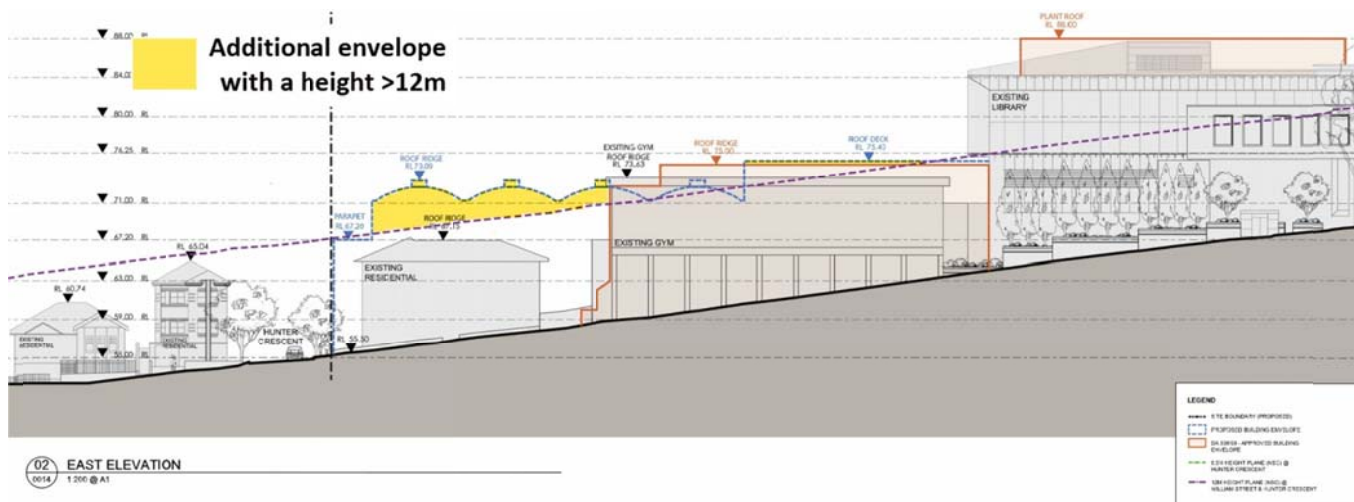


Figure 5 – SPEC departure from the 12m height standard in elevation (Source: Cox Richardson, mark up of A-DA-0014)

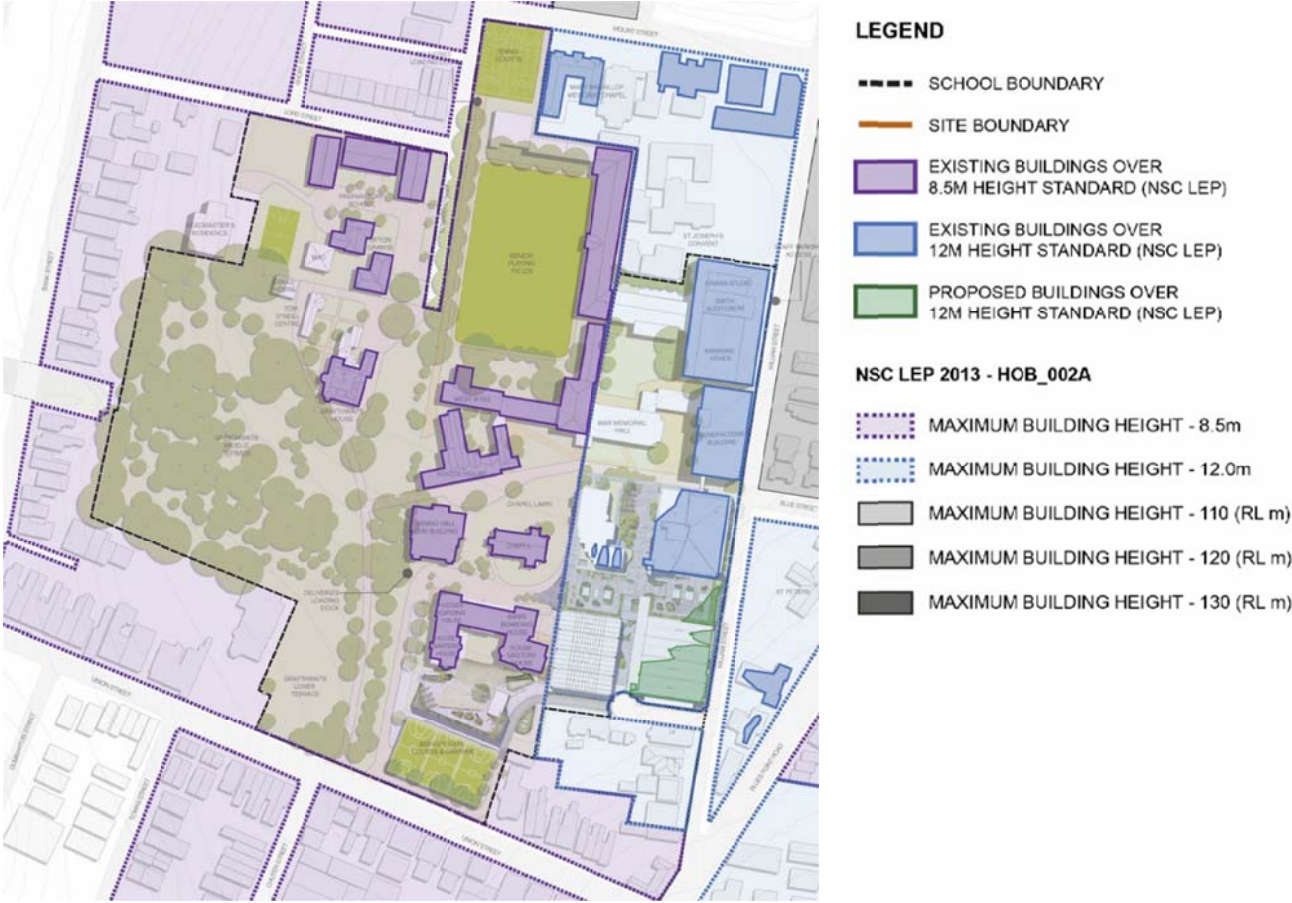
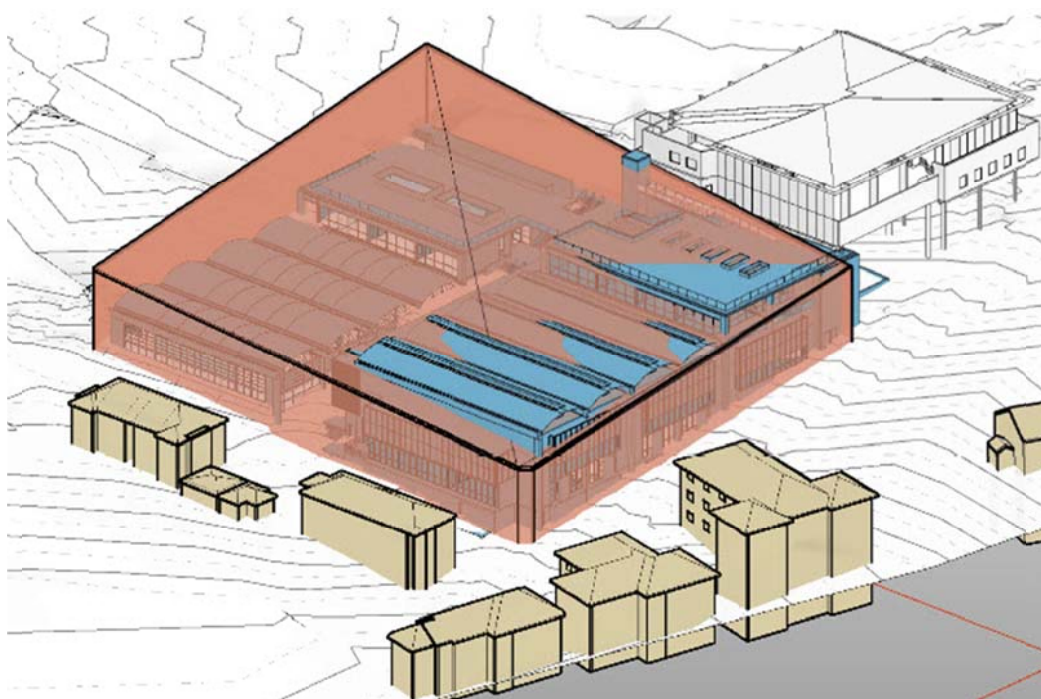


Figure 6 – SPEC departure from the 12m height standard in plan (Source: Cox Richardson, A-DA-0018)



LEGEND

-  ADJACENT BUILDING
-  COMPLIANT HEIGHT
-  PROPOSED SPEC

Figure 7 – Comparison of SPEC and 12m compliant building envelope (Source: Cox Richardson, A-DA-8040)

EXISTING – WILLIAM STREET



PROPOSED SPEC – WILLIAM STREET



Figure 8 – William Street at corner of Blue Street: Existing and proposed SPEC (Source: Cox Richardson, A-DA-8102)

EXISTING – HUNTER CRESCENT



PROPOSED SPEC – HUNTER CRESCENT



Figure 9 – Hunter Crescent looking north at corner of William Street and Hunter Crescent: Existing and proposed SPEC
(Source: Cox Richardson, A-DA-8101)

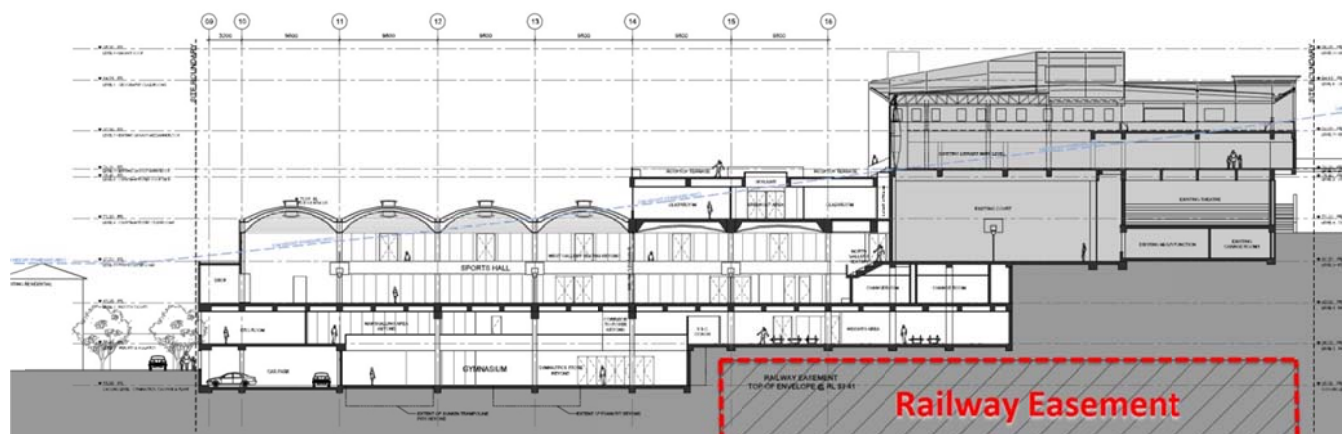


Figure 10 – Section through the SPEC Multipurpose Sports Complex showing location of the railway easement which limits excavation depth (Source: Cox Richardson, A-DA-4001)

2.0 Justification for the exception and matters for consideration

Table 2 assesses the proposed variation from the 12m height standard against the cl. 4.6 considerations in NSLEP 2013.

More details follow in Sections 3.0 to 5.0 assessing the proposed variation against the accepted tests for the assessment of development standard variations established by the NSW Land and Environment Court in:

- *Wehbe v Pittwater Council* [2007] NSW LEC 82
- *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46)
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3').

Table 2 – Exception to standard - Clause 4.6 NSLEP 2013 – Height of buildings

NSLEP 2013, cl. 4.6	Compliance
(1) <i>The objectives of this clause are as follows:</i> (a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development</i> (b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>	✓ Flexibility is appropriate in this instance given that: • The 12m height standard does not appropriately reflect the <i>educational establishment</i> on the Shore campus, which includes many existing and approved buildings that exceed both the 12m and 8.5m height standards (refer to height plans at Attachment 1 and Section 3.0 later). • The 12m height standard, which would normally reflect a medium density residential form, is not reasonable for the site most of which is located in Zone SP2 and occupied by an existing <i>educational establishment</i>. • All of the development site and its neighbours are located in a proposed Educational Precinct (as set out in the exhibited draft amendment of North Sydney Development Control Plan 2013 (NSDCP 2013)) therefore larger educational built forms should be seen as an expected form of development. • The functional requirements of the proposed Multipurpose Sports Complex necessitate a built form that has a height greater than 12m (noting that it includes facilities that require high floor to ceiling heights to accommodate basketball courts). • The Multipurpose Sports Complex (which exceeds the 12m height standard): – Provides a stepping down along William Street as the topography falls away to the south – Has a compliant street frontage height of 12m at Hunter Crescent (as illustrated on Figures 5 to 7) where the site and land to the south is in Zone R4. This assists in providing a compatible built form with nearby residential flat buildings on Hunter Crescent and Blues Point Road. – Occupies a portion of the site that accommodates the existing gym which partially exceeds the 12m height standard (see Table 1, Figure 5 and height plans at Attachment 1). – Occupies a portion of the site that already has a commenced development consent for a gymnasium and swimming pool facility (DA 336/1998) which exceeds the 12m height standard (see Table 1, Figure 5 and height plans at Attachment 1). – Has a comparable height to the approved/commenced facility as viewed from William Street, although the site and proposed building envelope is to be extended southward to include 4 & 5 Hunter Crescent and 16 William Street. • The photomontages and photographs at Figures 8 and 9 illustrate that proposed SPEC sits comfortably within the streetscape of William Street and Hunter Crescent. • Further excavation to reduce the building height of the SPEC is not possible as the site is traversed by a railway tunnel easement that limits excavation depths (see Figure 10). • The intensity of development proposed for the SPEC reduces as it moves away from William Street, noting that the proposed Aquatic Centre has a maximum height of 9.7m which is well below the 12m standard, providing a stepping down from east to west. This is consistent with the NSDCP 2013 character statement for the Graythwaite, Shore & St Josephs Neighbourhood (cl. 9.4.2 P3). • A high standard of architectural design is proposed, noting that Shore convened a design excellence competitive process and Cox Richardson was selected as the winning architect (see EIS, Section 1.3).

NSLEP 2013, cl. 4.6	Compliance
	• As detailed in Section 6.0 of the EIS, the proposal will not give rise to any unreasonable or unexpected adverse amenity impacts for surrounding properties (in terms of overshadowing, views/outlook and privacy impacts) (see EIS, Section 4.6). • The Heritage Assessment and Impact Statement (HAIS) by GML (Appendix D to the EIS) concludes that the heritage impact of the proposal will be minimal and positive. • Transport and Accessibility Assessment by TTW (Appendix M) concludes that the traffic impacts of the proposal will be minimal and acceptable. • As demonstrated by the existing and approved height plans at Attachment 1 and addressed later at Section 3.0, both the 12m and 8.5m height standards in NSLEP 2013 have been virtually abandoned on the Shore campus. • The objectives of Zone SP2 & Zone R4 and the height standard are achieved (see later).
(2) <i>Development may contravene a standard</i>	✓ The height standard is not excluded from the clause.
(3) <i>Written request required that seeks to justify the contravention of the standard by demonstrating:</i> (a) <i>that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i> (b) <i>that there are sufficient environmental planning grounds to justify contravening the development standard.</i>	✓ Compliance with the 12m height standard in NSLEP 2013 is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify contravening the standard for the reasons noted above at subclause (1).
(4) <i>Development consent must not be granted unless:</i> (c) <i>the consent authority is satisfied that:</i> (i) <i>the written request has addressed subclause (3)</i> (ii) <i>the proposed development is in the public interest (consistent with the objectives of the standard and the zone)</i> (d) <i>the concurrence of the Director-General has been obtained.</i>	✓ Subclause 3 has been adequately addressed (see subclause (1) above). ✓ The proposal is in the public interest as it: • Satisfies the objectives of Zone SP2 Educational Establishment as follows: – <i>To provide for infrastructure and related uses.</i> The proposal is for an infrastructure use. Notably, compliance with the height standard would compromise achievement of this SP2 zone objective as it would necessitate demolition of existing buildings on the site and/or preclude approved and proposed new infrastructure projects that meet the educational needs of Shore. – <i>To prevent development that is not compatible with or that may detract from the provision of infrastructure</i> The proposal is compatible with the provision of infrastructure and will materially improve the function and amenity of the existing <i>educational establishment</i> on the site. • Satisfies the objectives of Zone R4 as follows: – <i>To provide for the housing needs of the community within a high density residential environment.</i> N/A

NSLEP 2013, cl. 4.6	Compliance
	– <i>To provide a variety of housing types within a high density residential environment.</i> N/A – <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> The proposal provides educational infrastructure to meet the day to day needs of residents. – <i>To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.</i> N/A – <i>To ensure that a reasonably high level of residential amenity is achieved and maintained.</i> The proposal maintains a reasonably high level of residential amenity. • It satisfies the relevant objectives of the height standard (cl. 4.3(1)) as follows: (a) <i>to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,</i> Existing and proposed development on the Shore School site steps down along William Street as the topography falls away to the south. The intensity of development proposed for the SPEC also reduces the further away from William Street it is located, noting that the proposed Aquatic Centre has a maximum height of 9.7m which is well below the 12m standard. (b) <i>to promote the retention and, if appropriate, sharing of existing views,</i> No water, iconic or significant views will be affected by the proposal (as viewed from private properties or the public domain). Preservation of the iconic view from the Shore Chapel Lawn was a key planning consideration for the design of the SPEC. (c) <i>to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,</i> As detailed at Section 4.6.1 of the EIS, the proposal maintains a reasonable level of solar access for existing dwellings, public reserves and streets, and promotes solar access to the proposed SPEC where appropriate. (d) <i>to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,</i> The proposal will maintain privacy for residents of existing dwellings through appropriate setback and screening measures. In any event, the proposed SPEC is an <i>educational establishment</i> and will therefore not house any residents minimising the potential for occupants to overlook adjoining dwellings. (e) <i>to ensure compatibility between development, particularly at zone boundaries,</i> The proposed Multipurpose Sports Complex has a compliant street frontage height of 12m at Hunter Crescent (where the site and adjoining land is in Zone R4). This assists in providing a compatible built form with nearby residential flat buildings on Hunter Crescent and Blues Point Road. (f) <i>to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.</i> The proposed SPEC is of a scale and density of development that is consistent with the existing and future character of the area, noting that all of the site and its neighbours are in the proposed Education Precinct identified by North Sydney Council (Draft Amendment of NSDCP 2013).

NSLEP 2013, cl. 4.6	Compliance
<i>(5) The Director-General must consider:</i>	✓ See Section 5.0.
<i>(e) whether contravention raises any matter of significance for State or regional environmental planning</i>	
<i>(f) the public benefit of maintaining standard</i>	
<i>(g) other matters.</i>	
<i>(6) N/A</i>	N/A
<i>(7) Consent authority must keep a record of matters in subclause (3).</i>	Noted
<i>(8) N/A</i>	N/A

3.0 *Wehbe v Pittwater Council*

In his decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. The five tests are considered below.

(i) The objectives of the standard are achieved notwithstanding non-compliance with the standard

Consistency with the objectives of the standard, and the absence of any environmental impacts, would demonstrate that strict compliance with the height standard is both unreasonable and unnecessary in this instance.

As noted in **Table 2**, the proposal is consistent with the height standard objectives at cl. 4.3, of NSLEP 2013 satisfying *Wehbe* test (i). As such, it is unreasonable and unnecessary in this circumstance to comply with the height development standard.

(ii) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Not applicable. The underlying objective or purpose of the height standard is relevant to the development and is achieved as outlined in (i) above.

(iii) The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Not applicable. The underlying object or purpose of the height standard would not be defeated or thwarted if compliance was required. However, the objectives of Zone SP2 Educational Establishment would be defeated and thwarted if compliance with the height standard was required as it would:

- Necessitate demolition of existing education buildings on the site that have height greater than 12m (refer to existing height plans at **Attachment 1**)
- Preclude completion of approved DAs on the Shore campus that have height greater than 12m (refer to approved height plans at **Attachment 1**)
- Preclude construction of the proposed SPEC infrastructure development that has a height greater than 12m (refer to proposed height plans at **Attachment 1**).

(iv) 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

As demonstrated by the existing and approved height plans at **Attachment 1**, both the 12m and 8.5m height standards in NSLEP 2013 have been virtually abandoned across the Shore campus as many existing and approved buildings exceed the applicable height standards. Relevantly:

- All existing Shore buildings facing William Street have a height greater than the applicable 12m height standard and most existing buildings further west exceed the relevant 8.5m height standard
- The approved gymnasium and swimming pool facility on the site (DA 336/1998) exceeds the applicable 12m height standard
- Concept Approval (MP 10_0149) has been granted for new buildings on the Graythwaite site with heights of:
 - 10m (East Building) where the relevant height standard is 8.5m (a departure of 1.5m)

– 12m (West Building) where the relevant height standard is 8.5m (a departure of 3.5m).

With these approved Graythwaite building envelopes located in the western portion of the Shore campus, well away from William Street, the proposal will implement the NSDCP 2012 character statement requirement to reduce the intensity and scale of development the further away from William Street it is located (NSDCP 2012 cl. 9.4.2, P3 and cl. 9.4.3, P5).

Given the above, compliance with the height standard in this instance is unnecessary and unreasonable.

(v) 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.

Zone SP2 Educational Establishment, which applies to most of the site, is an appropriate zone given its use as a school. Zone R4 which applies to the Hunter Crescent/William Street sites is functional given that SEPP Infrastructure provides for *educational establishments* in on this part of the site.

The 12m height standard, however, which would normally reflect a medium density housing form and which applies to the site and most nearby sites in Zone R4, is not reasonable for the site.

4.0 Winten Developments Pty Ltd v North Sydney Council

The exception to development standards request is assessed below against the accepted test for the assessment of development standard variation established by *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46.

A Is the planning control in question a development standard?

Yes, the height standard at cl. 4.3(2) of NSLEP 2013 is a development standard.

B What is the underlying object or purpose of the standard?

The underlying objectives of the height standard are assessed in Table 2.

C Is compliance with the development standard unnecessary or unreasonable in the circumstances of the case?

Table 2 (read in conjunction with other sections of this exception to development standards request) demonstrates that compliance with the 12m height standard is unnecessary and unreasonable in the circumstance of the case.

D. Is compliance with the development standard consistent with the aims of the Policy (to provide flexibility in the application of development standards); and, in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979?

The arguments contained in this cl. 4.6 variation support the case to allow flexibility in the application of the height standard.

The non-compliance with the development standard allows for an orderly use of the land and the proposal has been designed with consideration to the desired future character of the area.

Additionally, the Objects of the Act are satisfied as:

- The departure from the 12m height standard in NSLEP 2013 will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment; and
- The departure from the 12m height standard in NSLEP 2013 allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls.

E. Is the objection well founded?

As the cl. 4.6 exception to development standards request appropriately addresses *Wehbe v Pittwater Council* [2007] NSW LEC 827, the proposed variation is well founded

5.0 *Four2Five Pty Ltd v Ashfield Council*

Commissioner Pearson's decision in *Four2Five Pty Ltd* (and Pain J's endorsement the reasoning) indicates that merely showing that the development achieves the objectives of the development standard will be insufficient to justify that a compliance with a standard is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under clause 4.6, (and 4.6(3)(a) in particular).

Further, the requirement in cl. 4.6(3)(b) to justify that there are sufficient environmental planning grounds for the variation, may well require identification of grounds particular to the circumstances of the proposed development – as opposed merely to grounds that would apply to any similar development on the site or in the vicinity.

The justification for flexibility explained above in **Table 2** and later in the summary justification at Section 7.0 lists numerous planning grounds noting the following circumstances that are particular to the site and the proposal:

- There is a prevalence of existing and approved buildings on the Shore campus that do not comply with the applicable 8.5m or 12m height standards including existing and approved buildings on the site of the development (demonstrating that both the 8.5m and 12m height standards in NSLEP 2013 have been virtually abandoned on the Shore campus)
- The site and its neighbours are located in an Educational Precinct identified by Council, therefore larger educational built forms should be seen as an expected form of development
- The functional requirements of the SPEC necessitate high clearance spaces (in particular the height requirements of basketball courts)
- The site traversed by a railway tunnel easement, limiting the potential depth of excavation
- The proposed SPEC steps down from north to south along William Street to follow the topography
- The proposed SPEC steps down as it gets the further away from William Street consistent with the NSDCP 2013 character statement
- The proposed SPEC complies with the 12m height standard at the Hunter Crescent frontage providing a compatible built form with nearby residential flat buildings on Hunter Crescent and Blues Point Road.

6.0 Public interest and matters of State or regional significance

6.1 Is the proposal in the public interest?

This cl. 4.6 exception to development standards request and the accompanying plans and technical reports demonstrate the public advantages of providing additional and improved *educational establishment* infrastructure on the site.

No unreasonable public disadvantages have been identified as it has been demonstrated that any environmental or other impacts associated with the proposal are minimal and/or can be adequately managed.

6.2 Matters of State or Regional Significance

The provision of additional and improved *educational establishment* infrastructure on the site will improve education infrastructure. The proposal does not raise any other matters of significance for State or regional planning.

6.3 The public benefit of maintaining the standard

No matters of public interest arise as the impacts of the non-complying elements are reasonable.

7.0 Summary justification

A summary of the matters set out in this cl. 4.6 exceptions to development standards request to vary the NSLEP 2013 12m height standard follows:

Extent of variation

- The proposed Multipurpose Sports Complex has a maximum height of 16.3m which exceeds the 12m height standard by up to 4.3m.
- The proposed Aquatic Centre has a maximum height of 9.7m which complies with the 12m height standard.
- The proposed extension of Bishopsgate car park has a maximum height of 4.37m which complies with the 8.5m height standard.

Flexibility is appropriate in this instance and compliance is unreasonable or unnecessary

- The 12m height standard does not appropriately reflect the *educational establishment* on the Shore campus, which includes many existing and approved buildings that exceed both the 12m and 8.5m height standards (refer to height plans at **Attachment 1** and Section 3.0 later).
- The 12m height standard, which would normally reflect a medium density residential form, is not reasonable for the site most of which is located in Zone SP2 and occupied by an existing *educational establishment*.
- All of the development site and its neighbours are located in a proposed Educational Precinct (as set out in the exhibited draft amendment of NSDCP 2013) therefore larger educational built forms should be seen as an expected form of development.
- The functional requirements of the proposed Multipurpose Sports Complex necessitate a built form that has a height greater than 12m (noting that it includes facilities that require high floor to ceiling heights to accommodate basketball courts).
- The Multipurpose Sports Complex (which exceeds the 12m height standard):
 - Provides a stepping down along William Street as the topography falls away to the south
 - Has a compliant street frontage height of 12m at Hunter Crescent (as illustrated on **Figures 5 to 7**) where the site and land to the south is in Zone R4. This assists in providing a compatible built form with nearby residential flat buildings on Hunter Crescent and Blues Point Road.
 - Occupies a portion of the site that accommodates the existing gym which partially exceeds the 12m height standard (see **Table 1**, **Figure 5** and height plans at **Attachment 1**).
 - Occupies a portion of the site that already has a commenced development consent for a gymnasium and swimming pool facility (DA 336/1998) which exceeds the 12m height standard (see **Table 1**, **Figure 5** and height plans at **Attachment 1**).
 - Has a comparable to the approved/commenced facility as viewed from William Street, although the site and proposed building envelope is to be extended southward to include 4 & 5 Hunter Crescent and 16 William Street.
- The photomontages and photographs at **Figures 8 and 9** illustrate that proposed SPEC sits comfortably within the streetscape of William Street and Hunter Crescent.
- Further excavation to reduce the building height of the SPEC is not possible as the site is traversed by a railway tunnel easement that limits excavation depths (see **Figure 10**)
- The intensity of development proposed for the SPEC reduces the further away from William Street it is located, noting that the proposed Aquatic Centre has a maximum height of 9.7m which is well below the 12m standard, providing a stepping down from east to west. This is

consistent with the NSDCP 2013 character statement for the Graythwaite, Shore & St Josephs Neighbourhood (cl 9.4.2 P3).

- A high standard of architectural design is proposed, noting that Shore convened a design excellence competitive process and Cox Richardson was selected as the winning architect (see EIS, Section 1.3).
- As detailed in Section 6.0 of the EIS, the proposal will not give rise to any unreasonable or unexpected adverse amenity impacts for surrounding properties (in terms of overshadowing, views/outlook and privacy impacts) (see EIS, Section 4.6).
- The HAIS by GML (**Appendix D** to the EIS) concludes that the heritage impacts of the proposal are minimal and positive.
- The Transport and Accessibility Assessment by TTW (**Appendix M**) concludes that the traffic impacts of the proposal will be minimal and acceptable.
- As demonstrated by the existing and approved height plans at **Attachment 1** and addressed later at Section 3.0, both the 12m and 8.5m height standards in NSLEP 2013 have been virtually abandoned on the Shore campus.
- The objectives of Zone SP2 & R4 and the height standard are achieved.

Objects of the Act and public interest

The Objects of the Act are satisfied and the provision of additional and improved *educational establishment* infrastructure on the site is consistent with the public interest as it will improve education infrastructure. The proposal does not raise any other matters of significance for State or regional planning.

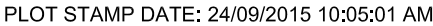
Other tests

The proposed variation satisfies the tests and considerations established in

- *Wehbe v Pittwater Council* [2007] NSW LEC 82
- *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46)
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3').

Attachment 1

Existing, Approved and Proposed Height Plans, by Cox Richardson



COX

PROJECT MANAGER
NAME: **EPM PROJECTS**
ADDRESS: SUITE 8, 15, 655 PACIFIC HIGHWAY, ST LEONARDS, NSW 2005
TELEPHONE: (02) 9452 8300 / (02) 9452 8388

TOWN PLANNER
NAME: **ROBINSON URBAN PLANNING**
ADDRESS: 83 FLETCHER ST, TAMARUA, NSW 2026
TELEPHONE: (02) 9330 1445 / (02) 9330 2992

STRUCTURAL, CIVIL & BRACKER ENGINEERS
NAME: **TAYLOR THOMSON WHITING (TTW)**
ADDRESS: 13, 48 CHAMBERS ST, ST LEONARDS, NSW 2065
TELEPHONE: (02) 9438 7228

MECHANICAL, ELECTRICAL, COMMS, LIGHTING & ESP ENGINEERS
NAME: **STEENEN VARMING**
ADDRESS: 18, 6 CASTLEREAGH ST, SYDNEY, NSW 2000
TELEPHONE: (02) 9697 2200

HYDRAULIC, VERTICAL TRANSPORT & FIRE DETECTION/PROTECTION ENGINEERS
NAME: **ERBAS**
ADDRESS: 11, 15 ATCHISON ST, ST LEONARDS, NSW 2065
TELEPHONE: (02) 9437 1022

ACOUSTIC ENGINEERS
NAME: **WILKINSON CROWNE**
ADDRESS: 272 PACIFIC HWY, GROSSWENEST, NSW 2065
TELEPHONE: (02) 9437 4011

LAND SURVEYOR
NAME: **RYGATE SURVEYORS**
ADDRESS: SUITE 904, 18, BYRON ST, SYDNEY, NSW 2000
TELEPHONE: (02) 9592 6800

QUANTITY SURVEYOR
NAME: **MBM PTY LTD**
ADDRESS: 17, 66 FITT ST, SYDNEY, NSW 2000
TELEPHONE: (02) 9570 1000

GEOTECHNICAL CONSULTANT
NAME: **JK GEOTECHNICS**
ADDRESS: 115 WICKHAM ST, MACQUARIE PARK, NSW 2113
TELEPHONE: (02) 9888 5000

HERITAGE CONSULTANT
NAME: **GODDEN MACKAY LOGAN (GML)**
ADDRESS: 14, 362 ELLIOTT ST, SURRY HILLS, NSW 2010
TELEPHONE: (02) 9219 4811

LANDSCAPE ARCHITECT
NAME: **OCULUS**
ADDRESS: 11, 6 VILSON ST, NEWTOWN, NSW 2042
TELEPHONE: (02) 9557 5533 / (02) 9519 8323

POOL & AQUATICS DESIGN
NAME: **GEOFF NINNES FONG & PARTNERS**
ADDRESS: 20 CROWN ST, WOOLMOOLMOOLOO, NSW 2011
TELEPHONE: (02) 9332 5100 / (02) 9332 5100

BCA & ACCESS CONSULTANTS
NAME: **PHILIP CHUN**
ADDRESS: SUITE 404, 48 HAMPER RD, ARTARMON, NSW 2064
TELEPHONE: (02) 9412 2322

Project No.

213204

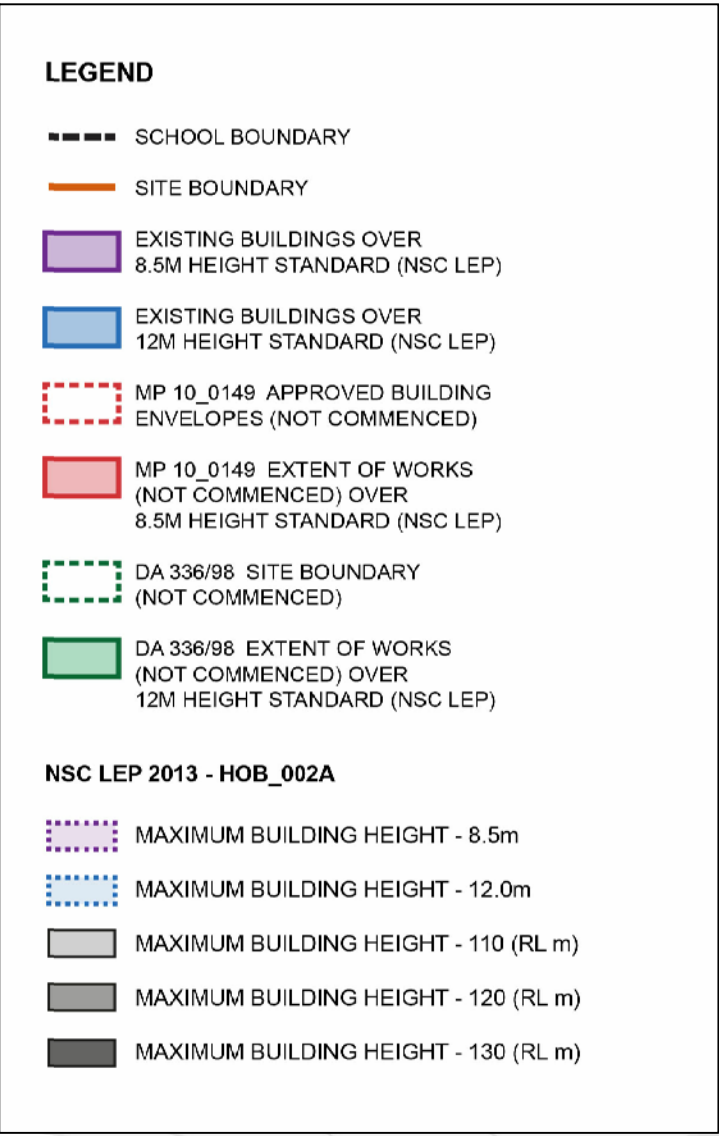
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8.5M & 12M HEIGHT
STANDARD - EXISTING

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Co-ordinated:	NM	Scale: 1:350 @ A
Project Architect:	AS	Date: 27.05.16
Project Director:	RL	Revision: 0

Drawing Number:	North:
A-DA-0016	

Cox Architecture Pty Ltd ACN 002 535 891



COX

Client

SYDNEY CHURCH OF ENGLAND
GRAMMAR SCHOOL (SHORE)

Project	SHORE PHYSICAL EDUCATION CENTRE BLUE ST, NORTH SYDNEY, NSW, 2060
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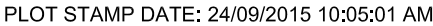
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8.5M & 12M HEIGHT
STANDARD - APPROVED
DA 336/98 & MP 10_0149

Document Control Status:

DEVELOPMENT APPLICATION

Drawing Number: A-DA-0017



COX

PROJECT: MANAGEMENT
NAME: EPM PROJECTS
 SUITE 2, L1, 855 PACIFIC HWY, ST LEONARDS, NSW 2065
 TEL/FAX: 02 9452 8300 / 02 9452 8388

TOWN PLANNER
NAME: ROBINSON URBAN PLANNING
 83 ELETHER ST, TAMARAKA, NSW 2026
 TEL/FAX: 02 9310 1452 / 02 9310 2962

STRUCTURAL: CIVIL & TRAFFIC ENGINEERS
NAME: TAYLOR THOMSON WHITING (TTW)
 L3, 48 CHANDOS ST, ST LEONARDS, NSW 2065
 TEL: 02 9437 7200

MECHANICAL: ELECTRICAL, COMM'S, LIGHTING & ESO ENGINEERS
NAME: STEENSEN VARRING
 L6, 9 CASTLEREAGH ST, SYDNEY, NSW 2000
 TEL: 02 9667 2220

HYDRAULIC, VERTICAL TRANSPORT & FIRE DETECTION PROTECTION ENGINEERS
NAME: ERBAS
 L1, 18 ATCHISON ST, ST LEONARDS, NSW 2065
 TEL: 02 9437 1022

ACQUISITIVE ENGINEERS
NAME: WILKINSON MURRAY
 272 PACIFIC HWY, GROVES MIST, NSW 2065
 TEL: 02 9437 4611

LAND SURVEYOR
NAME: RYGAATE SURVEYORS
 SUITE 904, L8, 88 YORK ST, SYDNEY, NSW 2000
 TEL: 02 9582 6890

QUANTITY SURVEYOR
NAME: MBM PT LTD
 L7, 68 FRITT ST, SYDNEY, NSW 2000
 TEL/FAX: 02 9270 1000

GEO TECHNICAL CONSULTANT
NAME: JK GEOTECHNICS
 115 WICKHAM RD, MACQUARIE PARK, NSW 2113
 TEL: 02 9888 5000

HERITAGE CONSULTANT
NAME: GORDON MACKAY LOGAN (GML)
 L6, 30 ELLIOT ST, SURRY HILLS, NSW 2010
 TEL: 02 9319 4811

LANDSCAPE ARCHITECT
NAME: OCULUS
 L1, 5 WILSON CT, NEWTOWN, NSW 2042
 TEL/FAX: 02 9517 5533 / 02 9519 8323

POOL & AQUATICS DESIGN
NAME: GEOFF NINNES FONG & PARTNERS
 TEL: 02 CROWN ST, WOOLMOODLOO, NSW 2011
 TEL: 02 9332 5120 / 02 9330 0290

BICA & ACCESS CONSULTANTS
NAME: PHILIP CHAN
 SUITE 404, 44 HAMPTEN RD, ARTARMON, NSW 2064
 TEL/FAX: 02 9432 2320

Project No.	213204
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Drawing Title

8.5M & 12M HEIGHT
STANDARD - PROPOSED

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Project Architect:	AS	Date: 27.05.16
Project Director:	RL	Revision: 0

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