Exception to Development Standards Request Waverley LEP 2012, clause 4.3 - Height of buildings

St Catherine's School Waverley, 26 Albion Street, Waverley

Submitted to
NSW Planning and Infrastructure

Prepared on behalf of St Catherine's School Waverley

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Attachments

1 Plan by Mayoh Architects showing RPAC building height and ground levels

1.0 Preliminaries

1.1 Land to which this variation applies and proposed development

This exception to development standards request is provided in support of a staged development application (**DA**) seeking approval for the following development at St Catherine's School Waverley located at 26 Albion Street, Waverley (**the site**):

PART 1 Conceptual approval for a Campus Master Plan that comprises demolition works, new buildings, alterations and additions, access arrangements, circulation and landscaping

PART 2 Detailed design approval for Stage 1 of the Campus Master Plan comprising construction of the new Research, Performing Arts and Aquatic Centre (**RPAC**).

Pursuant to *State Environmental Planning Policy State and Regional Development 2011* (**SEPP SRD**), the project 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 Waverley Local Environmental Plan 2012 (**Waverley LEP 2012**).

1.3 Relevant development standard

This exception to development standards request relates to the height of buildings standard at cl. 4.3(2) of Waverley LEP 2012 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 standard for the site (where new buildings are proposed) is 9.5m, as shown on **Figure 1**.

1.4 Proposed variation to the standard

The Campus Master Plan proposes the following two new buildings that exceed the 9.5m height standard (noting the proposed height as calculated by Mayoh Architects):

- Stage 1 - RPAC which has the following heights (building height and ground levels relied upon are noted on the Height Plan at **Attachment 1**):
  - Multi Purpose Hall roof 11.16m – 15.16m
  - Performing Arts roof 12.7m - 16.57m
  - Flytower roof 15.82m – 19.08m
  - Research Centre roof 7.23m - 14.12m

  A photomontage of the RPAC is provided at **Figure 4** and photographs of the model are shown at **Figure 5**.
- Jane Barker Hall (**JBH**) site new build which has a height of 9.27m - 10.33m.

Sections showing the extent of non-compliance from the 9.5m height standard follow at **Figures 2** and **3** (based upon Mayoh Architects drawing A.MP.030 and A.MP.031, **Appendix C** to the EIS).

Mayoh Architects has also calculated the height of existing buildings, approved buildings and the proposed Campus Master Plan buildings on the site noting which elements have a height

greater than 9.5m (Drawing A.MP.009, **Appendix B** to the EIS). This comparison is reproduced at **Figures 6** and **7**.

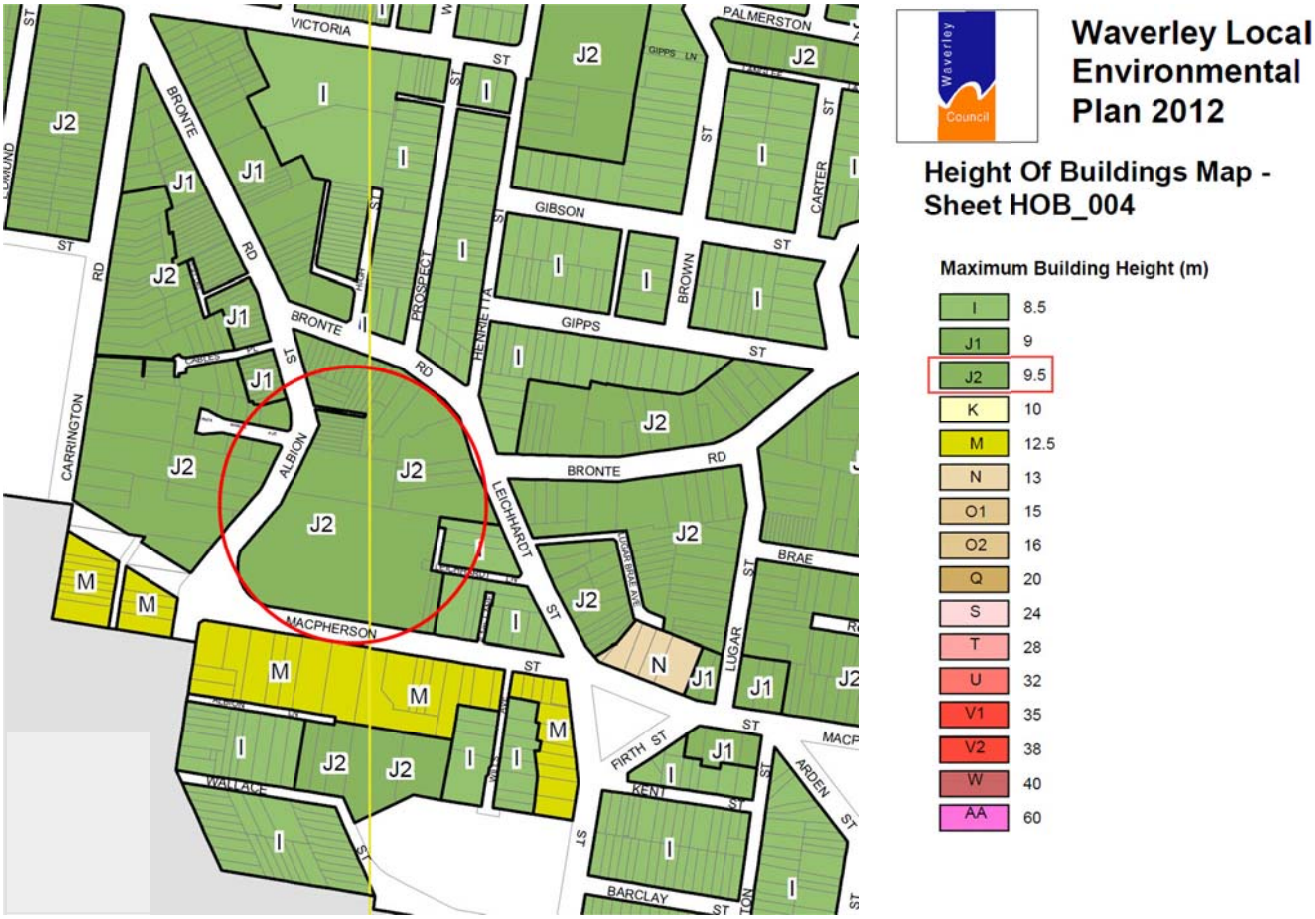

Figure 1 – Waverley LEP 2012, Height of Buildings Map

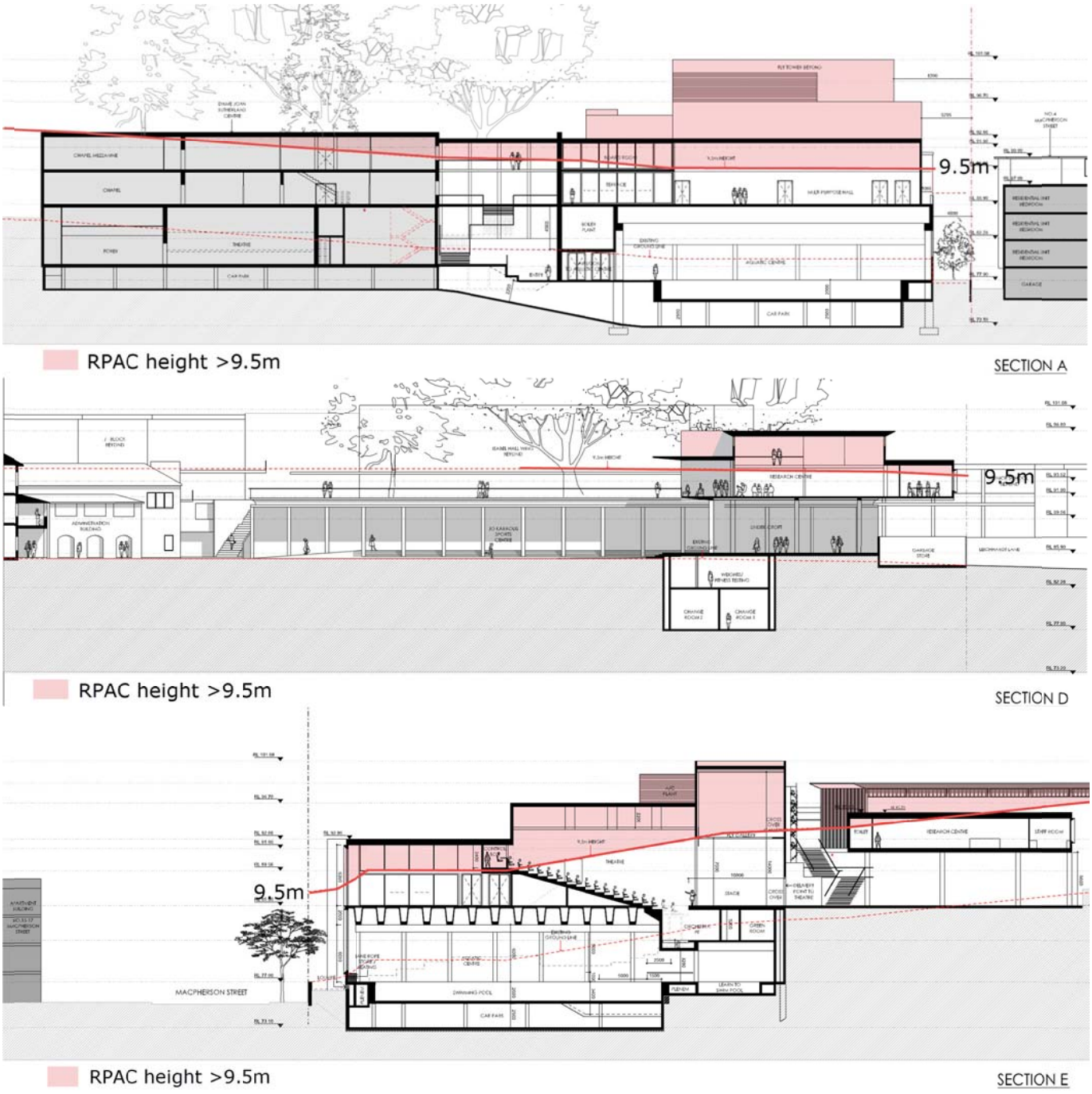

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Figure 2 – RPAC – departure from the 9.5m height standard (source: Mayoh Architects, A.MP.031)

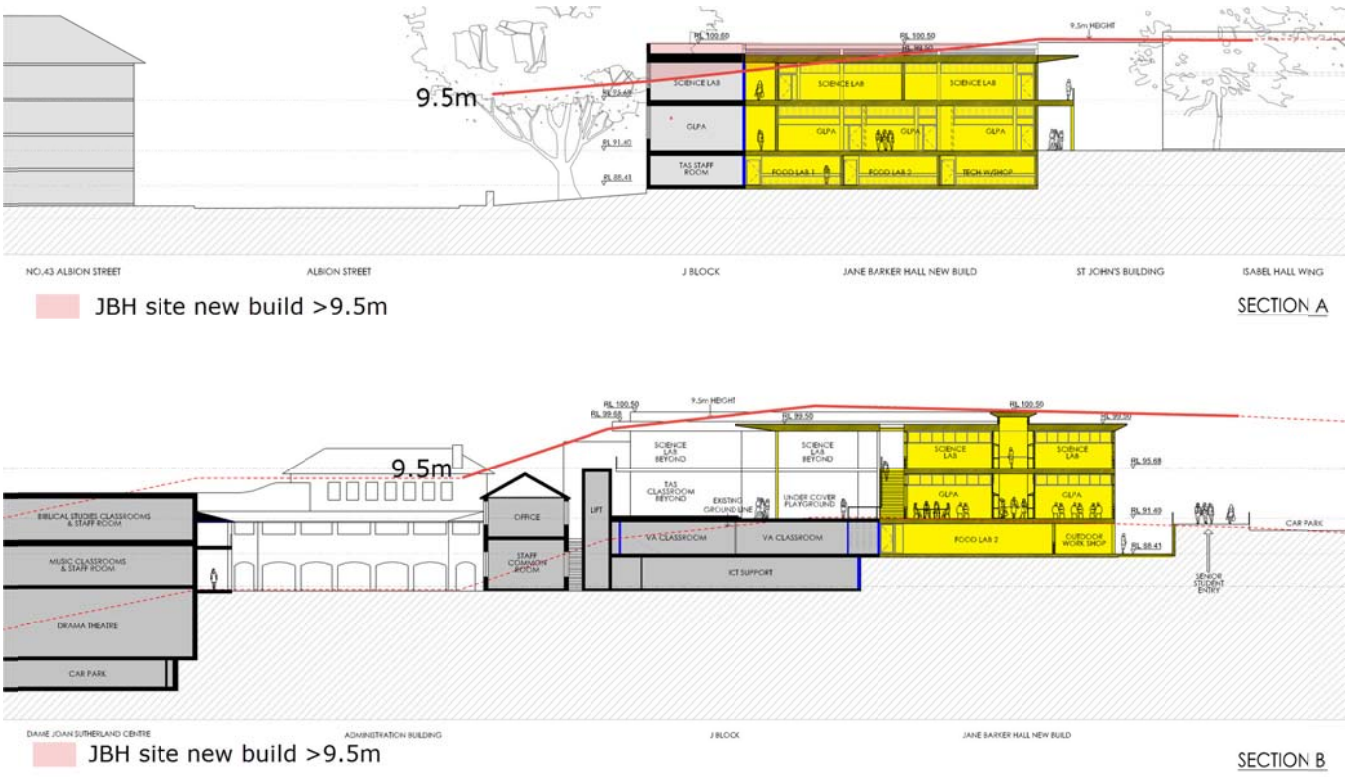

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Figure 3 – JBH site new build - departure from the 9.5m height standard (source: Mayoh Architects, A.MP.030)

EXISTING – MACPHERSON STREET

PROPOSED – MACPHERSON STREET WITH EXISTING AND REPLACEMENT TREES

Figure 4 – Photomontage of RPAC – Macpherson Street – with trees

Figure 5 – Photographs of the model

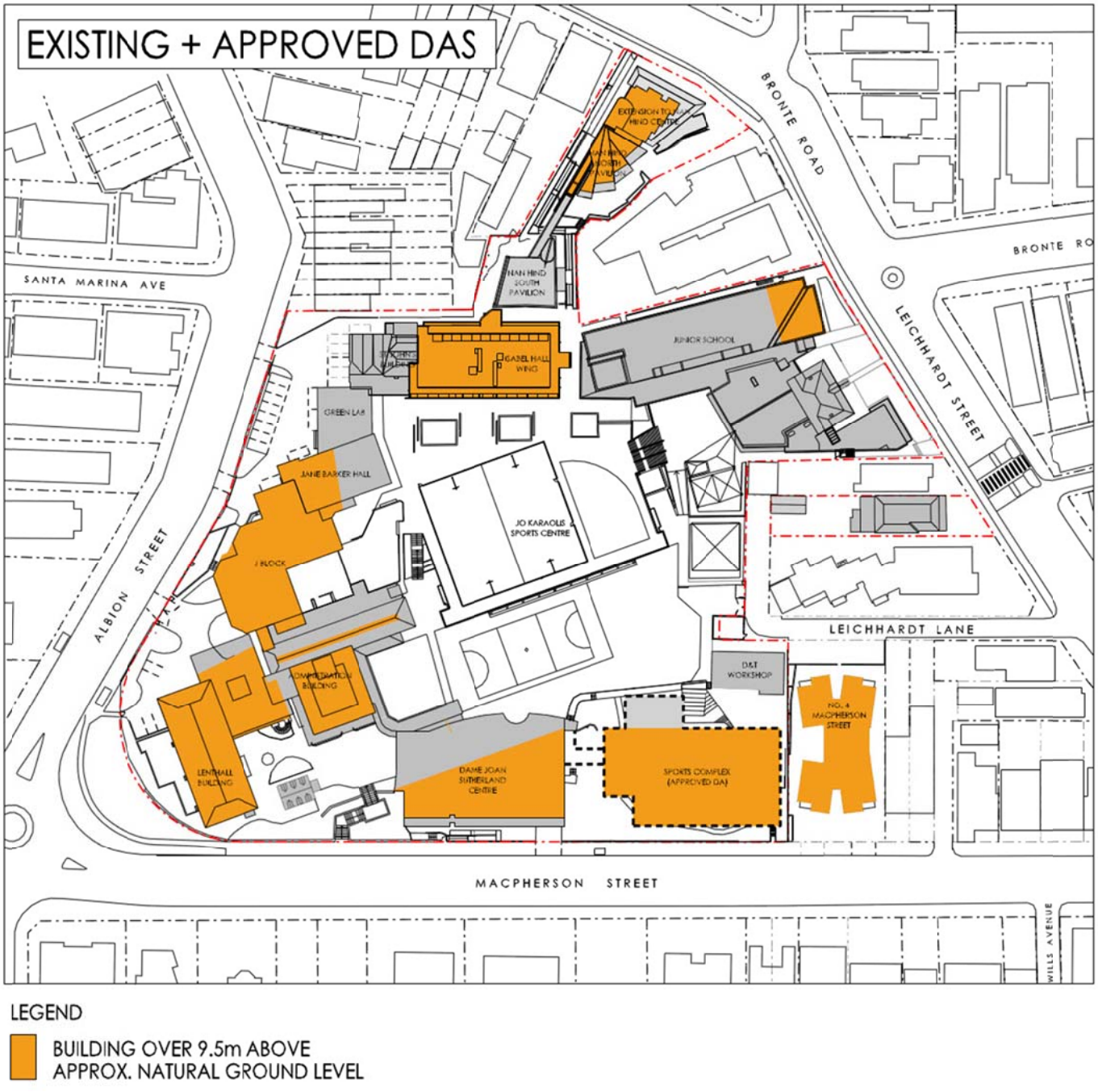


Figure 6 – Buildings with a height greater than 9.5m - **Existing + Approved DAs** (source: Mayoh Architects, A.MP.009)

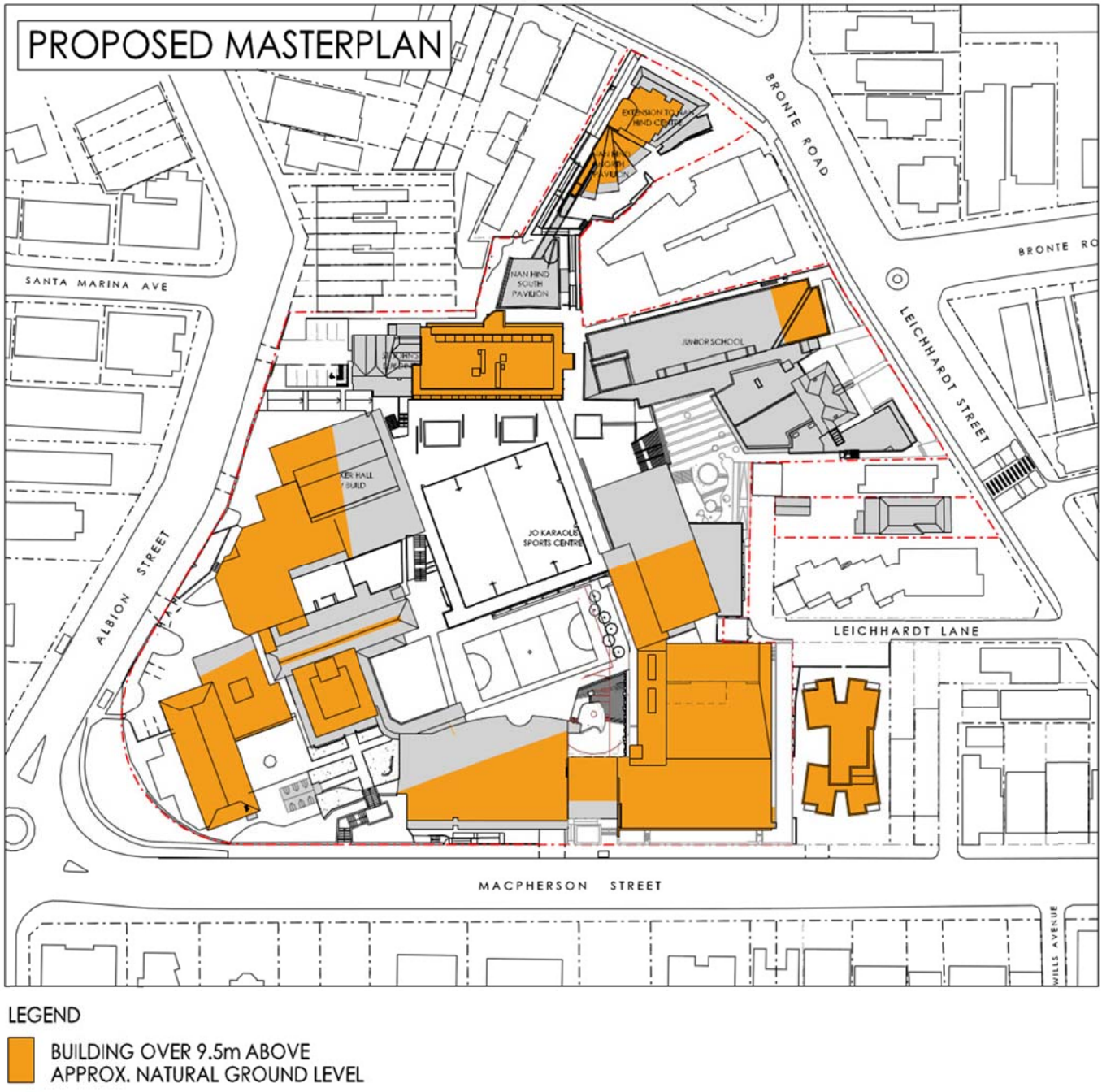


Figure 7 – Buildings with a height greater than 9.5m – **Proposed Campus Master Plan** (source: Mayoh Architects, A.MP.009)

2.0 Justification for the exception and matters for consideration

Clause 4.6 of Waverley 2012 states:

4.6 Exceptions to development standards

(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.

(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.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

(6) …

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4.

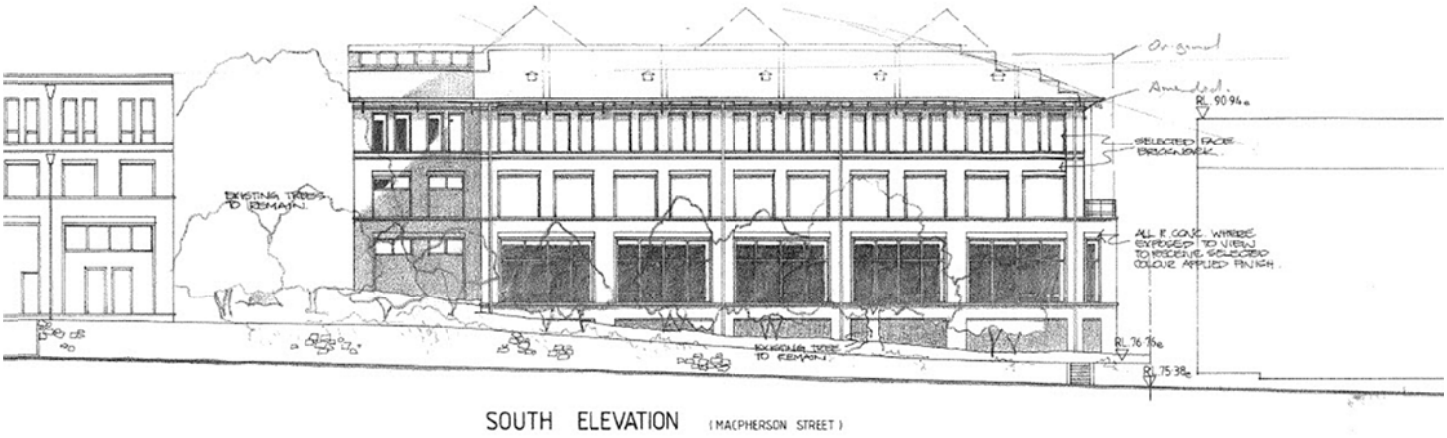
Table 1 assesses the proposed variation from the height standard against the cl. 4.6 considerations. More details, assessing the proposed variation against the accepted five part test for the assessment of a development standard variation established by the NSW Land and Environment Court in *Wehbe v Pittwater Council [2007]* NSW LEC 82 and the principles outlined in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46 follow in Sections 3.0 and 4.0.

Table 1 – Exception to standard - Clause 4.6 Waverley LEP 2012 – **Height of buildings**

Waverley LEP 2012, cl. 4.6	**Compliance**
(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.	√ Flexibility is appropriate in this instance given that: • The 9.5m height standard does not appropriately reflect the existing *educational establishment* on the site, which include many existing and approved buildings that exceed the 9.5m height standard (refer to **Figure 6**). • The 9.5m height standard, which would normally reflect a medium density residential form and which applies to nearby sites in Zone R3, is not reasonable for the site which is in Zone SP2 and which is occupied by an existing *educational establishment*. • The functional requirements of the proposed non-complying elements necessitate a built form that has a height greater than 9.5m (as illustrated by the facilities analysis by Mayoh Architects (A.MP.006, **Appendix C** to the EIS). • Proposed Stage 1 - RPAC – Occupies a portion of the site that already has a commenced development consent for an Indoor Sports Complex (DA 258/89) which exceeds the 9.5m height standard (see **Figure 6** and **7**). As illustrated on **Figures 8** and **9**, the bulk of the approved/commenced Indoor Sports Complex as viewed from Macpherson Street is comparable to proposed Stage 1 – RPAC. – The photomontage and photographs at **Figures 4** and **5** illustrate that proposed Stage 1 – RPAC sits comfortably within the streetscape of Macpherson Street. – The southern elevation of proposed Stage 1 – RPAC (**Figure 9** which is an extract from A.150, **Appendix C** to the EIS) shows that it has an appropriate street building height that provides a transition between the Dame Joan Sutherland Centre (**DJSC**) and adjoining residential flat building at 4 Macpherson Street. • The proposed JBH site new build: – Occupies a portion of the site that accommodates the existing JBH which partially exceeds the 9.5m height standard, is occupied by an existing building that has a height greater than 9.5m (see **Figure 6** and **7**). • As detailed in Section 6.0 of the EIS, the proposed Campus Master Plan and Stage 1 - RPAC will not give rise to any unreasonable or unexpected adverse amenity impacts for surrounding properties (in terms of overshadowing, views/outlook and privacy impacts). More details follow. • The Campus Master Plan has been designed to reduce paved surfaces on the site and minimise the loss of deep soil landscaped area. Mayoh Architects calculate that the Campus Master Plan (Drawing A.MP.008, **Appendix C** to the EIS): – Increases the playground space by 119m^2 – Decreases paved circulation areas by 1,080m^2 – Decreases vehicular/service areas by 641m^2 – Decreases deep soil landscaped area by just 421m^2 (which equates to 1.9% of the total site area) A reduction in height could result in increased site cover reducing playground space and deep soil landscaped areas. • The Statement of Heritage Impact by NBRS+Partners (**Appendix D** to the EIS) concludes that the heritage impacts of the proposal are minimal and positive. • The Traffic Assessment by ARUP (**Appendix I**) concludes that the traffic impacts

Waverley LEP 2012, cl. 4.6	Compliance	
		of the Campus Master Plan and Stage 1 – RPAC will be acceptable.
(2) Development may contravene a standard	√	The height standard is not excluded from the clause.
(3) Written request required that seeks to justify the contravention of the 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.	√	Compliance with the 9.5m height standard in Waverley 2012 is unreasonable and unnecessary as: • The 9.5m height standard does not appropriately reflect the existing *educational establishment* on the site, which include many existing and approved buildings that exceed the 9.5m height standard (refer to **Figure 6**). • The 9.5m height standard, which would normally reflect a medium density residential form and which applies to nearby sites in Zone R3, is not reasonable for the site which is in Zone SP2 and which is occupied by an existing *educational establishment*. • Compliance would necessitate removal of existing/approved buildings and preclude any new infrastructure projects on the site. • The functional requirements of the proposed non-complying elements necessitate a built form that has a height greater than 9.5m (as illustrated by the facilities analysis by Mayoh Architects (A.MP.006, **Appendix C** to the EIS). • As detailed in the EIS, the height non-compliance does not give rise to any unreasonably adverse overshadowing, privacy, view, bulk/scale/streetscape, heritage or other environmental effects. • See also points at subclause (1) above.
(4) Development consent must not be granted unless: (c) the consent authority is satisfied that: (i) the written request has addresses subclause (3) (ii) the proposed development is in the public interest (consistent with the objectives of the standard and the zone) (d) the concurrence of the Director-General has been obtained.	√ √	Subclause 3 has been adequately addressed (see above). The proposal is in the public interest as it: • Satisfies the objectives of Zone SP2 Educational Establishment as follows: – *To provide for infrastructure and related uses*. 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 preclude approved and proposed new infrastructure projects. – *To prevent development that is not compatible with or that may detract from the provision of infrastructure* The proposal is compatible the provision of infrastructure and will materially improve the function and amenity of the existing *educational establishment* on the site. • It satisfies the relevant objectives of the height standard (cl. 4.3(1)) as follows: *(a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties,* The proposal will not give rise to any unreasonable or unexpected adverse amenity impacts for surrounding properties (in terms of overshadowing, views and privacy impacts), as detailed at Section 6.0 of the EIS. Notably, in relation to overshadowing, the EIS demonstrates that the RPAC will not affect solar access to living rooms in 4 Macpherson Street, other than an impact of around one hour on 21 March and 21 June to a maximum of three living rooms facing north. The affected living rooms will each retain five to six hours of sunlight which is well in excess of the SEPP 65/Residential Flat Design Code rule of thumb which recommends 70% of apartments in a development receive a minimum of three hours of direct

Waverley LEP 2012, cl. 4.6	Compliance
	sunlight to living rooms and private open spaces between 9am and 3pm in midwinter. *(b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,* N/A *(c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,* N/A *(d) to ensure that buildings are compatible with the height, bulk and scale of the existing character of the locality and positively complement and contribute to the physical definition of the street network and public space.* – The photomontage/model photographs at **Figures 4** and **5** illustrate that proposed Stage 1 – RPAC sits comfortably within the streetscape of Macpherson Street. – As demonstrated on **Figures 6** and **7**, many existing and approved buildings on the site have a height that exceeds the height standard and as such non-complying buildings are consistent with the character of the locality. The adjoining residential flat building to the east at 4 Macpherson Street, located in Zone R2, also exceeds the a height of 9.5m (noting that an 8.5m height standard applies to that property). – The southern elevation of proposed Stage 1 – RPAC (**Figure 9** which is an extract from A.150, **Appendix C** to the EIS) shows that the RPAC has an appropriate street building height that provides a transition between the DJSC and adjoining residential flat building at 4 Macpherson Street. – By comparing the southern elevations at **Figures 8** and **9**, it is apparent that the proposed Stage 1 – RPAC street height is comparable with the approved/commenced Indoor Sports Centre street height. • With an additional 230 students proposed (to be introduced over a period of 15 years), the Campus Master Plan will accommodate some of the projected demand for additional school places, as detailed at Section 6.18 and **Appendix U** of the EIS (see Section 5.0 later).
(5) The Director-General must consider: (e) whether contravention raises any matter of significance for State or regional environmental planning (f) the public benefit of maintaining standard (g) other matters.	√ See Section 5.0.
(6) N/A	N/A
(7) Consent authority must keep a record of matters in subclause (3).	Noted
(8) N/A	N/A



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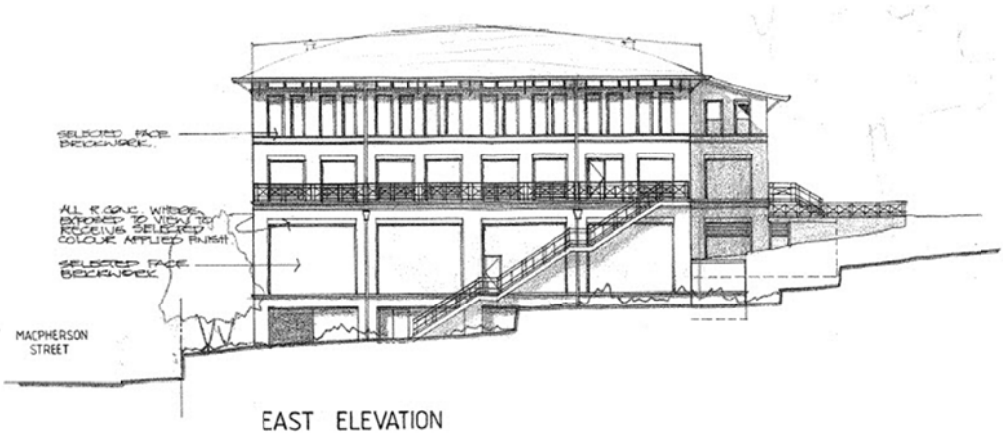

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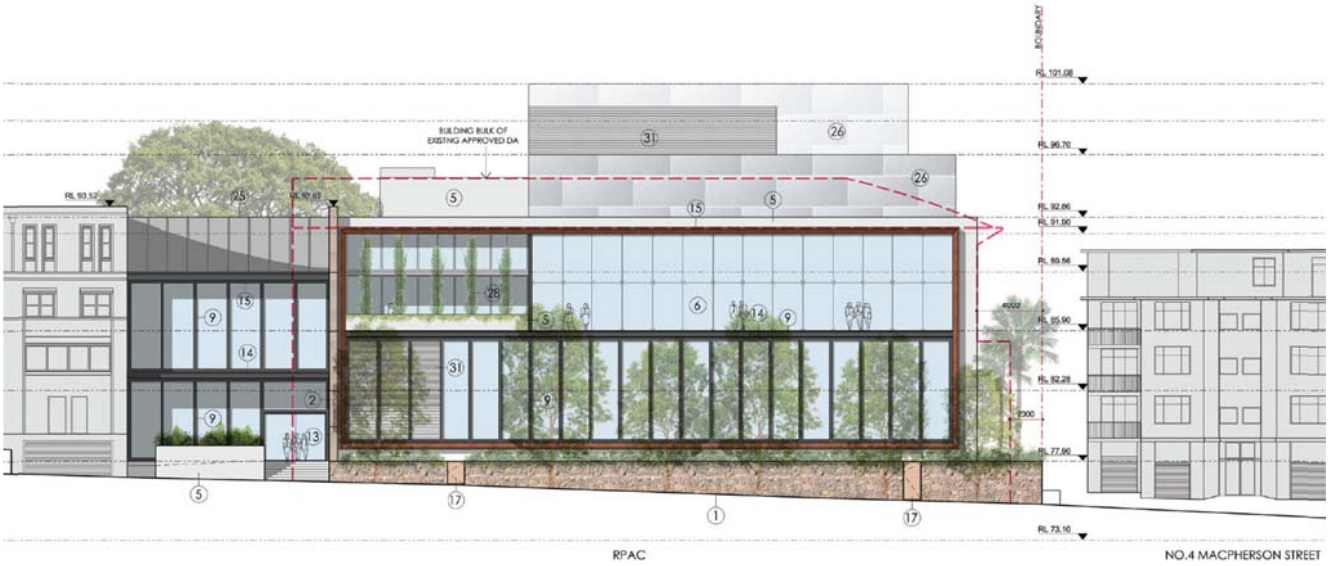
Figure 8 – Approved/commenced Indoor Sports Complex, south and east elevations (DA 258/89)



SOUTH ELEVATION (NTS)

EAST ELEVATION (NTS)

Figure 9 – Proposed Stage 1 – RPAC, south and east elevations (source Mayoh Architects, A150)

3.0 *Wehbe v Pittwater Council* [2007] NSW LEC 827

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 1**, the proposal is consistent with the objectives to cl. 4.3, 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 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 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 9.5m (refer to **Figure 6**)
- Preclude completion of approved DAs that have height greater than 9.5m (refer to **Figure 6** and **8**)
- Preclude construction of the required infrastructure development on the site that have a height greater than 9.5m (refer to **Figure 7**).

(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; and

As demonstrated by **Figure 6**, the 9.5m height standard in Waverley LEP 2012 has been virtually abandoned on the site as many existing and approved buildings have a height greater than 9.5m.

Council has also recently approved major alterations and additions at Waverley College (located at 131 Birrell Street, Waverley), that have a height of up to 14m where the height standard is also 9.5m (DA-239/2013 approved 12 December 2013).

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 is an appropriate zone for the site given its use as a school. However, the 9.5m height standard, which would normally reflect a medium density housing form and which applies to some nearby sites in Zone R3, is not reasonable for the site.

4.0 *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46

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, cl. 4.3(2) of Waverley LEP 2012 is a development standard.

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

The underlying objectives of the standard are assessed in **Table 1**.

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

Table 1 (read in conjunction with Section 3.0) demonstrates that compliance with the 9.5m 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 height standard in Waverley LEP 2012 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 height standard in Waverley LEP 2012 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 Public interest and matters of State or regional significance

5.1 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.

Urbis has completed a Demographic Assessment[1] (**Appendix U** to the EIS) which considers the existing and projected demographic profile of the catchment served by St Catherine's School. A summary of their key findings follows:

- 95% of the school's students reside in 16 postcodes in the local government areas (**LGAs**) of Waverley, Randwick, Woollahra, Botany Bay and Sydney
- Historical population trends indicate that the population of the catchment increased by 17% (66, 612 people) since 1996
- Future population projections show that the population of the catchment will increase by 34% from 487,600 in 2011 to 653,400 by 2031 (165,650 more people)
- The number of children will increase by 46.8% (equivalent to +37,450 more children) by 2031
- The total school aged child population in the catchment will increase by 50.8% (equivalent to +27,900 more children) from 54,900 in 2011 to 82,800 in 2031
- In 2031, there will be 117,400 children in the catchment, 57,021 (49%) of which would be female. Of the 82,800 school age children (5-19 years), 40,265 would be female
- The projected increases in children is higher than the increase in total population which suggests that more families with young children are projected to move to the catchment
- There are currently 167 schools in the catchment
- To cater for the projected growth in school aged children in the catchment to 2031, the following would be required:
  - Number of schools within the catchment remain the same: Each existing school would need to accommodate on average 167 more students (or six to seven new classes of 25 children)
  - New schools are constructed to accommodate increase: 16.6 new primary schools and 5.5 new secondary schools would be required.

The proposal to increase the student population of St Catherine's by 230 students over the next 15 years (year 2030) will accommodate a proportion of this projected growth in school aged children.

Other positive social and economic impacts include:

- Supporting the continued successful operation of Australia's oldest independent school for girls
- Improving educational facilities for existing and future St Catherine's School students and staff
- Providing opportunities for use of the RPAC by members of the extended school community (including other schools in the catchment)

[1] Urbis relied upon ABS Census 1996, 2006 and 2011 data and NSW Planning and Environment Population Projections.

- Ongoing employment within the school (+ 10 jobs) plus construction jobs (94 construction jobs for Stage 1 RPAC) and expenditure.

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

If approved, the consent will be subject to a condition requiring the payment of s. 94A contribution.

5.2 Matters of State or Regional Significance

The provision of additional and improved *educational establishment* infrastructure on the site will assist in meeting the demand for increased student places as detailed above. The proposal does not raise any other matters of significance for State or regional planning.

5.3 The public benefit of maintaining the standard

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

6.0 Summary justification

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

Relevance of the height standard

- The 9.5m height standard does not appropriately reflect the existing *educational establishment* on the site and the 9.5m height standard in Waverley LEP 2012 has been virtually abandoned, as many existing and approved buildings on the site exceed the 9.5m height standard (refer to **Figure 6**).
- The 9.5m height standard, which would normally reflect a medium density residential form and which applies to nearby sites in Zone R3, is not reasonable for the site which is in Zone SP2 and which is occupied by an existing *educational establishment*.
- The functional requirements of the proposed non-complying elements necessitate a built form that has a height greater than 9.5m (as illustrated by the facilities analysis by Mayoh Architects (A.MP.006, **Appendix C** to the EIS).
- Council has recently approved major alterations and additions at Waverley College (located at 131 Birrell Street, Waverley), that have a height of up to 14m where the height standard is also 9.5m (DA-239/2013 approved 12 December 2013).

Urban design and streetscape

- Proposed Stage 1 – RPAC which has a height greater than 9.5m:
  - Occupies a portion of the site that already has a commenced development consent for an Indoor Sports Complex (DA 258/89) which exceeds the 9.5m height standard (see **Figure 6** and **7**). As illustrated on **Figures 8** and **9**, the bulk of the approved/commenced Indoor Sports Complex as viewed from Macpherson Street is comparable to proposed Stage 1 – RPAC.
  - The photomontage/model photographs at **Figures 4** and **5** illustrate that proposed Stage 1 – RPAC sits comfortably within the streetscape of Macpherson Street.
  - The southern elevation of proposed Stage 1 – RPAC (**Figure 9** which is an extract from A.150, **Appendix C** to the EIS) shows that it has an appropriate street building height that provides a transition between the Dame Joan Sutherland Centre (**DJSC**) and adjoining residential flat building at 4 Macpherson Street.
- The proposed JBH site new build:
  - Occupies a portion of the site that accommodates the existing JBH which partially exceeds the 9.5m height standard, is occupied by an existing building that has a height greater than 9.5m (see **Figure 6** and **7**).

Impacts

- As detailed in Section 6.0 of the EIS, the proposed Campus Master Plan and Stage 1 RPAC development will not give rise to any unreasonable or unexpected adverse amenity impacts for surrounding properties (in terms of overshadowing, views/outlook and privacy impacts).
- The Campus Master Plan has been designed to reduce paved surfaces on the site and minimise the loss of deep soil landscaped area. Mayoh Architects calculate that the Campus Master Plan (Drawing A.MP.008, **Appendix C** to the EIS):
  - Increases the playground space by 119m^2
  - Decreases paved circulation areas by 1,080m^2
  - Decreases vehicular/service areas by 641m^2

- Decreases deep soil landscaped area by just 421m^2 (which equates to 1.9% of the total site area)

  A reduction in height could result in increased site cover reducing playground space and deep soil landscaped areas.

- The Statement of Heritage Impact by NBRS+Partners (**Appendix D** to the EIS) concludes that the heritage impacts of the proposal are minimal and positive.
- The Traffic Assessment by ARUP (**Appendix I**) concludes that the traffic impacts of the Campus Master Plan and Stage 1 – RPAC will be acceptable.

Zone objectives

- The proposal satisfies the objectives of Zone SP2 Educational Establishment as follows:
  - *To provide for infrastructure and related uses.*

    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 preclude approved and proposed new infrastructure projects.
  - *To prevent development that is not compatible with or that may detract from the provision of* infrastructure

    The proposal is compatible the provision of infrastructure and will materially improve the function and amenity of the existing *educational establishment* on the site.
- 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 9.5m (refer to **Figure 5**)
  - Preclude completion of approved DAs that have height greater than 9.5m (refer **to Figure 5**)
  - Preclude construction of the required infrastructure development on the site that have a height greater than 9.5m (refer to **Figure 6**).

Height standard objectives

- The proposal satisfies the relevant objectives of the height standard (cl. 4.3(1)) as follows:

  (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties,

  The proposal will not give rise to any unreasonable or unexpected adverse amenity impacts for surrounding properties (in terms of overshadowing, views and privacy impacts), as detailed at Section 6.0 of the EIS. Notably, in relation to overshadowing, the EIS demonstrates that the RPAC will not affect solar access to living rooms in 4 Macpherson Street, other than an impact of around one hour on 21 March and 21 June to a maximum of three living rooms facing north. The affected living rooms will each retain five to six hours of sunlight which is well in excess of the SEPP 65/Residential Flat Design Code rule of thumb which recommends 70% of apartments in a development receive a minimum of three hours of direct sunlight to living rooms and private open spaces between 9am and 3pm in midwinter.

  (b) to ensure that buildings are compatible with the height, bulk and scale of the existing character of the locality and positively complement and contribute to the physical definition of the street network and public space.

- The photomontage at **Figure 4** illustrates that proposed Stage 1 – RPAC sits comfortably within the streetscape of Macpherson Street.
- As demonstrated on **Figures 5** and **6**, many existing and approved buildings on the site have a height that exceeds the height standard and as such non-complying buildings are consistent with the character of the locality. The adjoining residential flat building to the east at 4 Macpherson Street, located in Zone R2, also exceeds the a height of 9.5m (noting that an 8.5m height standard applies to that property).
- The southern elevation of proposed Stage 1 – RPAC (**Figure 8** above which are an extract from A.150, **Appendix C** to the EIS) shows that the RPAC has an appropriate street building height that provides a transition between the DJSC and adjoining residential flat building at 4 Macpherson Street.
- By comparing the southern elevations at **Figures 7** and **8**, it is apparent that the proposed Stage 1 – RPAC street height is comparable with the approved/commenced Indoor Sports Centre street height.

Objects of the Act

The Objects of the Act are satisfied as:

- The departure from the height standard in Waverley LEP 2012 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 height standard in Waverley LEP 2012 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.

Public interest

- To cater for the projected growth in school aged children in the catchment to 2031, the following would be required:
  - Number of schools within the catchment remain the same: Each existing school would need to accommodate on average 167 more students (or six to seven new classes of 25 children)
  - New schools are constructed to accommodate increase: 16.6 new primary schools and 5.5 new secondary schools would be required.
- The proposal to increase the student population of St Catherine's by 230 students over the next 15 years (year 2030) will accommodate a proportion of this projected growth in school aged children.
- Other positive social and economic impacts include:
  - Supporting the continued successful operation of Australia's oldest independent school for girls
  - Improving educational facilities for existing and future St Catherine's School students and staff
  - Providing opportunities for use of the RPAC by members of the extended school community (including other schools in the catchment)
  - Ongoing employment within the school (+ 10 jobs) plus construction jobs (94 construction jobs for Stage 1 RPAC) and expenditure

- No unreasonable public disadvantages have been identified as it has been demonstrated that any environmental or other impacts associated with the development are minimal and/or can be adequately managed.
- If approved, the consent will be subject to a condition requiring the payment of s. 94A contribution.

Other tests

- The proposed variation satisfies the tests and considerations established in *Wehbe v Pittwater Council [2007]* NSW LEC 82 and *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46.

Attachment 1

Plan by Mayoh Architects showing RPAC building height and ground levels