



clause 4.6 variation request [height]

construction of a two-storey
dwelling over basement level,
swimming pool & cabana

12 Lincoln Avenue, Collaroy

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INTRODUCTION

This clause 4.6 variation request [height] has been prepared to support an application for construction of a two-storey dwelling over basement level, swimming pool & cabana at 12 Lincoln Avenue, Collaroy.

The proposal

Key aspects of the proposal include demolition of existing structures and construction of a two-storey dwelling over a basement parking level, a swimming pool and cabana, and associated landscaping and drainage works. Additionally, retaining structures, pedestrian stairs, and landscaping is proposed in the road reserve.

The proposal is detailed on Architectural Plans supplied with the application.

Land use zone

Warringah Local Environmental Plan 2011 (WLEP) applies to the site.

The site is within Zone R2 Low Density Residential and dwellings are permitted with consent.

An extract of the Zoning Map with the site in yellow outline is provided at Figure 1.

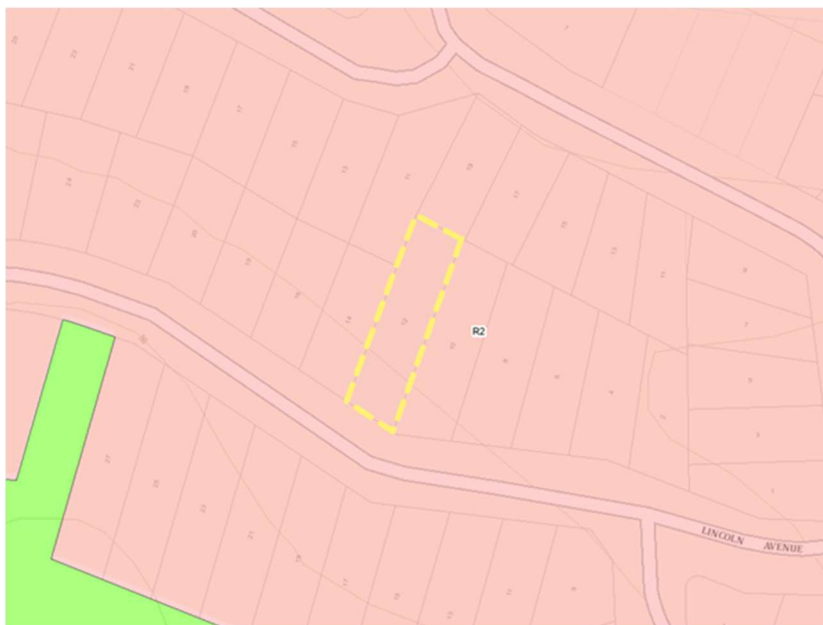


Figure 1 | Zoning Map
(Source: NSW Govt.)

The variation

Clause 4.3(2) of WLEP states:

“(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 of Buildings Map indicates that the maximum building height permitted at the site is 8.5m.

An extract of the Height of Buildings Map is provided at Figure 2.



Figure 2 | Height of Buildings Map extract (Source: NSW Govt.)

The maximum height of the proposed dwelling is 9.3m. The maximum extent of variation is 800mm which equates to a percentage variation of 9.4%. The breach is isolated to a small portion of the roof volume at the rear of the building.

The section at Figure 3 illustrates the height breach.

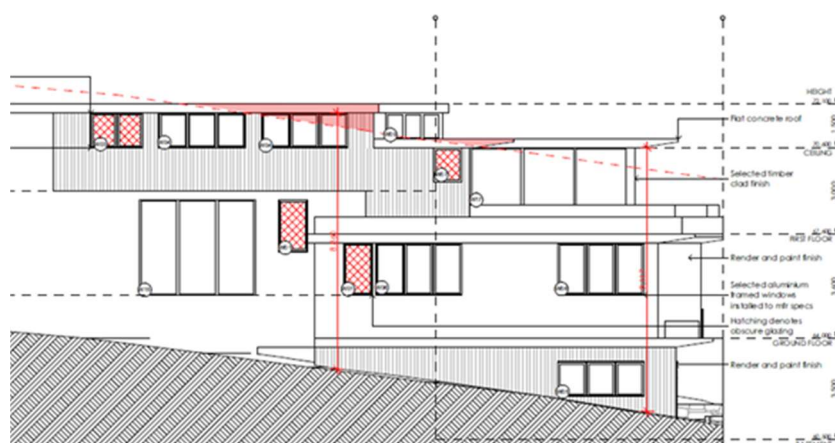


Figure 3 | Section extract (Source: ARCM Design)

A copy of Sheet 302 of the Architectural Plans which indicates the extent of the breach is supplied at **Attachment A**.

Clause 4.3 is not excluded from the operation of clause 4.6.

Purpose of the document

The purpose of this document is to address the provisions of clause 4.6 of BMLEP which require the submission of a written request from the applicant justifying contravention of the development standard.

This request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

ADDRESSING CLAUSE 4.6

This section of the written request addresses the key elements of clause 4.6 in turn.

Compliance is unreasonable or unnecessary [cl 4.6(3)(a)]

Cl. 4.6(3)(a) requires that the written request from the applicant demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.

The objectives of the development standard are achieved

Here we explain that compliance with the development standard is unreasonable and unnecessary by demonstrating that the objectives of the development standard are achieved despite non-compliance with the standard.

The objectives of the clause 4.3 are addressed at Table 1.

Table 1 | Objectives of the development standard

Objective	Comment
(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,	<p>The building is, broadly speaking, below the 8.5m height line. There are <u>minor</u> and <u>isolated</u> breaches, at the southern edges of the upper level, which occur due to site topography.</p> <p>The site has a substantial fall to the street <i>and</i> an east to west cross fall which makes it even more difficult to strictly comply with the height standard. The eastern side of the building is below the 8.5m height plane.</p> <p>Despite the breach, the proposal is, objectively, compatible with the height and scale of surrounding development.</p> <p>The council has supported several development applications on nearby properties with height variations of a similar degree. Relevant examples and corresponding building heights are listed below:</p> <ul style="list-style-type: none">• No. 10 Lincoln Avenue - DA2019/1385 - approved building height 9.2m (equating to an 8.2% variation)• No. 8 Lincoln Avenue - DA2016/1321 – approved building height 9.05m (equating to a 6.5% variation)• No. 6 Lincoln Avenue - DA2021/0324 – approved building

Objective	Comment
	<p>height 8.9m (equating to a 4.7% variation)</p> <ul style="list-style-type: none"> No. 4 Lincoln Avenue - DA2021/0077 – approved building height 8.55m (equating to a 0.5% variation) <p>The proposal aligns with Objective (a) despite minor height breach.</p>
<p>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,</p>	<p>Several design techniques have been adopted to minimise the visual impact of the development including:</p> <ul style="list-style-type: none"> Utilising the split-level floorplates such that the building & roof form steps with site terrain. Setting back the upper level from the front edge of the ground level to give the impression of the building stepping up the site. Setting back the upper level from the side walls of the ground level such that the building is offset further from site boundaries in the manner encouraged by controls. Incorporating substantial articulation along all elevations of the building in the form of substantial recesses, balconies, and deep eaves. Installing planters on the street facing elevation at ground and upper levels to soften and ameliorate built form. Cladding the upper level with timber panels to distinguish it from the ground level and afford the upper level a “lightweight” appearance. <p>Our assessment finds that, despite the minor height breach, the proposed development complies with solar access controls and will not have an unreasonable impact on neighbour privacy for the reasons outlined in the Statement of Environmental Effects supplied with the application and evidenced by shadow diagrams.</p> <p>The development satisfies Objective (b).</p>

Objective	Comment
(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,	<p>We have explained that the height breach is minor and isolated to a portion of the upper level and that design measures have been incorporated to moderate the perceived scale of the building.</p> <p>For those reasons, we submit that the development will not have an adverse impact on the "scenic quality of Warringah's coastal environments".</p> <p>The development aligns with Objective (c).</p>
(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.	<p>Again, the design measures described in this table successfully moderate the perceived scale and volume of the building when viewed from the public realm, thereby avoiding adverse visual impact.</p> <p>In our opinion, the development does not overwhelm the streetscape, rather, the building will make a positive contribute to built form in the locality.</p> <p>The development aligns with Objective (d).</p>

The objectives of clause 4.3 are achieved despite non-compliance as outlined above. Strict compliance with clause 4.3 is therefore unreasonable and unnecessary in the circumstances of this case.

This discussion responds to cl.4.6(3)(a).

Sufficient environmental planning grounds [cl.4.6(3)(b)]

Cl. 4.6(3)(b) requires that the written request from the applicant demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

Here we explain that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds described below are specific to the site and to the development:

- The breach is minor at 800mm or 9.4%. The breach is also isolated to a small component of the upper level. The minor nature of the breach is not in and of itself a reason to accept the variation, though it is certainly relevant to council's consideration of this variation request.
- The height breach is plainly a function of site terrain. The site not only slopes substantially from the rear to the street but also has a considerable east to west cross fall. The site terrain makes it very difficult to deliver a building that strictly complies with all envelope controls. Tellingly, the eastern side of the building (high side of the site) complies with the height standard.
- Council has routinely supported building height variations on this street block including applications for dwellings at adjacent and nearby properties @ nos. 10, 8, 6, and 4. The table below summaries those breaches. Objectively, the scale of the building is compatible with those have recently been constructed nearby.

Property	DA #	Height (variation %)
No. 10 Lincoln Avenue	DA2019/1385	9.2m (8.2%)
No. 8 Lincoln Avenue	DA2016/1321	9.05m (6.5%)
No. 6 Lincoln Avenue	DA2021/0324	8.9m (4.7%)
No. 4 Lincoln Avenue	DA2021/0077	8.55m (0.5%)

- The project architect has adopted a split-level design such that the building corresponds with site terrain thereby moderating scale. There is a 1.5m difference in FFL between the front and rear portions of the floorplates. The roof is similarly stepped.
- The building incorporates substantial articulation along all elevations of the building in the form of recesses, balconies, and deep eaves. The upper level is to be clad in a timber for a "lightweight" appearance. Integrated planters on the street-facing elevations of the ground and upper levels will further soften the building appearance. These factors ensure the building will not visually overwhelm or dominate the public realm or neighbouring properties, despite minor height breach.
- The offending element of the building is substantially offset from the southern edge of the ground level (a compliant portion of the building) which reduces the visual presence of the upper level from the public realm. We anticipate that if one were to stand on the road pavement or street verge in front of the site,

the compliant portion of the dwelling would conceal the breaching component from view because of the sight line angle.

- The proposal will have no unreasonable adverse impact on the amenity of the neighbours at nos. 10 and 14 in terms of shadow or privacy.
 - Shadow: The shadow cast by the breaching component of the building falls will NOT diminish solar access to the private open spaces of neighbouring properties on the winter solstice. Shadow diagrams are supplied at **Attachment B**.
 - Privacy: The windows on the breaching component of the western elevation of the building have a high sill thereby precluding sightlines / overlooking of the western neighbour. The breach does not give rise to any adverse privacy impacts.

We have explained that there are sufficient environmental planning grounds to justify the proposed contravention of clause 4.3. The environmental planning grounds outlined are not general propositions but rather are specific to the site and the proposed development.

SUMMARY

This clause 4.6 variation request [height] has been prepared to support an application for the construction of a two-storey dwelling over basement level, swimming pool & cabana at 12 Lincoln Avenue, Collaroy.

This written request seeks to vary clause 4.3 of WLEP. The proposed development has a maximum height of 9.3m. The development will exceed permitted building height by 800mm which equates to a percentage variation of 9.4%.

We have demonstrated that strict compliance with the development standard is unnecessary and unreasonable in the circumstances of the case given the development achieves the objectives of the standard notwithstanding non-compliance.

Further, we have explained that there are sufficient environmental planning grounds to justify contravening the development standard, namely that the non-compliance is primarily a function of sloping site terrain, and the scale of the building is objectively similar to those nearby which have been approved by council and constructed in the last ~5 years. Additionally, we have found that the proposal will have no adverse impact on neighbour amenity.

In our opinion, a variation to the standard is warranted.



ATTACHMENT A | SECTIONS



ATTACHMENT B | SHADOW DIAGRAMS