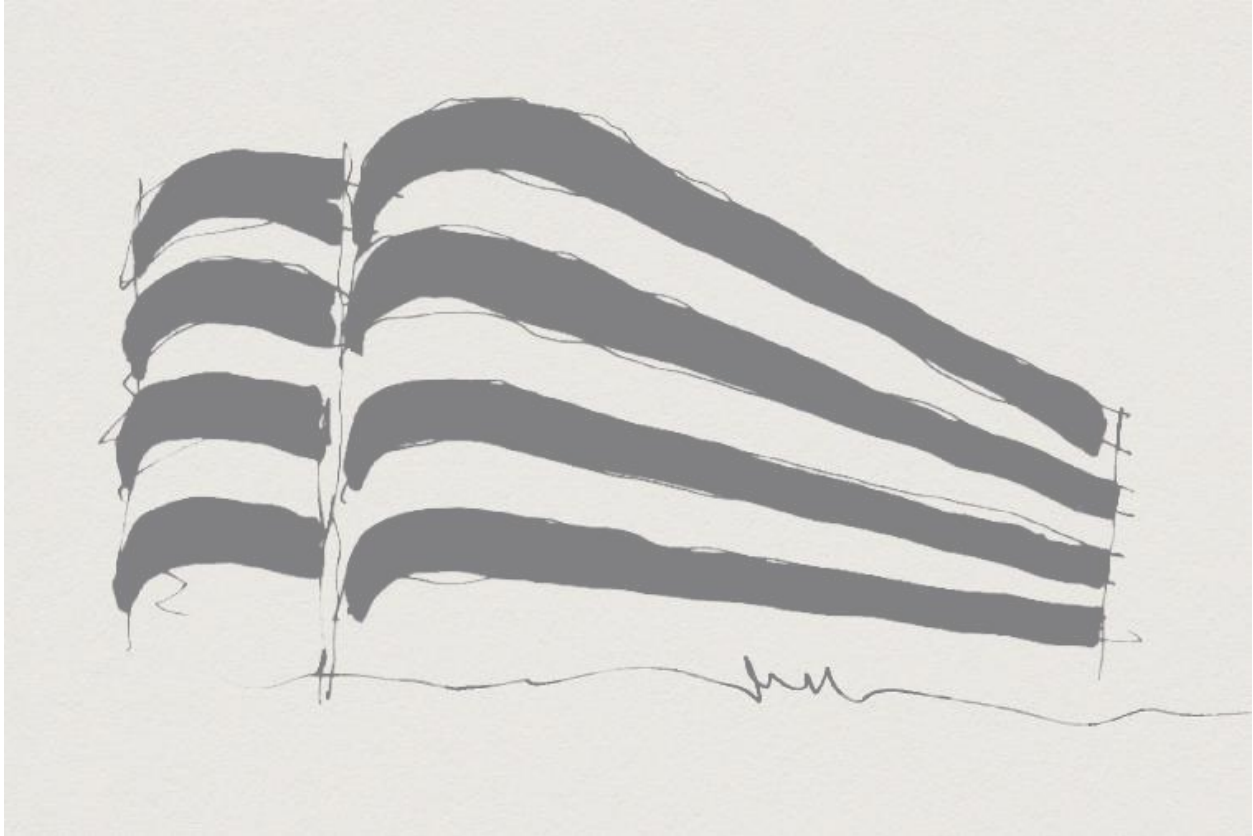


WILLOWTREE PLANNING



6 January 2025

Ref: WTJ24-187
Contact: Tim Gleeson



CLAUSE 4.6 VARIATION REQUEST HEIGHT OF BUILDINGS

PROPOSED RESIDENTIAL FLAT BUILDING

101 North Steyne, Manly
SP 4518

—
Prepared by Willowtree Planning Pty Ltd
on behalf of Manly Land 101 Pty Ltd c/o Time and Place

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Clause 4.6 Variation – Height of Buildings

Proposed Residential Flat Building
101 North Steyne, Manly (SP 4518)



In the spirit of reconciliation and recognition, Willowtree Planning acknowledges the Traditional Owners of this Country throughout Australia and their continuing and ongoing connections to land, waters and community. We show our respect to Elders – past and present. We acknowledge that we stand on this Country which was and always will be recognised as Aboriginal Land. We acknowledge the Traditional Owners of the Lands in this Local Government Area, belonging to the local Aboriginal People, where this proposal is located upon.

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PART A PRELIMINARY

1.1 INTRODUCTION

This Clause 4.6 variation request (Variation Request) has been prepared in support of a Development Application (DA) for the proposed residential flat building at 101 North Steyne, Manly (subject site).

The Subject Site is zoned R3 Medium Density Residential, pursuant to the *Manly Local Environmental Plan 2013* (MLEP2013) and is located within the Northern Beaches Local Government Area (LGA). The proposed development is permissible with consent within the R3 zone is considered contextually appropriate. The proposal is generally consistent with the objectives and provisions of MLEP2013, with the exception of Clause 4.3 – Height of Buildings, for which this Variation Request is sought. A separate Variation Request has been prepared for the proposed variation to Clause 4.4 – Floor Space Ratio.

This Variation Request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards prescribed under MLEP2013. It considers various planning controls, strategic planning objectives and existing characteristics of the subject site and concludes that the proposed non-compliance is the best means of achieving the objects of encouraging orderly and economic use and development under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 RATIONALE OF VARIATION FROM DEVELOPMENT STANDARDS

This Variation Request has been submitted to assess the proposed non-compliance with Clause 4.3 – Height of Buildings of MLEP2013 and has been prepared in accordance with the requirements of Clause 4.6 of MLEP2013 which includes the following objectives:

- (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.*

Under the provisions of Clause 4.3 of MLEP2013, the subject site is subject to a maximum building height of **13m**. The proposed building height of **16.4m** would exceed the maximum building height. The development in its proposed built form and scale will provide a residential flat building that has been designed to be commensurate in form and scale with surrounding development. The proposed variation will not have an adverse impact on the area and seeks to provide residential units in Manly in a development that consistent with the surrounding area.

This Variation Request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards prescribed by MLEP2013.



Clause 4.6 Variation – Height of Buildings

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1.3 DEVELOPMENT STANDARD VARIATION

Under the provisions of Clause 4.3 of MLEP2013, the subject site is subject to a maximum building height of **13m**. The proposal will result in a building height of **16.4m**. **Table 1** below provides a summary of the variation.

TABLE 1: CLAUSE 4.3 OF MLEP2013 VARIATION SUMMARY					
MLEP2013		MLEP2013 Development Standard	Maximum Proposed	Proposed Development	Non-Compliance
Clause 4.3 – Height of Buildings		13m	16.4m		The proposal seeks consent for a maximum development standard of 16.4m which is a 26.1% variation from the development standard.

Notwithstanding the above, curtailing the building height of the proposal to the current prescribed development standard would prevent the proposed residential flat building from achieving consistency with the streetscape. The subject site is located within a block that is bound by North Steyne to the east, Pine Lane to the west, Pacific Street to the north and Pine Street to the south. There are 12 buildings within this location, typically between four (4) and five (5) storeys (aside from 115 North Steyne which is nine (9) storeys). It is acknowledged that the majority of buildings along this street exceed the 13m height limit and therefore the planning control is not reflective of the existing environment. The proposed development is five (5) storeys which is generally consistent with the prevailing building height. A Streetscape Elevation is provided below demonstrating building heights surrounding the subject site.

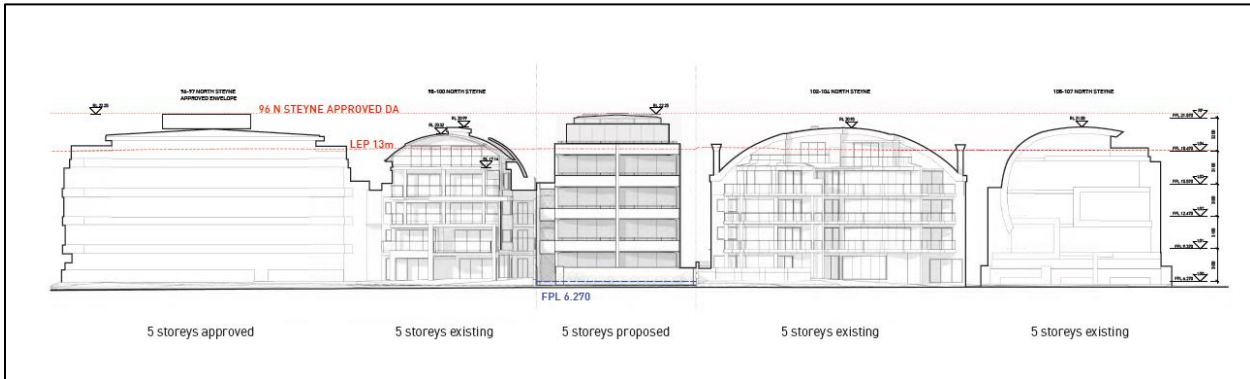


Figure 1. Streetscape Elevation (Source: Smart Design Studio, 2024)

In its current form, the proposal therefore represents the most efficient use of the subject site which responds to the existing environmental constraints, compared to a development which is entirely compliant with the height of buildings development standard.



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PART B THRESHOLDS THAT MUST BE MET

2.1 INTERPRETING CLAUSE 4.6

Clause 4.6 of MLEP2013 facilitates exceptions to strict compliance with development standards in certain circumstances. Clause 4.6(3) states (our emphasis added):

Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- (a) **compliance with the development standard is unreasonable or unnecessary** in the circumstances, and*
- (b) there are **sufficient environmental planning grounds to justify the contravention** of the development standard.*

*Note— The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be **accompanied by a document setting out the grounds** on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b)*

Accordingly, a successful Clause 4.6 variation must satisfy the below:

First Limb – cl 4.6(3)

Clause 4.6(3) provides that the consent authority must be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the following

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Cl 4.6(3)(a)); and
- b. that there are sufficient environmental planning grounds to justify contravening the development standard (Cl 4.6(3)(b)). To this end the environmental planning grounds advanced in the written request must justify the contravention, not simply promote the benefits of carrying out the development as a whole: *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15].

In the decision of *Rebel MH v North Sydney Council* [2019] NSWCA 130 (**Rebel**) Payne JA held (our emphasis added):

*“Although it was unnecessary finally to decide the correct construction of cl 4.6(4) in Al Maha, I agree with the construction advanced in that case by Basten JA, with whom Leeming JA agreed, at [21]-[24]. **Properly construed, a consent authority has to be satisfied that an applicant’s written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).** Clause 4.6(3) requires the consent authority to have “considered” the written request and identifies the necessary evaluative elements to be satisfied. To comply with subcl (3), the request must demonstrate that compliance with the development standard is “unreasonable or unnecessary” and that “there are sufficient environmental planning grounds to justify” the contravention. It would give no work to subcl 4.6(4) simply to require the consent authority to be*



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satisfied that an argument addressing the matters required to be addressed under subcl (3) has been advanced."

Accordingly, a consent authority must be satisfied:

- a) that the Clause 4.6 variation application addresses the matters in Clause 4.6(3); and
- b) of those matters itself which means that there is greater scope for a consent authority to refuse a Clause 4.6 variation.

These matters are addressed in **Sections 4.3** and **4.4** of this Variation Request.

This written request has been prepared under Clause 4.6 to request a variation to the "height of buildings" development standard at Clause 4.3 of MLEP2013.



Clause 4.6 Variation – Height of Buildings

Proposed Residential Flat Building

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PART C STANDARDS BEING OBJECTED TO

3.1 OVERVIEW

The subject site is zoned R3 Medium Density Residential and is subject to the underling objectives of the varied standard as well as the R3 zone under MLEP2013.

3.2 CLAUSE 4.3 BUILDING HEIGHT CONTROL UNDER MLEP2013

Clause 4.3 of MLEP2013 identifies the following objectives:

- 1) *The objectives of this clause are as follows—*
 - a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
 - b) *to control the bulk and scale of buildings,*
 - c) *to minimise disruption to the following—*
 - i) *views to nearby residential development from public spaces (including the harbour and foreshores),*
 - ii) *views from nearby residential development to public spaces (including the harbour and foreshores),*
 - iii) *views between public spaces (including the harbour and foreshores),*
 - d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
 - e) *to ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Pursuant to Clause 4.6, the proposal seeks exception to the height of buildings development standard of 13m.

3.3 PROPOSED VARIATION TO DEVELOPMENT STANDARDS

The DA seeks approval for the proposed residential flat building at 101 North Steyne, Manly. The subject site is subject to a maximum building height of 13m. The development proposes a maximum building height of **16.4m**. The proposal would **exceed the height of buildings development standard applicable to the Site by a maximum of 3.4m, which represents a 26.1% variation**. The area of non-compliance relates to the fifth storey and lift overrun of the proposed residential flat building. The fifth storey and is set back from the street to minimise the bulk of the development when viewed from the streetscape. The lift overrun is also located centrally within the building to minimise any overshadowing. The development in its proposed built form and scale will achieve consistency with the streetscape in addition to providing entry levels that are sufficiently high to meet the Flood Planning Level.



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Curtailling the building height of the proposal to the current prescribed development standard would prevent the proposed residential flat building from achieving consistency with the streetscape. The subject site is located within a block that is bound by North Steyne to the east, Pine Lane to the west, Pacific Street to the north and Pine Street to the south. There are 12 buildings within this location, typically between four (4) and five (5) storeys (aside from 115 North Steyne which is nine (9) storeys). It is acknowledged that the majority of buildings along this street exceed the 13m height limit and therefore the planning control is not reflective of the existing environment. The proposed development is five (5) storeys which is generally consistent with the prevailing building height.

In its current form, the proposal therefore represents the most orderly efficient use of the subject site which responds to the existing environmental constraints and the form and scale of the existing desired future development on the surrounding properties, compared to a development which is entirely compliant with the height of buildings development standard. The subject site is zoned R3 Medium Density Residential under the provisions of MLEP2013, whereby residential flat buildings are permissible with consent.

This Variation Request has been prepared in accordance with the objectives of Clause 4.3 – Height of Buildings and the R3 Medium Density Residential zone objectives of MLEP2013.



Clause 4.6 Variation – Height of Buildings

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PART D PROPOSED VARIATION TO STANDARDS IN CLAUSE 4.3 OF MLEP2013

Pursuant to Clause 4.6 of MLEP2013 exception is sought from the height of buildings standard applicable to the subject site pursuant to Clause 4.3 of MLEP2013.

4.1 OBJECTIVES OF THE STANDARD

A key determinant of the appropriateness of a Clause 4.6 Variation to a development standard is the proposal's compliance with the underlying objectives and purpose of that development standard.

Clause 4.3 of MLEP2013 sets out specific objectives. Those objectives under MLEP2013 are responded to in **Table 2** below:

TABLE 2: CONSISTENCY WITH THE CLAUSE 4.3 OBJECTIVES	
Objective	Response
<i>(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,</i>	The proposed residential flat building will provide building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality. The proposed development is five (5) storeys which is generally consistent with the prevailing building height of surrounding development and a consistent roof form is proposed to be provided.
<i>(b) to control the bulk and scale of buildings,</i>	The subject site is located within a block that is bound by North Steyne to the east, Pine Lane to the west, Pacific Street to the north and Pine Street to the south. There are 12 buildings within this location, typically between four (4) and five (5) storeys (aside from 115 North Steyne which is nine (9) storeys). It is acknowledged that the majority of buildings along this street exceed the 13m height limit and therefore the planning control is not reflective of the existing environment. The proposed development is five (5) storeys which is generally consistent with the prevailing building height of surrounding development.
<i>(c) to minimise disruption to the following— (i) views to nearby residential development from public spaces (including the harbour and foreshores),</i>	As set out above, the majority of buildings along North Steyne exceed the 13m height limit and therefore, there are limited existing views from site's located to the rear. Refer to the Visual Impact Assessment provided as Appendix 12 .



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TABLE 2: CONSISTENCY WITH THE CLAUSE 4.3 OBJECTIVES

Objective	Response
<i>(ii) views from nearby residential development to public spaces (including the harbour and foreshores),</i> <i>(iii) views between public spaces (including the harbour and foreshores),</i>	
<i>(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,</i>	As demonstrated in the shadow diagrams included in the Architectural Plans provided as Appendix 5 , the proposed development will maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings.
<i>(e) to ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.</i>	Not applicable. The subject site is zoned R3 Medium Density Residential.

4.2 OBJECTIVES OF THE ZONE

The subject site is zoned R3 Medium Density Residential pursuant to MLEP2013. Therefore, consideration has been given to the R3 zone objectives in **Table 3** below:

TABLE 3: CONSISTENCY WITH THE R3 ZONE OBJECTIVES

Objective	Response
<i>To provide for the housing needs of the community within a medium density residential environment.</i>	The proposal will provide for the housing needs of the community within a medium density residential environment.
<i>To provide a variety of housing types within a medium density residential environment.</i>	The proposal provides a mix of 4-bedroom and 3-bedroom apartments of varying sizes.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not Applicable. The proposal only provides for residential development.
<i>To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.</i>	The existing building on the subject site is outdated, compared to the more recent developments located along North Steyne. The proposal presents an opportunity to revitalise the subject site through a modern development and an increase in landscaping and biodiversity.
<i>To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination.</i>	Not applicable. The proposal does not seek to provide tourist accommodation.



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4.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

Subclause 4.6(3)(a) (refer to **Section 2.1**) emphasises the need for the proponent to demonstrate how the relevant development standard is unreasonable or unnecessary in the circumstances.

The ways in which compliance with a development standard may be held to be “unreasonable or unnecessary” are well established. In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*), Preston CJ provided a non-exhaustive list through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), in *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 (*Initial Action*) the Court held that the common ways of demonstrating that compliance with a development standard is unreasonable or unnecessary as outlined in *Wehbe* are equally applicable to clause 4.6.

The five methods outlined in *Wehbe* include:

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).*
- *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).*
- *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Method).*
- *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 (Fourth Method).*
- *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 (Fifth Method).*

It is sufficient to demonstrate only one of these methods to satisfy clause 4.6(3)(a) of LCLEP 2009 (*Wehbe*, *Initial Action* at [22], *Rebel* at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

However, in this case, it is demonstrated below that:

- (a) the First Method has been satisfied, and the objectives of the height of buildings standard are achieved notwithstanding the non-compliance with the numerical standard (see also Section 4.1 above).

When considering whether a development standard is appropriate and/or necessary, one must take into account:



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- the nature of the proposed variation;
- the site context; and
- the design of the proposed development.

Following the decision in *Initial Action*, it was established that Clause 4.6 does not require an applicant to demonstrate that a development which contravenes a development standard have a better (or neutral) environmental planning outcome than a development that complies with the development standard.

By providing a building at the height proposed, a site layout is achieved that:

- Achieves consistency with the streetscape in addition to providing entry levels that are sufficiently high to meet the Flood Planning Level.
- Enables the lift overrun to be located away from public view that can be screened.
- Facilitates landscaping throughout the subject site that integrates and reduces the visual presence of the ground plane.
- Provides opportunity for architectural treatment at the upper levels that will contribute to set a desirable precedent for future development in the locality.
- The proposed development provides a built form that capitalises on the prominent location of the subject site, along North Steyne.

The abovementioned justifications are considered valid, and in this instance the proposed Clause 4.6 Variation is considered to be acceptable. The proposed development represents a more efficient use of the subject site. The objectives of the relevant clause and R3 zone would be upheld as a result of the proposed development. In light of the above, the application of the height of building development standard is therefore unreasonable and unnecessary in response to the proposed development.

4.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

In *Initial Action*, Preston CJ observed that in order for there to be “sufficient” environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

The environmental planning grounds to justify the departure of the development building height development standard are as follows:

- The proposal is entirely consistent with the underlying objectives and purposes of the standard, as demonstrated in **Section 4.1**.
- The proposal is entirely consistent with the underlying objective or purpose of the R3 Medium Density Residential zone, as demonstrated in **Section 4.3**.
- The fifth storey and is set back from the street to minimise the bulk of the development when viewed from the public domain. A recessed fifth storey is a prevalent form of development with the two (2) neighbouring residential flat buildings exhibiting this built form. Therefore, the proposed built form will achieve consistency with the streetscape.



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- The areas subject to the building height variation have been carefully designed. The use of traditional roof forms has been avoided which typically leads to thick structure and roof edge giving a large appearance. The proposed roof form gives lower refined edge, allows light into the building and reduces perceived height.
- Another area subject to the building height variation is the lift overrun which has been located centrally within the building to minimise any overshadowing.
- The building height variation is a result of the requirement to provide entry levels that are sufficiently high to meet the Flood Planning Level. This applies to all building entrances, basement car park entrances, and any other openings such as vents that connect to the basement. The proposed residential flat building has therefore been designed to respond to the flood hazard of the subject site which has resulted in a requirement for the building to be elevated, contributing to the building height variation.
- The proposed development would improve the amenity of the streetscape and would provide additional on-street car parking through the consolidation of vehicle crossings. The vehicle crossings detract from the streetscape and limit on-street car parking in an area with high parking demand.
- The proposal is not considered to impact surrounding road networks or intersections as demonstrated within the accompanying Traffic and Transport Impact Statement provided as **Appendix 14**.

For the reasons outlined above, it is considered that the proposed variation to the height of buildings development standard under Clause 4.3 is appropriate and can be clearly justified having regard to the matters listed within clause 4.6(3)(b) under MLEP2013.

4.5 OBJECTIVES OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

All planning determinations made under the EP&A Act are required to be made with regard to the objects of the Act in accordance with section 1.3 of the EP&A Act. **Table 4** below assesses the proposed development against the objects of the EP&A Act.

TABLE 4: EP&A ACT OBJECTIVES	
Objective	Response
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	The proposal will positively contribute to the existing provision of residential accommodation on the subject site within the Northern Beaches LGA. Furthermore, the proposal can be progressed without any significant environmental impacts.
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	The proposal has been designed to include appropriate ecologically sustainable measures and has adequately considered environmental impacts on the surrounding locality.



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TABLE 4: EP&A ACT OBJECTIVES

Objective	Response
<i>(c) to promote the orderly and economic use and development of land,</i>	The proposal represents the orderly and economic use and development of land in that the proposal relates to the demolition of the existing residential flat building on the subject site and the construction of a residential flat building. The proposal will make better use of the subject site and provide much needed residential accommodation in Manly.
<i>(d) to promote the delivery and maintenance of affordable housing,</i>	The proposal will not impact the delivery and maintenance of affordable housing.
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	The proposal has been sited to result in minimal impacts on the surrounding environment.
<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	The existing subject site is not identified as a Heritage Item, within a heritage conservation area or as containing Aboriginal or cultural heritage significance. However, 'all stone kerbs' along the site frontage are listed as a Local Heritage Item (Item No. 12) pursuant to the MLEP2013. The proposal seeks to decommission the vehicle crossings in this location, which would allow for the full length of kerb to be reinstated. This is considered to be an improvement for the heritage item.
<i>(g) to promote good design and amenity of the built environment,</i>	The proposed development will promote good design and will not harm the amenity of the locality. The proposed residential flat building has been designed by smart design studio following close consultation with Northern Beaches Council.
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The proposal can be constructed and maintained without health and safety risks to future tenants.
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	Given the EDC of the proposal does not exceed \$30 million, Northern Beaches Council will be the determining authority.
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	The Development Application would be subject to the relevant public notification requirements.



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4.6 MATTERS OF STATE AND REGIONAL SIGNIFICANCE

The proposed non-compliance with Clause 4.3 of MLEP2013 will not give rise to any matters of significance for State or regional environmental planning. They will also not conflict with any State Environmental Planning Policy or Ministerial Directives under section 9.1 of the EP&A Act.

Planning Circular PS 08-014, issued by the former NSW Department of Planning, requires that all development applications including a variation to a standard of more than 10% be considered by full Council rather than under delegation. It is noted that this variation does exceed 10% and would be required to be determined by the Local Planning Panel.

4.7 SUMMARY

For the reasons outlined above, it is considered that the variation to Clause 4.3 of MLEP2013 is well-founded in this instance and is appropriate in the circumstances. Furthermore, the Variation Request is considered to be well-founded for the following reasons as outlined in Clause 4.6 of MLEP2013, *Four2Five Pty Ltd v Ashfield Council* and *Wehbe v Pittwater Council*:

- The development is consistent with the objectives of the particular standard (refer to **Section 4.1**);
- The development is consistent with the objectives for development within the zone and long term strategic intentions to maintain and preserve employment land (refer to **Section 4.2**);
- Compliance with the development standard is unreasonable and unnecessary in the circumstances (refer to **Section 4.3**);
- There are sufficient environmental planning grounds to justify contravening the development standard (refer to **Section 4.4**); and
- The development does not give rise to any matter of significance for the State or regional environmental planning and is consistent with the visions and objectives of the relevant strategic plans (refer to **Section 4.6**).

Overall, it is considered that the proposed variation to the maximum building height control is entirely appropriate and can be clearly justified having regard to the matters listed within Clause 4.6 of MLEP2013.



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PART E CONCLUSION

For the reasons outlined above, it is requested that Council support the Variation Request, which seeks approval for non-compliance with Clause 4.3 of MLEP2013 for the following reasons:

- The development is consistent with the objectives of the particular standard (refer to **Section 4.1**);
- The development is consistent with the objectives for development within the zone and long term strategic intentions to maintain and preserve employment land (refer to **Section 4.2**);
- Compliance with the development standard is unreasonable and unnecessary in the circumstances (refer to **Section 4.3** as part of the First Limb satisfied);
- There are sufficient environmental planning grounds to justify contravening the development standard (refer to **Section 4.4** as part of the First Limb satisfied);
- The Proposal is consistent with the objectives of the EP&A Act (refer to **Section 4.5**); and
- The development does not give rise to any matter of significance for the State or regional environmental planning and is consistent with the visions and objectives of the relevant strategic plans (refer to **Section 4.6**).

Given the justification provided above, the Variation Request is well founded and should be favourably considered by Northern Beaches Council.

