

Dear Chief Executive Officer and planner

21st October 2022

PREMISES AT 5 Nenagh St North Manly
PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING.

CLAUSE 4.6 REQUEST -EXCEPTION TO THE DEVELOPMENT STANDARD (HEIGHT OF BUILDINGS) -WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

This present document is a written variation request submitted under clause 4.6 of Warringah Local Environmental Plan 2011 in connection with a development application seeking consent for alterations and additions to an existing 2 storey dwelling.

1. INTRODUCTION

Clause 4.3 of the WLEP controls the height of building. Relevantly, clause 4.3 (2) of WLEP provides that 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, WHICH IS 8.5M.

The site consist of an existing 1 and 2 storey dwelling. The site falls from the rear down to the front of the boundary. Rear of the site the dwelling is single storey, whilst to the front of the property it is 2 storeys in height. The ground floor area has been excavated into site. Back of the ground floor level is 2.73m below the rear of the natural ground level.

An addition has been provided to the top rear of the dwelling and portion of the new roof contravenes the 8.5m building height control. The height above the 8.5m varies between 800mm – 1.2m.

A variation has been requested.

2. REQUEST TO VARY A DEVELOPMENT STANDARD

It is requested that a variations be sought for the max height (clause 4.3) for the proposed gable roof above the proposed first floor addition.

The request is submitted to council in connection with and in support of the development application and is to be read in conjunction with the statement of environmental effects and submitted to council in support of and to inform the development application.

The SOEE deals with the impacts of the development proposal in detail and provides details and compliance with the relevant planning controls and objectives.

Clause 4.6 of the WLEP allows Council to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clause 4.6 of the WLEP requires that a consent authority be satisfied and consider a written request that seeks to justify the contravention of the development standard by demonstrating -

* that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

* That there are sufficient environmental planning grounds to justify contravening the development standard.

*The applicant's written request has adequately addressed the matters required to be demonstrated to the above.

* The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for the development within the zone in which the development is proposed to be carried out.

The consent authority's satisfaction as to those matters, must be informed by the objective of providing flexibility in the application of the relevant control to achieve better outcomes for and from the development in question.

3. DEVELOPMENT STANDARD TO BE VARIED

The site is Zoned R2 under the WLEP.

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

The proposed development will be in the public interest as it is consistent with the objectives of the standards and are of relevance to the subject matter of the development application and the objectives for the development within the R2 zone under WLEP in which the development is proposed to be carried out.

Portion of the proposed gable roof to the new first floor addition exceeds the 8.5m building height to the rear of the dwelling (max 1.2m). Due to the natural slope of the site the building generally complies except for the ridge of the new roof. Given the changes in height control, the building height is taken from the existing excavated site. In an effort to keep the building height at an acceptable height and without affecting adjoining properties, the design follows the existing topography of the site and the proposed addition does not contravene the required maximum 2 storey level above the natural ground level. The proposed development has been stepped to follow the topography of the land. The proposed gable roof has been designed so that it follows the existing established gable roof to the existing dwelling. The proposed addition will not create a 3 storey dwelling when viewed from any public place.

When viewed from the north and south side, the proposal is well below the 8.5m building height and does not dominate the streetscape. Due to the existing excavated area below the upper level, the height of the proposed addition will slightly exceed the 8.5m building height - varies between 800mm - 1.2m. It is requested this slight non-compliance be considered, as this portion of the gable roof will not affect adjoining neighbours in view loss, privacy loss or solar loss.

Due to the topography of the land, the existing excavated area below the house and with the site falling towards the front of the site, it is difficult to adhere strictly to the required building height.

4. THE OBJECTIVES OF THE STANDARDS

Clause 4.3 (1) of the WLEP and the objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.

The proposed first floor addition to the existing dwelling is consistent with the low density character of the area.

The scale of the proposed development is consistent with the adjoining residential lots. The proposed development does not result in any privacy issues or impacts to nearby neighbours, which have been addressed in the statement of environmental effects.

The proposal satisfies this objective.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access.

The proposed gable roof above the first floor addition will not affect or disrupt any views from adjoining properties, there will be no loss of privacy and no loss of solar access to adjoining properties due to the proposal.

There will be no effect upon adjoining properties in overshadowing from this proposed addition.

Neighbouring properties are situated on a much higher level in comparison to the subject property/site.

The proposal satisfies this objective

c) to minimise any adverse impact of development on the scenic quality of Warringahs coastal and bush environments.

The landscaping complies with the control with 41% of the site remaining as landscaped.

The proposal will not affect the scenic quality of Warringahs coastal and bush environments.

The proposal satisfies this objective.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities

The proposal will not interrupt view corridors of its neighbours to any significant or material extent.

The proposal will not visually impact the streetscape or when viewed from the a public place such as the road, parks, reserve and or a community facility. The proposal has been designed with a gable roof structure to follow the design of the existing dwelling.

The objective satisfies this objective.

Conclusion to this

In respect of the height standard which is of a minimal significance with respect to the objectives of the relevant applicable height of building development standard. The gradient of the land and the height of the existing building, and the excavated site below the building which is not visible from the streetscape all assist in ensuring that a casual observer would have some difficulty in reading a small part of the additional height of the roof to the proposed first floor addition.

It is concluded that the development will be consistent and will still satisfy relevant height objectives, notwithstanding the numerical departure from the standard contained in clause 4.3 of WLEP.

The development is consistent with all of the abovementioned objectives of the standard.

The proposed development is consistent with such of the aims of the WLEP as are relevance to the development.

5. ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT CLAUSE 4.6 (3)(b)

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposal is consistent with the aims of the WLEP as it constitutes a good environmental planning ground justifying a contravention of the maximum height of buildings development standard contained in clause 4.3 of the WLEP.

Another good environmental planning ground justifying a contravention of the development standard in this instance is that there is no demonstrable public benefit in maintaining the development standard, clause 4.6 (5)(b) in this instance for to do would not result in any material public benefit in this situation.

The maximum height that is achieved in this case is 9.7m(only a small portion of the new roof to the rear) which is taken from the existing excavated lower ground floor level of the garage and rumpus area. When viewed externally the new addition is not prominent in the excess building height.

The proposed development will result in an improved outcome for the occupants and for the wider community in that there are likely to be no significant amenity impacts for residents and neighbours.

The proposed development is unlikely to increase the demand on local infrastructure and service and is entirely consistent with such of the zone objectives as are of relevance. The residential environment will remain characterised by a diverse range of low density dwelling styles, whilst not detracting from the consistent natural landscape setting.

This is a written request that the development will achieve the relevant zone objectives notwithstanding the numerical non-compliance with the height standard contained in clause 4.3 of the WLEP.

The above constitute good environmental planning grounds to justify contravening the development standard.

6. CONCLUSION

The proposed roof to the addition which contravenes the building height has been designed so that it does not impact the streetscape and to reduce any bulk to building. it will not affect adjoining properties.

Amenity to adjoining properties is maintained and no view loss will be experienced by the proposal.

The proposal will not have an adverse effect on any special ecological, scientific or aesthetic values.

It is requested that this non compliance be supported as there would be no practical utility in enforcing strict compliance with the relevantly applicable height of buildings development standard. All of the above constitutes good environmental planning grounds to justify contravening the development standard in this particular instance.

The variation from the development standard will not contravene any overarching State or regional objectives or standards, it will have no effect outside the site's immediate area and rises no issue of significance for State and or regional environmental planning.

Maintaining strict numerical with the 8.5m height of buildings development standard would not result in any public benefit in this instance. To maintain, to strictly enforce and apply the development standard in this instance would prevent the carrying out of an otherwise well designed residential development which is suited to the site.

IN SUMMARY

It is requested that this development justifies the contravention of the height of buildings development standard contained in clause 4.3 of the WLEP by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development shows it will be in the public interest as it is consistent with such of the objectives of the standard as are of relevance to the subject matter of the development application and the objectives for the development within the R2 zoning.

It is sought that this development application may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of the WLEP.

Yours Sincerely

Jitka Jankovec c/- JJDRAFTING AUST.P/L