

Request to vary a development standard

Request to vary clause [4.3] in [LEP/SEPP]

Address: 123 Waterview Street
Mona Vale NSW 2103

Date: 20/08/2024

Site and proposed development

1. Describe the site.

Please provide the address and describe any features of the site.

123 Waterview Street Mona Vale has a site area of 670.3 sq. m. with a slight slope from the rear (North East) towards the front (South West) The existing residence which was constructed in 2004 is two storey, with a basement level with rendered brick veneer and a Colorbond steel roof.

There are eleven trees on the site and one tree on the nature strip, no trees are to be removed.

The two adjacent dwellings are two storey and single storey.

2. Describe the proposed development.

Please provide details about the proposed development, including land use and works

The proposal is minor in scale but is more about improving the thermal comfort of the home.

Ground Floor:

The ground floor living area will be reduced in size by 5.6 sq. m. which will form a patio area outside the living room, shading the new North East facing stacking doors and also providing better circulation around the perimeter of the existing swimming pool.

A Travertine tiled, concreted area of 11.34 sq. m. adjacent to the patio will slightly reduce the soft landscaped area from 286.10 sq. m. (42.6%) to 275.76 sq. m. (41.1%)

The tiled area and patio will provide additional outside space adjacent to the living area and swimming pool.

The pool fencing will be extended as the current fixed window forms a barrier to the swimming pool.

First Floor:

To the first floor is a large void area which has a glass roof, single glazed and aluminium framing. The proposal is to demolish this glass roof, install a ridge beam and roof framing at 15 degrees and install 2 large skylights made up of 2 banks of 6 Velux high performance double glazed skylights to improve thermal comfort.

A roof window to the walk in wardrobe and 2 louvre windows to the front bedrooms will be installed to improve cross ventilation and that completes the scope of the works.

Planning instrument, development standard and proposed variation

3. What is the environmental planning instrument/s you are seeking to vary?

Please identify the relevant Local Environmental Plan or State Environmental Planning Policy that you seek to vary.

Pittwater Local Environment Plan 2014

4. What is the site's zoning?

Please identify the land use zone that applies to the site.

R2 Low Density Residential.

5. Identify the development standard to be varied.

Please identify the name of the development standard being varied (for example, minimum lot size, floor space ratio, height of building), its relevant environmental planning instrument clause and the objectives of the development standard.

4.3 Height of buildings

- (1) The objectives of this clause are as follows—
- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,
 - (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
 - (c) to minimise any overshadowing of neighbouring properties,
 - (d) to allow for the reasonable sharing of views,
 - (e) to encourage buildings that are designed to respond sensitively to the natural topography,
 - (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

6. Identify the type of development standard.

Please identify if the development standard you are seeking to vary is numeric or non-numeric. For more guidance, see Part A, Chapter 1.3 of this guide.

The development standard is numerical.

7. What is the numeric value of the development standard in the environmental planning instrument?

This should be specific and address all non-compliance. Please see the relevant environmental planning instrument to determine the numeric value of the development standard for your site.

The numerical value is 8.5 metres.

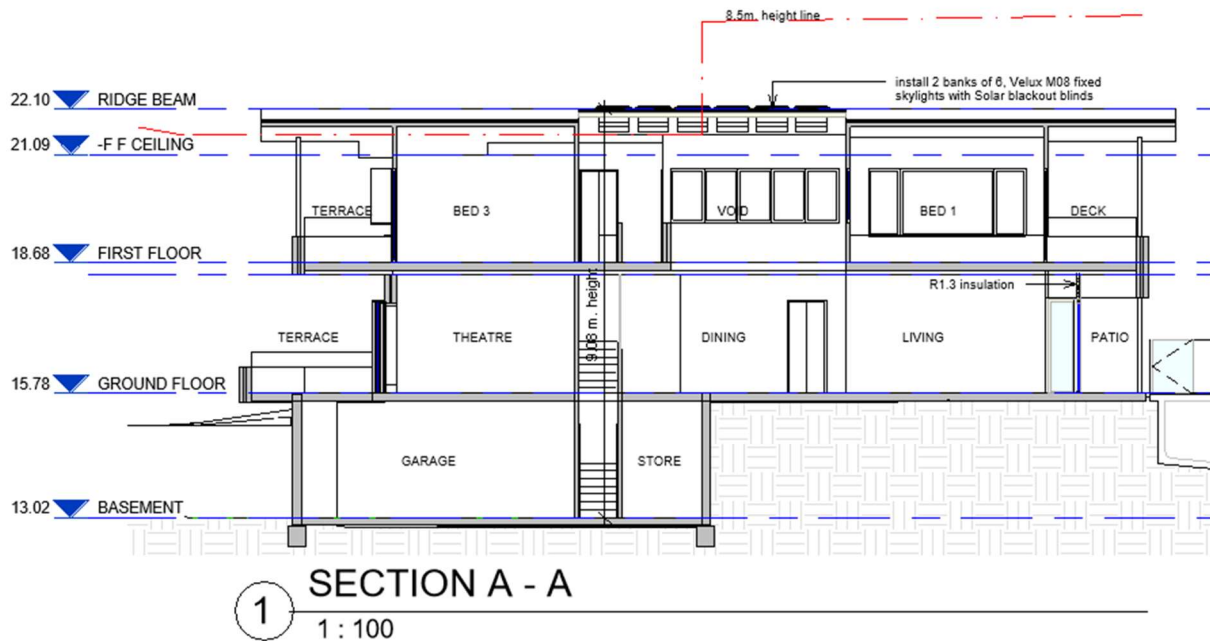
8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

For example: The proposal exceeds the maximum _____ development standard by _____, which is a percentage variation of ____%.

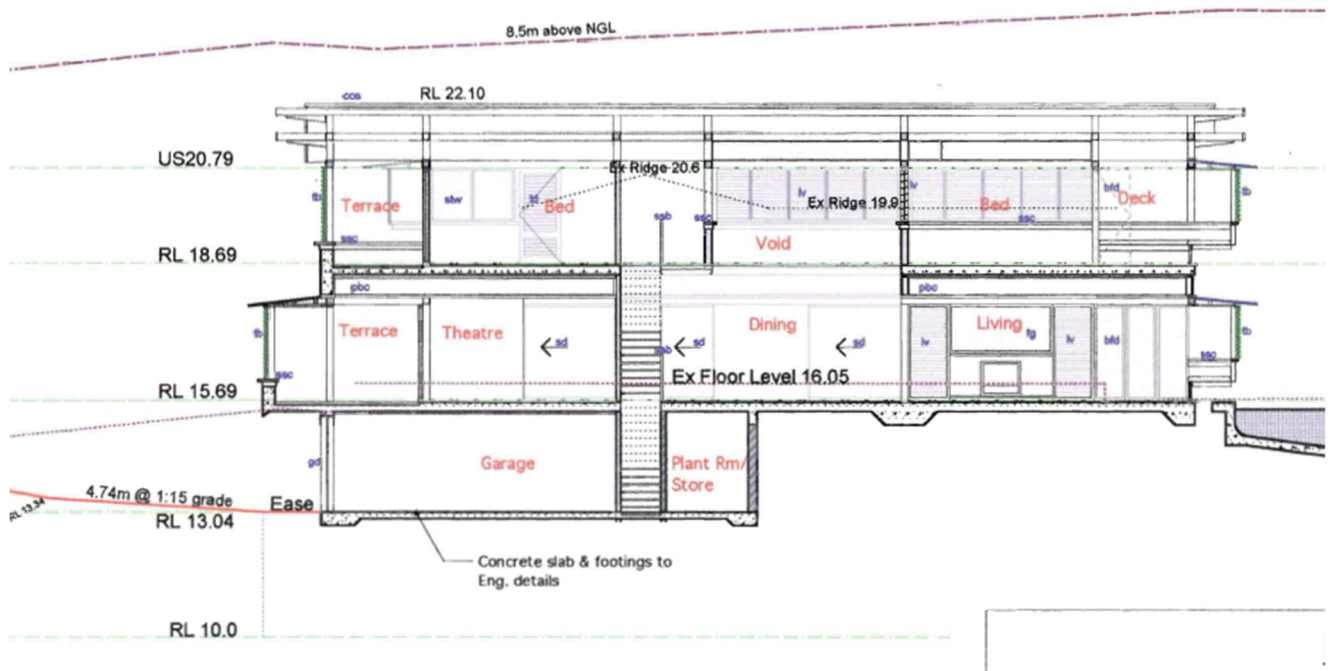
The proposal exceeds the maximum 8.5 metre development standard by 0.58 metres, which is a percentage variation of 6.8%

9. Visual representation of the proposed variation (if relevant)

If relevant, provide a diagram or image showing the proposed variation.



This is section A-A of the DA drawings Revision A, showing the height of the building relative to the previously excavated, 2004, basement level.



This is section AA from the DA plans from 2004, showing the section through the building and the building height line relative to the existing ground line at that time.

Justification for the proposed variation

10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

There are 5 common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary (items a to e). An applicant must satisfy at least one. This list is not exhaustive – there may be other ways available.

a) Are the objectives of the development standard achieved notwithstanding the non-compliance?
(Give details if applicable)

Clause 4.3 Height of buildings and all objectives of the clause were satisfied at the time of the DA approval in 2004, at that time the height of the building was measured relative to the existing ground line at that time.

The current DA is being assessed with the Height of building being measured to the historic excavated basement level from 2004, note that the height of the existing building is not changing. The current objectives of Clause 4.3 are satisfied and only a technicality, being the way the height is now being measured is the only difference, therefore compliance with the development standard would be unreasonable and unnecessary in this case.

b) Are the underlying objectives or purpose of the development standard not relevant to the development? *(Give details if applicable)*

c) Would the underlying objective or purpose be defeated or thwarted if compliance was required?
(Give details if applicable)

Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard? *(Give details if applicable)*

e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary? *(Give details if applicable)*

11. Are there sufficient environmental planning grounds to justify contravening the development standard?

Note: Environmental planning grounds are matters that relate to the subject matter, scope and purpose of the EP&A Act including the Act's objects (see Part A, Chapter 2.6 of this guide). They must relate to the aspect of the proposed development that contravenes the development standard and not simply promote the benefits of the development as a whole. You must provide substantive justification as to why the contravening the development standard is acceptable.

The grounds for justifying the contravention are that the historical excavation of the basement level causes a contravention of the development standard and that contravention is limited to only a small portion of the roof above the void area, being 8.38 sq. m.

As the existing building height is not changing, equal amenity is being achieved as solar access, privacy and views are unaffected by the proposal.

12. Is there any other relevant information relating to justifying a variation of the development standard? *(If required)*

Please provide any other information that you feel is relevant in justifying your proposed variation to the development standard.
