

CLAUSE 4.6 VARIATION REQUEST (FLOOR SPACE RATIO)

**Development Consent for a Dwelling
House, Secondary Dwelling and
Swimming Pool**

**2 Prince Edward Road, Seaforth NSW
2092**

Lot 28F DP 16341

February 2025

1. Introduction

The following written request has been prepared in accordance with the provisions of Clause 4.6 - Exception to development standards of the *Manly Local Environmental Plan 2013* to support the Development Application (DA) for proposed dwelling house, secondary dwelling and swimming pool on land at 2 Prince Edward Road, Seaforth NSW 2092, legally described as Lot 28F in DP 16341.

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Clause 4.6 of the Manly Local Environmental Plan 2013 allows the consent authority 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.

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

2. Development Standard to be Varied

The site is zoned R2 Low Density Residential under the Manly LEP 2013 and development for the purposes of a Dwelling House is permitted with consent. Pursuant to clause 4.4 in the LEP, the site has a maximum floor space ratio (FSR) control calculated at 0.45:1 per the Manly Floor Space Ratio Map.

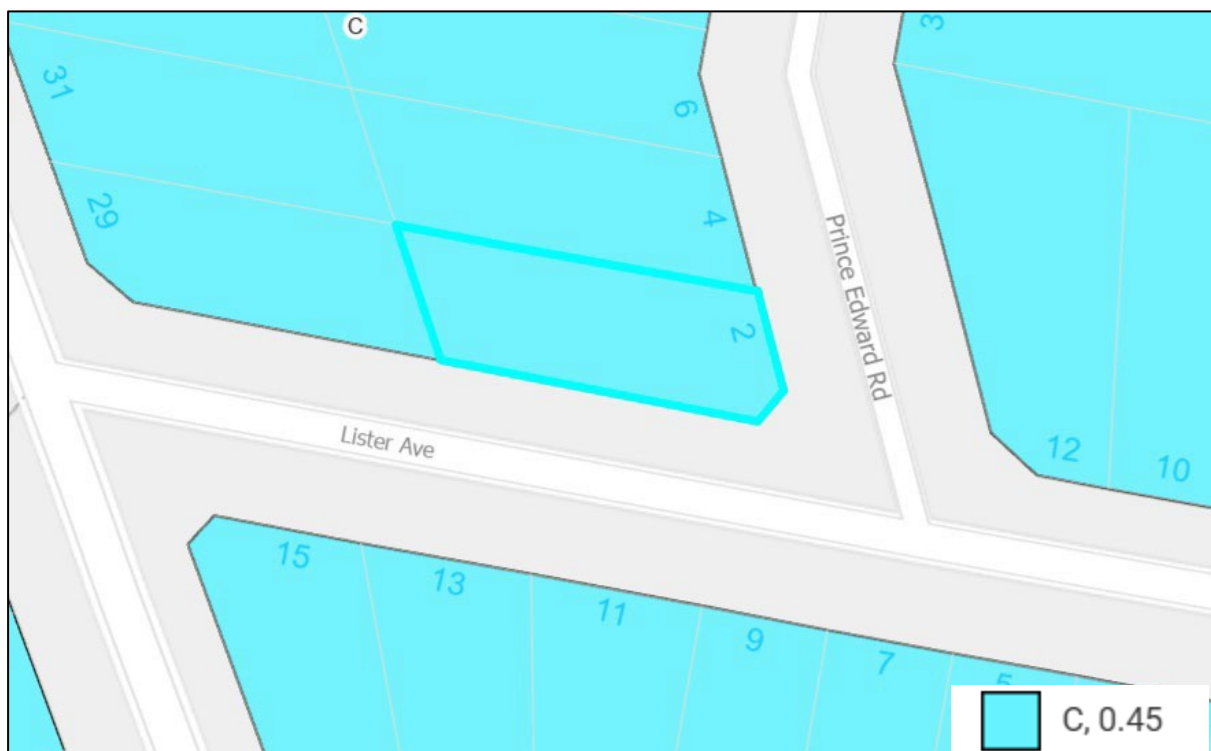


Figure 1: Floor Space Ratio Map

In accordance with Section 4.1.3.1 of the Manly DCP 2013, exceptions to FSR may be considered for undersized lots. In this regard, the calculation of FSR for the subject site being within the subzone “I” on the LEP Minimum Lot Size map is based on a 500m² lot size, and consequently allows for a maximum GFA of 225m². The dwelling house and secondary dwelling have a combined GFA of 303.94m².



Figure 2: Minimum Lot Size Map

The development proposes 303.94m² of gross floor area, which equates to a FSR of 0.60:1 (based on 500m²). As such, Clause 4.6 request to vary the development standard is provided with this application. The request demonstrates that the development is consistent the objectives of the FSR standard and as such strict compliance is both unreasonable and unnecessary. The proposed built form and massing will be of a consistent and complimentary scale to other properties in the locality, increasing in height towards the Prince Edward Road frontage to accommodate the slope of the site. The dwelling house will present as a two-storey dwelling from adjoining properties and from Lister Avenue, therefore the bulk and mass is greatly reduced. The proposed dwelling house proposes a minor non-compliance with the maximum building height and will not obscure any important landscape or townscape features and will not result in any view loss impacts (refer to Clause 4.6 Variation Request for Building Height).

This Clause 4.6 Variation Request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards under Manly LEP 2013. It considers the various planning controls, strategic planning objectives and existing characteristics of the site, and concludes that the proposed non-compliances achieve the objective of encouraging orderly and economic use and development of land under Section 5 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act').

2.1 Clause 4.6 of the Manly LEP 2013

In accordance with Clause 4.6 of the Manly LEP 2013 a written request that seeks to justify a contravention to a development standard must demonstrate compliance with the following subclauses:

- 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.*

The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the

clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] & [51] where the Court confirmed that 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).

- 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 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.*

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The proposed development does not comply with the floor space ratio provision at 4.4 of MLEP which specifies a maximum FSR. However strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

2.2 Case Law

In accordance with the Department of Planning and Environment's '*Varying development standards: A Guide, 2023*' written applications to vary development standards will not only address the above matters but may also address matters set out in the 'five-part test' established by the NSW Land and Environment Court. Relevant case law on the application of the standard LEP Clause 4.6 provisions has established the following principles:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, which emphasised that the proponent must address the following:
 1. Compliance with the development standard is unreasonable and unnecessary in the circumstances;
 2. There are sufficient environmental planning grounds to justify contravening the development standard;
 3. The development is in the public interest;
 4. The development is consistent with the objectives of the particular standard; and
 5. The development is consistent with the objectives of development within the zone;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827, which emphasized the need to demonstrate that the objectives of the relevant development standard are nevertheless achieved, despite the numerical standard being exceeded. Justification is then to be provided on environmental planning grounds. *Wehbe* sets out five ways in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:
 1. The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
 3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
 4. 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; or
 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or

unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The objectives supporting the Floor Space Ratio identified in Clause 4.4 are discussed in section 3 below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

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3. Justification for Contravention of the Development Standard

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless 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*
- (j) 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*

The Environmental Planning Instrument to which these variations relate is the Manly LEP 2013. The development standard to which this variation relates to is Clause 4.4 – Floor Space Ratio. The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3 being:

(1) The objectives of this clause are as follows—

- (a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- (b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- (c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- (d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- (e) to provide for the viability of Zone E1 and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

3.1 Clause 4.6(3)(a) - Is compliance with the Development Standard unreasonable or unnecessary in the circumstances of the case?

As to the “unreasonable or unnecessary” component, in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118 at [16]-[21] the Chief Judge of the Land and Environment Court explained the common ways in which this requirement is satisfied:

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1. The objectives of the standard are met, notwithstanding non-compliance with the standard: *Wehbe v Pittwater Council* (2007) 156 LGERA 446 at [42] and [43].
2. The underlying objective or purpose of the development standard is not relevant to the development meaning that compliance is unnecessary: *Wehbe v Pittwater Council* at [45].
3. The underlying objective or purpose would be defeated if compliance was required.
4. The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard: *Wehbe v Pittwater Council* at [47].
5. The zoning of the land on which the development is proposed to be carried out is unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary and compliance with the standard is therefore unreasonable or unnecessary: *Wehbe v Pittwater Council* at [48].

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 set out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:

- 1 Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- 2 Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
- 3 Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
- 4 Establish that 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.
- 5 Establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it Clause 4.6 Variation – Sun Access Planes Façade Upgrade to Existing Commercial Premises 2 -26 Park Street, Sydney (Lot 12 DP 1048563) 9 applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary”.

The first option, which has been adopted in this case, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The definition of “development standard” at clause 1.4 of the EP&A Act includes:

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,

Clause 4.4 MLEP prescribes a floor space ratio provision which seeks to limit the bulk, scale and density of the development. Accordingly, clause 4.4 MLEP is a development standard.

An assessment as to the consistency of the proposal when assessed against the objectives of the standard is as follows:

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

Assessment: As detailed within the Statement of Environmental Effects, the proposed dwelling house and secondary dwelling is consistent with the established character of the area which comprises of single storey to three storey dwellings with a mix of designs and roof forms. Due to the topography of site, the garage/basement will require excavation into the site to allow for safe and efficient vehicle access. It is highlighted that there are several dwelling houses with similar built form outcomes in the immediate area which involve lower-level/basement car parking with habitable levels above. Due to the irregular shape of the site and angle of the Prince Edward Road front boundary, the garage is setback appropriately 3.6m – 6.095m to ensure the dwelling does not appear bulky or dominate the streetscape.

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Further to the above, it is highlighted that the proposed dwelling house presents as a two-storey dwelling to both neighbouring properties and to Lister Avenue. The only elevation where the dwelling appears as three storeys is from Prince Edward Road, notwithstanding the dwelling proposes a maximum building height of 8.58m which is a variation of 0.08m to the standard. There are sections of the dwelling house that complies with the building height up to 1.4m. All walls have been provided with appropriate articulation and generous setbacks to ensure the dwelling is not out of character when viewed from the street. The design of the dwelling house has incorporated a mix of materials, rendered walls and landscaping to provide visual interest to the streetscape. Combined with varied setbacks at all levels results in an articulated built form with areas of recessed walls. The design includes balconies on both ground floor and first floor addressing Prince Edward Road to create a sense of openness and results in a less stark and dominant built form.

The subject site is in an area identified as Open Space Area per the DCP Schedule 1-Map B, which requires a minimum of at least 55% of the site to be total open space. The proposal provides 58.9% of total open space in accordance with the definition and therefore complies with this requirement. Furthermore, the development provides 133.72m² of landscaped area which results in a complying outcome being 45% of the open space landscaped. Furthermore, 2x native trees of 75L capacity to be planted as per council regulations to ensure the development contributes to the streetscape.

It is considered that the bulk and scale of the proposed development, as viewed from both street frontages is consistent with the desired character.



Figure 3: Lister Avenue Perspective

Source: New Paradigm Design

- (b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

Assessment:

The dwelling incorporates a contemporary design that enhances the streetscape and sets a high standard of development in the area. The additional floor space is well integrated and does not compromise the dwelling's overall scale and proportions.

Neither the LEP or DCP identify important landscape or townscape features either on or within proximity of the subject site. Notwithstanding the FSR non-compliance, achieves this objective as the building density and bulk, in relation to a site area, satisfies Objective 1 of the Clause 4.1.3.1 DCP provision applicable to undersized allotments, with the development not obscuring any Page | 7 important landscape and townscape features.

- (c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*

In relation to landscape character, the development proposes compliant total open space and landscaped area per the DCP controls. The application is accompanied by a schedule of materials and finishes. The development seeks to retain vegetation to ensure the landscape character is maintained. Additionally, 2x native trees of 75L capacity are to be planted as per council regulations to ensure the development contributes to the streetscape.

- (d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

To assess the above objective, sub-categories such as solar access / overshadowing, views, privacy, and visual / acoustic amenity as environmental factors which contribute to the use and enjoyment of adjoining public and private land.

Solar Access / Overshadowing:

The accompanying shadow diagrams prepared by New Paradigm Design demonstrate that the building, although non-compliant with the FSR standard, will not give rise to any unacceptable shadowing impacts. The corner nature of the site combined with the solar orientation and appropriate side setbacks from the adjoining neighbours to the north and west ensures that the proposed development will provide adequate solar access to public domain. The proposed development ensures that open space areas of the adjoining residential properties are protected, and compliant levels of solar access maintained.

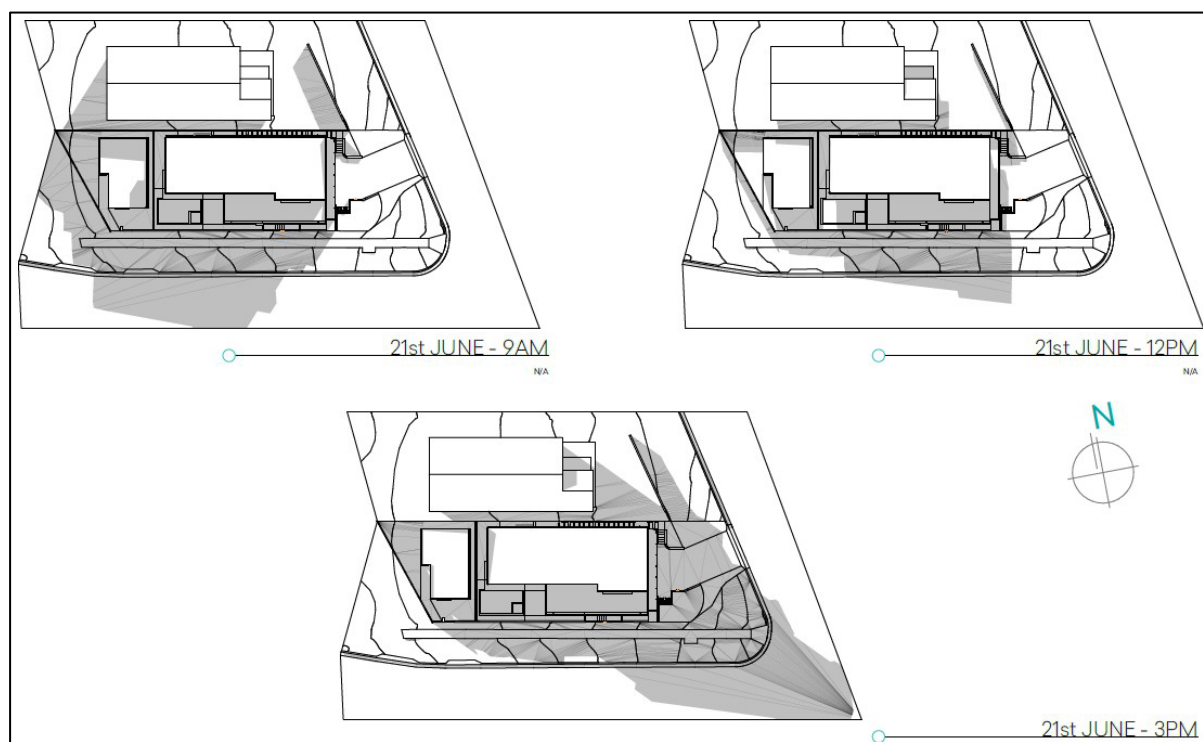


Figure 4: Shadow diagrams for 21st June 9am – 3pm.

Source: New Paradigm Design

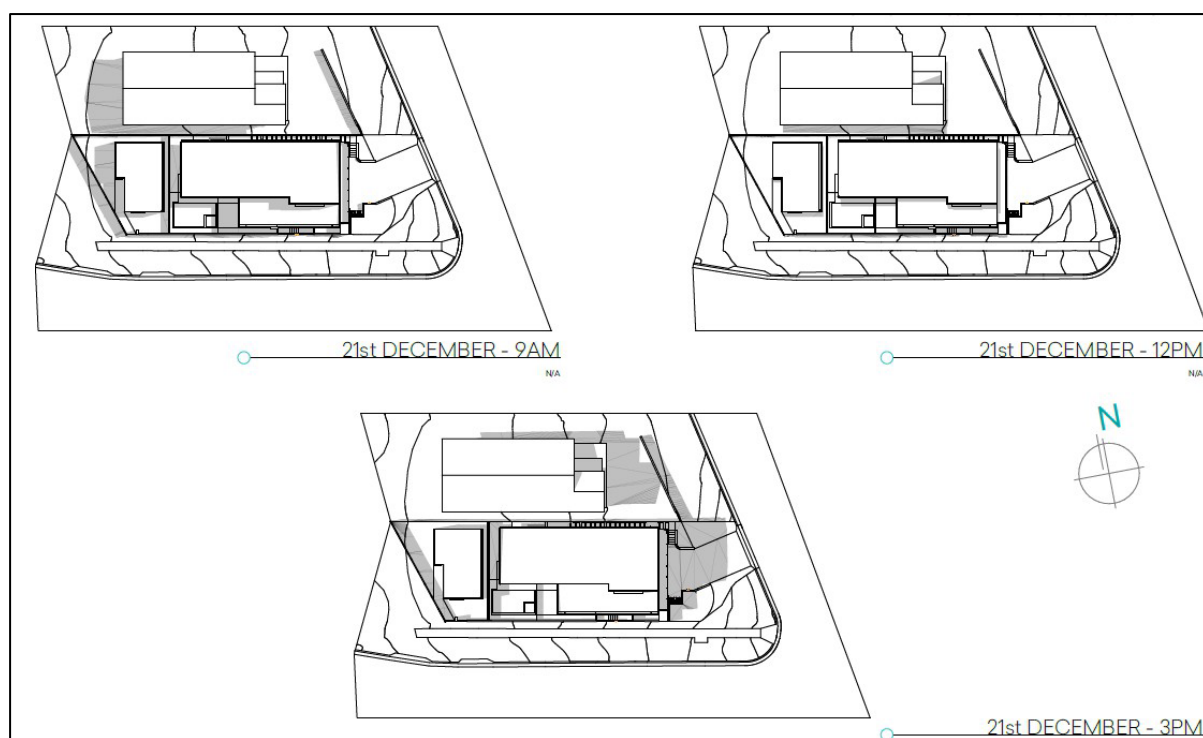


Figure 5: Shadow diagrams for 21st December 9am – 3pm.

Source: New Paradigm Design

Views:

The topography and suitable scale of the dwelling ensures minimal view loss to the surrounding properties. The first floor will be in keeping with the scale of other two-three storey dwellings within the vicinity. The proposed dwelling is unlikely to have any detrimental impact upon views, with limited views likely from the neighbouring sites and views maintained to the adjoining properties. The spatial separation and setbacks proposed are considered reasonable to minimise loss of views. The proposed dwelling is of a suitable scale and will still allow for some views around the site. Due to the slope of Lister Avenue, the dwelling house to the west is raised much higher than the subject site. Considering the building only seeks an increase in height of 0.08m there is no view loss anticipated

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Privacy:

The design of the dwelling house ensures that no privacy impacts will occur to either neighbour to the north or west. The dwelling house and secondary dwelling provide appropriate setbacks at all levels to adjoining properties. As seen in the below figure, there is a 3m separation between the proposed dwelling and the property to the north. Given the site is irregular in shape and topography, this is a built form outcome that maintains privacy. Furthermore, the balcony on the first floor does not extent all the way north which further ensures that privacy is protected and no overlooking into private open space occurs. Landscaping is proposed along all boundaries to provide additional screening and privacy protection to future occupants and adjoining properties.

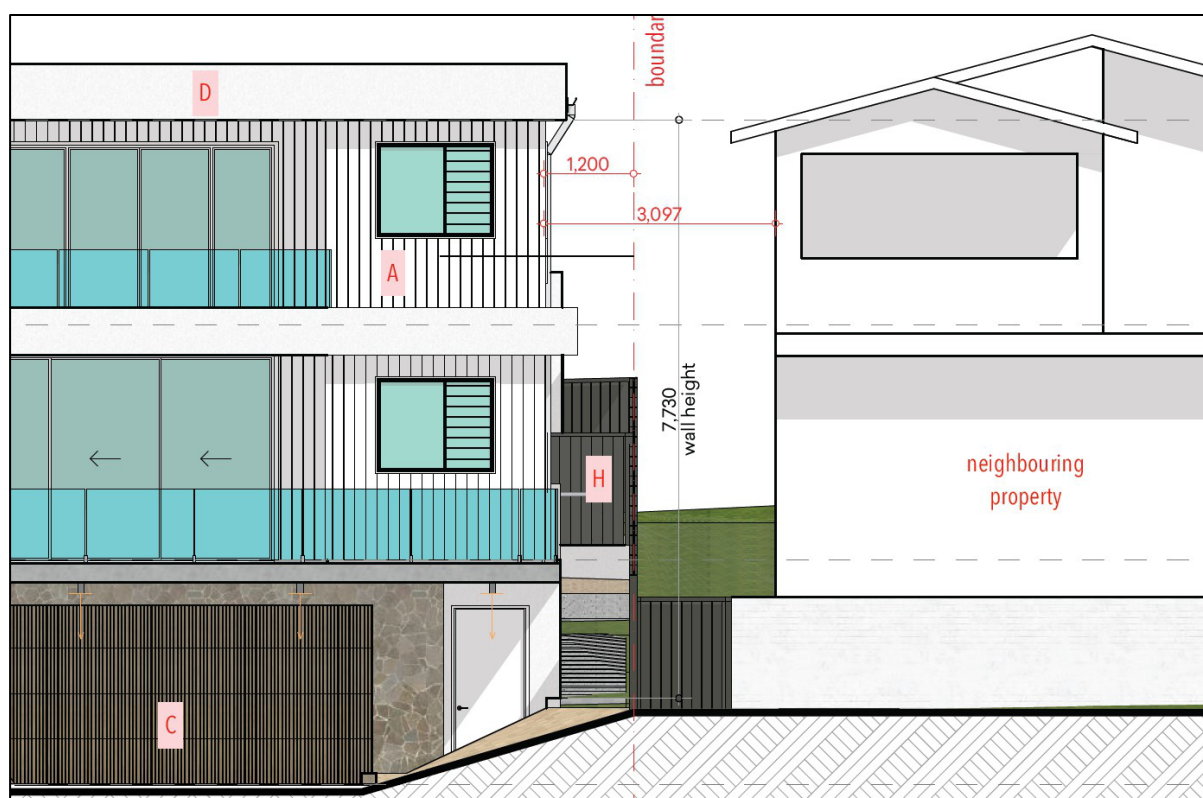


Figure 6: Eastern elevation demonstrating dwelling separation. Source: New Paradigm Design

Visual Amenity:

Architecturally the building addresses both street frontages and incorporates a variety of architectural features which results in high standard outcome that will enhance the character of the street and broader locality. A range of materials and finishes are proposed to be incorporated to provide visual interest and character to the development to reduce the visual bulk of the built form when viewed from surrounding properties and the streetscape. The proposed dwelling house will primarily appear as a

two-storey dwelling from Lister Avenue and the adjoining properties to the north and west. The dwelling house will only appear as three storeys from Prince Edward Road which is a common design as established by numerous dwelling houses in the locality (refer to building height variation report). To ensure the dwelling house doesn't appear dominant on this elevation the design utilises vertical timber battens on the garage door, feature stone on the southern and eastern elevation, formed concrete finish above the garage and a white rendered finish. Balconies and large varied-shaped windows create a sense of openness into the design. It is considered that the proposal results in a high-quality product that takes into consideration the topography of the site.



Figure 7: Northern elevation

Source: New Paradigm Design

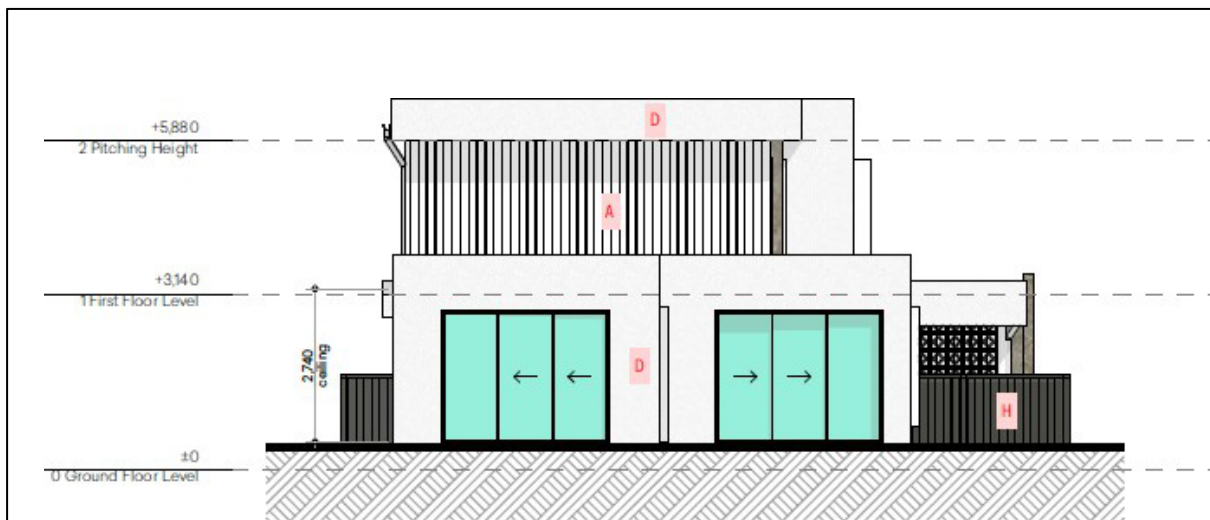


Figure 8: Western elevation

Source: New Paradigm Design

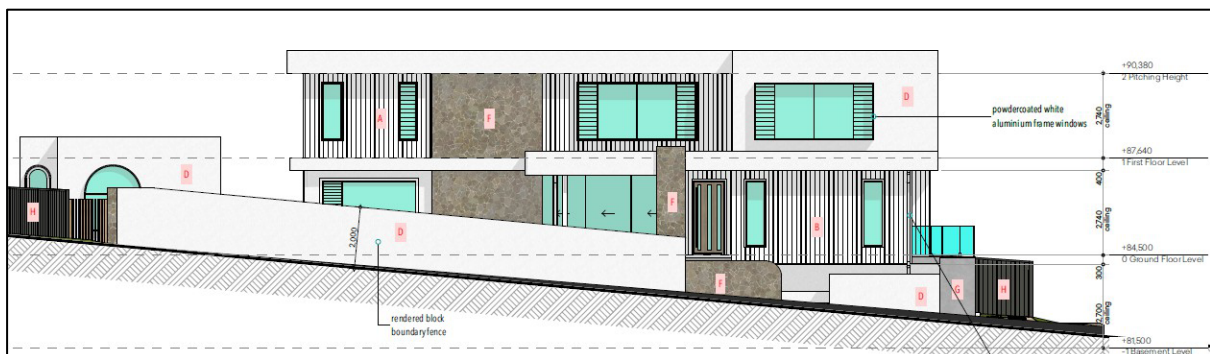


Figure 9: Southern elevation

Source: New Paradigm Design

- (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

Assessment: This objective is not applicable.

As demonstrated above, the proposed building form despite its non-compliance with the FSR standard the development meets and satisfies the objectives of the standard. Page | 11

Consistency with the objectives of the R2 Low Density Residential	
Objectives	Assessment
To provide for the housing <i>needs of the community within a low density residential environment.</i>	The proposed height variation does not raise any inconsistency with the R2 Low-Density Residential zone objectives. The height is associated with a high-quality contemporary dwelling house which provides for the needs of the community and presents a compatible height, bulk and scale with the dwellings in the vicinity of the site. The limited building footprint and envelope retain the low-density nature of the area whilst responding adequately to the sensitive adjacent Environmental Conservation zone to the west, which is within a foreshore area and classified as bushfire prone zone. The topography of the site associated with the stepped built form mitigates any adverse or significant view, overshadowing, or privacy impacts to adjoining neighbours or the public domain. The proposal will maintain the low-density residential environment, thereby confirming that the variation does not raise any inconsistency with the objectives of the zone.
To enable other land uses that <i>provide facilities or services to meet the day to day needs of residents.</i>	

Based on the above assessment, it is considered that strict compliance with the LEP FSR standard is unreasonable and unnecessary in this instance. Adopting the first option in *Wehbe* strict compliance with the FSR standard has been demonstrated to be unreasonable and unnecessary.

3.2 Clause 4.6(3)(b) - Are there sufficient planning grounds to justify contravening the development standard?

The assessment under the unreasonable and unnecessary section of this Clause 4.6 variation demonstrates that there are sufficient environmental grounds to permit the variation in this instance, which include the following:

- The proposed development is of a bulk and scale that contextually sits well within the public domain and is accommodated by the site conditions. In this regard, the proposed dwelling house presents as two-storeys when viewed from Lister Avenue and the properties to the north and west. Additionally, the design provides appropriate building separation, plus the orientation of lots and surrounding topography, in addition to the proposed flat roof form ensures that outlook is maintained for adjoining properties and the public domain.
- The proposed variety of architectural features are considered to be of a high standard which will enhance the character of the street
- The proposed development will provide adequate solar access to public domain and surrounding properties.
- The variation does not give rise to any measurable or unreasonable visual impacts from the public domain. The proposed height variation is only for 0.08m which demonstrates the building roofline is sympathetic to neighbouring properties. The very minor roof form element that protrudes above the maximum height limit is due to the slope of the site. The entirety of the

dwelling house remains under the maximum height limit which ensure that the proposed development mitigates adverse impacts to surrounding properties and public domain.

- The proposal provides 60% of total open space in accordance with the definition and therefore complies with this requirement. Furthermore, the development provides 133.72m² of landscaped area which results in a complying outcome being 45% of the open space landscaped. Furthermore, 2x native trees of 75L capacity to be planted as per council regulations to ensure the development contributes to the streetscape.
- Per the Site Plan, the proposal maintains a minimum 1.2m -1.7m setback to the northern side boundary at ground level and 1.2m setback at first level so that it will not unduly affect existing or future development on the adjoining property to the north by way of overshadowing or impinging on privacy.

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For the reasons outlined above, it is considered that there are sufficient environmental planning grounds to justify the proposed variation to the FSR Development Standard under Clause 4.4 and is therefore worthy of support having regard to the matters listed within Clause 4.6 under Manly LEP 2013.

3.3 Is the proposed development in the public interest and consistent with objectives of the standard and land use zone?

A key determination of the appropriateness of a Clause 4.6 Variation to a development standard, is the proposed development's compliance with the underlying objectives and purpose of that development standard. The consent authority needs to be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone. Preston CJ in Initial Action (Para 27) described the relevant test for this as follows:

"The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii)."

Approval of the FSR variation is in the public interest as it delivers a high-quality dwelling that meets the housing needs of the occupants while maintaining the amenity and character of the locality. The variation does not compromise the broader planning objectives or principles for the area. As demonstrated in this request, the proposed development it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. Accordingly, the consent authority can be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.

3.4 Public benefit of maintaining the standard

The departure from the FSR control within the State Environmental Planning Policy allows for the orderly and economic development of the site in a manner which achieves the outcomes and objectives of the relevant planning controls. Accordingly, the consent authority can be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.

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3.5 Is the Variation well founded?

The above information demonstrates that, given the planning context and minor scale of the variation, the proposed building height represents a suitable building form for the site.

It is considered that this has been adequately addressed in Parts 3.1 to 3.5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 under the Manly LEP 2013 in that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standards;
- The development meets the objectives of the standard to be varied (building height) and objectives of the R2 Low Density Residential zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State or Local significance; and
- The development submitted aligns with the predominantly residential nature of the desired future character of the neighbourhood.

Based on the above, the variation is well founded.

4. Conclusion

In conclusion, the proposed variation to the floor space ratio under Clause 4.6 is justified as it satisfies the objectives of the FSR standard, aligns with the zone objectives, and achieves better planning outcomes without causing adverse impacts. Approval of the variation is both reasonable and in the public interest. Having evaluated the likely affects arising from this non-compliance, it has been demonstrated that the development has satisfied the objectives of Clause 4.6 of the Manly LEP 2013 and the breach to the controls does not create any adverse environmental impacts.

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Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and that the use of Clause 4.6 of the Manly LEP 2013 to vary this development controls is appropriate and should be supported.

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