



**Clause 4.6 Variation
To Development Application
For
12 Nolan Place,
Balgowlah Heights
NSW 2093
For
Fe Design-Poole**

RAPID PLANS

ABN:	81 737 844 287
ADDRESS:	PO Box 6193 French's Forest D.C 2086
TELEPHONE:	(02) 0414-945-024
FAX:	(02) 9905-8865
EMAIL:	gregg@rapidplans.com.au

Issue 2.00
Wednesday, July 15, 2020
© RAPID PLANS

TABLE OF CONTENTS

1	INTRODUCTION	3
1.1	Site	3
1.2	Local Authority	3
1.3	Environmental Planning Instrument that Applies to the Land.....	3
1.4	Zoning of the land	4
1.5	Objectives of the Zone	4
2	Clause 4.6 Variation to Development Application	4
2.1	Development Standard Being Varied	4
2.2	Clause of the Development Standard listed in the Environmental Planning Instrument	4
2.3	Objectives of the Development Standard	5
2.4	Numeric value of the development standard in the environmental planning instrument	5
2.5	Proposed numeric value of the development standard in your development application	5
2.6	Percentage variation between the proposal and the environmental planning instrument	5
2.7	How is strict compliance with the development standard unreasonable or unnecessary in this particular case?.....	5
2.8	How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?	10
2.9	Is the development standard a performance-based control?	10
2.10	Would strict compliance with the standard be unreasonable or unnecessary?	10
2.11	Are there sufficient environmental planning grounds to justify contravening the development standard?	10
	CONCLUSION	11
2.12	Summary	11

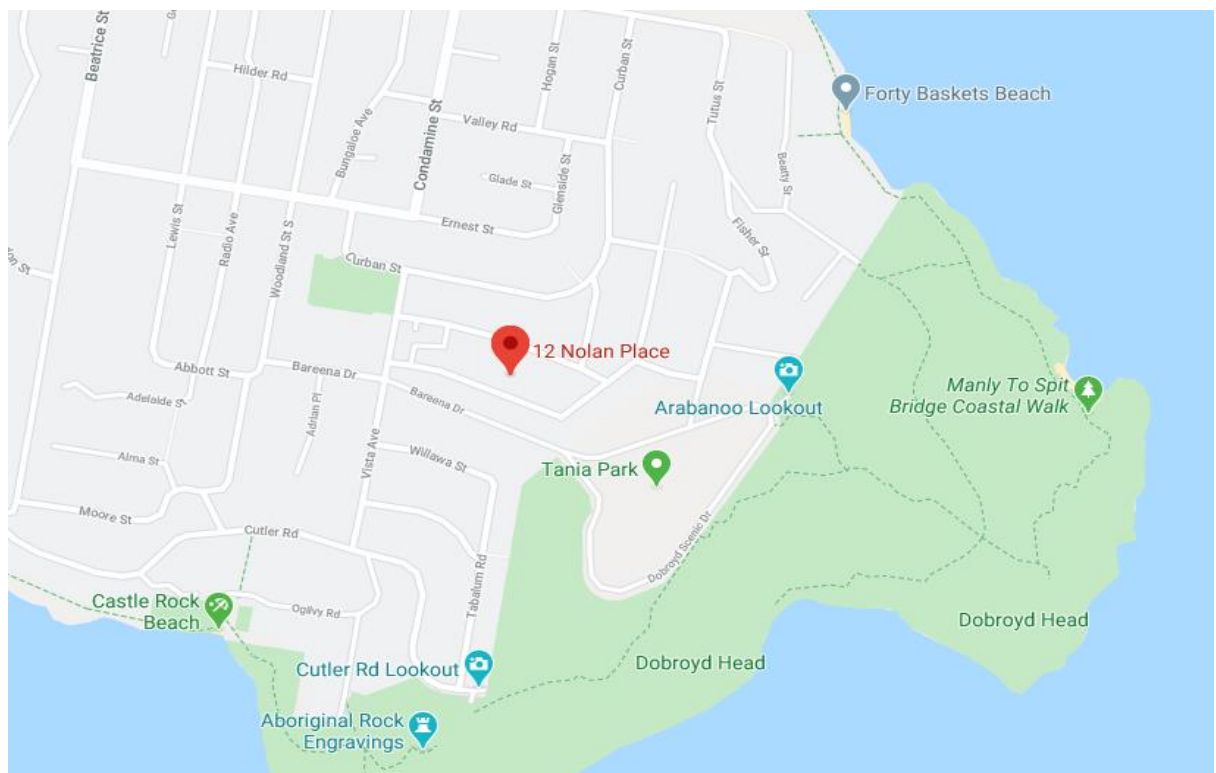
1 INTRODUCTION

This report pertaining to Clause 4.6 Variation accompanies the Development Application for the proposed alterations & additions at 12 Nolan Place in Balgowlah Heights.

1.1 Site

The residence is located on the northern side of Nolan Place in the residential neighbourhood of Balgowlah Heights.

LOCATION PLAN



1.2 Local Authority

The local authority for this site is:
Northern Beaches Council (Manly)
Civic Centre, 725 Pittwater Road,
Dee Why NSW 2099
DX 9118 Dee Why
Telephone: 9942 2111

1.3 Environmental Planning Instrument that Applies to the Land

Manly Local Environment Plan 2013

1.4 Zoning of the land

R2 Low Density Residential

1.5 Objectives of the Zone

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Clause 4.6 Variation to Development Application

4.6 Exceptions to development standards

(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.*

2.1 Development Standard Being Varied

After reviewing Manly LEP 2013 we advised that a Clause 4.6 Exception to Development Standard is required due to:

- This development is classified as a non-complying development due to the floor area being over the floor space ratio
- The favourable option for Council is a Development Application with a Clause 4.6 Variation for the structures to be considered for approval.

2.2 Clause of the Development Standard listed in the Environmental Planning Instrument

- Manly LEP 2013 Part 4.4 Floor Space Ratio

2.3 Objectives of the Development Standard

- to ensure the bulk and scale of development is consistent with the existing and desired streetscape character.
- to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features.
- to maintain an appropriate visual relationship between new development and the existing character and landscape of the area
- to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain
- 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

2.4 Numeric value of the development standard in the environmental planning instrument

MLEP2013 FSR = 0.45:1 (269.37m²-45%)

2.5 Proposed numeric value of the development standard in your development application

Proposed FSR = 0.529:1 (317.22m²-53%)

Proposed FSR variation= 8%

2.6 Percentage variation between the proposal and the environmental planning instrument

Percentage variation between the proposal and the planning instrument,

Percentage Variation = $47.88 / 269.37 = 17.7\%$

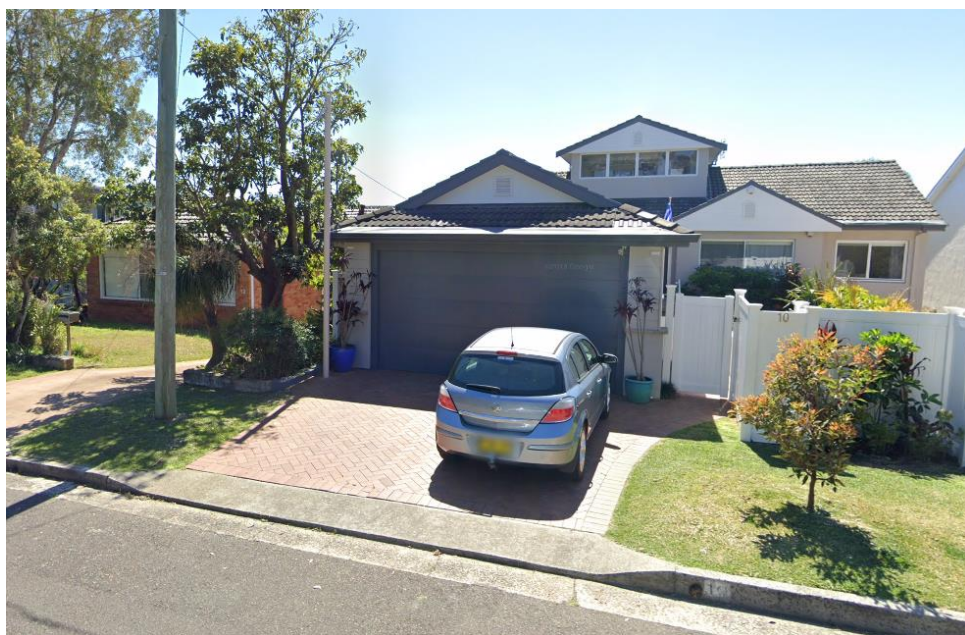
2.7 How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The variation in this case is moderate to minor, going from .45:1 to .53:1 FSR. The design aims to provide a consistent pattern of development by providing a two storey

dwelling at the front of the property to maintain streetscape along Nolan Place. Due to the existing topography & the sloping site the bulk & the scale of the building are consistent with the streetscape & planning objectives. This application is in keeping with a low-density residential environment desired by Council in this area as well as the objectives of the zone. The development has no negative consequence of significance as a result of this minor noncompliance, further it meets all of the objectives of the development standard, and therefore strict compliance with the development standard would be unreasonable and unnecessary.

In this circumstance, it is unreasonable and unnecessary to strictly comply with the floor space ratio standard given that the resulting development will be absent of any negative environmental or planning outcomes. The proposal would be indiscernible to a development that strictly complied with the numerical control. For the reasons stated above, it is argued that a variation be supported as it ultimately results in an improved planning outcome for the streetscape and general locality along Nolan Place.

- *Streetscape* – The visual quality of the streetscape is to be enhanced with the alterations to the front of the dwelling reducing the bulk on the first floor by stepping in the side walls to provide substantial separation to neighbouring dwellings to complement the existing built form along Nolan Place including the adjacent properties east & west enjoying two storey structures to the front of the property.



10 Nolan Place (2 stories) with subject property to the left



14 Nolan Place (2 stories) with subject property to the right

- The intention for the upper floor addition to the dwelling is to compliment the architectural design & present a dwelling that is consistent front to back. Although the upper floor addition increases the floor area slightly, it does not detract from the streetscape along Nolan Place presenting a modern contemporary design that is in sympathy with the immediate neighbours. The proposed additions provide a generally consistent pattern of development with regard to adjoining front building setbacks, and as such, the proposal will not result in any visually prominent element that will result in an unreasonable impact on the streetscape & is not out of character for the neighbourhood. These characteristics for the floor space ratio conform to the R2 low density residential requirements for the Balgowlah Heights area & modifying the structure would, in our opinion, contravene the R2 zoning objectives by adversely affecting the streetscape along Nolan Place & the desired future character of the area.
- **Bulk & Scale** is maintained for the area. Although the bulk & scale of the building is slightly increased with the upper floor addition, the overall size & bulk in relation to the surrounding neighbourhood is to be maintained throughout the development. There is no adverse visual impact as viewed from Nolan Place as well as Bareena Drive to the south with a green belt of vegetation maintaining their existing visual amenity. Properties to the north along Dobroyd Road are set lower than Nolan Place with no view lines to the

south. As the upper floor addition is set to the front there are no adverse impacts of bulk & scale to adjoining properties with view lines & privacy maintained. The design is similar to the newly renovated property at 22 Nolan Place which is similar in bulk & scale characteristics:

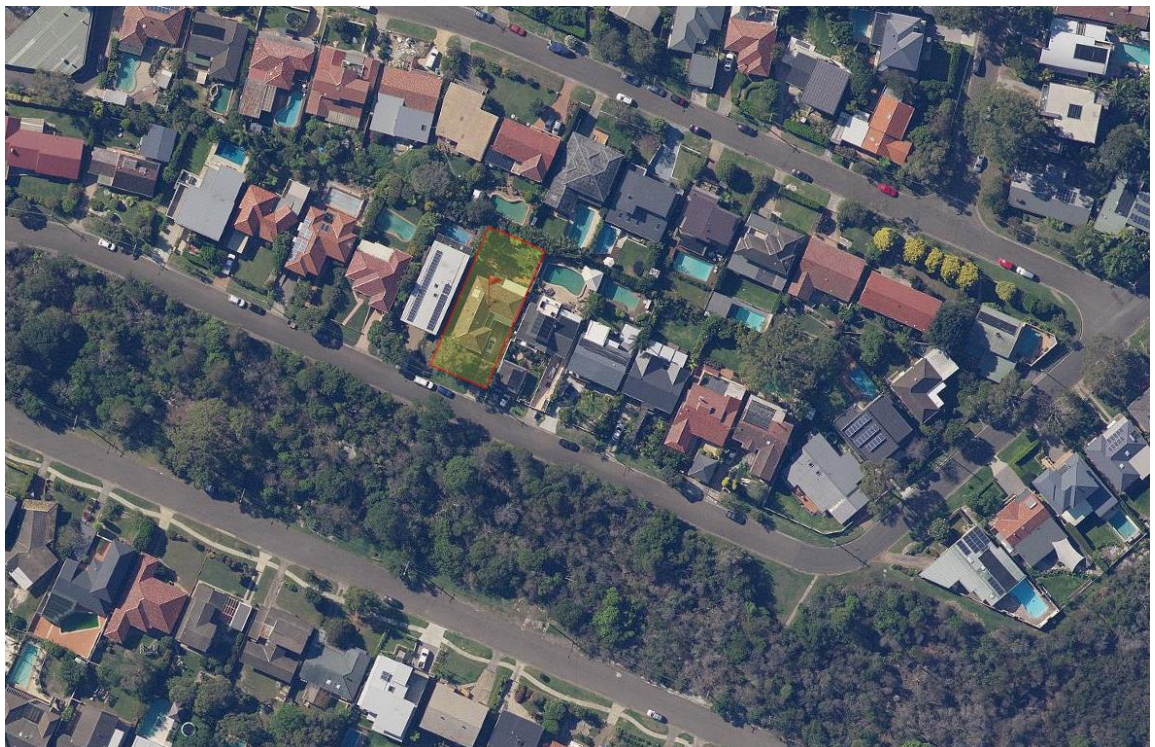


The proposal is a design option that supports a preferred planning outcome of a modern architectural design that compliments the existing dwelling & the surrounding neighbourhood. The intention is to provide a balance between the proposed additions to the existing landscaping & built form. It should be noted that the proposal conforms to all setbacks & height requirements for the proposed works. The height has been complied with throughout the development & is clear by 30mm. The front setback has been complied with throughout the development. The rear setback has been complied with throughout the development & is clear by 1891mm. The western side setback has been complied with throughout the development & is clear by 11mm on the ground floor & 52mm on the upper floor. The eastern side setback has been complied with throughout the development & is clear by 8mm at the garage & 245mm for the upper floor. These clearances along with the modified plans demonstrate that the bulk & scale has been achieved.

- Openness - A sense of openness has been created with an increased side setback to the side walls. The eastern side setback of 2.697m provides substantial separation to the adjoining boundary with the western side

elevation being 2.763m from the western boundary due to a drainage easement running between the existing dwelling & western boundary. The proposed design to the upper floor creates flow between the internal & open deck areas for the owners with elements of the proposal over the floor space ratio to continue to allow for a sense of openness that supports the desired future character of the Balgowlah Heights low density area. The openness to the front of the property is maintained with the landscaped area improved. In addition, the proposed open space area of 57% exceeds the minimum 55% required that allows adequate usable outdoor recreation space & water infiltration as well as the landscaped area achieving the minimum 35% of the total open space area.

- *Public & Private Views* - The view lines are maintained for the subject & surrounding dwellings as there is no obstruction to adjacent dwellings or dwelling along Bareena Road on the southern side of the vegetation as the street level is set far higher. The aerial photo below indicates the subject site & the substantial separation to the surrounding dwellings.



- *Site Access & Circulation* is maintained with the existing crossover & a new internal vehicular access drive to continue to allow for parking for 2 vehicles. The rear decks & stairs provides improved access & circulation to the rear yard for the owners. It is anticipated that the proposed development will have

no detrimental impact on traffic flow.

- *Planting* – There has been generous amount of area maintained for the provision of planting in the front & rear areas of the property. The proposed plantings along the front boundary soften the streetscape & allows the development to blend in with the existing environment along Nolan Place.

2.8 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The proposal extends the existing built form of the subject property with well-designed additions improving on the ageing traditional dwelling. The proposed works add to the already renovated dwellings along Nolan Place, and as such strict compliance in this regard would limit the objects being fully attained. The proposed works provide a more efficient and orderly development on the land that is of high-quality architectural design which maximises the sites development potential along with providing appropriate housing stock within the locality.

2.9 Is the development standard a performance-based control?

The objectives of the development standard provide the controls to allow a performance-based solution. For the reasons outlined herein, it is demonstrated the proposal meets the objectives of the development standard, therefore Council should consider “compliance to the standard unreasonable in the circumstances of the development”.

2.10 Would strict compliance with the standard be unreasonable or unnecessary?

Yes, please refer to answer in 2.7, 2.8 and 2.9 preceding.

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

Yes, Section 4.6 enables a development standard within an LEP to be varied, providing sufficient and compelling arguments based on sound planning rationale and legislation are put forward to support the variation.

The following environmental planning grounds justify contravening the development standard.

- The proposal provides a more environmentally friendly dwelling.
- The proposal utilizes existing services.
- The proposal provides compliant open space and landscaping.
- The proposal provides compliant heights & setbacks.
- The proposal provides onsite parking.
- The proposal provides improved housing in a low-density environment.

The variation to the maximum floor space ratio requirements is, in our opinion, acceptable and there are appropriate planning grounds in support of the non-compliance.

CONCLUSION

2.12 Summary

The resulting development has been designed to enhance the existing residential building by improving the amenity for the residents while maintaining, where possible, the conditions set out by Manly Local Environment Plan 2013. The proposed works included in this report are, in our opinion, reasonable in relation to the existing built works & do not adversely impact the surrounding properties whilst justifying the environmental planning grounds for Northern Beaches Council. We consider that the proposal will impose minimal impact and improves the streetscape & character of the neighbourhood & request that council support the Clause 4.6 Variation of the Development Application.