



**Clause 4.6 Variation
To Development Application
For
45 Earl Street,
Beacon Hill
NSW 2100
For
Peter Conduit**

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
Monday, April 29, 2019
© 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	3
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?	11
	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 45 Earl Street in Beacon Hill.

1.1 Site

The residence is located on the southern side of Earl Street in the residential neighbourhood of Beacon Hill.

LOCATION PLAN



1.2 Local Authority

The local authority for this site is:
Northern Beaches Council (Warringah)
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

Warringah Local Environment Plan 2011

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.
- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

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 Warringah Local Environment Plan 2011 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 a section of the garage ridge being over the 8.5m building height as well as a proposed connecting hip to the existing roof ridge at the rear of the garage.
- 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

- Warringah LEP 2012 Part 4 4.3 Height of Buildings

2.3 Objectives of the Development Standard

- to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
- to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
- to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
- to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

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

WLEP2012 Height = 8.5m

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

Proposed Height = 8.730m (measured under ridge of rear of garage)

Proposed Height = 10.327m (measured under the existing ridge)

2.6 Percentage variation between the proposal and the environmental planning instrument

Proposed Height = 0.027% (measured under ridge of rear of garage)

Proposed Height = 0.215% (measured under the existing ridge)

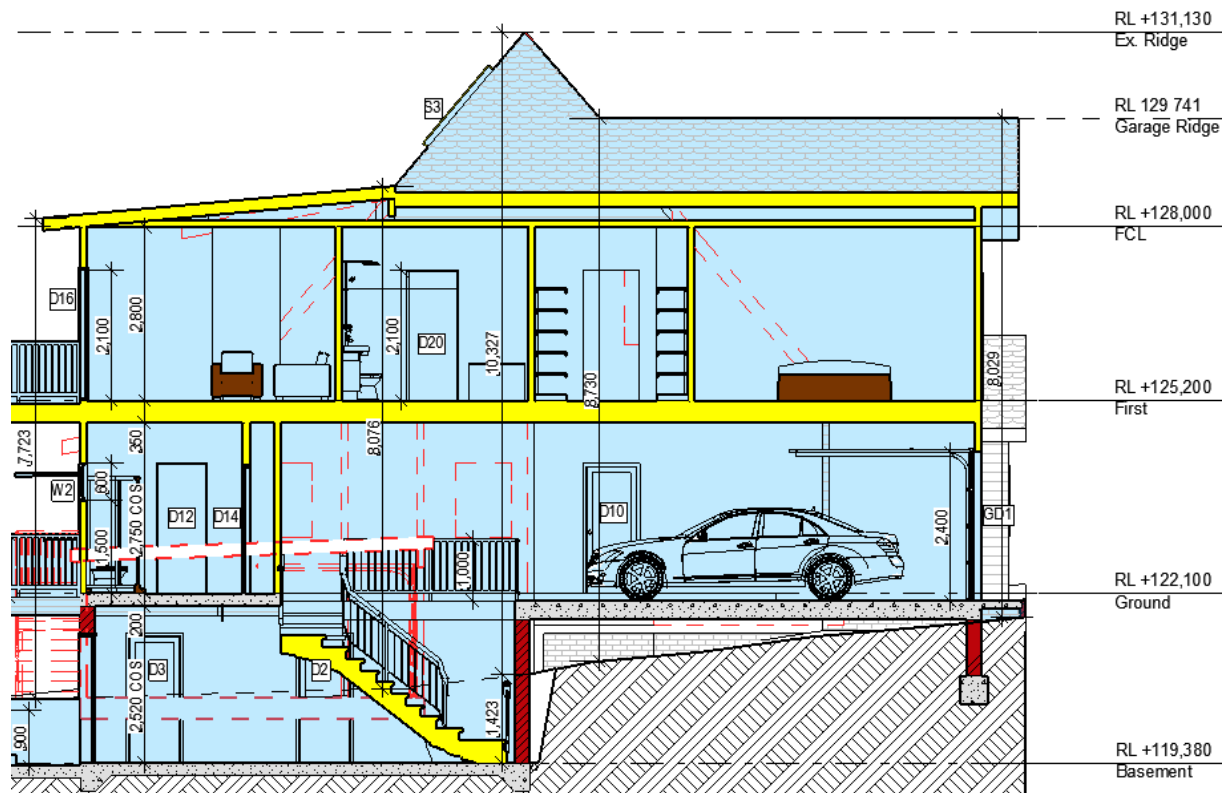
2.7 How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

There many surrounding lots that provide heights that would negatively impact the development standard due to excessive height to take advantage of district & water views towards the south including No's 33, 38, 53 & 64 Earl Street. The variation in this case is minor in comparison to other properties due to the existing built form with only a portion of the roof over height limit. 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, furthermore, it meets the

objectives of the development standard, and therefore strict compliance with the development standard would be unreasonable and unnecessary.

Ridge Location Through Building	Building Height
Front garage	8.029m
Middle Garage connecting to hip	8.730m
Existing ridge	10.327m
Rear dwelling	7.723m

Below is a section cut through the garage showing heights & relation to existing ground level.



In this circumstance, it is unreasonable and unnecessary to strictly comply with the building height 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 Earl Street.

- *Streetscape* – The visual quality of the streetscape is to be enhanced with the alterations to the front of the dwelling providing a consistent pattern of development along Earl Street. The intention for the rear addition to the dwelling is lower the roof line as much as possible whilst matching the internal floor to ceiling front to back. Extending a connecting hip from the side addition to the existing ridge line extends the height slightly but does not detract from the streetscape along Earl Street as the side addition is set well below the existing ridge line. 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 building height conform to the R2 low density residential requirements for the Beacon Hill area & modifying the structure would, in our opinion, contravene the R2 zoning objectives by adversely affecting the streetscape along Earl Street & the desired future character of the area.
- *Bulk & Scale* is maintained for the area. Although the bulk & scale of the building is slightly increased, 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 properties to the north with surrounding properties to maintain their existing visual amenity. The side addition roof over the proposed master bed has a lowered pitch to allow for the elevated property across the road (No.56 Earl Street) to maintain view lines over the proposed roof. It is in our opinion that a flat roof would be unreasonable with the pitched tiled roof allowing for a more appealing streetscape with the design in keeping with other properties along Earl Street as well as complementing the existing roof structure.



Existing front façade of the subject property

The existing topography & built form prevents the proposed ridges from adhering to the 8.5m building height. This is largely due to the existing roof ridge having been constructed well above the height limit ranging from 10.29m (west) up to 10.39m (east) above ground level. For example, to make the ridge over the master bed compliant it would need to be lowered 130mm to the height line over the walk-in robe only as the remainder of the master is compliant to the height regulation. It would be unreasonable to force a lowering of the ridge as it would not only have roof heights externally, the traditional design of the dwelling would be adversely impacted from the streetscape. The proposal is a design option that supports a preferred planning outcome of a traditional design that compliments the existing dwelling & the surrounding neighbourhood.

In addition, the area in question is making use of the existing garage & drive location with the intention to provide a balance between the proposed additions to the existing landscaping & built form.

- Openness - A sense of openness has been maintained with the proposal. The proposed design to the side & rear creates flow between the internal & open space areas for the owners with elements of the proposal over the height limit to continue to allow for a sense of openness to support the desired

future character of the Beacon Hill low density area. The openness to the front of the property is maintained with the majority of the landscaped area preserved with the proposed additions. In addition, the overall proposed landscaped area of 40% achieves the required area that allows adequate usable outdoor recreation space & water infiltration.

- *Public & Private Views* - The view lines are maintained for the subject & surrounding dwellings as there is substantial rise in elevation on the northern side of Earl Street with the existing topography sloping down towards Mary Street. The aerial photo below indicates the height encroachment area shown with a red circle & the substantial separation to the surrounding dwellings.



45 Earl Street highlighted with area of height encroachment circled in red

- *Site Access & Circulation* is improved with a new internal vehicular access drive to Earl Street to continue to allow for parking for 2 vehicles. 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, side & rear areas of the property. The existing vegetation softens the streetscape & allows the development to blend in with the existing environment along Earl Street.

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 new & renovated dwellings along Earl Street, 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 private open space and landscaping.
- The proposal provides onsite parking.
- The proposal provides improved housing in a low-density environment.

The variation to the maximum building height & wall height requirements are, 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 Warringah Local Environment Plan 2012. 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 maintains the streetscape & character of the neighbourhood & request that council support the Clause 4.6 Variation of the Development Application.