
Sent: 20/06/2023 3:52:22 PM
Subject: Attn: Jordan Howard, DA2023/0225 Submission
Attachments: Response to Amended Reports.docx;

Attn Jordan Howard,

Please find attached further my submission in response to the amended Statement of Environmental Effects and Clause 4.6 Exception Request.

Anthony Cruickshank

Anthony Cruickshank
61 Cumberland Avenue
Collaroy NSW 2097

Attn Jordan Howard
Northern Beaches Council

Response to “Statement of Environmental Effects Report – Amended” and
“Clause 4.6 Exception to Development Standard Request – Amended”

It has been noted that amended reports have been submitted to support the application after numerous parties identified flaws in previous reports and documents related to the Development Standard 4.3 Height of Building.

The maximum height is now identified as 8.89m, an increase above the already non-compliant 8.8m compared to the development standard of 8.5m.

Review and comments to the amended “Statement of Environmental Effects Report”

In the amended report, several drawings related to the building height and development standard building envelopes (max height and side boundary) have been withdrawn. (Figure 7 Front Elevation, Figure 8 Rear Elevation, Figure 9 Western Side Elevation and Figure 10 eastern Side Elevation).

These figures selectively highlighted areas where minimal departure from the standard originate but fail to demonstrate the full extent of the departure.

Without seeing amended drawings, it is not possible to review and comment further on the breaches except to say that amended drawings would be far less favourable to the application, which is perhaps why they are removed.

4.0 Development Control Plan 2011 table – responses...

B1 Wall Heights - 8.3m v 7.2m control – seeking “variation with justification.”

This is a new construction where the exceedance does contribute to adverse impacts to adjoining properties.

B3 Side Boundary envelope – seeking “variation with justification.”

This justification relies on their statement ‘it is also noted that the proposal is compliant with the mapped WLEP height requirement of 8.5m’. This is not the case.

D7 Views – appendix attached in the report.

This report is unchanged and still does not consider impacts from within the property boundary. The lack of adequate communication regarding this has previously been raised with council.

Review and comments to the amended “Clause 4.6 Exception to Development Standard Request”

While not explicitly written in the report, the amendment itself is evidence that the previous report, inadvertently or otherwise, downplayed the departure from the standard.

The request now asks for a maximum departure of 0.39m (4.6%) compared to previous departure of 0.3m (3.5%). This is an increase in the departure of 31%

Where these figures are derived in unclear and of low confidence given the lack of new and amended reference material and the previous discrepancies.

Will an updated Master set be issued for review, highlight the reference points used to determine the maximum height?

The exception request now introduces a “5 Part Test” from *Wehbe v Pittwater*. It goes on to only use 1 part of the test while dismissing the remaining 4 parts.

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).

Objectives

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

The development will exceed adjoining properties significantly.

The report attempts to address the maximum non-compliance by suggesting it is confined to the front balcony. It does not consider the non-compliance in its entirety.

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

The proposal has NOT been fairly addressed in this report in relation to view loss and overshadowing, as previously submitted.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).

This exception to development standards request does not rely on this reason.

The objective or purpose of the standard IS relevant as it is to prevent excessive height of construction causing disruption of view, which has not been addressed by this report.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).

This exception to development standards request does not rely on this reason.

The object or purpose SHOULD be defeated or thwarted as compliance SHOULD be required and upholding the standard is not unreasonable. This is a new development that has no legacy components or remnants that make a compliant design difficult to achieve.

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 (Fourth Way).

This exception to development standards request does not rely on this reason.

The development standard HAS NOT and should not be abandoned. All new development should be compliant unless there are no objections submitted from to council from constituents, particularly neighbouring property owners.

Conclusion

Strict compliance should be required for a new development that DOES have unreasonable impacts with regards to view loss (that have not been properly assessed by the authors of the report (Metro Planning Services)

Strict numerical compliance is not unnecessary or unreasonable for a new development. The proposed design has been prepared to increase or maximise the existing expansive and uninterrupted views at the expense of those already sharing those views.

The development standard already allows for a significant increase above the height of the existing dwelling that will unquestionably have view loss implications for adjoining properties, albeit less significant.

This is not a case of challenging the height of a compliant proposal with some disruption of views but rather a challenge to a non-compliant proposal with unnecessary design features that result in significant disruption or loss of views, as previously established. No such compliant proposal has been prepared or submitted.

This is an amended report submitted following previous flaws being exposed in the initial report.