

10 APPENDIX ONE

Clause 4.6 – Exceptions to Development Standards

Variation of development standards may be considered under the provisions of this clause. The height of the proposed building exceeds the 8.5m permitted and accordingly such an assessment is provided below using the question and answer format recommended by the Department of Planning and Infrastructure.

What is the name of the environmental planning instrument that applies to the land?

Warringah Local Environmental Plan 2011

What is the zoning of the land?

R2 – Low Density Residential

What are the objectives of the zone?

The objectives of the zone are fulfilled as is addressed below.

- **To provide for the housing needs of the community.**
The improvements to the existing dwelling are consistent with this aim.
- **To provide a variety of housing types and densities.**
A single dwelling will be retained as a result of the improvements on the subject site.
- **To enable other land uses that provide facilities or services to meet the day to day needs of residents.**
This is not applicable to the existing detached dwelling.

What is the development standard being varied?

The height control under clause 4.3 of the WLEP11 requires a maximum height of 8.5 metres for the subject site.

Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3 – Height of Buildings

What are the objectives of the development standard?

The objectives of the control are fulfilled as is demonstrated below.

- a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,**

The proposal will result in a building of comparable scale to neighbours. The minor breach at the rear of the dwelling is for a limited portion and only results due to an existing sub-floor structure.

- b) to control the bulk and scale of buildings,**

The bulk and scale will not be impacted by the small breach. The development as proposed has a similar scale to neighbours and it will be a compatible and appropriate addition to the streetscape.

- c) to minimise disruption to the following:**

- (i) views to nearby residential development from public spaces (including the harbour and foreshores)
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),
The minor breach at the rear of the dwelling will have no impact on views. The roof ridge is an extension from the height at the front which is compliant. Accordingly, even if the dwelling were to be lowered in the area where the control is varied, the appropriate impacts for neighbours to the north would be the same. There are no neighbours to the rear.

- d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,**

Solar access for neighbours is achieved at a compliant and appropriate level.

- e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bush land and surrounding land uses.**

N/A

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

8.5 metres

What is the numeric value of the development standard in your development application?

The maximum height reached is 8.64m from the ground level and 8.87 metres to the lower ground floor. However as can easily be seen on the plans, the 8.64 metres is for a very limited portion of the dwelling. The 8.87 metres is not visible with the non-compliance being technical and internal below ground.

What is the percentage variation (between your proposal and the environmental planning instrument)?

0.39%

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

Strict compliance is unreasonable and unnecessary as the variation is for a very small component at the rear of the building. The vast majority of the building will comply. The scale of dwellings on the streetscape are similar and the reason for the variation is the siting of the existing structure and the fall of the land. Amendments to achieve compliance would result in an architecturally less pleasing result with no gain for the site, or neighbours or the streetscape. The variation has negligible impacts to neighbours and the surrounds.

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

Section 5(a) (i) and (ii) of the Act states:

- (a) to encourage:**
(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
(ii) the promotion and co-ordination of the orderly and economic use and development of land,

Strict compliance with the 8.5metre height development standard would hinder the achievement of these objects specified above and it would prevent the best architectural result for the streetscape. Approval of the application will not be at odds with any of the above objects and will for the most part have a nil impact.

Is the development standard a performance based control? Give details.

No, the standard is numeric.

Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?

Strict compliance would be unreasonable and unnecessary as the small area of non-compliance is not to the detriment of the site or neighbours. This is demonstrated in the review of the objectives of the height controls where we conclude that views, solar access, bulk and scale and privacy are all appropriate and not detrimentally impacted by the small breach to the height.

The locality and the site are impacted by difficult topography. The need to ensure reasonable retention of views and amenity to neighbours has also been key in the design. The proposal in its current form, with the minor height breach, has fulfilled the requirements of all of these key factors and satisfied the test of reasonableness to vary the height control.

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

There are sufficient grounds to permit the variation of the development standard. In particular:

- The variation is for a very small area at the rear of the dwelling.
- There are no shadowing or bulk issues resultant.
- The site is constrained by the slope and the existing siting.
- A key reason for the variation is the existing sub-floor structure which will not have a visible impact on the height.
- The overall result is an architecturally pleasing development, which could not be achieved with full compliance.