

**REQUEST FOR A VARIATION TO DEVELOPMENT STANDARDS UNDER
CLAUSE 4.6 PITTWATER COUNCIL LEP 2014**

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APPLICANTS NAME : Jo Willmore Designs

PROPERTY ADDRESS : 10 Capua Place, Avalon

PROPOSED DEVELOPMENT : Alterations and additions to existing dwelling

DATE : 27th August 2020

DEVELOPMENT STANDARD : Clause 4.3 of PLEP 2014 Height Of Buildings

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INTRODUCTION

Consent is sought for alterations and additions to the existing house at 10 Capua Place, Avalon. The works include demolition of an existing garage, construction of new garage and a new roof over an existing deck. The new roof over the existing deck will breach the maximum 8.5m height plane and therefore we are seeking approval to vary Clause 4.3 Height of Buildings development standard of Pittwater Council Local Environmental Plan 2014.

DEVELOPMENT STANDARD - Clause 4.3 HEIGHT OF BUILDINGS

As per Clause 4.3(2) the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map - which is 8.5 metres. However Clause 4.3(2D) states that despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

OBJECTIVES of Clause 4.3 Height of Buildings

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*

- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

PROPOSAL

Alterations and additions are proposed to the existing house at 10 Capua Place Avalon. The proposed works include a new garage to replace an existing single car garage and a pitched roof over an existing entertaining deck. The new roof has been designed as an open structure with a gable running east to west to reflect the existing house roof though approximately 1.8m lower. However due to the steepness of the site, which is in excess of 30 degrees, and position of the existing deck the new deck roof will at its western end breach the 8.5m height plane. At its highest point the new roof will be approximately 11.2m above natural ground though this will only occur at the ridge and for a small length of the roof. As the breach occurs in the centre of the roof which is centred on an existing deck and with the breach being approximately 6m from adjacent boundaries there will be minimal impact on neighbouring properties.

Though non compliant all the objectives of the clause will be met. The new roof is over existing floor area and will not increase the building footprint nor reduce landscaped areas. The roof is significantly lower than the house roof and with it being an open structure it will not increase any perceived bulk and scale and remain compatible with the scale of neighbouring homes. Overshadowing of neighbouring homes will not be increased due to the non compliant section of roof and as it is set close to the existing house and with the maximum ridge height being 1.8m lower than the neighbouring deck of the 12 Capua Place there will be no impact on existing views experienced from neighbouring properties. With all existing trees to remain the majority of the new roof will be screened from the streetscape maintaining a home that is low density, integrated with landscaping and therefore compatible with E4 zoning and the desired future character of the locality.

CLAUSE 4.6 of PLEP 2014 EXCEPTION TO DEVELOPMENT STANDARDS

Clause 4.6 of PLEP 2014 does provides for variation to this development standard to be approved

- (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) 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 for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

Also-

(4) Development consent must not be granted for development that contravenes a development standard unless:

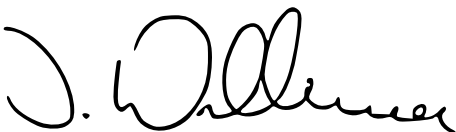
(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) 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,

Pursuant to Clause 4.6 we are requesting the variation to clause 4.3 Height of Buildings of Pittwater LEP 2014 as we feel that the proposed works provides a better outcome than a fully compliant proposal and it is not '*expressly excluded from the operation of this clause*'. The non compliance with the 8.5m height plane is attributed to the existing deck level and steepness of the site. Strict compliance could be achieved by rotating the roof and running the ridge of the new roof from north to south instead of east to west. In doing this however there would be a greater impact on neighbouring properties in terms of view loss and overshadowing. Strict compliance is unnecessary as the proposed works comply with all the objectives of this height control as set out above and will have no impact on the amenity of surrounding neighbours in terms of view loss, privacy or increased overshadowing. It is our opinion that there are 'sufficient environmental planning grounds' to justify contravening the development standard' and compliance with this standard is unreasonable and unnecessary and as such we request a variation to the standard.

SIGNED BY APPLICANT:

A handwritten signature in black ink, appearing to read 'J. Williams', is written over a horizontal line.