

Alterations and Additions to an Existing Dwelling House

2 – 4 Kent Street, Collaroy

Amended Statement of Environmental Effects

6 June 2025

Ref: 24144/4

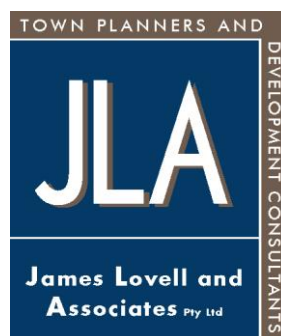


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LIST OF ATTACHMENTS

Request to Vary the Building Height Control

1. INTRODUCTION

1.1 Preamble

This Amended Statement of Environmental Effects (SEE) has been prepared to accompany a Development Application (DA) to Northern Beaches Council for alterations and additions to the existing dwelling house located at No's 2 – 4 Kent Street, Collaroy.

The subject site is located on the western side of Kent Street, at the junction with Anzac Avenue. The site comprises two (2) adjoining allotments with a combined area of 1,461m². The site is an irregular rectangle in shape with frontages of approximately 37 metres to Kent Street and 42 metres to Anzac Avenue.

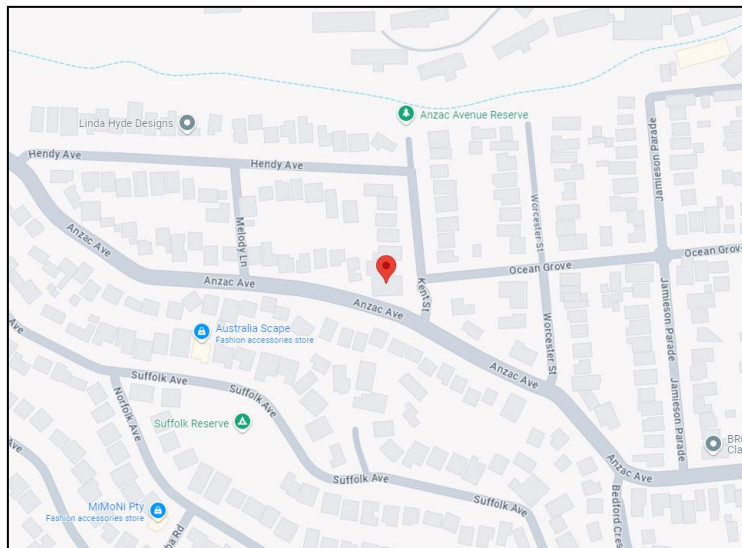


Figure 1: Location

The site is currently occupied by a 2-storey dwelling house above a partially excavated car parking level.

The lower ground floor level accommodates off-street car parking for two (2) vehicles and some ancillary storage space. The ground floor level accommodates a bedroom, playroom, study, amenities and the main living rooms. The first floor level accommodates the main bedroom and amenities.

The existing dwelling generally occupies the southern portion of the site, and the northern portion of the site accommodates a tennis court.

The proposed development comprises alterations and additions to the dwelling house including internal reconfiguration of the ground floor level and extension towards the west, and reconfiguration and expansion of the first floor level towards the south and west.

Further, a passenger lift is proposed between the lower ground floor and first floor levels, and the existing terrace at the ground floor level is being extended towards the north.

The proposed works are generally intended to improve the layout and efficiency of the existing dwelling house, improve the relationship between indoor and outdoor spaces, maintain the existing maximum building height and overall architectural composition and character of the existing dwelling, and maintain the spatial separation to the surrounding development by retaining the existing tennis court on the northern portion of the site.

1.2 Purpose

This SEE has been prepared pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and accompanying *Regulation*. To that end, it:

- identifies the site and provides details of its locational context;
- describes the physical features and characteristics of the proposed development;
- identifies the environmental planning instruments and policies that apply to the site and considers the proposed development against those that are relevant; and
- provides an assessment of the proposed development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

2. SITE DESCRIPTION

2.1 Site Details

The subject site formally comprises Lots 10 and 11 in Deposited Plan 12609 and is commonly known as No's 2 – 4 Kent Street, Collaroy.

The site is located on the western side of Kent Street, at the junction with Anzac Avenue. The site comprises two (2) adjoining allotments with a combined area of 1,461m². The site is an irregular rectangle in shape with frontages of approximately 37 metres to Kent Street and 42 metres to Anzac Avenue.

The site is currently occupied by a 2-storey dwelling house above a partially excavated car parking level.

The lower ground floor level accommodates off-street car parking for two (2) vehicles and some ancillary storage space. The ground floor level accommodates a bedroom, playroom, study, amenities and the main living rooms. The first floor level accommodates the main bedroom and amenities.

The existing dwelling generally occupies the southern portion of the site, and the northern portion of the site accommodates a tennis court.



Photograph 1: Existing Dwelling Viewed from Kent Street



Photograph 2: Existing Dwelling Viewed from Anzac Avenue

The topography of the site has been partially modified to accommodate the existing structures and generally falls downhill from the south-west to north-east, with a maximum level change from boundary to boundary of approximately 5 metres.

The existing vegetation on the site is typical of a heavily modified urban environment and comprises a scattering of trees, shrubs and groundcovers.

2.2 Site Context

The site is located within an established residential environment characterised by a predominance of detached dwellings.

The existing buildings extend across multiple development eras, contributing to a mix of building forms and architectural styles.

Further, the locality is progressively undergoing a renewal process, with many of the older style dwellings being expanded and/or replaced with larger and more contemporary style dwelling houses.

The form of existing development in the locality has been influenced by topographical features. In particular, the surrounding development to the south is elevated above the subject site, and the site effectively forms part of a transition between the elevated topography to the south and the more level topography to the north.



Figure 2: Site Context

The site is adjoined to the north by a 2-storey dwelling house (No. 6 Kent Street) incorporating a double garage at the ground floor level.



Photograph 3: Adjoining Dwelling House to the North

The site is adjoined to the west by a 2-storey dwelling house (No. 45 Anzac Avenue) incorporating a single garage at the lower ground floor level.



Photograph 4: Adjoining Dwelling House to the West

The surrounding development to the east (on the opposite side of Kent Street) and south (on the opposite side of Anzac Avenue) comprises a series of detached dwelling houses. The surrounding dwellings to the south (in particular) are substantially elevated above the subject site.



Photograph 5: Surrounding Development to the East



Photograph 6: Surrounding Development to the South



Photograph 7: Surrounding Development to the South

3. PROPOSED DEVELOPMENT

3.1 General Description

The proposed development is illustrated in the Amended Architectural Plans prepared by *Action Plans* dated 30 May 2024.

The proposed development comprises alterations and additions to the dwelling house including internal reconfiguration of the ground floor level and extension towards the west, and reconfiguration and expansion of the first floor level towards the south and west.

Lower Ground Floor

The proposed works at the lower ground floor level comprise the installation of a passenger lift extending to the ground and first floor levels above.

The lower ground floor level accommodates off-street car parking for two (2) levels, ancillary storage space and access to the passenger lift.

Ground Floor Level

The proposed works at the ground floor level comprise internal reconfiguration of the existing floor space and expansion towards the west.

The ground floor level accommodates a study, nursery, the main living rooms and amenities. The main living rooms have access to the expanded terrace orientated towards the north.

First Floor Level

The proposed works at the first floor level comprise internal reconfiguration of the existing floor space and expansions towards the south and west.

The first floor level accommodates five (5) bedrooms, a study and amenities. The master bedroom and three (3) additional bedrooms have access to balconies orientated towards the east and north.

General

The proposed works are generally intended to improve the layout and efficiency of the existing dwelling house, improve the relationship between indoor and outdoor spaces, maintain the existing maximum building height and overall architectural composition and character of the existing dwelling, and maintain the spatial separation to the surrounding development by retaining the existing tennis court on the northern portion of the site.

In that regard, the proposed development maintains the existing palette of external materials and finishes, comprising a mix of sandstone, painted brickwork, weatherboard cladding, aluminium framed windows and doors and metal roof sheeting.

Finally, the proposed development includes removing the paved areas within the setbacks to the southern and western boundaries and replacing the existing paving with new landscaping.

4. SECTION 4.15 ASSESSMENT

The heads of consideration incorporated in Section 4.15 of the *Environmental Planning and Assessment Act 1979* comprise:

- any environmental planning instrument;
- any proposed instrument that is or has been the subject of public consultation and that has been notified to the consent authority;
- any development control plan;
- any planning agreement or draft planning agreement;
- any matters prescribed by the Regulation;
- the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality;
- the suitability of the site for the development;
- any submissions made in accordance with the Act or the Regulations; and
- the public interest.

4.1 Environmental Planning Instruments

The site is subject to the following environmental planning instruments:

1. State Environmental Planning Policy (SEPP) (Building Sustainability Index: BASIX) 2004;
2. State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021; and
3. Warringah Local Environmental Plan (LEP) 2011.

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 requires all new residences to meet sustainability targets of 40% reduction in potable water consumption, and a 50% reduction in greenhouse gas emissions.

The DA is accompanied by a compliant BASIX Certificate which demonstrates the proposed development will meet the relevant requirements for sustainability.

SEPP (Resilience and Hazards) 2021

Clause 4.6 specifies that a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is, or is likely to be contaminated, and if the land is, or is likely to be contaminated, whether the land requires remediation before the land is developed for the proposed use.

The site is currently used for residential purposes, and evidently has not been zoned or used for industrial, agricultural or defense purposes at any time in the lands recent history.

In the circumstances, there is no evidence to suggest that the land is likely to be contaminated to the extent that would render it unsuitable for continued residential use.

Warringah LEP 2011

The site is zoned R2 – Low Density Residential pursuant to the Warringah LEP 2011 and “dwelling houses” are permissible in the zone with the consent of Council.

Clause 2.3 specifies that the consent authority shall have regard to the objectives for development in a zone when determining a DA in respect of land within the zone.

The relevant objectives of the zone are expressed as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposed development is consistent with, or not antipathetic to, the objectives of the zone on the basis that the proposed dwelling will better provide for the housing needs of the community within an existing low density residential environment. Further, the proposed development does not require the removal of any existing vegetation, and the landscaped setting of the site will be improved.

Clause 4.3 specifies a maximum building height of 8.5 metres. The existing dwelling extends to a maximum height of approximately 11.24 metres measured from the excavated lower ground floor level or approximately 10.339 metres measured from an extrapolation of existing ground level to more closely reflect natural ground level. The proposed works have been designed to maintain the existing maximum building height.

Clause 4.6 specifies that 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.*

The DA is accompanied by a “written request” to vary the building height control (**Attachment A**). In that regard, the variation to the building height control primarily relates to the building height being calculated from the excavated lower ground floor level, and the design objective to maintain the architectural composition and character of the existing dwelling by preserving the pitched roof form.

Further, the surrounding development to the south is elevated above the subject site, and the site effectively forms part of a transition between the elevated topography to the south and the more level topography to the north.

Finally, the proposed development has been carefully designed to maintain the existing maximum building height.

In the circumstances, strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify varying the building height control.

Clause 5.10 requires the consent authority to consider the impacts of the proposed development on the heritage significance or any heritage items or heritage conservation areas.

The site is not identified as a heritage item and is not located within a heritage conservation area. The *“remnant native street trees”* along the carriageway of Anzac Avenue are identified as heritage items and the proposed development will have no impact on any street trees or their curtilage.

Clause 6.2 requires the consent authority to consider the impacts of earthworks relating to drainage patterns and soil stability, the likely future use of the land, the quality of the fill or excavation, the effect on the existing and likely amenity of adjoining properties, the likelihood of disturbing relics, and the potential for impacts on any watercourse, drinking water catchment or environmentally sensitive area.

The earthworks associated with the proposed development are very minor in nature and will be appropriately managed, with normal precautions taken during the construction period to ensure there are no adverse environmental impacts associated with the proposed earthworks.

Clause 6.4 requires the consent authority to be satisfied that the DA has been assessed for the risk associated with landslides in relation to both property and life, the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and the development will not impact on or affect the existing subsurface flow conditions.

The earthworks associated with the proposed development are very minor in nature and will have no impact on risk associated with landslides. Further, the proposed works will be connected to the existing stormwater system, and the proposed development will have no impact on existing subsurface flow conditions.

The LEP does not incorporate any further controls of specific relevance to the proposed development.

4.2 Proposed Environmental Planning Instruments

Council is in the process of preparing background documents to inform the preparation of an updated LEP, however a draft LEP has not been the subject of a Gateway Determination or been publicly exhibited and is not a matter for consideration in relation to the current DA.

4.3 Development Control Plans

The site is subject to the following development control plan:

1. Warringah Development Control Plan (DCP) 2011.

Warringah DCP 2011

The Warringah DCP 2011 provides objectives and controls intended to supplement the provisions of the Warringah LEP 2011. Part B of the DCP provides Built Form Controls, Part C provides Siting Factors, Part D provides Design Controls, and Part E provides controls relating to the Natural Environment.

Section 3.42 of the *Environmental Planning and Assessment Act 1979* specifies that the provisions of a DCP “are not statutory requirements”.

Further, Section 4.15(3A)(b) specifies that the consent authority “is to be flexible in applying” the provisions of a DCP, and “allow reasonable alternative solutions that achieve the objectives of those standards for dealing with that aspect of the development”.

The relevant provisions¹ of the DCP are considered in Table 4.3.1 as follows:

Table 4.3.1 – Warringah Development Control Plan 2011		
Control	Proposed	Satisfactory
Part B – Built Form Controls		
B1 Wall Heights		
Maximum wall height of 7.2	The proposed development	Appropriate

¹ The relevant provisions of the DCP comprise those which relate specifically to the proposed development and/or those which would not normally be required and/or provided as Conditions of Consent and/or as part of a Construction Certificate.

metres measured from existing ground level to the underside of the ceiling.	extends to a maximum wall height of approximately 6.5 metres on the southern façade and 9.2 metres on the northern façade. The variation on the northern façade primarily relates to the wall height being calculated from the excavated lower ground floor level, and the design objective to expand and improve the layout of the first floor level whilst maintaining the architectural composition and character of the existing dwelling. Further, the surrounding development to the south is elevated above the subject site, and the site effectively forms part of a transition between the elevated topography to the south and the more level topography to the north.	Design Solution
B3 Side Boundary Envelope		
Building envelope determined by projecting planes at 45 degrees from a height of 4 metres along the side boundaries.	The proposed development complies with the building envelope control measured to the western (side) boundary.	Yes
B5 Side Boundary Setbacks		
Minimum side boundary setback of 0.9 metres.	The proposed development provides a minimum side boundary setback (to the western boundary) of 4.783 metres.	Yes
B7 Front Boundary Setbacks		
Minimum front boundary setback of 6.5 metres, and 3.5 metre setback to the secondary frontage.	The proposed development maintains the existing setback to Kent Street and maintains the existing setback to Anzac Avenue at the ground floor level and complies with the setback control at the first floor level with the very minor exception of the south-	Appropriate Design Solution

	western corner of Bedroom 5 at the first floor level.	
The front setback area is generally to be landscaped and generally free of structures other than driveways, letter boxes, garbage storage areas and fences.	The proposed development maintains the existing treatment of the setback to Kent Street and includes removing the paved areas within the setbacks to the southern and western boundaries and replacing the existing paving with new landscaping.	Yes
B9 Rear Boundary Setbacks		
Minimum rear boundary setback of 6.0 metres.	The site does not specifically have a rear boundary.	Yes
The rear setback area is to be landscape and free of any above or below ground structures.	The proposed development maintains the existing treatment of the setback to Kent Street and includes removing the paved areas within the setbacks to the southern and western boundaries and replacing the existing paving with new landscaping.	Yes
Part C – Siting Factors		
C2 Traffic, Access and Safety		
The location of vehicular and pedestrian access shall meet the specified objectives.	The existing vehicular and pedestrian access points are being retained.	Yes
Vehicle crossing construction and design is to be in accordance with Council's Minor works specification.	The existing vehicle crossing is being maintained.	Yes
C3 Parking Facilities		
Garage doors are not to dominate the façade.	The existing garage doors are being maintained.	Yes
Where garages and carports face the street, ensure the garage or carport opening does not exceed 6 metres or 50% of the building width, whichever is the lesser.	The existing garage is being maintained.	Yes
Car parking is to be provided in accordance with Appendix 1 which requires 2 spaces per	The existing off-street car parking provision of two (2) spaces is being maintained.	Yes

dwelling.		
C4 Stormwater		
Stormwater runoff must not cause downstream flooding and have minimal environmental impact.	The stormwater runoff will not cause downstream flooding and will have minimal environmental impact.	Yes
Stormwater runoff is to discharge to a drainage system approved by Council.	The stormwater will continue to discharge to the approved drainage system.	Yes
Development must drain via gravity to a Council constructed or natural drainage system.	The stormwater will continue to drain via gravity to the existing stormwater system.	Yes
C7 Excavation and Landfill		
Excavation and landfill works must not result in any adverse impact on adjoining land.	The proposed earthworks are very minor in nature and will be appropriately managed, with normal precautions taken during the construction period to ensure there are no adverse environmental impacts.	Yes
C8 Demolition and Construction		
A Waste Management Plan must be submitted.	The DA is accompanied by a Waste Management Plan.	Yes
Demolition and construction sites must be managed to minimise impacts and pollutants.	The demolition and construction phases will be managed to minimise impacts and pollutants.	Yes
C9 Waste Management		
Each dwelling is to include a designated area to accommodate the allocated number of waste and recycling containers.	The waste and recycling bins will continue to be stored within the existing garage.	Yes
Part D – Design		
D1 Landscaped Open Space and Bushland Setting		
Provide a minimum landscaped area of 40% of the site area.	The proposed development increases the total landscaped area on the site by approximately 50.80m ² from 262.84m ² to 313.64m ² .	Yes
D2 Private Open Space		
Provide private open space of	The proposed development	Yes

60m ² with a minimum dimension of 5 metres.	maintains and improves the private open space on the site.	
The private open space is to be directly accessible from a main living area.	The private open space at the ground floor level is accessible directly from the main living rooms.	Yes
Private open space is to be located and designed to ensure privacy of occupants of adjacent buildings and the proposed development.	The private open space will not present opportunities for significant or unreasonable overlooking of any adjoining properties.	Yes
Private open space shall not be located within the primary front building setback.	The private open space is not located within the front building setback.	Yes
Private open space is to be located to maximise solar access.	The private open space is orientated towards the north and will receive good solar access at all times of the year.	Yes
D3 Noise		
Mechanical plant and equipment shall not exceed the ambient background noise by more than 5dB(A) at the receiving boundary.	Any mechanical plant and equipment will be designed to not exceed the ambient background noise by more than 5dB(A) at the receiving boundary.	Yes
Locate noise sensitive rooms away from noise sources.	The site is not affected by any significant noise sources.	Yes
D6 Access to Sunlight		
Development should not overshadow any public open space.	The proposed building will not overshadow any public open space.	Yes
At least 50% of the required area of private open space, and 50% of the required open space of adjoining dwellings are to receive a minimum of 3 hours sunlight between 9am and 3pm on 21 June.	The shadows cast by the proposed development will substantially fall within the shadows cast by existing structures and will have no impact on the private open space of any surrounding property between 9am and 3pm on 21 June.	Yes
D7 Views		
Development shall provide for the reasonable sharing of views.	The proposed development will have no significant or adverse	Yes

	impacts on any existing public or private views.	
D8 Privacy		
Building layout should be designed to optimise privacy for occupants of the development and adjoining properties.	The proposed development will have no significant or adverse impacts on the privacy of any surrounding property.	Yes
Orientate living areas, habitable rooms and window to private open space or to the street to limit overlooking.	The living areas and private open space are generally orientated to the north across the existing tennis court.	Yes
Effective location of doors, windows and balconies to avoid overlooking.	The location of doors, windows and balconies mitigates any significant internal or external overlooking.	Yes
Windows of one dwelling are to be located so they do not provide direct or close views into the windows of other dwellings.	The windows do not provide direct or close views into the windows of any other dwellings to/from main living areas.	Yes
D9 Building Bulk		
Side and rear setbacks are to be progressively increased as wall height increases.	The proposed building includes extensive vertical and horizontal articulation, including generous setbacks to the boundaries.	Yes
Large areas of continuous wall planes are to be avoided.	The proposed building includes extensive vertical and horizontal articulation, and there are no large expanses of continuous walls.	Yes
On sloping sites, the height and bulk are to be minimised, with the building mass to step down the slope.	The proposed development maintains the existing floor levels.	Yes
Building height and scale needs to relate to topography and site conditions.	The height and scale of the building relates appropriately to the existing topography and site conditions.	Yes
Orientate development to address the street.	The proposed development maintains and improves the presentation of the dwelling towards the street frontages.	Yes

Use colour, materials and surface treatment to reduce building bulk.	The palette of external materials and finishes have been chosen to complement and maintain the architectural style and composition of the existing dwelling, visually break up the facades, and reduce the apparent building bulk.	Yes
Landscape plantings are to be provided to reduce the visual bulk of new buildings.	The landscaped areas on the site will be increased and accommodate improved landscaping to further reduce the bulk of the building.	Yes
Articulate walls to reduce building mass.	The proposed building includes extensive vertical and horizontal articulation, and there are no large expanses of continuous walls.	Yes
D10 Building Colours and Materials		
Minimise the visual impact of new development through the use of appropriate colours and materials.	The palette of external materials and finishes have been chosen to complement and maintain the architectural style and composition of the existing dwelling, visually break up the facades, and reduce the apparent building bulk.	Yes
D11 Roofs		
Roofs should complement the roof pitch and forms of existing buildings in the streetscape.	The locality is characterised by a diversity of building forms and roof styles, and the proposed roof forms will complement the architectural style and character of the building.	Yes
Articulate the roof with elements such as dormers, gables, balconies, verandahs and pergolas.	The roof form incorporates gables, dormer elements and balconies.	Yes
Roofs shall incorporate eaves for shading.	The roof incorporates eaves for shading.	Yes
Roofing materials should not	The roof material will not cause	Yes

cause excessive glare and reflection.	excessive glare or reflection.	
D12 Glare and Reflection		
Sunlight reflectivity that may impact on surrounding properties is to be minimised.	The external materials and finishes will minimise sunlight reflectivity.	Yes
D13 Front Fences and Front Walls		
Fences located within the front building setback are to complement the existing streetscape.	The locality is characterised by a wide diversity of front boundary treatments, and the existing boundary fencing is being retained.	Yes
D14 Site Facilities		
Site facilities including garbage and recycling enclosures, mail boxes and clothes drying facilities are to be adequate and convenient for users and services and are to have minimal visual impact from public places.	The existing site facilities are being retained.	Yes
D15 Side and Rear Fences		
Generally, side and rear boundary fences are to be no higher than 1.8 metres measured from the low side where there is a difference in level on either side of the boundary.	The existing boundary fences are being retained.	Yes
D17 Tennis Courts		
Tennis courts are to be located behind the front building setback.	The existing tennis court is being retained.	Yes
D20 Safety and Security		
Buildings are to overlook streets as well as public and communal places to allow casual surveillance.	The dwelling includes multiple window openings orientated towards the street frontages to maintain and improve the casual surveillance of the public domain.	Yes
Entrances to buildings are to be visible from public streets wherever possible.	The main entrance is clearly visible from the public domain.	Yes
D21 Provision and Location of Utility Services		

Utility services must be provided, including provision of the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage.	All necessary utilities and services are available to the site.	Yes
D22 Conservation of Energy and Water		
The orientation, layout and landscaping of sites is to make the best use of natural ventilation, daylight and solar energy.	The orientation, layout and landscaping promote natural ventilation and solar access.	Yes
Buildings are to be designed to minimise energy and water consumption.	The layout and materials minimise energy consumption, and water efficient appliances will be installed throughout.	Yes
Part E – The Natural Environment		
E1 Preservation of Trees or Bushland Vegetation		
Development is to be situated and designed to minimise the impact on remnant native vegetation, including canopy trees and understorey vegetation, and on remnant native ground cover species.	The site does not include any remnant native vegetation, and the proposed development does not include the removal of any existing vegetation.	Yes
E6 Retaining Unique Environmental Features		
Development is to be designed to address any distinctive environmental features of the site and on adjoining nearby land.	The site does not have any specific environmental features, and the proposed development maintains the existing floor levels and accommodates the topographical conditions of the site.	Yes
E10 Landslip Risk		
The applicant must demonstrate that the proposed development is justified in terms of geotechnical stability and will be carried out in accordance with good engineering practice.	The earthworks associated with the proposed development are very minor and will have no impact on the geotechnical stability of the site.	Yes
Development must not cause detrimental impacts because of	The stormwater discharge from the site will have no detrimental	Yes

stormwater discharge from the land.	impacts.	
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The proposed development complies with the majority of the applicable planning controls, with the exceptions being partial variations to the wall height control (along the northern façade) and the partial variation to the setback to Anzac Avenue.

In that regard, Section 3.42 of the *Environmental Planning and Assessment Act 1979* specifies that the provisions of a DCP *"are not statutory requirements"*.

Further, Section 4.15(3A)(b) specifies that the consent authority *"is to be flexible in applying"* the provisions of a DCP, and *"allow reasonable alternative solutions that achieve the objectives of those standards for dealing with that aspect of the development"*.

Wall Height

The variation to the wall height control on the northern façade primarily relates to the wall height being calculated from the excavated lower ground floor level, and the design objective to expand and improve the layout of the first floor level whilst maintaining the architectural composition and character of the existing dwelling.

The objectives of the wall height control are expressed as follows:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*
- *To ensure development is generally beneath the existing tree canopy level.*
- *To provide a reasonable sharing of views to and from public and private properties.*
- *To minimise the impact of development on adjoining or nearby properties.*
- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*
- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

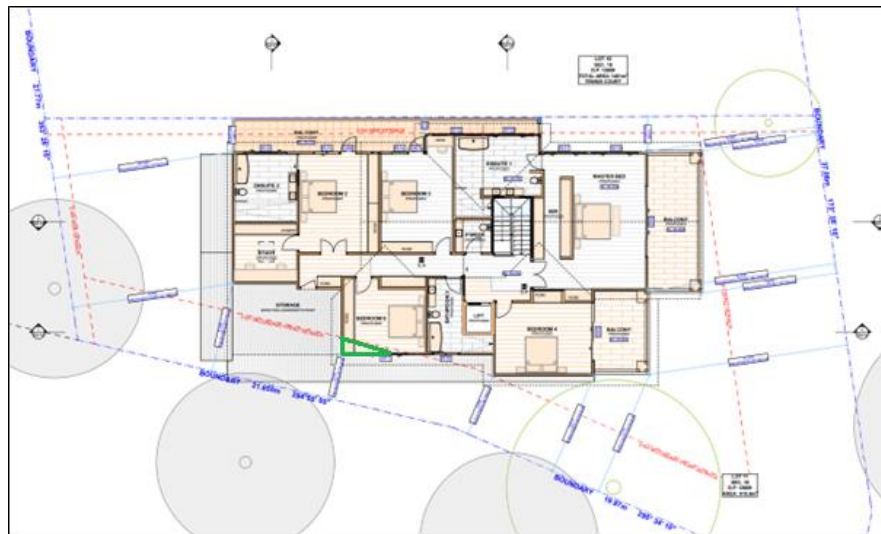
The northern façade is substantially separated from the adjoining properties by the existing tennis court and will have no material impact on the amenity of the adjoining properties.

Further, the proposed development maintains the existing palette of external materials and finishes, and the overall architectural composition and character of the existing dwelling.

In the circumstances, the proposed development achieves the objectives of the wall height control notwithstanding the partial numerical variation.

Front Boundary Setbacks

The proposed development maintains the existing setback to Kent Street and maintains the existing setback to Anzac Avenue at the ground floor level and comfortably complies with the setback control at the first floor level with the very minor exception of the south-western corner of Bedroom 5 at the first floor level (refer to green marking on plan extract below).



The variation to the setback control effectively relates to the splayed frontage to Anzac Avenue, and the need to provide regular room shapes.

The objectives of the front boundary setback controls are expressed as follows:

- *To create a sense of openness.*

- *To maintain the visual continuity and pattern of buildings and landscape elements.*
- *To protect and enhance the visual quality of streetscapes and public spaces.*
- *To achieve reasonable view sharing.*

The variation to the setback control relates to a very small portion of the southern façade and the remainder of the first floor level remains comfortable behind the front boundary setback control.

Further, the proposed development includes removing the paved areas within the setbacks to the southern and western boundaries and replacing the existing paving with new landscaping.

The proposed development provides extensive vertical and horizontal articulation, and the palette of external materials and finishes have been chosen to complement and maintain the architectural style and composition of the existing dwelling, visually break up the facades, and reduce the apparent building bulk.

Finally, the proposed development will have no significant or adverse impacts on any existing public or private views.

In the circumstances, the proposed development achieves the objectives of the front boundary setback controls notwithstanding the partial numerical variation.

4.4 Planning Agreements

There are no planning agreements of relevance to the proposed development.

4.5 Impacts of the Development

The site is not environmentally constrained in any way in terms of the key considerations of bushfire, vegetation, heritage or flooding.

The site is located within an established residential environment characterised by a predominance of detached dwellings. The existing buildings extend across multiple development eras, contributing to a mix of building forms and architectural styles.

Further, the locality is progressively undergoing a renewal process, with many of the older style dwellings being expanded and/or replaced with larger and more contemporary style dwelling houses.

The proposed development provides extensive vertical and horizontal articulation, and the palette of external materials and finishes have been chosen to complement and maintain the existing maximum building height and architectural style and composition of the existing dwelling, visually break up the facades, and reduce the apparent building bulk.

Further, the retention of the existing tennis court on the northern portion of the site maintains substantial spatial separation with the surrounding properties.

The proposed development will improve the landscaped setting of the site and substantially maintain the amenity of the surrounding properties in terms of the key considerations of privacy, overshadowing, views and visual bulk.

Finally, to ensure that sediment laden waters are not released from the site during construction works, erosion and sediment control measures are to be established on the site and maintained during the demolition and construction phases of the proposed development.

4.6 Suitability of the Site

The site is located within an established residential environment characterised by a predominance of detached dwellings. The existing buildings extend across multiple development eras, contributing to a mix of building forms and architectural styles.

Further, the locality is progressively undergoing a renewal process, with many of the older style dwellings being expanded and/or replaced with larger and more contemporary style dwelling houses.

The proposed development will improve the layout and efficiency of the existing dwelling house, improve the relationship between indoor and outdoor spaces, maintain the existing maximum building height and the overall architectural composition and character of the existing dwelling and maintain the spatial separation to the surrounding development by retaining the existing tennis court on the northern portion of the site

4.7 Public Interest

The proposed development serves the public interest by improving the layout and efficiency of the existing dwelling house without imposing any significant or unreasonable impacts on the amenity of surrounding land.

5. CONCLUSION

The site is located on the western side of Kent Street, at the junction with Anzac Avenue. The site comprises two (2) adjoining allotments with a combined area of 1,461m².

The site is currently occupied by a 2-storey dwelling house above a partially excavated car parking level. The existing dwelling generally occupies the southern portion of the site, and the northern portion of the site accommodates a tennis court.

The proposed development comprises alterations and additions to the dwelling house including internal reconfiguration of the ground floor level and extension towards the west, and reconfiguration and expansion of the first floor level towards the south and west.

Further, a passenger lift is proposed between the lower ground floor and first floor levels, and the existing terrace at the ground floor level is being extended towards the north.

Finally, the proposed development includes removing the paved areas within the setbacks to the southern and western boundaries and replacing the existing paving with new landscaping.

The proposed works are generally intended to improve the layout and efficiency of the existing dwelling house, improve the relationship between indoor and outdoor spaces, maintain the existing maximum building height and the overall architectural composition and character of the existing dwelling and maintain the spatial separation to the surrounding development by retaining the existing tennis court on the northern portion of the site.

The proposed development complies with the majority of the applicable planning controls, and where numerical variations apply, the proposed development achieves the objectives of the controls.

Finally, the proposed development will not impose any significant or unreasonable impacts on the public domain or the amenity of surrounding properties.

ATTACHMENT A

Request to Vary the Building Height Control

INTRODUCTION

The subject site formally comprises Lots 10 and 11 in Deposited Plan 12609 and is commonly known as No's 2 – 4 Kent Street, Collaroy.

The site is located on the western side of Kent Street, at the junction with Anzac Avenue. The site comprises two (2) adjoining allotments with a combined area of 1,461m². The site is an irregular rectangle in shape with frontages of approximately 37 metres to Kent Street and 42 metres to Anzac Avenue.

The site is currently occupied by a 2-storey dwelling house above a partially excavated car parking level.

The lower ground floor level accommodates off-street car parking for two (2) vehicles and some ancillary storage space. The ground floor level accommodates a bedroom, playroom, study, amenities and the main living rooms. The first floor level accommodates the main bedroom and amenities.

The existing dwelling generally occupies the southern portion of the site, and the northern portion of the site accommodates a tennis court.

The topography of the site has been partially modified to accommodate the existing structures and generally falls downhill from the south-west to north-east, with a maximum level change from boundary to boundary of approximately 5 metres.

The existing vegetation on the site is typical of a heavily modified urban environment and comprises a scattering of trees, shrubs and groundcovers.

The site is zoned R2 – Low Density Residential pursuant to the Warringah Local Environmental Plan (LEP) 2011 and “dwelling houses” are permissible in the zone with the consent of Council.

The proposed development comprises alterations and additions to the dwelling house including internal reconfiguration of the ground floor level and extension towards the west, and reconfiguration and expansion of the first floor level towards the south and west.

Further, a passenger lift is proposed between the lower ground floor and first floor levels, and the existing terrace at the ground floor level is being extended towards the north.

The proposed works are generally intended to improve the layout and efficiency of the existing dwelling house, improve the relationship between indoor and outdoor spaces, maintain the existing maximum building height and the overall architectural composition and character of the existing dwelling and maintain the spatial separation to the surrounding development by retaining the existing tennis court on the northern portion of the site.

Clause 4.3 specifies a maximum building height of 8.5 metres. The existing dwelling extends to a maximum height of approximately 11.24 metres measured from the excavated lower ground floor level or approximately 10.339 metres measured from an extrapolation of existing ground level to more closely reflect natural ground level. The proposed works have been designed to maintain the existing maximum building height.

In that regard, strict compliance with the building height control would require portions of the existing dwelling house to be demolished, unnecessarily restrict the proposed expansion of the first floor level and otherwise require a modified roof form that would not be compatible with the architectural composition and character of the existing dwelling.

The portions of the existing and proposed buildings that extend above the building height control are identified on the following plan extracts.

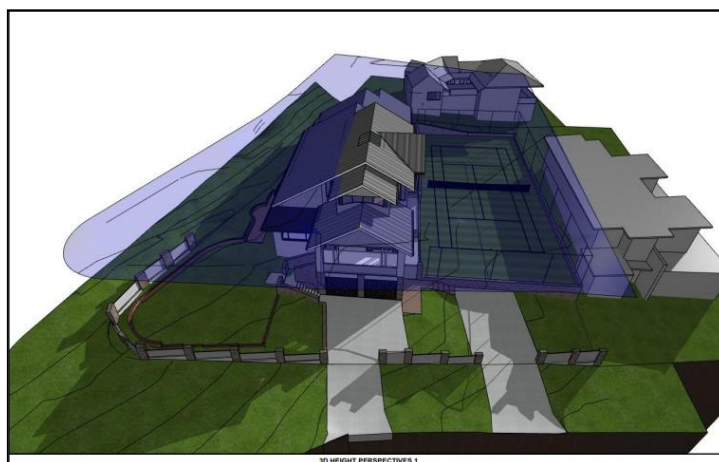


Figure 1 – Existing Variation to the Building Height Control

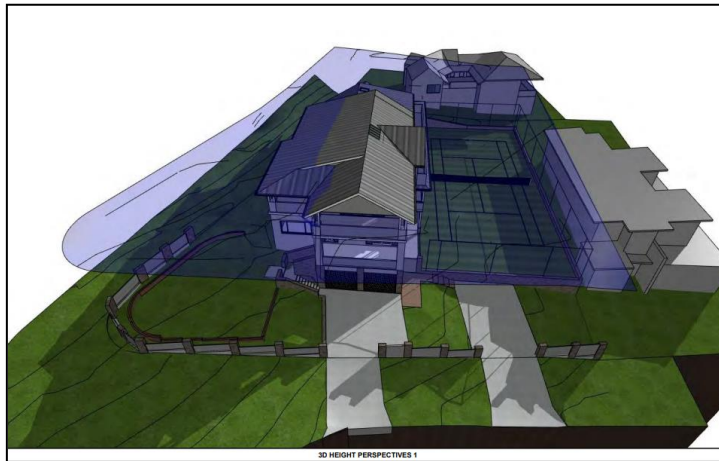


Figure 2 – Proposed Variation to the Building Height Control (Measured Extrapolated Ground Level)

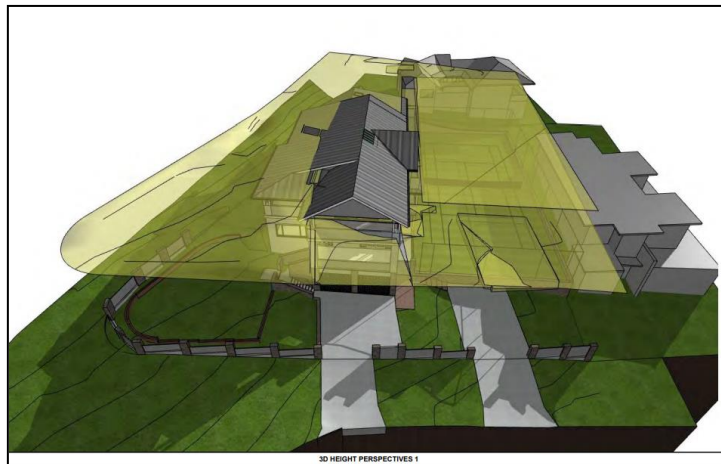


Figure 3 – Proposed Variation to the Building Height Control (Measured from Lower Ground Floor Level)

CLAUSE 4.6 OF THE WARRINGAH LEP 2011

Clause 4.6(1) is facultative and is intended to allow flexibility in applying development standards in appropriate circumstances.

Clause 4.6 does not directly or indirectly establish a test that non-compliance with a development standard should have a neutral or beneficial effect relative to a complying development (*Initial Action at 87*).

Clause 4.6(2) of the LEP specifies that "*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”.

Clause 4.6(3) specifies that 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.*

The requirement in Clause 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard has a better environmental planning outcome than a development that complies with the development standard (*Initial Action* at 88).

CONTEXT AND FORMAT

This “*written request*” has been prepared having regard to “*Varying development standards: A Guide*” (August 2011), issued by the former Department of Planning, and relevant principles identified in the following judgements:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248;*
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;*
- *Moskovich v Waverley Council [2016] NSWLEC 1015;*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;*
- *Hansimikali v Bayside Council [2019] NSWLEC 1353;*

- *Big Property Group Pty Ltd v Randwick City Council [2021] NSWLEC 1161;*
- *HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] NSWLEC 1243;*
- *Abrams v Council of the City of Sydney [2019] NSWLEC 1583; and*
- *Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2019] NSWCA 130.*

"Varying development standards: A Guide" (August 2011) outlines the matters that need to be considered in DA's involving a variation to a development standard. The Guide essentially adopts the views expressed by Preston CJ, in *Wehbe v Pittwater Council [2007] NSWLEC 827* to the extent that there are effectively five (5) different ways in which compliance with a development standard can be considered unreasonable or unnecessary as follows:

1. The objectives and purposes of the standard are achieved notwithstanding non-compliance with the development standard.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been 'virtually abandoned or destroyed' by the Councils own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

As Preston CJ, stated in *Wehbe*, the starting point with a SEPP No. 1 objection (now a Clause 4.6 variation) is to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances. The most commonly invoked 'way' to do this is to show that the objectives of the development standard are achieved

notwithstanding non-compliance with the numerical standard. The Applicant relies upon ground 1 in *Wehbe* to support its submission that compliance with the development standard is both unreasonable and unnecessary in the circumstances of this case.

In that regard, Preston CJ, in *Wehbe* states that “... *development standards are not ends in themselves but means of achieving ends*”. Preston CJ, goes on to say that as the objectives of a development standard are likely to have no numerical or qualitative indicia, it logically follows that the test is a qualitative one, rather than a quantitative one. As such, there is no numerical limit which a variation may seek to achieve.

The above notion relating to ‘numerical limits’ is also reflected in Paragraph 3 of Circular B1 from the former Department of Planning which states that:

*As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. **In many cases the variation will be numerically small in others it may be numerically large, but nevertheless be consistent with the purpose of the standard** [emphasis added].*

It is important to emphasise that in properly reading *Wehbe*, an objection submitted does not necessarily need to satisfy all of the tests numbered 1 to 5, and referred to above. If the objection satisfies one of the tests, then it may be upheld by a Council, or the Court standing in its shoes. Irrespective, an objection can also satisfy a number of the referable tests.

In *Wehbe*, Preston CJ, states that there are two (2) matters that must be addressed before a consent authority (Council or the Court) can uphold an objection to a development standard as follows:

1. The consent authority needs to be satisfied the objection is well founded; and
2. The consent authority needs to be satisfied that granting consent to the DA is consistent with the aims of the Policy.

Further, it is noted that the consent authority has the power to grant consent to a variation to a development standard, irrespective of the numerical extent of variation (subject to some limitations not relevant to the present matter).

The decision of Pain J, in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 suggests that demonstrating that a development satisfies the objectives of the development standard is not necessarily sufficient, of itself, to justify a variation, and that it may be necessary to identify reasons particular to the circumstances of the proposed development on the subject site.

Further, Commissioner Tuor, in *Moskovich v Waverley Council* [2016] NSWLEC 1015, considered a DA which involved a relatively substantial variation to the FSR (65%) control. Some of the factors which convinced the Commissioner to uphold the Clause 4.6 variation request were the lack of environmental impact of the proposal, the characteristics of the site such as its steeply sloping topography and size, and its context which included existing adjacent buildings of greater height and bulk than the proposal.

The decision suggests that the requirement that the consent authority be satisfied the proposed development will be in the public interest because it is “consistent with” the objectives of the development standard and the zone, is not a requirement to “achieve” those objectives. It is a requirement that the development be ‘compatible’ with them or ‘capable of existing together in harmony’. It means “something less onerous than ‘achievement’”.

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ found that it is not necessary to demonstrate that the proposed development will achieve a “better environmental planning outcome for the site” relative to a development that complies with the development standard.

In *Hansimikali v Bayside Council* [2019] NSWLEC 1353, Commissioner O’Neill found that it is not necessary for the environmental planning grounds relied upon by the Applicant to be unique to the site.

In *Big Property Group Pty Ltd v Randwick City Council* [2021] NSWLEC 1161, Commissioner O’Neill found that “The desired future character of

an area cannot be determined by the applicable development standards for height and FSR alone”.

Further, Commissioner O'Neill found that *“The presumption that the development standards that control building envelopes determine the desired future character of an area is based upon a false notion that those building envelopes represent, or are derived from, a fixed three-dimensional masterplan of building envelopes for the area and the realisation of that masterplan will achieve the desired urban character”.*

Similarly, in *HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] NSWLEC 1243*, Commissioner O'Neill found that *“The desired future character of an area is not determined and fixed by the applicable development standards for height and FSR, because they do not, alone, fix the realised building envelope for a site. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality (SJD DB2 at [62]-[63]). Development standards that determine building envelopes can only contribute to shaping the character of the locality (SJD DB2 at [53]-[54] and [59]-[60])”.*

Finally, in *Abrams v Council of the City of Sydney [2019] NSWLEC 1583*, Commissioner Gray found that the corner location of a site may be an environmental planning ground to support a variation to a development standard.

ASSESSMENT

Is the requirement a development standard?

The building height control is a development standard and is not excluded from the operation of Clause 4.6 of the LEP.

What is the underlying object or purpose of the standard?

The objectives of the building height control are expressed as follows:

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

- (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

In relation to objective (a), the site is located within an established residential neighbourhood characterised by a predominance of detached dwelling houses. The existing buildings extend across multiple development eras contributing to a diversity of building forms and architectural styles. Further, the locality is progressively undergoing a renewal process, with many of the older style dwellings being expanded and/or replaced with larger and more contemporary style dwelling houses.

The proposed works are generally intended to improve the layout and efficiency of the existing dwelling house, improve the relationship between indoor and outdoor spaces, maintain the overall architectural composition and character of the existing dwelling and maintain the spatial separation to the surrounding development by retaining the existing tennis court on the northern portion of the site.

The proposed building includes extensive vertical and horizontal articulation, and there are no large expanses of continuous walls. The palette of external materials and finishes have been chosen to complement and maintain the existing maximum building height and the architectural style and composition of the existing dwelling, visually break up the facades, and reduce the apparent building bulk.

The form of existing development in the locality has been influenced by topographical features. In particular, the surrounding development to the south is elevated above the subject site, and the site effectively forms part of a transition between the elevated topography to the south and the more level topography to the north (refer to following images).

Finally, the proposed development maintains generous setbacks to the adjoining residential properties to the north and west. The proposed development will improve the landscaped setting of the site and substantially maintain the amenity of the surrounding properties in terms of the key considerations of privacy, overshadowing, views and visual bulk.



Photograph 1: Surrounding Dwelling to the South (No. 72 Anzac Avenue)



Photograph 2: Surrounding Dwellings to the South (No's 74 and 76 Anzac Avenue)



Photograph 3: Surrounding Dwelling to the South (No. 78 Anzac Avenue)



Photograph 4: Surrounding Dwelling to the South (No. 80 Anzac Avenue)

In relation to objective (b), the proposed development will have no significant or adverse impacts on any existing public or private views. The proposed development will have no significant or adverse impacts on the privacy of any surrounding property. The shadows cast by the proposed development will substantially fall within the shadows cast by existing structures and will have no impact on the private open space of any surrounding property between 9am and 3pm on 21 June.

In relation to objective (c), the proposed development will maintain the architectural style and composition of the existing dwelling and improve the landscaped setting of the site.

In relation to objective (d), the proposed building includes extensive vertical and horizontal articulation, and there are no large expanses of continuous walls. The palette of external materials and finishes have been chosen to complement and maintain the architectural style and composition of the existing dwelling, visually break up the facades, and reduce the apparent building bulk.

In summary, the proposed development achieves the objectives of the building height control, notwithstanding the numerical variation.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The Department of Planning published "*Varying development standards: A Guide*" (August 2011), to outline the matters that need to be considered in Development Applications involving a variation to a development standard. The Guide essentially adopts the views expressed

by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC 827 to the extent that there are five (5) different ways in which compliance with a development standard can be considered unreasonable or unnecessary.

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

The proposed development achieves the objectives of the building height control, notwithstanding the numerical variation.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The objectives and purpose of the building height control remain relevant, and the proposed development achieves the objectives of the building height control, notwithstanding the numerical variation.

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The proposed development achieves the objectives of the building height control, notwithstanding the numerical variation.

Further, strict compliance with the building height control would require portions of the existing dwelling house to be demolished, unnecessarily restrict the proposed expansion of the first floor level and otherwise require a modified roof form that would not be compatible with the architectural composition and character of the existing dwelling.

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;*

The building height control has not specifically been abandoned or destroyed by the Council's actions. Irrespective, the Council has adopted an orderly but very flexible approach to the implementation of development standards (including the building height control).

In that regard, a review of the Council's register of Variations to Development Standards reveals Development Consent has been granted

to approximately 189 DA's involving numerical variations to the building height control in the Warringah LEP 2011 for residential development during the recorded period of January 2020 to September 2023.

Further, the objectives of Clause 4.6 of the LEP includes to provide "*an appropriate degree of flexibility in applying certain development standards to particular development*".

5. *Compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

The zoning of the land remains relevant and appropriate. Irrespective, strict compliance with the building height control would require portions of the existing dwelling house to be demolished, unnecessarily restrict the proposed expansion of the first floor level and otherwise require a modified roof form that would not be compatible with the architectural composition and character of the existing dwelling.

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

The adjectival phrase "*environmental planning*" is not defined but would refer to grounds that relate to the subject matter, scope and purpose of the *Environmental Planning and Assessment Act 1979*, including the objects set out in Section 1.3 (Initial at 23).

The objects of the Act are expressed as follows:

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (d) *to promote the delivery and maintenance of affordable housing,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*

- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The numerical variation to the building height control is reasonable and appropriate in the particular circumstances on the basis that:

- the proposed development maintains the existing maximum building height;
- the variation to the building height control primarily relates to the building height being calculated from the excavated lower ground floor level, and the design objective to maintain the architectural composition and character of the existing dwelling by preserving the pitched roof form. That is, the topography of the site is a key driver in the variation to the building height control;
- the portion of the building that extends above the building height control maintains generous setbacks from all of the property boundaries with limited impacts;
- the retention of the existing tennis court on the northern portion of the site maintains substantial spatial separation with the surrounding properties;
- the site occupies a corner location where additional building bulk and scale can typically be best accommodated whilst achieving an appropriate built form marker and minimising the impacts on the surrounding properties;
- the surrounding development to the south is elevated above the subject site, and the site effectively forms part of a transition between the elevated topography to the south and the more level topography to the north;
- the proposed development will improve the landscaped setting of the site, and substantially maintain the amenity of the surrounding properties in terms of the key considerations of privacy, overshadowing, views and visual bulk;

- strict compliance with the building height control would require portions of the existing dwelling house to be demolished, unnecessarily restrict the proposed expansion of the first floor level, and otherwise require a modified roof form that would not be compatible with the architectural composition and character of the existing dwelling;
- the proposed building includes extensive vertical and horizontal articulation, and there are no large expanses of continuous walls;
- the amended development will remain compatible with the existing and likely future character of the locality, and will not be perceived as offensive, jarring or unsympathetic to the existing and likely future character;
- the palette of external materials and finishes have been chosen to complement and maintain the architectural style and composition of the existing dwelling, visually break up the facades, and reduce the apparent building bulk;
- the proposed development will promote good design and the amenity of the built environment which is a recently incorporated object of the Act: *“(g) to promote good design and amenity of the built environment”*;
- the Council has adopted an orderly but very flexible approach to the implementation of development standards (including the building height control) in appropriate circumstances, including when the objectives of the standard are achieved, notwithstanding numerical variations;
- a review of the Council’s register of Variations to Development Standards reveals Development Consent has been granted to approximately 189 DA’s involving numerical variations to the building height control in the Warringah LEP 2011 for residential development during the recorded period of January 2020 to September 2023;
- the proposed development achieves the relevant objectives of the R2 – Low Density Residential zone; and
- the proposed development achieves the objectives of the building height control, notwithstanding the numerical variation.

CONCLUSION

The purpose of this submission is to formally request a variation in relation to the building height control in Clause 4.3 of the Warringah LEP 2011.

In general terms, strict compliance with the building height control is unreasonable and unnecessary in the particular circumstances, and there are sufficient environmental planning grounds to justify the numerical variation.