

Request to Vary Building Height Under Clause 4.6 of Warringah Local Environmental Plan 2011

Proposed New Dwelling at 5 Graylind Close, Collaroy

April 2025



This report has been prepared and reviewed in accordance with our quality control system.

Version	Date of Issue	Prepared by	Reviewed By
Draft for client review	23 January 2025	TH	EG
Final	28 April 2025	TH	EG

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Introduction

This request made under Clause 4.6 of the Warringah Local Environmental Plan 2011 accompanies a proposal for a new dwelling house at 5 Graylind Close, Collaroy. It should be read in conjunction with the Statement of Environmental Effects prepared by Navon Planning. The proposal involves a variation to Clause 4.3 Height of building under the Warringah LEP 2011. This request to vary the development standard is considered appropriate for the proposal as will be discussed below.

The Site and Surrounding Area

The subject site at 5 Graylind Close, Collaroy is irregular in shape. The site has an arc frontage of 15.535m, a southern (side) boundary of 51.635m, a rear boundary of 20.425m and a northern (side) boundary of 50.09m to form a total site area of 918.3sqm. The legal description of the site is Lot 5 DP 236524 and the land has steep slope of approximately 20m from the front to the rear. The site is currently vacant and the adjoining dwelling to the north is three storeys, and to the south is a two storey dwelling. The surrounding residential area includes multi-level detached dwellings and residential flat buildings of various architectural styles.



Figure 1: The site and surrounding area

The Proposed Variation

The Warringah LEP 2011 include provisions for exception to development standards as follows.

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) 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 to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*
- (4) The consent authority must keep a record of its assessment carried out under subclause(3).*
- (5) (Repealed)*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) (Repealed)*

- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—*
- (a) A development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (ba) clause 4.4, to the extent that it applies to land identified on the Key Sites Map as Site F, Site G, Site H or Site I,*
 - (c) clause 5.4,*
 - (ca) clause 5.5.*
 - (d) (Repealed)*
- (8A) Also, this clause does not allow development consent to be granted for development that would contravene a development standard for the maximum height of a building shown on the Height of Buildings Map on land shown on the Centres Map as the Dee Why Town Centre.*
- (8B) Despite subclause (8A), development on Site C or Site E may exceed the maximum height of building shown on the Height of Buildings Map if the maximum height is allowable under clause 7.14.*

In accordance with Clause 4.6 (4)(a)(i), this written request addresses the matters required to be demonstrated by Clause 4.6 (3) relating to the proposed variation to the Height of Buildings. The provisions of the Warringah LEP 2011 under 4.3 are read as follows:

4.3 Height of buildings

- (1) The objectives of this clause are 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.*
- (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.*
- (2A) If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.*

According to the Warringah LEP 2011, the **building height (or height of building)** means

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The maximum building height applicable to the site is 8.5m. The proposed building height is 10.74m, 2.24m which equates to 26.3%. Figures 2 to 4 below demonstrate the extent of the proposed building height variation.

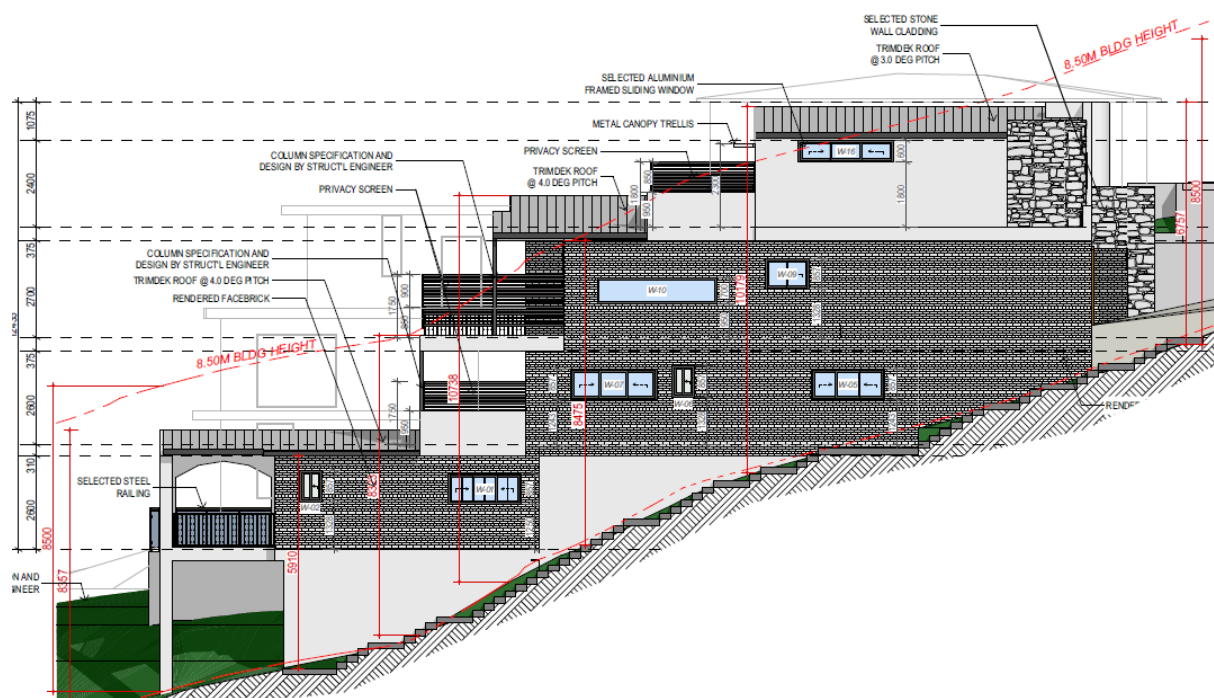


Figure 2: Northern elevation

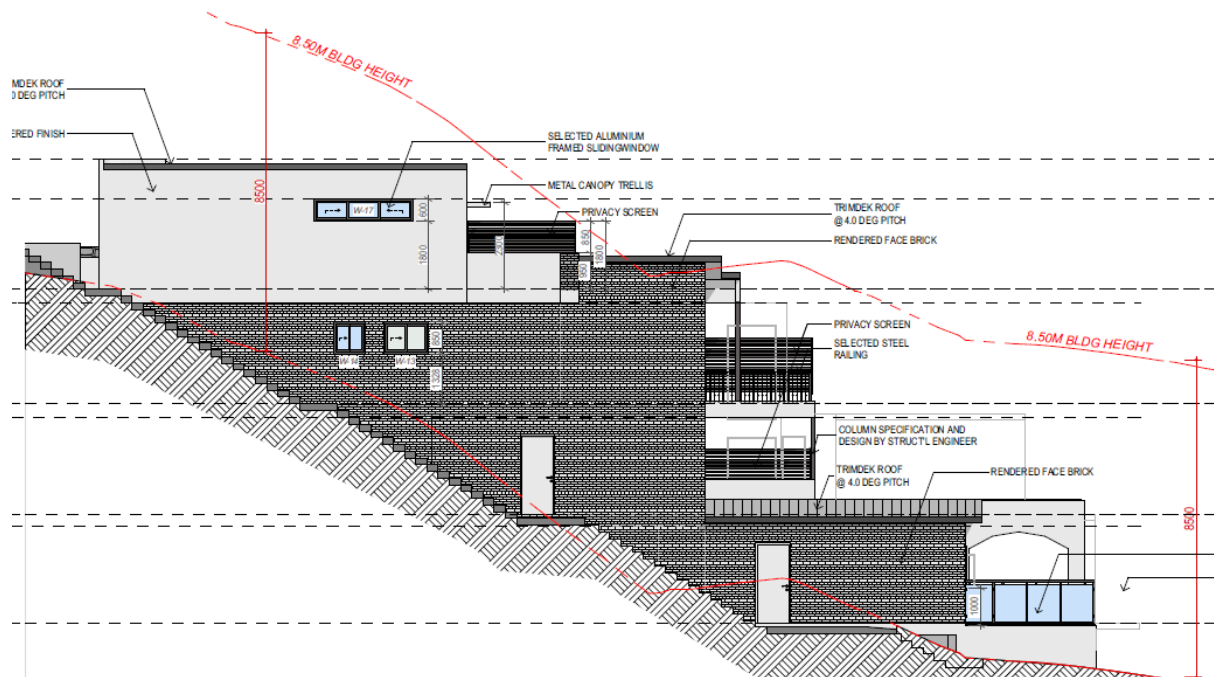


Figure 3: Southern elevation

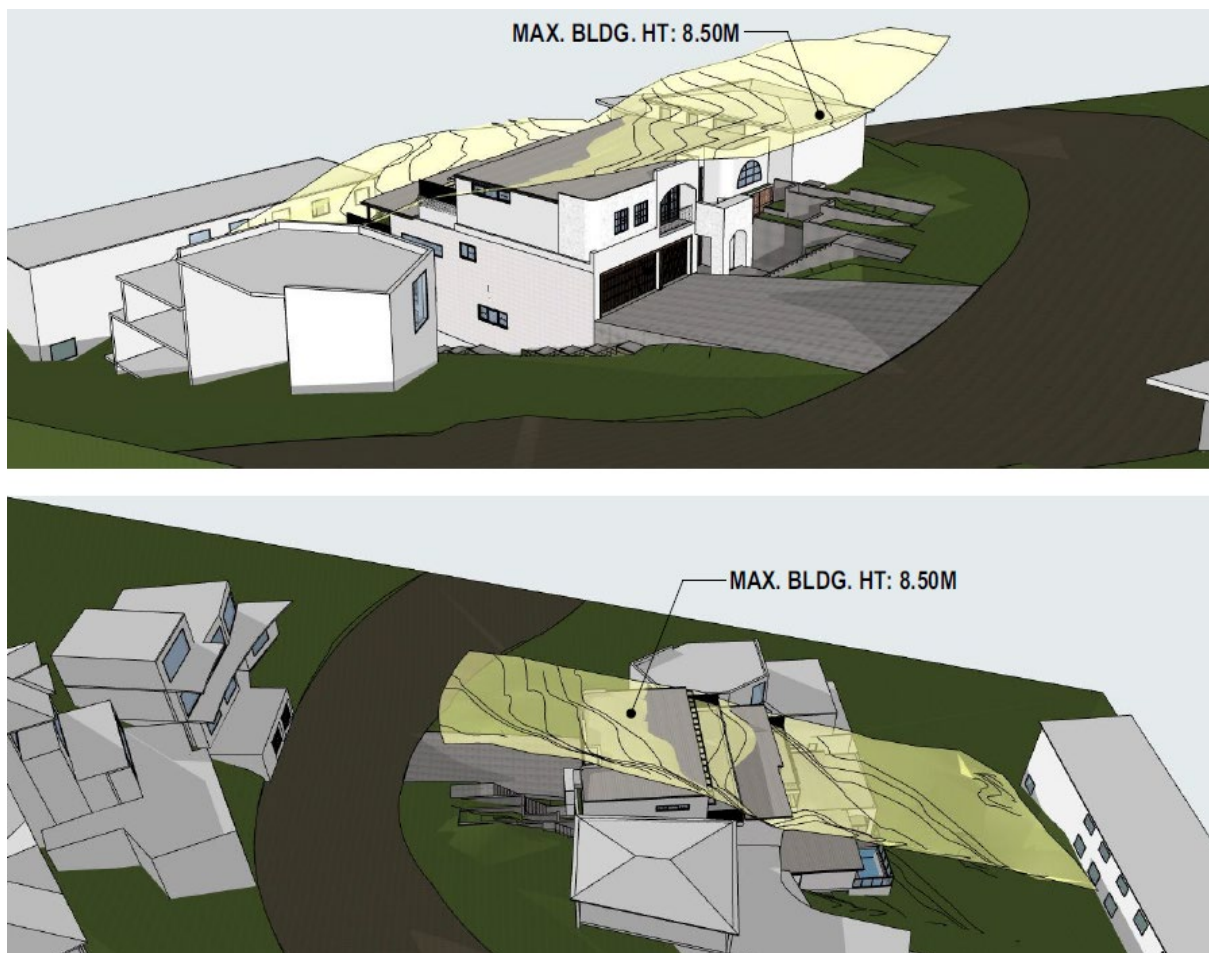


Figure 4: Building height study

The assessment in this report addresses the Clause 4.6 criteria demonstrating the proposed building height variation:

- is consistent with the objectives of the building height development standard
- is consistent with the objectives of the R2 low density residential zone
- results in a better planning outcome
- is justified on environmental planning grounds

Consistent with the Height of Buildings Objectives

Clause 4.3 of the Warringah LEP 2011 includes objectives for height of buildings standard. These objectives are addressed in relation to the proposal as follows:

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

Comment: As the site is located on the edge of two zones being R2 Low Density Residential and R3 Medium Density Residential with different building envelope controls, the building height proposed is considered to be suitable for various reasons. Firstly, the density allowed on the site is envisaged by both the Warringah LEP 2011. Refer to Figures 5 and 6 below demonstrating the site in relation to the current zoning and building height maps. The building footprint is also restricted by the applicable landscaping controls prescribed by the Warringah DCP which requires 40% landscaped area.

The proposal and the associated building height variation cannot ignore the existing built environment and the desired future character of the area. Therefore, the design is responsive to the surrounding buildings and has applied appropriate building envelope controls including building height and setbacks, to achieve an exceptional urban design and planning outcome.

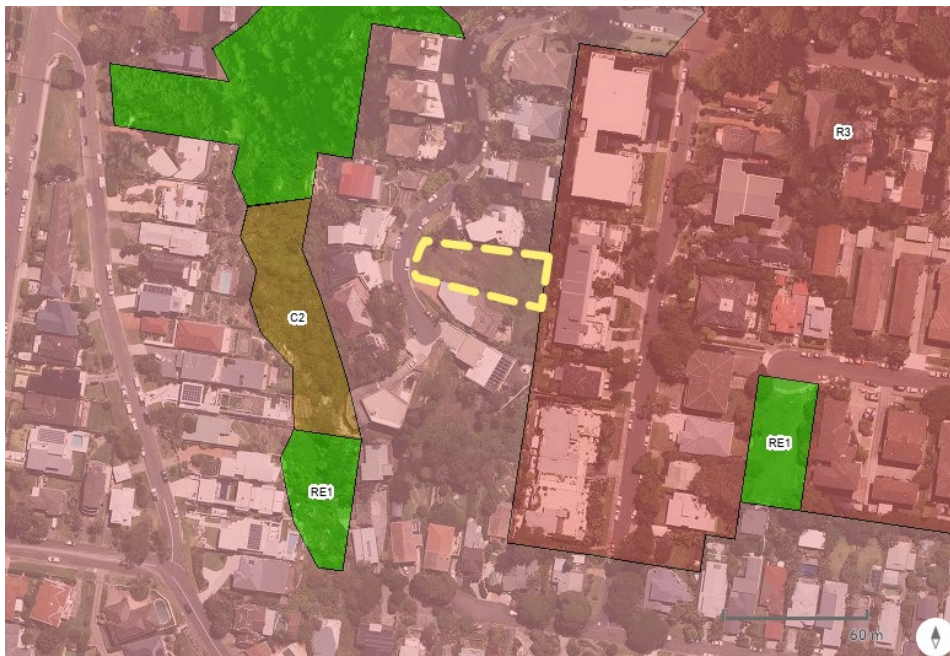


Figure 5: The site in relation to the zoning map

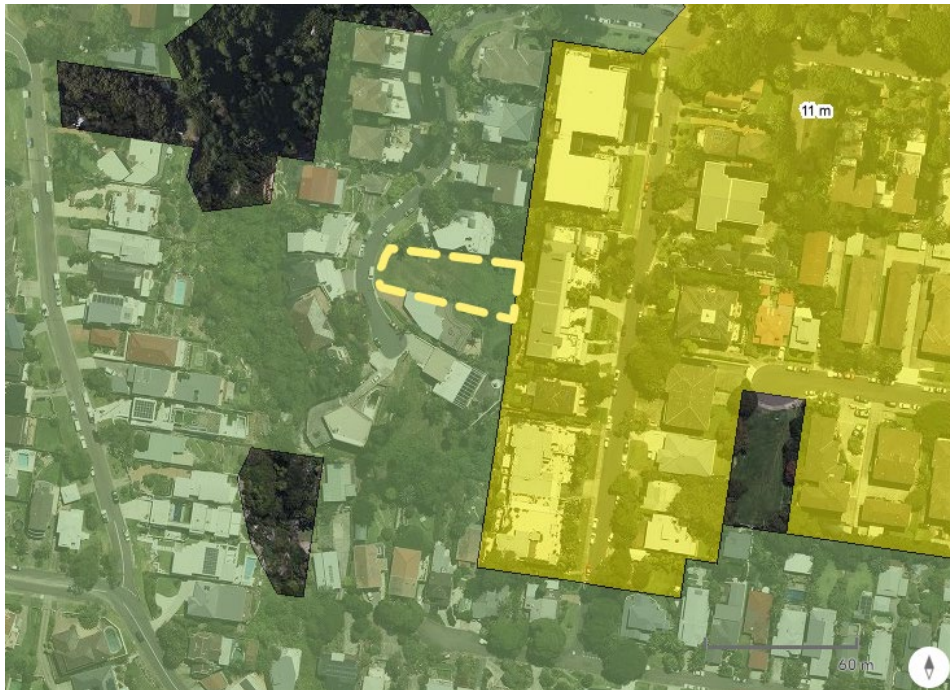


Figure 6: The site in relation to the Building Height map

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

Comment: The land is constrained by a significant slope of approximately 20m from the front to the rear. The development will not result in any view loss with the adjoining developments located along the same east-west axis (slope from front to rear). POS is located and designed to ensure privacy of the residents of adjacent buildings and residents of the proposed development. The windows of the new dwelling are appropriately located so they do not provide direct or close views into the windows of other dwellings. Views have been carefully considered in the design and will result in a suitable level of view sharing for nearby residents. Site layout and structures allow for suitable solar access.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments.

Comment: The site is not a coastal or bushland environment.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

Comment: The site is not located near any parks, reserves or community facilities. Due to the slope on the site, the development will appear as a two storey development from the Graylind Close streetscape.

Consistent with the R2 Low Density Residential Zone Objectives

The land use table of the Warringah LEP 2011 includes objectives for the site's R2 low density residential zoning. These objectives in relation to the proposal and the associated building height variation are addressed below.

- *To provide for the housing needs of the community within a low density residential environment.*

Comment: The proposal is for a single dwelling. The skilful design can be achieved without compromising the character of the surrounding area and the amenity of the adjoining dwellings.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The proposal relates to the construction of single dwelling development and does not involve any other land use.

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

Comment: The proposal relates to the construction of single dwelling that includes landscape area to the front and rear of the site in keeping with the Graylind Close streetscape, Collaroy local area and the Warringah local government area. The proposal is complemented by significant landscaping, as detailed in the submitted landscape plan.

Results in a Better Planning Outcome

The proposal is expected to generate a better planning outcome for the following reasons:

- The height is breached at the very upper levels of the dwelling at a height that cannot contribute to additional floor space. The dwelling achieves the desired outcome set by the State and local Council planning controls. If the design was to incorporate a compliant building height, then this would result in the reduction of the dwelling's functionality. Consequently, the proposed building

height and the associated variation results in an improved planning and design outcome for the site and surrounding area.

- The proposed variation to the building height provides a high level of internal and external amenity for the future residents without any significant impacts to the amenity of adjoining properties in terms of solar access, views, and visual and acoustic privacy.
- The proposed roof comprises a contemporary roof with a 3 to 4 degree pitch, rather than a traditional pitched roof. The selected roof style is considered to be a better planning outcome as it reflects a contemporary designed building that is consistent with recently built buildings within the area and will reduce the overall bulk and overshadowing.
- The extent of the building height variation is isolated towards the rear of the building and therefore does not create additional bulk when viewed from the street.
- In order to achieve a compliant building height, additional excavation would be required, which is contrary to the earthworks provision under the LEP, which encourages minimal earthworks for developments. This would not result in a positive outcome as the vacant site is already significantly constrained by a steep slope.

Justification on Environmental Planning Grounds

In accordance with Clause 4.6 (3)(b) of the Warringah LEP 2011, the following environmental planning grounds are sufficient in justifying the proposed variation of the building height:

- The dwelling has been designed in response to the characteristics and constraints of the site.
- The height variation is well integrated into the design and built form of the proposed contemporary architectural style of the building which will positively contribute to the streetscape of the locality.
- The proposed height and associated variation do not lead to any unreasonable view impacts from private or public land.
- Visual and acoustic privacy has been carefully considered in the design as depicted on the architectural plans.
- The proposed development and the associated building height variation does not lead to any additional environmental impacts in terms of removal of trees or landscaping. There are currently no trees or substantial landscaping present on the site.
- The building envelope and height variation has carefully considered solar access to adjoining properties. Due to the irregular subdivision pattern and established buildings, the proposed building height is considered appropriate.
- The proposed height variation and the associated shadowing is considered to be appropriate as per the submitted shadow diagrams.

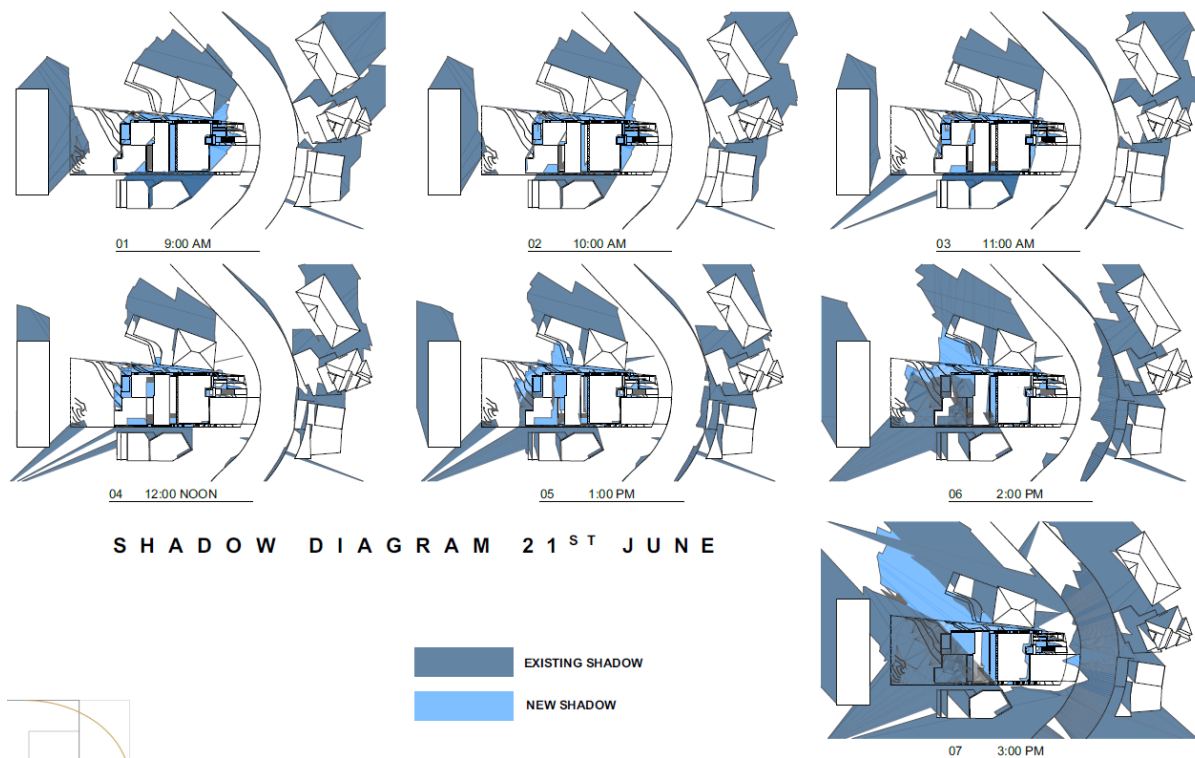


Figure 6: Proposed shadowing

Unreasonable and Unnecessary Building Height Development Standard

The application of the height of buildings provision to the proposal is considered unreasonable and unnecessary, consistent for the following reasons:

- Despite the building height variation, the proposal is a considered design that is compatible with the character of the adjoining and surrounding properties and does not cause any significant impacts to the amenity of the site or surrounding area.
- The broad application of the building height provision does not recognise the response to the built form sought in the area as discussed previously in this report.
- The development is consistent with the pattern of building heights in the streetscape and the locality.

- The scale of existing surrounding buildings within the local area were likely approved with building height variations, further demonstrating the development standard is unreasonable and unnecessary.
- The broad building height application does not exclude the possibility of high-quality built form that is compatible with the surrounding streetscape and does not impact upon the amenity of surrounding properties.
- Despite the variation to the building height, the proposal is able to achieve these outcomes and meet the objectives of the building height standard and R2 Low Density Residential zone.
- Strict compliance with the building height standard would reduce the opportunity for the orderly and economic development of the subject site.

Conclusion

Based on the above assessment, the proposal at 5 Graylind Close, Collaroy can achieve full compliance with the objectives and intentions of both Clause 4.3 Height of buildings and the R2 Low Density Residential zone under the Warringah LEP 2011. This report also validates the proposal can be justified to provide a better planning outcome and the building height development standard is unreasonable and unnecessary given the existing site conditions and the desired future character of Collaroy.

Overall, the proposed variation will not lead to any unreasonable amenity impacts to the surrounding residential properties in terms of visual and acoustic privacy, landscaping, views, and overshadowing. The proposed dwelling has been carefully designed to provide a high standard of amenity for the future residents and will enhance the existing streetscape. Therefore, the proposed building height variation should therefore be considered favourably by Council.