

**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 : 110 Woorarra Avenue, North Narrabeen

PROPOSED DEVELOPMENT : Alterations and additions to existing house

DATE : 28th February 2022

DEVELOPMENT STANDARD : Clause 4.3 of PLEP 2014 Height Of Buildings

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INTRODUCTION

Pursuant to Clause 4.6 of Pittwater Council Local Environmental Plan 2014 we are seeking approval to vary Clause 4.3 Height of Buildings development standard of Pittwater Council Local Environmental Plan 2014. As required this document forms part of the Development Application and outlines why compliance with Clause 4.3 Height of Buildings is both unreasonable and unnecessary in this circumstance.

PROPOSAL

New works are proposed to the existing house at 110 Woorarra Avenue, North Narrabeen. These include extension of both the upper and lower floors towards the rear and rear decks to both levels. The roof to the existing house will remain as is however a small extension of the roof is proposed to cover the central section of the upper deck. The bulk and scale of the home will be similar to existing and there will be no increase in overall height however part of the new deck roof will exceed the maximum height allowed of 8.5m. This is due to the steepness of the site, which is in excess of 18 degrees, and the level of existing upper floor. At its highest point the new roof will be approximately 8.8m above natural ground which is a breach of 0.3m or 3.5%, with this breach only occur for a small length of the roof at its north east end. All other works are below the maximum height plane. Pittwater LEP 2014 does provide for a variation within Clause 4.3 for land that is in excess of 16.7 degrees up to a height of 10m and as

all works comply with all the objectives of the development standard as set out below and with no impact on neighbouring properties amenity or surrounding environment we feel there are sufficient grounds to justify contravening the development standard.

DEVELOPMENT STANDARD TO BE VARIED - 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

Maximum height shown on Height of Buildings Map for 110 Woorarra Avenue, North Narrabeen is 8.5m.

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.*

The maximum height for the proposed works above natural ground is 8.8m. This is a 300mm breach which is minor and occurs only for approximately a 3m length of roof. As the maximum height is not greater than 10m and the slope of the site within the building footprint area is approximately 18 degrees, as per Clause 4.3 (2D) a variation to this control is allowed for minor breaches when the objectives of the control have been met. As set out below we feel that objectives of the control have been met and as there will be no negative impact on neighbouring properties or surrounding area there are sufficient grounds for variation to the control to be allowed.

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.*

COMPLIANCE WITH THE OBJECTIVES of Clause 4.3 Height of Buildings

Following outlines full compliance of the proposed works with the objectives of Clause 4.3

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality*

The proposal including the non compliance is consistent with the desired Character of Elanora Heights locality. It will not alter the use from existing residential, and will maintain a two storey dwelling that reflects the scale of neighbouring homes maintaining the low density of the area. As the majority of proposed works will not be visible from the street , there will be no change to the overall height of the dwelling, the majority of planting is to remain and there will be no loss of canopy trees the landscaped character of the site will be retained with the built form being below the existing tree canopy and blending with the natural environment. The proposed works will maintain a home that is low density, integrated with landscaping and therefore compatible with C4 zoning and the desired future character of the locality.

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

The non compliant section of roof will be 1.84m lower than the existing roof of the house and with the non compliance being minor in scale and at the centre of the house there will no increase to bulk and scale remaining compatible with that of neighbouring homes and well below the existing tree canopy.

- (c) to minimise any overshadowing of neighbouring properties*

As seen in the submitted shadow diagrams the proposed works will have minimal impact in terms of increased overshadowing of neighbouring properties during midwinter and due to its positioning at the centre of the house and existing trees already overshadowing neighbouring homes the non compliant section of roof will not have any impact on overshadowing of neighbouring properties.

- (d) to allow for the reasonable sharing of views,*

As the proposed non compliant section of roof will be higher than head height of neighbouring windows and being over an open deck area which is set behind the rear building line of neighbouring homes there will be no negative impact on any views presently experienced by neighbouring properties.

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

The position and design of the proposed works is such that no natural landforms will be impacted. The existing floors and decks will be extended by a maximum of 4.5m to the rear at the same level as existing floors over existing grassed areas to minimise any disturbance to existing ground levels, responding sensitively to the natural topography. The works maintain a home that is compatible in scale to neighbouring homes and does not dominate the natural environment.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The proposed works to the existing house will result in the home having a bulk and scale comparable with neighbouring homes. The majority of works are not visible from the street and with all of existing trees to remain the house will be screened from the surrounding area having minimal impact on the natural environment or any heritage/conservation items.

COMPLIANCE WITH CLAUSE 4.6 of PLEP 2014 EXCEPTION TO DEVELOPMENT STANDARDS

Clause 4.6 of PLEP 2014 provides for variation to Clause 4.3 Height of Buildings 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.*

Due to the existing slope of the land which is approximately 18 degrees part of the proposed new deck roof will breach Clause 4.3 Height of Buildings development standard of Pittwater Council Local Environmental Plan 2014 with a height of 8.8m, 0.3m above the maximum height allowed of 8.5m. Though a flat roof could have been incorporated complying with the maximum height allowed of 8.5m we feel a variation to this standard allowing for a pitched roof over the new deck will provide for a better outcome to both the occupants and surrounding properties.

- (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.*

Clause 4.3 Height of Buildings of Pittwater LEP 2014 is not 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.*

The non compliance with the 8.5m height control is attributed to the existing floor level and steepness of the site. Variation to this control is permitted under Clause 4.3 (2D) if the proposed breach is minor, the maximum height not exceeding 10m, the objectives of the clause have been met and the building footprint is situated on land with a slope in excess of 16.7 degrees. We feel all prerequisites have been met, and that strict compliance is both unreasonable and unnecessary. Strict compliance could be achieved by either lowering the roof pitch or reducing the length of the roof however this would result in less cover to the proposed deck and northeast facing windows, lessening the amenity for the residents. As the proposed works including the non compliant section of roof are consistent with the desired future character of the area, have no negative impact on the amenity of surrounding neighbours in terms of view loss, privacy or increased overshadowing or as none of the non compliant works will be visible or impact on public spaces 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,*

As set out above all the objectives of the Height of Buildings control have been met and all works are compatible with the Desired future character of Elanora Heights locality.

CONCLUSION

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. It is our opinion that due to the steep slope of the land and with all objectives of the control being met there are 'sufficient environmental planning grounds' to justify contravening the development standard' and as demonstrated strict compliance with this standard is unreasonable and unnecessary with no impact to the surrounding neighbours and environment from the breach in the control. 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 below the 'SIGNED BY APPLICANT:' heading.