



## Statement of Environmental Effects

### Clause 4.6 Statement



### Alterations & Additions to an Existing Dwelling @

1951 Pittwater Road, Bayview

Prepared For J & T Carfi

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## 1.0 INTRODUCTION

This Statement of Environmental Effects is a report that forms part of an application for development consent submitted to the Northern Beaches Council for: -

- Alterations and Additions to an existing dwelling
- New in-ground swimming pool

The location of the proposal is 1951 Pittwater Road, Bayview which contains a single dwelling on Lot 2, DP 509415. The site has a total area of 996m<sup>2</sup> and is burdened by a Right of Carriageway (area 60m<sup>2</sup>) through the northern front of the site that provides vehicular access to the adjoining property at 1953 Pittwater Road to the west.

The nett site area for DCP calculations is 936m<sup>2</sup>.

The site has a street front boundary to Pittwater Road and is shown on the aerial image below indicated by the yellow star. The road reserve consists of a very steep vegetated embankment from RL 3.47 on the road to RL 10.14 at the street front boundary. Access to the site is via a slip lane that comes off Pittwater Road several properties to the east and is a shared accessway servicing 7 dwellings including the subject site. From the front boundary, the site slopes moderately at an even slope of approximately 16% (8m rise of 50m length) to the rear boundary.

The subject site, and the immediately adjoining sites, all enjoy high levels of solar access and water views facing north up the bay of Pittwater towards Lion Island. These are iconic views.

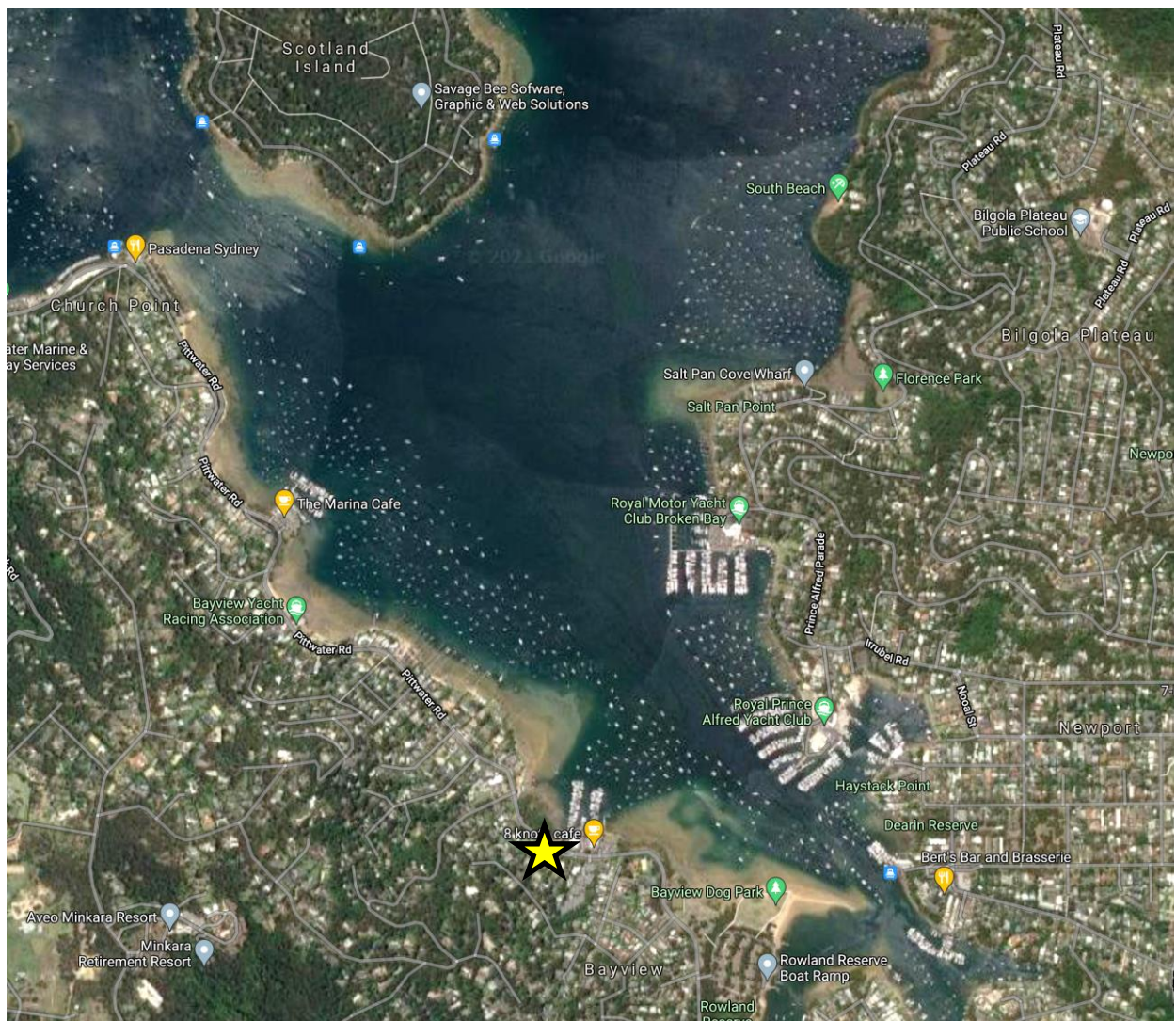


Figure 1. Aerial view of the location of the site and context of Pittwater.



## 2.0 THE SITE, BACKGROUND & DESIGN RESPONSE

The proposal involves primarily an internal redesign of the house layout, with small additions to the front and an upper floor and results in only small changes to the footprint of the dwelling. The side and rear setbacks are retained from the existing dwelling with the top floor recessed inwards and built into the roof to minimise bulk and scale to maintain a “status quo” to adjoining properties in terms of maintaining the existing solar access, privacy and views that these properties currently share. The key aspects of the proposal are:

- Replace the existing carport with a new garage and landscaped rooftop, with internal access to the dwelling.
- Add an in-ground swimming pool to the front northern part of the dwelling.
- Minimal changes to the lower ground floor and a new entry addition.
- Small additions to the upper ground floor with a 4m deep addition to the existing dwelling across the site.
- An upper floor “attic style” addition of a main bedroom suite, integrated into the roof design to minimise view loss.

This report refers to the following accompanying documents: -

- Architectural Drawings **DA00-DA13 issue A**, Project No.2034
- Survey
- Geotechnical Report
- BASIX certificate

This report examines the issues of compliance with relevant SEPP, LEP and DCP policies to demonstrate how the proposal succeeds the test of compliance and is appropriate for granting of consent on the merits of the application and design.

The most critical aspect of the design is to retain iconic views from the property at 1945 Pittwater Road to Lion Island



Figure 2. Aerial view of the location and immediate surrounds.





Figure 3. Photo from the shared driveway looking to the frontage of the subject dwelling

Figure 4. 3D montage of the proposed development with 1945 at the rear left



A thorough view sharing analysis was undertaken with reference to the Land & Environment Court principle "*Tenacity Consulting Pty Ltd -v- Warringah Council (2004)*". As the proposal seeks an increase to the existing roof height that exceeds the council LEP maximum, the view sharing analysis is critical to demonstrate that there are no unacceptable impacts from the proposed alterations and additions to the views currently enjoyed by 1945 Pittwater Road.



The property at 1945 Pittwater Road is designed to stretch across the site, to maximise the number of rooms that take advantage of the water views. The images below demonstrate the various views and locations within the property and are referred to on the Site Plan drawing A01.



Figure 5. View from within the formal lounge up Pittwater to Lion Island in the distance. The proposal will not impact upon this view as the proposal seeks the addition to the roof height above the existing dwelling (left of photo).

Figure 6. View obtained from realestate.com website from the marketing of 1945. View is from within the formal lounge up Pittwater to Lion Island in the distance – same as above but zoomed in for effect, noting 1951 not seen in image.







Figure 7. View from within the deck off the sunroom up Pittwater to Lion Island in the distance. The proposal will have minimal impact on this view with the addition to the roof height above the existing dwelling (left of photo). The main part of the view up the bay and towards the right of photo are maintained.

Figure 8. View obtained from realestate.com website from the marketing of 1945. View is from the deck off the sunroom and the focus of the view is north east to the plethora of yacht masts and clubs and the eastern foreshore of Pittwater. The view to Lion Island is minimal to the left of photo.

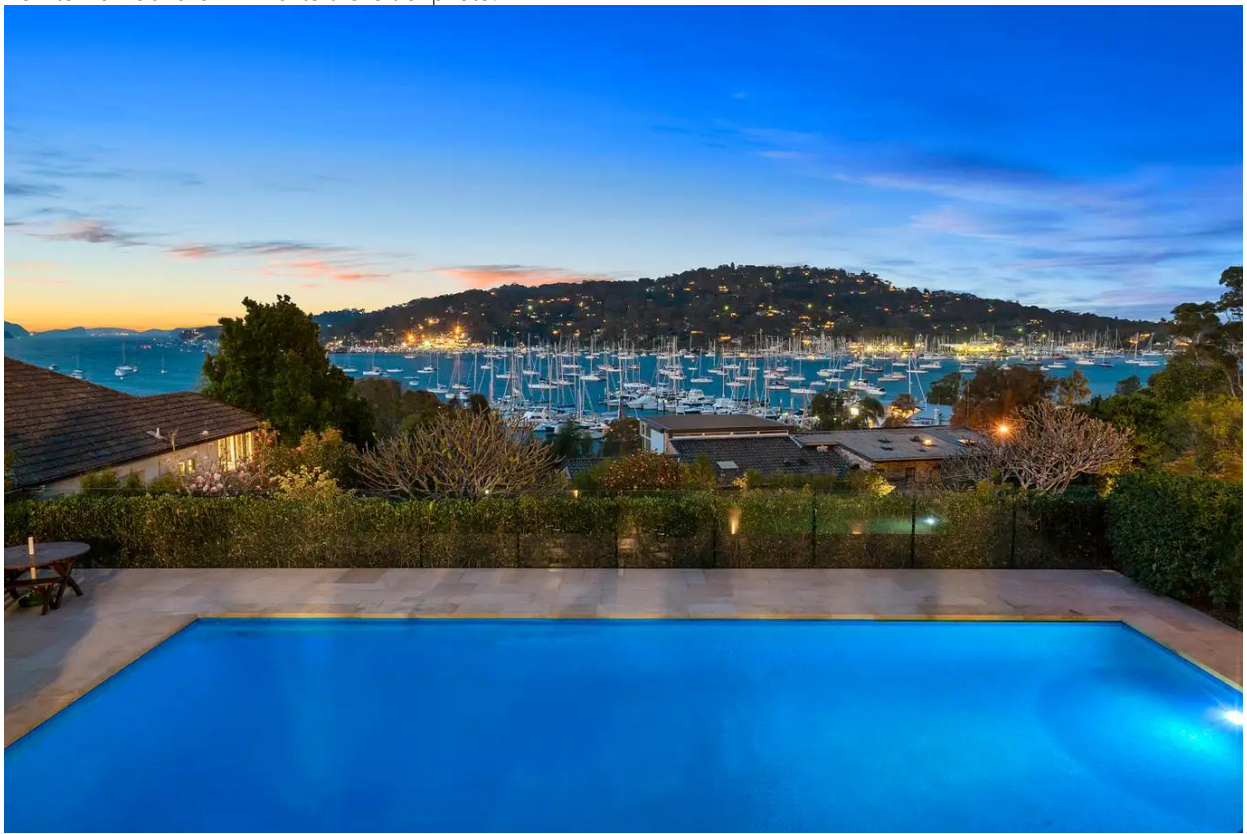






Figure 9. View obtained from realestate.com website of 1945. View is internal of the Sunroom (basis of views 7 & 8 above) and shows the yachts and Pittwater through the glass doors. The proposal will have no impact on this view.

Figure 10. View from outside the kitchen of 1945. There are 3 very small parts to the view. The largest portion of the view on the right will be unaffected, as will the central small view between trees within the property of 1945. The miniscule water view triangle on the left will be lost. This is considered acceptable, as this view is likely to be lost in the near future with the growth of mature vegetation currently restricting this view. The proposal will therefore have no impact on this view in the future.



View Sharing Montages with before and after images, are provided on drawing A10. These montages demonstrate that despite the proposal for an upper floor addition producing a roof height that exceeds the LEP 8.5m maximum, that there is no consequential unacceptable impact on view loss as a result of the breach.



The proposal should therefore be supported for approval.

The reason that the proposal exceeds the 8.5m LEP height limit, is entirely due to retaining the roof pitch to match the existing dwelling. The proposal is alterations and additions and retains the majority of the existing roof and adds on to that. The existing roof has no view impacts, no overshadowing impact and no privacy or bulk and scale impact and is therefore suitable for retention.

The proposed additions are located at the rear of the existing roof to blend into the existing roof and minimise view loss.

### Design Proposal

The design of the proposed alterations and additions to the existing dwelling seeks to retain the character of that dwelling with the additions. Aerial images below demonstrate the design relationships to adjoining dwellings and not to cause any new impacts.



Figure 11. Aerial view from the north of the proposed alterations and additions, 1945 in background

Figure 12. View from driveway up to 1945 of the east elevations indicating the existing roof pitches and additions.





### 3.0 PLANNING CONTROLS & COMPLIANCE

#### PITTWATER 21 DEVELOPMENT CONTROL PLAN & PITTWATER LOCAL ENVIRONMENT PLAN 2014 SEPP – COASTAL MANAGEMENT

##### Pittwater LEP 2014

The following responses deal with the clauses relevant to this application.

**Zoning** R2 Low Density Residential  
**Zone Objectives**

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents,*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

The proposed development is permissible within the zone

##### Clause 4.3 Height of Buildings – Exceptions to Development Standards

Pursuant to clause 4.3 PLEP 2014 the height of a building on any land is not to exceed 8.5 metres. The stated objectives of such control are as follows:

- (a) *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*  
The dwelling is consistent with the height and scale and consistent with the DFC.
- (b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*  
The dwelling is compatible with the scale of surrounding dwellings.
- (c) *to minimise any overshadowing of neighbouring properties,*  
The proposal does not overshadow any private open spaces or living areas.
- (d) *to allow for the reasonable sharing of views,*  
The proposal maintains the iconic views from the adjoining property affected at 1945 Pittwater Road (as demonstrated above in this report)
- (e) *to encourage buildings that are designed to respond sensitively to the natural topography,*  
The proposal for alterations and additions responds sensitively to the site by containing the additions above the existing footprint and minimising excavation.
- (f) *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items*  
The proposal responds appropriately to the adjoining heritage item, by minimising bulk and scale building an addition within the roof space, and by maintaining the traditional character of the existing dwelling positively reinforcing the curtilage of the heritage item.

Subclause (2) requires that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Building Map. The map indicated the maximum for this site is 8.5 metres.

The proposed works have a maximum height above existing ground level of 9.30 metres measured from the top of the proposed roof over the deck to the existing ground level below. The proportion of roof above the 8.5m height limit is 3% of the total roof area. The majority of the dwelling is below 8.5 metres when measured to natural ground level in accordance with the provisions of PLEP. The extent of building height non-compliance is depicted on the section drawing and is extremely minimal.

Subclause (2D) provides that despite subclause (2), development on land that has a maximum building height of 8.5metres .....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*  
As indicated above, the portion of the breach is extremely minor at 3% of the overall roof in plan, shown on the Site Plan and Elevation drawings of the application
- b) *the objectives of this clause are achieved, and*  
The objectives are achieved as noted above



- c) *the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*  
**The slope is moderate at 17%**
- 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 additions are located above the existing footprint and completely eliminate the need for cut and fill.**

Although the proposed height at 9.3m is non-compliant with the numerical control of 8.5m, the minor breach is justified for the following reasons:

- i. The proposal satisfies the objectives a) to f) of height control.
- ii. The proposal results in an extremely minor proportion of 3% of the roof above the height limit, with the remaining roof well below the height limit.
- iii. The breach has no adverse impact on overshadowing, view loss, privacy or bulk and scale.
- iv. The breach is a result of maintaining the existing 30-degree roof to maintain the traditional character of the dwelling, and contribute in a positive way to the heritage listed dwelling adjoining the southern boundary.

The minor non-compliance is therefore justified for approval.

#### **Clause 4.6 Exceptions to development standards**

The objectives of Clause 4.6 are:

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*  
**The proposal seeks flexibility to allow a small portion of the pitched roof to breach the height limit in order to maintain the character of the existing dwelling by using the same pitch for the new upper roof to match the existing lower roof.**
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*  
**The addition to the dwelling at the same roof pitch as the existing roof, is a better outcome visually for the design integrity of the proposal to provide consistency in the roof shapes, rather than to retain the traditional steeper existing roof to the lower roof and add an upper roof of a more modern low pitch that would illustrate an unified presentation of the proposal and a disjointed style of dwelling. The flexibility to retain the roof pitch for the new upper roof will result in a better outcome.**

Pursuant to clause 4.6(2) 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".*

**This clause applies to the clause 4.3 Height of Buildings Development Standard**

Clause 4.6(3) states that... *"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.*

**A written request is included below addressing the two matters above.**

Clause 4.6(4) states.....*"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, and*
- b) *the concurrence of the Planning Secretary has been obtained.*

**A response to part a) above is provided in the written request below.**

Clause 4.6(5) states that, *" in deciding whether to grant concurrence, the Planning Secretary must consider:*

- a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- b) *the public benefit of maintaining the development standard, and*
- c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

**This clause is not applicable, as the concurrence from the Planning Secretary is not sought.**



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## Claim for Variation – Clause 4.6 Statement

### Zone and Zone Objectives

The zone objectives and responses of the proposed works are listed below:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*  
The alterations and additions are low impact as they are above the existing building footprint and the upper floor extension is an attic style with the rooms 'within the roof'. This maintains the low impact of the existing wall heights to the side boundaries to adjoining properties. There are no special ecological, scientific or other values on the site.
- *To ensure that residential development does not have an adverse effect on those values.*  
The proposed development has no impact on the values above
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*  
The alterations and additions are of a low scale with the rooms within the roof and the building stepping down the slope of the site. The upper floor addition is located at the rear of the site and in the centre of the existing dwelling footprint to minimise any view loss, bulk and scale and privacy
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*  
The alterations and additions of the upper floor are entirely over the existing building footprint and result in no loss of any vegetation, retaining all existing trees on site.

The zone objectives are achieved and the non-compliance has no impact on these objectives. Accordingly, there is no zone or zone objective impediment to the granting of consent.

### Clause 4.6(3)

In justification of the contravention of the development standard, the following responses are provided to this clause:

a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,*  
The proposal seeks an extremely minor portion of the overall roof representing approximately 10m<sup>2</sup> of the 300m<sup>2</sup> of roof, or 3% of the roof that breaches the 8.5m limit. The remaining 97% of the roof over the dwelling falls well below the maximum 8.5m height and on average is at approximately 7-7.5m above ground level.

The roof is a continuation of the pitch of the existing dwelling roof and is done so to retain the heritage character of the subject dwelling that adjoins a local heritage item. It is considered that the minor breach required to maintain a slightly steeper roof is justified to maintain the character of the dwelling in proximity of a similarly styled heritage item.

There are no unacceptable impacts of the breach, there is no view loss, no overshadowing, no loss of privacy to the adjoining sites or the public domain.

Strict compliance with the development standard is therefore considered unreasonable and unnecessary in the circumstances to provide design integrity to the alterations and additions proposed.

b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*  
The environmental planning grounds that justify the breach in height, are the provision of a better outcome to the adjoining heritage listed dwelling. A consistent roof pitch producing a design of high integrity to the proposed development is considered to be a better environmental outcome in terms of the visual amenity to the heritage item and the overall quality of the built environments in the proximity of the heritage item.

### Clause 4.6(4)

In justification of the contravention of the development standard, the following responses are provided to this clause:

- 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*  
**Refer above**
  - (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, and*



The proposal will be in the public interest by compliance with the particular standard (refer 4.6 (1) above) and the objectives of the zone as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*  
The proposal is low impact, with sufficient setbacks and landscaped screening and a low roof pitching point well below the height limit and surrounding tree canopy, and minimal disturbance to the ground with alterations and additions above the existing dwelling footprint
- *To ensure that residential development does not have an adverse effect on those values.*  
The proposed dwelling will not adversely impact upon the aesthetic value of the built environment, as it seeks to enhance the traditional character of the existing dwelling, in harmony with the adjoining heritage listed dwelling at 1945. In addition, the dwelling is consistent with the bulk, scale and character of surrounding low density housing.
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*  
The proposal remains integrated into the landscape and landform, as the height breach is minor to 3% of the roof and the remaining roof is well below the height limit, consistent with surrounding development.
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*  
The proposal has no impact on riparian and foreshore vegetation as the proposal is alterations and additions above the existing dwelling and does not require any tree removal.

### Conclusions

Having regard to the clause 4.6 variation provisions we submit the following justification for the proposal:

- a) that the contextually responsive development is consistent with the zone objectives, and
- b) that the development is consistent with the objectives of the height of buildings standard, and
- c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the developments ability to comply with the zone and height of buildings standard objectives that approval would not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have submit that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.