

**CLAUSE 4.6 VARIATION  
DEVELOPMENT APPLICATION**

**NEW DWELLING  
39 ATTUNGA ROAD NEWPORT**

Submitted to  
NORTHERN BEACHES COUNCIL

On behalf of  
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Prepared by  
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Date  
JUNE 2021

## CONTENTS

1.0	INTRODUCTION .....	3
2.0	ZONING OF THE LAND.....	3
3.0	OBJECTIVE OF THE ZONE .....	3
4.0	STANDARD TO BE VARIED .....	3
5.0	OBJECTIVES PERTAINING TO STANDARD TO BE VARIED .....	4
6.0	EXTENT OF NON-COMFORMITY TO THE STANDARD.....	4
7.0	THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD .....	4
8.0	HOW STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREAONSABLE OR UNNECESSARY IN THIS PARTICULAR CASE? .....	5
9.0	COMPLIANCE WITH THE OBJECTIVES PERTAINING TO STANDARD TO BE VARIED.....	5
9.1	<i>To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.....</i>	5
9.2	<i>To ensure that buildings are compatible with the height and scale of surrounding and nearby development.....</i>	5
9.3	<i>To minimise any overshadowing of neighbouring properties.....</i>	5
9.4	<i>To allow for the reasonable sharing of views.....</i>	5
9.5	<i>To encourage buildings that are designed to respond sensitively to the natural topography .....</i>	6
9.6	<i>To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items .....</i>	6
10.0	CONCLUSION.....	6

## 1.0 INTRODUCTION

This statement constitutes a request for variation to a development standard, made under Clause 4.6 of Pittwater Local Environmental Plan 2014 for Northern Beaches Council.

The objectives of Clause 4.6 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.

For this to occur, the Development Application is to be supported by a written application that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case. This application should be read in conjunction with the accompanying Development Application drawings prepared by Mark Hurcum Design Practice and Statement of Environmental Effects.

## 2.0 ZONING OF THE LAND

The majority of the site is zoned E4 Environmental Living under the Pittwater LEP whilst a small triangular wedge located along the sites southern boundary is zoned SP2 Classified Road.

## 3.0 OBJECTIVE OF THE ZONE

The objectives of the zone are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

## 4.0 STANDARD TO BE VARIED

LEP Clause 4.3 – Height of building of PLEP 2014

This sets the maximum height of a building as shown on the Building Height Map. The maximum building height permissible for 39 Attunga Road is 8.5 metres.

## 5.0 OBJECTIVES PERTAINING TO STANDARD TO BE VARIED

The objectives of this clause 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,*
- (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.*

## 6.0 EXTENT OF NON-COMFORMITY TO THE STANDARD

Height of Building Control	= 8.5m
Existing Maximum Height	= 6.6m
Proposed Maximum Height	= 9.2m
	(Minor non-compliance, exceeds by 8.2%)
	Refer A302A

It should be noted that the maximum building height was previously proposed as 9.4m (10.5% variation). This point was located on the south-western corner of the butterfly roof above the ground floor. Adjustments have been made to decrease the fall of the butterfly roof, which reduces the ridge height by 450mm on both sides and decrease the overhang by 900mm from the side boundaries. This amendment results the butterfly roof to be compliant under the maximum building height plane. Refer A202B.

The current maximum building height is on the ridge of the first floor roof.

## 7.0 THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

Clause 4.6 requires the departure from the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

The slope of land inhibits the development's ability to achieve strict compliance with the building height standard.

The proposed building footprint is located on land falling across 45m for a slope of 14°.

Clause 2D of Part 4.3 of Pittwater LEP allows for a variation to the building height standard for development on sloping land. While the proposed development does not achieve the 16.7° requirement in Clause 2D, the existence of this clause in the LEP demonstrates that slope of land is a factor that affects a development's ability to achieve compliance with building height standards. This demonstrates an aspect of environmental planning that is relevant to the subject site that justifies contravening the development standard.

## **8.0 HOW STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THIS PARTICULAR CASE?**

Strict application of the Standard is considered to be unnecessary or unreasonable in the current circumstance for the following reasons:

- Three and four storey developments are common along Attunga Road, with many being more prominent than the proposed development which is set well back from the predominant southern (front) building line
- The proposed roof is negligible in its impact to the streetscape and does not result in any unreasonable impacts on amenity of adjoining properties in terms of overshadowing, privacy, loss of view or loss of solar access.

## **9.0 COMPLIANCE WITH THE OBJECTIVES PERTAINING TO STANDARD TO BE VARIED**

### **9.1 *To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality***

The proposed dwelling is three storeys high which is of a similar scale to neighbouring properties in the locality. The building height limit is below the existing Norfolk Island Pine, minimising bulk and scale and maintaining the desired future character of the Newport Locality in which it is located.

### **9.2 *To ensure that buildings are compatible with the height and scale of surrounding and nearby development***

The proposed dwelling is of a similar scale to neighbouring properties and is designed to step down the slope of the land to integrate with the landform and landscape. While the proposed design is three storeys at its southern end, it has a highly articulated rear elevation that reduce the appearance of bulk when viewed from Attunga Road below. Three and four storey developments are common along Attunga Road, with many being more prominent than the proposed development which is set well back from the predominant southern (front) building line and will be screened by the existing Norfolk Island Pine to be retained on site.

### **9.3 *To minimise any overshadowing of neighbouring properties***

The proposed building has been designed to ensure the impact of overshadowing on neighbours is minimised. To achieve this, the proposed building envelope is situated behind the predominant building line to the south and has been pulled back on its north-eastern side.

Elevational shadow diagrams to No.37 have been prepared. The elevational diagrams show that while there is shadow impact, sunlight is still achieved post-development around 10.30-11.30. But the existing sunlight to these windows is only achieved due to being next door to an essentially under-developed block of land. Any complying development on 39 Attunga Road will have some impact to the neighbour's eastern and western windows. It is noted, however that the neighbour at 37 have north-facing windows that cast light into the study mezzanine and down into the living areas. These windows are unimpacted by the proposed development.

**9.4** *To allow for the reasonable sharing of views*

The height of the proposed development does not affect the sharing of views with adjoining properties due to its location at the top of the ridge.

**9.5** *To encourage buildings that are designed to respond sensitively to the natural topography*

The development steps down and along the slope of the topography to integrate with the landform and landscape, and minimising site disturbance. It is difficult to maintain a fully compliant building height under the current controls due to the nature of the topography and site footprint limitations.

The proposed dwelling and driveway will require some excavation on site. To reduce the amount of excavation required, the building extends the maximum building height plane.

**9.6** *To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The proposed dwelling will have a minimal visual impact on the surrounding natural environment as shown above. There is one Norfolk Island pine on the site and the development proposes the retention of this tree. The development will not dominate the site and will be screened by the Norfolk Island Pine to be retained. All native tree canopy is retained to provide feed trees and undergrowth for animals and to enhance wildlife corridors.

The subject site is not a heritage item and not located within a heritage conservation area.

**10.0 CONCLUSION**

It is submitted that a variation to Pittwater LEP 2014 is appropriate for this Development Application as the non-conformity does not add any impact to adjoining or nearby properties whilst complying with all objectives of the standard and providing suitable accommodation for the occupants.

As demonstrated above, strict compliance with this standard is unnecessary for this Development Application.

Approval should not therefore be withheld due to the non-compliance of the development standard.