

# CLAUSE 4.6 VARIATION REQUEST

For

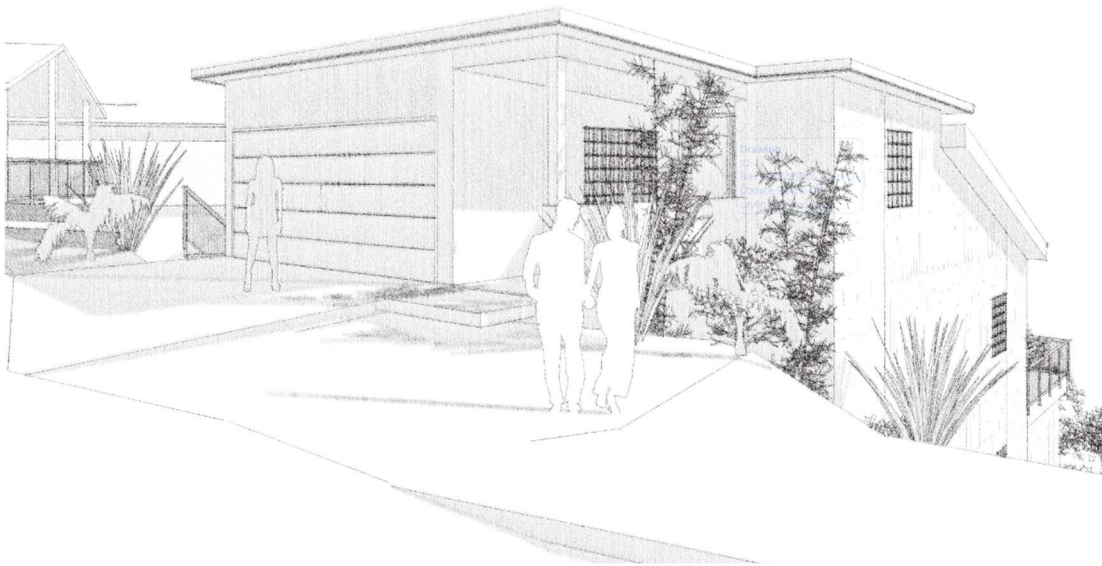
Height of Building,

Project:

Proposed Dwelling

No. 100 Hilltop Road, Avalon

**Lot 2 DP 260241**



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18<sup>th</sup> March 2025      Clause 4.6 Variation

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## 1.0 Introduction:

This Clause 4.6 Variation Request accompanies the development application for a proposed four-level dwelling on a steeply sloping vacant site. The proposal seeks a variation to the Pittwater Local Environmental Plan (LEP) 2014 Clause 4.3 (Height of Buildings) standard.

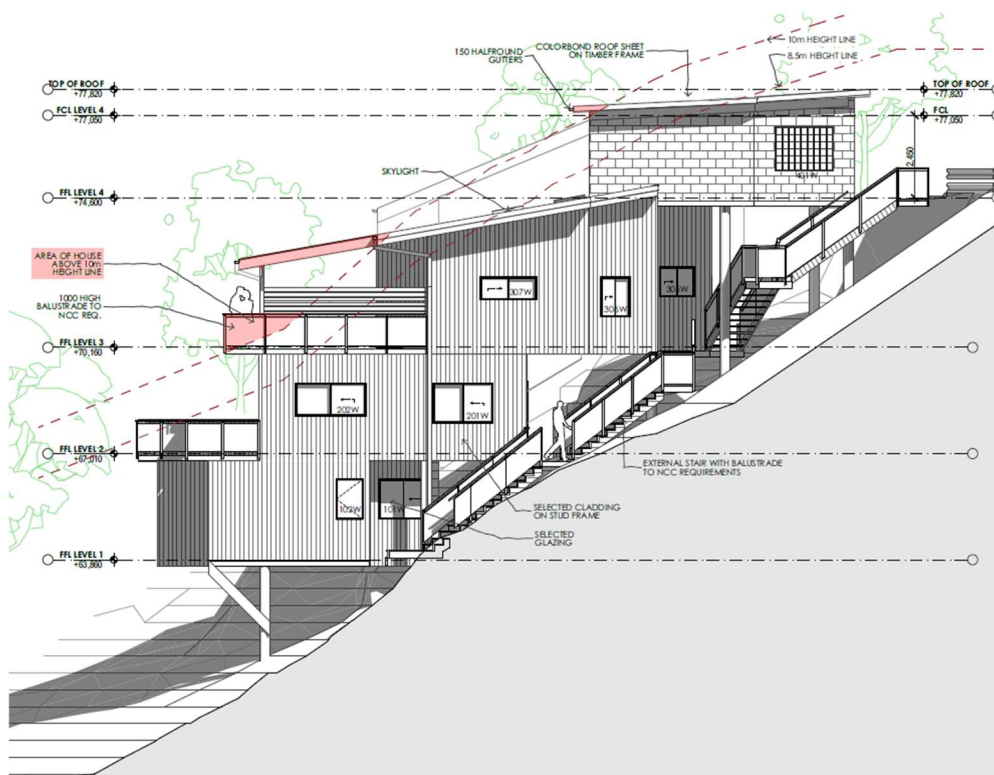
## 2.0 Extent of Non-Compliance:

**Height of Building:** The proposed dwelling reaches a maximum height of **11.6m**, exceeding the **8.5m** LEP height limit. This is a variance of 13.65%. The Height Variation above 10m is only a small portion of the proposed dwelling. The non-compliance occurs on the south side of the site and is only applicable to a section of the eaves on the upper level, a section of the patio roof and a section of the balustrading on the second level deck. Refer Figure 3.

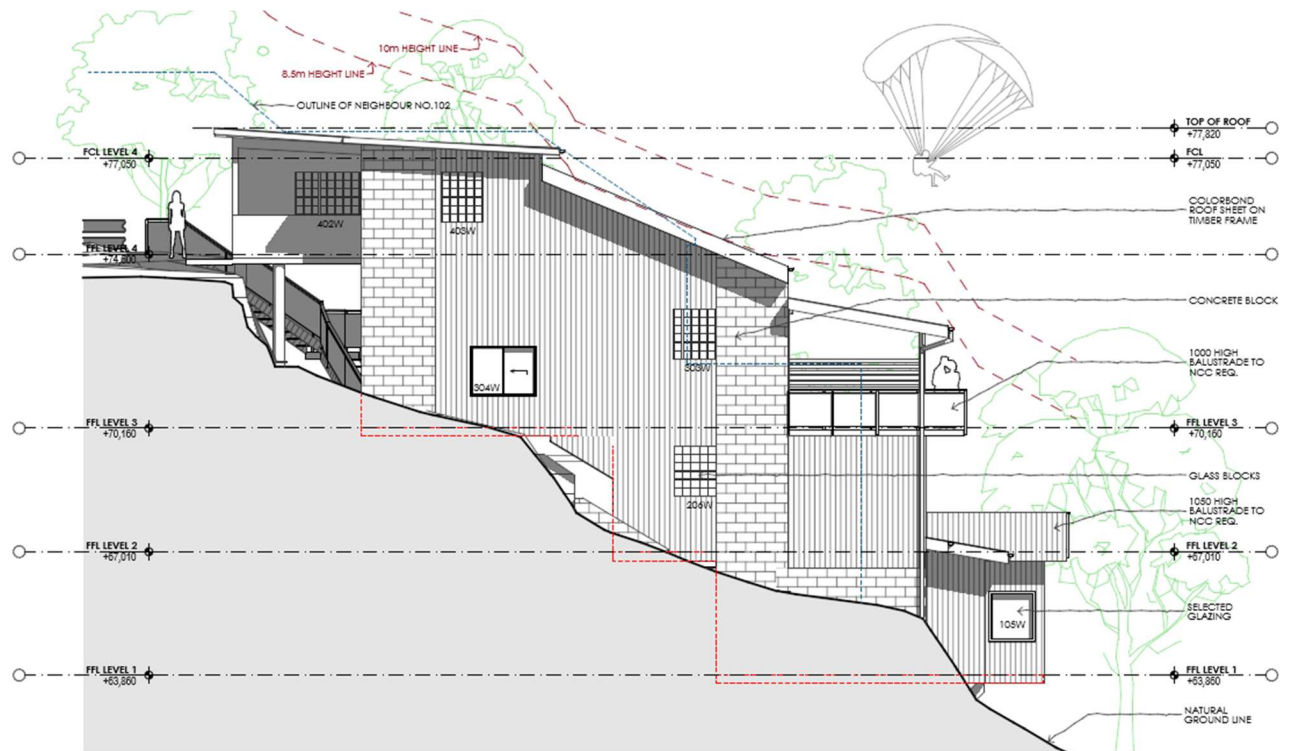
## 3.0 Justification for Variation:

### 3.1 Compliance is Unreasonable or Unnecessary in the Circumstances

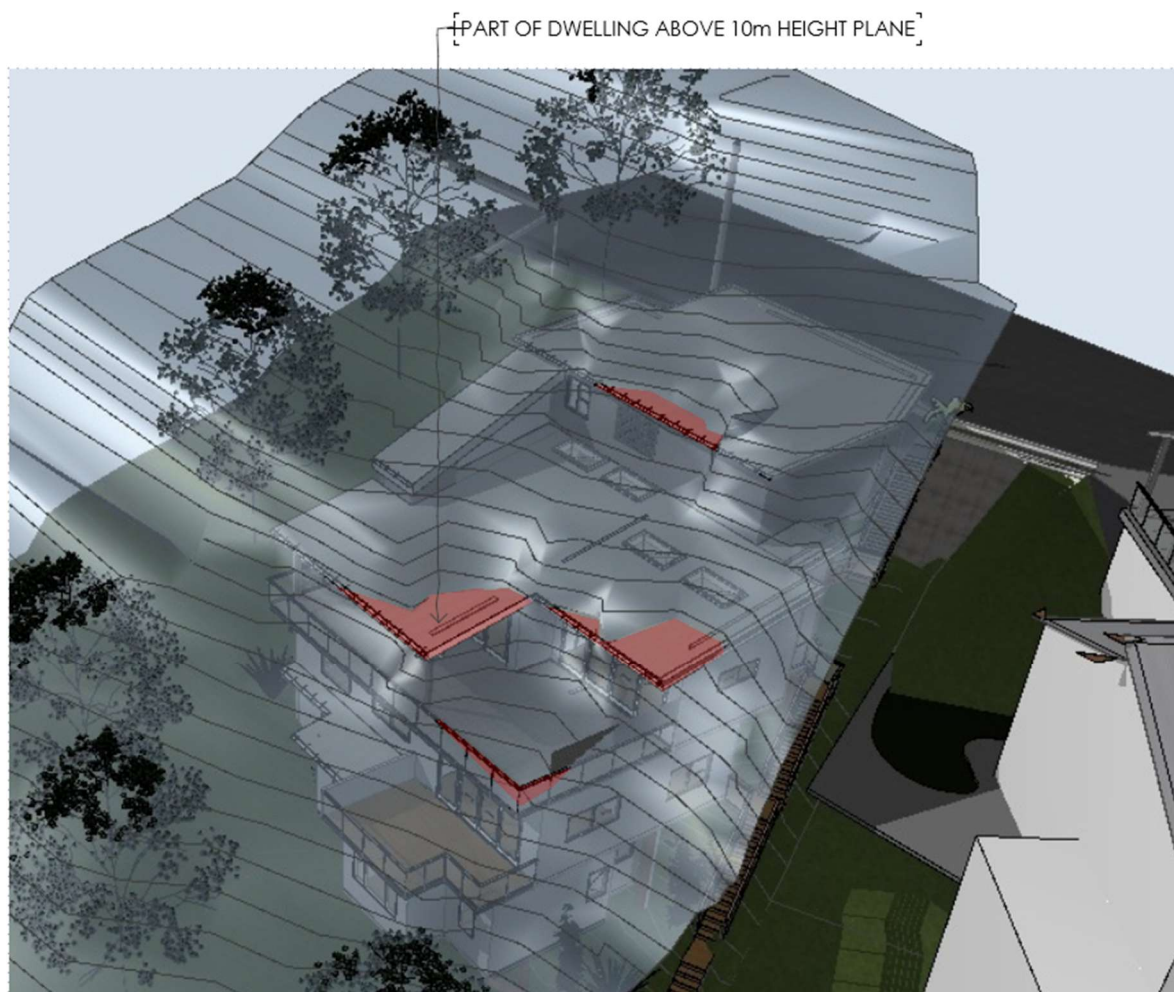
Strict compliance with the 8.5m height standard is unreasonable given the extreme topography of the site, which slopes downward at approximately 30 degrees from Hilltop Road. Refer Figure 1. The Northeast Elevation is typically compliant with the 8.5m height requirements. Refer Figure 2. The stepped nature of the proposed dwelling ensures it follows the contours of the land while keeping visual impact to a minimum. This also limits the impact to the site in terms of excavation and limits the amount of vegetation to be removed. Due to the necessity of providing a functional floor layout and safe vehicular access from Hilltop Road, exceeding the height standard is unavoidable. The Height Variation above 10m is only a small portion of the proposed dwelling. The non-compliance occurs on the south side of the site and is only applicable to a section of the eaves on the upper level, a section of the patio roof and a section of the balustrading on the second level deck. Refer Figure 3.



**Figure 1: South West Elevation showing Site slope of 30 degrees**



**Figure 2: North East Elevation showing compliance with 8.5m height requirement.**

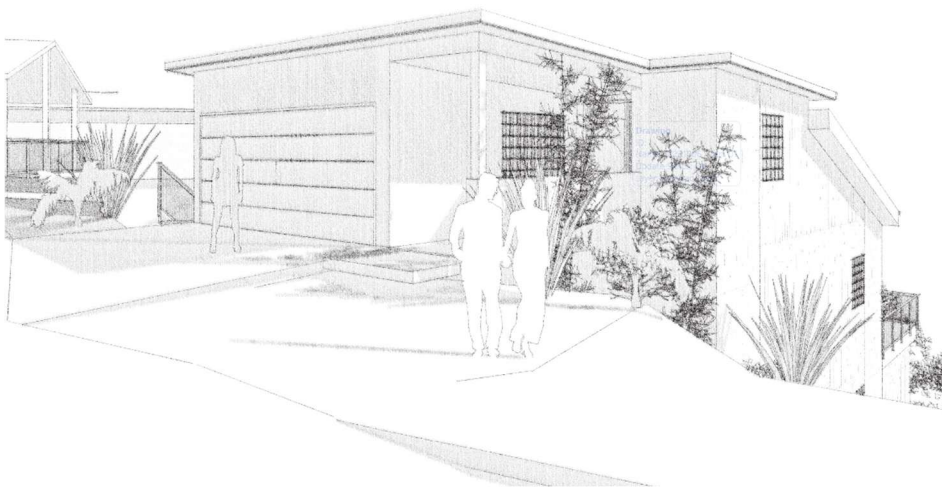


**Figure 3: Aerial View Showing 10m Height plane**

### 3.2 There are Sufficient Environmental Planning Grounds to Support the Variation

The proposed dwelling has been designed to minimize bulk and scale while maintaining equitable view sharing and privacy for adjoining properties. Key environmental planning considerations include:

- **View Sharing:** The dwelling's orientation and setbacks respect sightlines from neighbouring properties. The single-story dwelling to the north is set well back and at a lower elevation, ensuring that its views remain dominated by surrounding vegetation. The three-story dwelling to the south maintains its primary views toward Pittwater, supported by generous setbacks ranging from 1m at the front to 4.8m further down the site. The use of an elevated deck on steel posts reduces view obstruction.
- **Shadowing:** Shadow diagrams demonstrate that the dwelling to the south will continue to receive over three hours of sunlight during winter between 9am and 3pm, with the proposed stepped massing allowing sunlight to filter through.
- **Privacy Considerations:** The proposed design ensures outdoor living spaces remain private, with privacy screening along the southwestern edge of the Level 3 deck to mitigate overlooking impacts.
- **Bushfire and Environmental Constraints:** The materials and construction methods have been selected to comply with bushfire protection requirements, incorporating fire-resistant materials such as concrete, stone cladding, and fibre cement. The design also minimizes unnecessary site disturbance by following natural contours and avoiding excessive excavation.
- **Height Bulk and Scale:** The height, bulk and scale of the proposed dwelling is consistent with other dwellings within the locality. Refer Figure 5. The most prominent public view of the proposed dwelling will be from Hilltop Road Cul-de-sac. The upper floor level is the only level readily visible from this location with the other three lower levels occurring further down slope. When viewed from the cul-de-sac, the development will present as a single level dwelling. Refer Figure 4.



**Figure 4: View from Cul-De-Sac, Dwelling appears as single storey**





**Figure 5 – Bulk and Scale of Neighbour at 102 Hilltop Road**

### **3.3 The Proposal is in the Public Interest and Consistent with Zone Objectives**

- The subject site is located within Zone C4 Environmental Living under the Pittwater Local Environmental Plan 2014 (the LEP). The proposed dwelling house is permissible with the consent of Council. The development aims to provide **a high-quality dwelling** that is compatible with the surrounding residential character.

The objectives of the **Zone C4 – Environmental Living** under the **Pittwater Local Environmental Plan (LEP) 2014**, New South Wales, are intended to protect and manage environmentally sensitive land while allowing low-impact residential development. The key objectives of this zoning include:

1. To provide for low-impact residential development in areas with special ecological, scientific, or aesthetic values.
2. To ensure that residential development does not adversely affect the environmental or scenic qualities of the area.
3. To protect and restore areas of high ecological, scientific, or aesthetic value.
4. To maintain the unique character of Pittwater's natural and built environment.
5. To encourage development that is compatible with the environmental capabilities of the land.

The design of the house and the proposed landscaping will enhance the landscape setting of the site and the streetscape. Ensuring that the built form responds to the site's constraints while minimizing adverse impacts on neighbouring properties. Retaining significant vegetation where possible and integrating a sensitive design approach that respects the natural environment.

#### **4.0 Conclusion**

This Clause 4.6 Variation demonstrates that strict compliance with height of building standards is unreasonable given the extreme topography of the site. The proposal achieves a well-balanced design outcome that minimizes bulk and visual intrusion while ensuring equitable view sharing, privacy, and environmental responsiveness.

Accordingly, the variation sought is justified and reasonable, and it is requested that the consent authority exercise its discretion to grant approval in accordance with Clause 4.6 of the Pittwater LEP 2014.

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