



**Clause 4.6 Variation
To Development Application
For
2/25 Charles Street,
Freshwater
NSW 2096
For
Marcus Rosenberg & Charlotte Ralph**

RAPID PLANS

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1 INTRODUCTION

This report pertaining to Clause 4.6 Variation accompanies the Development Application for the proposed alterations & additions at 2/25 Charles Street in Freshwater.

1.1 Site

The residence is located on the south-eastern side of Charles Street in the residential neighbourhood of Freshwater.

LOCATION PLAN



1.2 Local Authority

The local authority for this site is:
Northern Beaches Council (Warringah)
Civic Centre, 725 Pittwater Road,
Dee Why NSW 2099
DX 9118 Dee Why
Telephone: 9942 2111

1.3 Environmental Planning Instrument that Applies to the Land

Warringah Local Environment Plan 2011

1.4 Zoning of the land

R2 Low Density Residential

1.5 Objectives of the Zone

- 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 ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah (Northern Beaches)

Comment:

It is considered that the proposed development meets the objectives of the Zone R2 Low-Density Residential. This opinion is justified on the basis that this application provides for the owner's housing needs within the low-density area that is consistent with surrounding properties. The proposal allows for internal areas to be usable for the owners to assist in day to day living without adversely impacting the low-density environmental aspects as no vegetation is proposed for removal. The works proposed will significantly improve the design and aesthetic quality of the site with the built form outcome complimenting newer style properties along Charles Street.

There are no statutory zoning or zone objectives that are an impediment to the granting of approval to the proposed development.

2 Clause 4.6 Variation to Development Application

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.*

2.1 Development Standard Being Varied

After reviewing Northern Beaches Council LEP 2011 we advised that a Clause 4.6 Exception to Development Standard is required due to:

- This development is classified as a non-complying development due to the roof being over the 8.5m building height
- The favourable option for Council is a Development Application with a Clause 4.6 Variation for the structures to be considered for approval.

2.2 Clause of the Development Standard listed in the Environmental Planning Instrument

- Northern Beaches LEP 2011 Part 4 4.3 Height of Buildings

2.3 Objectives of the Development Standard

- to ensure that buildings are compatible with the height and scale of surrounding and nearby development
- to minimise visual impact, disruption of views, loss of privacy and loss of solar access
- to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments
- to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities

Comment:

It is considered that the proposed development meets the objectives of the height of buildings development standard. This opinion is justified on the basis that this application is compatible with not only surrounding properties, but also the subject properties existing building is over the height limit & the aim is to match in with the existing height. The visual impacts are minimised as there is substantial vegetation onsite that is higher than the building & the proposed dormers are in keeping with similar dormers on the adjacent property to the north that assists in maintaining the scenic quality of the Freshwater area. With the existing location of the subject & adjacent dwellings enjoying an elevated position there is no adverse impact of view lines with privacy improved as well as the shadow cast from the proposed works having negligible impact on surrounding properties.

2.4 Numeric value of the development standard in the environmental planning instrument

WLEP2011 Height = 8.5m

2.5 Proposed numeric value of the development standard in your development application

Proposed Height = 10.93m (Existing Ridge Height)

2.6 Percentage variation between the proposal and the environmental planning instrument

Proposed Height = 28.6% (Existing Ridge Height)

2.7 How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance with the development standard is unreasonable in this case due to the existing roof well over the height limit with the proposal is for an attic conversion in the centre of the roof structure only. The variation in this case is very moderate in comparison to the existing roof form encroachment. This application is actually in keeping with a low-density residential environment desired by Council in this area as well as the objectives of the zone. The development has no negative consequence of significance as a result of this minor noncompliance, further it meets the objectives of the development standard, and therefore strict compliance with the development standard would be unreasonable and unnecessary.

In this circumstance, it is unreasonable and unnecessary to strictly comply with the building height standard given that the resulting development will be absent of any negative environmental or planning outcomes. The proposal would be indiscernible to a development that strictly complied with the numerical control. For the reasons stated above, it is argued that a variation be supported as it ultimately results in an improved planning outcome for the streetscape and general locality along Charles Street.

- *Streetscape* – The visual quality of the streetscape is to be enhanced with the alterations to the residential flat building improving the bulk whilst maintaining the front roof planes as viewed from the street to complement the existing built form along Charles Street. The intention for the attic conversion addition to the building is to provide storage as well as complementing other designs using dormers and slanted roofs & does not detract from the streetscape along Charles Street. The proposed additions provide a generally consistent pattern of development with regard to adjoining front building setbacks, and as such, the proposal will not result in any visually prominent element that will result in an unreasonable impact on the streetscape & is not out of character for the neighbourhood. These characteristics for the building height conform to the R2 low density residential requirements for the Freshwater area & modifying the structure would, in our opinion, contravene the R2 zoning objectives by adversely affecting the streetscape along Charles Street & the desired future character

of the area.



No's 27 Charles Street, Freshwater (left) with subject property (right) dormer locations indicated by the red arrows



No's 3 Charles Street, Freshwater with a slanted pitched roof style that is similar to the dormer roofs proposed



No's 47 Ocean View Road, Freshwater

- *Bulk & Scale* is maintained for the area. Although the bulk & scale of the building is slightly increased, the overall size & bulk in relation to the surrounding neighbourhood is to be maintained throughout the development. There is no adverse visual impact as viewed from Freshwater Beach to the east with surrounding foreshores to maintain their existing visual amenity. The matching dormer additions allow for a more appealing streetscape with the design in keeping with other properties along Charles Street using multiple dormers multiple Dutch gables in their designs as well as complementing the existing roof structure.



Existing front façade of the subject property

The existing topography & built form prevents the proposed dormer roof from adhering to the 8.5m building height. This is largely due to the existing roof having been constructed above the height limit 10.93m above ground level. For example, to make the dormer roof compliant it would need to be lowered 2430mm to the height line, which is approximately the internal ceiling under the ridge. The proposal is a design option that supports a preferred planning outcome of a traditional design that compliments the existing building & the surrounding neighbourhood.

In addition, the attic storage walls have been designed to provide substantial clearance to side boundaries & adjacent dwellings. 3.484m to the north-eastern side boundary & 5.835m to south-western side boundary with another approximately 1.5m to the dwellings on either side. This indicates clearance to the Council 0.9m side setback has been achieved in this case. The intention is to provide a balance between the proposed additions to the existing landscaping & built form whilst providing appropriate storage options for the owners.

- **Openness** - A sense of openness has been maintained with the dormer roofs barely visible from the street & not impacting the visual amenity around ground level. The proposed dormer design has been designed with low head height so it cannot be used as habitable space & creates flow between the internal areas for the owners with elements of the proposal over the height limit to continue to allow for a sense of openness to support the desired future character of the Freshwater low density area. The openness to the front of the property is maintained with the landscaped area preserved & with the proposed dormer additions within the existing building footprint.
- **Public & Private Views** - The view lines are maintained for the subject & surrounding dwellings as there is substantial vegetation to the front of the subject properties that prevent surrounding properties seeing most of the northern side of the dormer. The aerial photo below indicates the height encroachment area shown with a red circle & the substantial separation to the surrounding dwellings.



25 Charles Street highlighted with area of height encroachment circled in red

- *Site Access & Circulation* is maintained with the vehicular access drive to Charles Street to continue to allow for parking for 2 vehicles & existing pedestrian access to remain unchanged. It is anticipated that the proposed development will have no detrimental impact on traffic flow.
- *Planting* – There has been generous amount of area maintained for the provision of planting in the front & rear areas of the property. The existing vegetation softens the streetscape & allows the development to blend in with the existing environment along Charles Street.

2.8 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The proposal extends the existing built form of the subject property with well-designed additions improving on the ageing traditional dwelling. The proposed works add to the already renovated dwellings along Charles Street, and as such strict compliance in this regard would limit the objects being fully attained. As the dwelling is the top floor apartment of the building only, there cannot be storage added to the floors below. The proposed works provide a more efficient and orderly development on the land that is of high-quality architectural design which maximises the sites

development potential along with providing appropriate housing stock within the locality.

2.9 Is the development standard a performance-based control?

The objectives of the development standard provide the controls to allow a performance-based solution. For the reasons outlined herein, it is demonstrated the proposal meets the objectives of the development standard, therefore Council should consider “compliance to the standard unreasonable in the circumstances of the development”.

2.10 Would strict compliance with the standard be unreasonable or unnecessary?

Yes, please refer to answer in 2.7, 2.8, 2.9 and 2.10 preceding.

2.11 Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes, Section 4.6 enables a development standard within an LEP to be varied, providing sufficient and compelling arguments based on sound planning rationale and legislation are put forward to support the variation.

The following environmental planning grounds justify contravening the development standard.

- The proposal provides a more environmentally friendly dwelling.
- The proposal utilizes existing services & building footprint.
- The proposal provides onsite parking.
- The proposal provides improved housing in a low-density environment.

The variation to the maximum building height requirements is, in our opinion, acceptable and there are appropriate planning grounds in support of the non-compliance.

CONCLUSION

2.12 Summary

The resulting development has been designed to enhance the existing residential building by improving the amenity for the residents while maintaining, where possible, the conditions set out by Northern Beaches Local Environment Plan 2011. The proposed works included in this report are, in our opinion, reasonable in relation to the existing built works & do not adversely impact the surrounding properties whilst justifying the environmental planning grounds for Northern Beaches Council. We consider that the proposal will impose minimal impact and maintains the streetscape & character of the neighbourhood & request that council support the Clause 4.6 Variation of the Development Application.