

## 63 GORDON STREET, CLONTARF

### SECTION 4.6 APPLICATION TO VARY A DEVELOPMENT STANDARD

This application is to be read in conjunction with the 4.55 Application for Modifications to DA43/2016 for alterations and additions to this property as per EP&A Regulation 2000

**Item 1      What is the name of the environmental planning instrument that applies to the land?**

Manly LEP 2013

**Item 2      What is the zoning of the land?**

the site is zoned R2 Low Density Residential

**item 3      what are the objectives of the zone?**

Objectives of 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.

**Item 4      what is the development standard being varied?**

Height of Building

**Item 5      under what clause is the development standard listed in the environmental planning instrument?**

4.3

**Item 6      what are the objectives of the development standard?**

The objectives of this clause are as follows:

- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
- (b) to control the bulk and scale of buildings,

- (c) to minimise disruption to the following—
  - (i) views to nearby residential development from public spaces (including the harbour and foreshores),
  - (ii) views from nearby residential development to public spaces (including the harbour and foreshores),
  - (iii) views between public spaces (including the harbour and foreshores),
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
- (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

**Item 7      what is the numeric value of the development standard in environmental planning instrument?**

8.5m

**Item 8      what is the numeric value of the development standard in your development application?**

8.9m

**Item 9      what is the percentage variation?**

Maximum height variation (for tip of upper roof only):      4.7%

Extent of roof area affected:      1.9% of roof area

The 4.7% maximum localised height variation, which only occurs over 10.2% of the building width, ranging from 0mm to 400mm over a distance of 1.5m to the minor upper roof area only; this occurs over only 1.9% of the roof area.

**Item 10      How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

The proposed works have been carefully designed to preserve the architectural quality and predominant Art Deco style in this suburb; the form of the dwelling is of critical importance.

The proposed variation to the height limit is exceedingly minor and only to 1.9% of the roof area.

The site slope of 1:3.4 is very steep and due consideration and flexibility of this control in this context ought to be permissible. Further, the context and existing conditions have many dwellings with heights far greater, sometimes meters higher – 65 Gordon Street adjacent is 10.34m – in summary variation in this precinct is common in order to navigate the steep slopes. The house appropriately steps down the site and has modest floor to ceiling heights, is only 2 storey and has a roof only 1.3m in height. The upper roof occupies only 12.6% of the roof area and area above 8.5m above NGL is 1.9% of the roof area – the variation sought is very modest and considered necessary for the integrity of the design and unreasonable to be applied to this minor upper edge of the building. The dwelling is modest for the site and context. There is no associated environmental impact.

**Item 11      how would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) of the Act?**

Strict compliance will impact and reduce the quality of a reasonable family home that is almost completely consistent with the desired future character of the neighbourhood and relevant planning controls.

Strict compliance is not necessary or reasonable to achieve the objectives stated;

- (a) the desired future character of the neighbourhood is unaffected, particularly noting the height is for the greater extent compliant and well under permissible limits. The dwelling is not visible from the street. Further, the variation sought is exceedingly minor and also a consistent variation with adjacent dwellings on these steeply sloping sites.
- (b) local amenity is unaffected and there is no zoning changes affected or in proximity of the dwelling
- (c) solar access to existing buildings and open space is unaffected by the minor variation proposed
- (d) there is no resultant impact on adjoining or nearby properties or a disruption of views, loss of privacy, overshadowing or visual intrusion from this very minor and partial variation
- (e) there is no impact to the amenity of the public domain by providing public views of the harbour and surrounding areas.

**Item 12      is the development standard a performance based control?**

No, the control is numerical, but the objectives can be assessed on their performance or effect; the objectives are all clearly satisfied.

**Item 13      Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?**

As articulated in Item 10 above, every reasonable and appropriate design measure has been employed to mitigate this variation.

The variation sought is very minor; being only 400mm (4.7%) at the uppermost point over 10.25% of the building width.

There is no resultant impact from this minor variation; on balance and performance the proposed alterations and additions satisfy the clause.

Such a variation is common in this precinct and directly related to the steeply sloping sites.

All of the objectives are satisfied and the breach has no bearing on the public or private amenity of adjacent areas; the amenity afforded by these modifications is appreciable, critical for the architectural integrity of the dwelling and importance for the owners of this property.

**Item 14      Are there sufficient environmental planning grounds to justify contravening the development standard? Give Details?**

Yes; please refer to items 10 & 13 above.

There are further grounds in addition to those described above:

- the LEP allows for variation to height in certain areas and this clause allows for such a variation provided the objectives are satisfied and the variation is reasonable
- the stated objectives are satisfied

- The variation sought is very minor and reasonable as described above
- the variation is typical in this precinct and occurs on many neighbouring dwellings due to the steep sloping sites around the harbour
- there is no resultant impact from the minor variation sought
- The roof is only 1.3m high and the house modest; the breach is fundamentally due to the steeply sloping site
- all reasonable and appropriate design responses have been employed for the specific constraints of site and dwelling.
- there exists precedent for such minor variations
- the dwelling remains 2 storeys and there public domain is unaffected