

CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS – HEIGHT VARIATION

7 Birinta Street, Narraweena - DA submitted to Northern Beaches Council

This Clause 4.6 submission has been prepared to accompany the Statement of Environmental Effects submitted to Northern Beaches Council for a Alterations and Additions including a First Floor Addition with internal alterations to an existing Home at 7 Birinta Street, Narraweena. The development application is submitted pursuant to the provisions of Northern Beaches / Warringah Local Environment Plan 2011 and Warringah Development Control plan 2011.

Clause 4.6 of the Warringah LEP 2011 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

Objectives of the zone

- To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood
- To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome
- To inspire design innovation for residential, commercial and industrial development
- To provide a high level of access to and within development.
- To protect environmentally sensitive areas from over development or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained
- To achieve environmentally, economically and socially sustainable development for the community of Warringah

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within clause 4.3 of the Warringah LEP 2011, which states:

Objectives of the Clause 4.3 - Height of Buildings

- (1) The objectives of this clause are as follows—
 - (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
 - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
 - (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
 - (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (2A) If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.

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) Development 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.
- (3) Development 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.
- (4) Development 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.
- (5) 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 Planning Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made it did not contain Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition or Zone R5 Large Lot Residential.

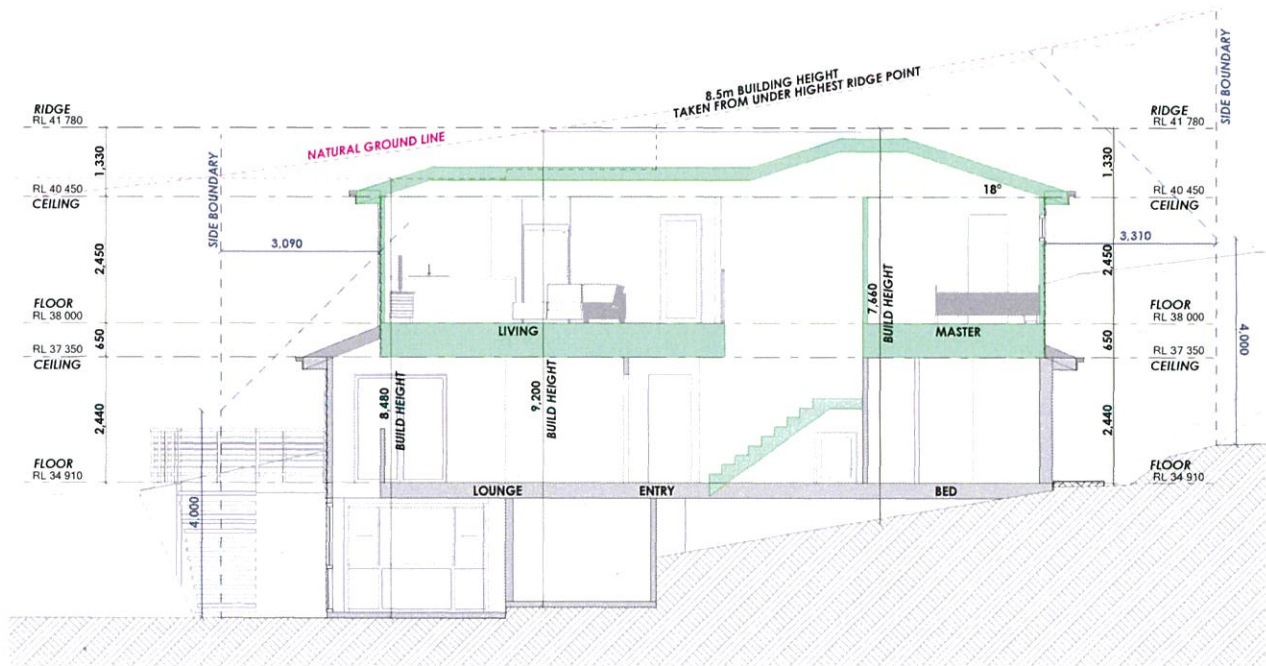
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6, addressed below:

The Proposed Building Height

The proposed building height from the existing garage located below the home to the uppermost roof ridge is 9.31m, a variation of 8.2%. The First Floor addition complies when adopting the building height from the "natural ground line" of the site, external ground levels around the home will be maintained reducing any visually perceived breach of the building height. The area of Variation is wholly located within the upper roof area. The breach then diminishes to full compliance along the rise of the land and fall of the roof line as depicted below. Building height located below the highest ridge line is 7.66m (fully compliant).



Compatibility with the surrounding streetscape and topography

Variation to the height control arises due to the topography of the land and elevated nature of the existing home accommodating off street parking below. Variation to the height plane is located within the upper roof area that is centrally located within the property, the variation immediately diminishes to full compliance along the rise of the land and fall of the roof planes.

All efforts have been made to provide additional space to this modest sized home by following the topography of the land without the need for any new cut and fill or demolition of a well established quality home. An altered roof profile or re-positioning of the addition would have no noticeable gains other than to diminish the aesthetics of the addition resulting in a compromised design and viability of the addition as a whole. The addition has been designed with a low pitched roof at 18 Degrees to further reduce overall building height, bulk and scale.

There is no requirement for new cut and fill within the land that slopes downhill from the rear of the property to the street at an average gradient of 15 Degrees. Bulk and scale has been minimised in this instance with Articulation of the external walls and centrally located First Floor addition creating a terraced look reducing perceived Bulk and scale when viewed from public or private spaces.

The home is screened by trees and planting within the property and along the streetscape with boundary fences providing visual break when viewed from public or private spaces.

Solar access, Amenity and Privacy

The proposed First Floor addition is considered appropriate and will be readily absorbed into the built environment and landscaped setting of the locality. Existing trees, vegetation and Boundary fences will be maintained keeping the streetscape consistent.

To ensure the proposal is compatible with the surrounding developments and not become overly dominant, Articulation has been introduced into the design by "setting in" the First floor addition by way of "terracing the design" to reduce the appearance of large vertical walls to minimise the appearance of bulk and scale and integrate the dwelling into the existing streetscape while maintaining the spatial proportions of the street character when viewed from public places.

The small portion of the roofed area that is over the building height control is located along the western side of the first floor addition, hence does not create additional shadows or contribute to overshadowing to the south. The extent of overshadowing is non material as demonstrated on submitted Shadow diagrams of 2D shadow diagrams showing shadows cast on "June 21" .

The proposed development does not result in any significant loss of privacy to adjoining dwellings, windows are of a modest size.

The subject site is not situated within a recognised view corridor. The First Floor addition has been designed to incorporate lower pitched roofs along with articulation and Terracing of the design allowing for greater view corridors.

There is no impact on the coastal or bushland environment

The proposed development does not introduce the need for demolition of existing dwellings resulting in any potential requirement for cut and fill.

Other Matters for Consideration

When taking into consideration the scale and form of surrounding developments the proposal is considered appropriate in this case and will be readily absorbed into the built environment and landscaped setting of the locality. Existing trees, vegetation and Boundary fences will be maintained keeping the streetscape consistent.

it is considered that the variation does not raise any matters of public interest as there are no view loss or detrimental streetscape outcomes associated with the height variation. It is noted that the proposal is of benefit to the public, given its lack of amenity impacts to adjoining dwellings and its ability to be compatible with the characteristics of the streetscape.

Given that the proposal is consistent with the desired future character for the area and that there are no adverse or unreasonable impacts on the streetscape, It is reasonably concluded that "there are sufficient environmental planning grounds to justify contravening the development standard" in this instance.

Concurrence

Development 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, 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 Secretary has been obtained.

The objectives of the zone are 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 Council and the Northern Beaches.

The proposed height variation arises in respect to part of the roofed area. The proposed height encroachment does not result in any significant view loss, loss of privacy or overshadowing in the context of the site as detailed through this document and submitted statement of Environmental effects. There are no adverse heritage impacts associated with the proposed development and the proposed height and scale of the development is sympathetic to the local streetscape.

In deciding whether to grant concurrence, the 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 Secretary before granting concurrence. Comment:

The proposed variation does not raise any matter of significance for State or regional environmental planning.

There is no public benefit that would be achieved by maintaining the development standard or compromised by approving the building as proposed.

It is expected Council will obtain the concurrence of the Director-General as required.

Summary

for the reasons outlined above – and particularly having regard to the site-specific nature of this clause 4.6 variation request – there is nothing about this proposed height variation that raises any matter of significance for State or regional environmental planning, nor is there any broad public benefit in maintaining the development standard on this site. There are no other relevant matters requested to be taken into consideration before granting concurrence.

An amended design to the roof or First Floor addition would compromise the overall aesthetics of the addition and would have no noticeable gains other than to diminish the aesthetics and viability of the design hindering the promotion of social and economic welfare of the community and economic use of the land.

This Clause 4.6 variation is forwarded in support of the development proposal at 7 Birinta Street, Narraweena. It is requested to be looked upon favourably by the consent authority.

Prepared by:

Your Style Designer Home additions

