

VARIATION – Section 4.6

This Section 4.6 variation has been prepared to identify the subject site, consider the effects on the surrounding environment, streetscape and adjoining properties. Councils DCP and LEP has been taken into account in the preparation of the report.

Property

The subject property is known as Number **Unit 1/6 Jackson Street, Balgowlah NSW 2093**. The property is located within the Local Government Area of **Northern Beaches Council**. The proposed can sustain the planned development.

Proposal

The proposed construction consists of **Patio Roof**, using colours that will complement the existing dwelling. The total size of the proposal is **approx. 14.70m²**. **Proposed Patio Roof to be constructed with aluminium framing, Louvres & Colorbond Roof sections constructed in accordance with relevant Australian Standards and Building Code of Australia.**

Building height to be confirmed. If over 8.5m when measured from ground level, a Clause 4.6 statement is to be submitted for further consideration. It is asked that Council considers the proposed Louvre Roof for approval.

Clause 4.3 and 4.6 of the Warringah Local Environmental Plan 2011 states the following:

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, - **The proposed patio roof is compatible with the height and scale of the surrounding developments as they currently exceed 8.5 – the proposed patio roof is over the required 8.5m height limit, however is within existing parameters**

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access - **The proposed in an open structure on all sides and being a Louvre Roof it will be open most of the time, so the Louvre section will appear open from below**

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments – **not applicable**

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities – **not applicable**

(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](#). **The existing dwelling is over 8.5m at the side & rear**

(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 – **not applicable**

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 - **The existing Patio needs some form of weather protection as its very difficult to be used and there is no area for sun protection.**

(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 - **Due to the natural Topography it's very difficult to get the roof any lower**

(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 E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 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).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,

c) clause 5.4.

(8A) Also, this clause does not allow development consent to be granted for development that would contravene a development standard for the maximum height of a building shown on the *Height of Buildings Map* on land shown on the *Centres Map* as the Dee Why Town Centre.

(8B) Despite subclause (8A), development on Site C or Site E may exceed the maximum height of building shown on the [Height of Buildings Map](#) if the maximum height is allowable under clause 7.14.

Existing Infrastructure

Given to nature of the proposal, we do not believe the proposed will affect the existing infrastructure services related to the subject site in anyway.

Environmental Issues

The property in question does not appear to have any environmental constraints.

Vegetation

The proposal will have no effect on the existing vegetation on the subject property, or the adjoining properties.

Storm Water

The effect of the proposal on the existing stormwater run-off will be minimal. Sufficient landscaped area will remain for natural absorption of rainwater. Roof Water to be connected to existing system to street.

Streetscape

The proposal has been designed in such a way that will harmonise with the existing dwelling and surrounding properties. Shape and colour selection will ensure that the proposal will compliment the existing dwelling and streetscape.

Conclusion

Our investigation of the property in question and the surrounding area concludes that the proposal will have minimal impact on the adjoining dwelling and neighbourhood. The proposal will complement the existing dwelling and streetscape.

We seek council to view this application favourably.

Kind Regards,

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