

**CLAUSE 4.6 VARIATION
DEVELOPMENT APPLICATION**

**NEW DWELLING
39 ATTUNGA ROAD NEWPORT**

Submitted to
NORTHERN BEACHES COUNCIL

On behalf of
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Prepared by
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1.0 INTRODUCTION

This statement constitutes a request for variation to a development standard, made under Clause 4.6 of Pittwater Local Environmental Plan 2014 for Northern Beaches Council.

The objectives of Clause 4.6 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.

For this to occur, the Development Application is to be supported by a written application that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case. This application should be read in conjunction with the accompanying Development Application drawings prepared by Mark Hurcum Design Practice and Statement of Environmental Effects.

2.0 ZONING OF THE LAND

The majority of the site is zoned E4 Environmental Living under the Pittwater LEP whilst a small triangular wedge located along the sites southern boundary is zoned SP2 Classified Road. Dwelling houses and Secondary dwellings are permitted uses within the E4 Environmental zoning with consent. The southern alignment of the proposed secondary dwelling and underground garage will be setback 20mm from the northern edge of the SP2 Zone as set out below.

3.0 OBJECTIVE OF THE ZONE

The objectives of the zone are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

4.0 STANDARD TO BE VARIED

LEP Clause 4.3 – Height of building of PLEP 2014

This sets the maximum height of a building as shown on the Building Height Map. The maximum building height permissible for 39 Attunga Road is 8.5 metres.

5.0 OBJECTIVES PERTAINING TO STANDARD TO BE VARIED

The objectives of this clause are as follows:

- (a) *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

- (b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) *to minimise any overshadowing of neighbouring properties,*
- (d) *to allow for the reasonable sharing of views,*
- (e) *to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

6.0 EXTENT OF NON-COMFORMITY TO THE STANDARD

Height of Building Control	= 8.5m
Existing Maximum Height	= 6.6m
Proposed Maximum Height	= 9.2m
	(Minor non-compliance, exceeds by 8.2%)

7.0 THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

Clause 4.6 requires the departure from the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

The slope of land inhibits the development's ability to achieve strict compliance with the building height standard.

The proposed building footprint is located on land falling 11.6m across 45m for a slope of 12°.

Clause 2D of Part 4.3 of Pittwater LEP allows for a variation to the building height standard for development on sloping land. While the proposed development does not achieve the 16.7° requirement in Clause 2D, the existence of this clause in the LEP demonstrates that slope of land is a factor that affects a development's ability to achieve compliance with building height standards. This demonstrates an aspect of environmental planning that is relevant to the subject site that justifies contravening the development standard.

8.0 HOW STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THIS PARTICULAR CASE?

Strict application of the Standard is considered to be unnecessary or unreasonable in the current circumstance for the following reasons:

- Three and four storey developments are common along Attunga Road, with many being more prominent than the proposed development which is set well back from the predominant southern (front) building line
- The majority of the non-compliance involves the proposed eaves of the roofs.
- The proposed roof is negligible in its impact to the streetscape and is only minor in nature in its impact to the neighbours.
- The proposed technical variation to the building height does not result in any unreasonable impacts on amenity of adjoining properties in terms of overshadowing, privacy, loss of view or loss of solar access.

9.0 COMPLIANCE WITH THE OBJECTIVES PERTAINING TO STANDARD TO BE VARIED

9.1 *To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality*

The proposed development achieves the desired future character of the Newport Locality in which it is located. Three and four storey developments are common along Attunga Road, with many being more prominent than the proposed development which is set well back from the predominant southern (front) building line. Whilst the proposed design is three storeys at its southern end it has a highly articulated rear elevation that reduce the appearance of bulk when viewed from Attunga Road below. The building height limit is below the tree canopy to further reduce bulk and scale. Earthy colours and materials have been selected to harmonise with the natural environment.

9.2 *To ensure that buildings are compatible with the height and scale of surrounding and nearby development*

The proposed dwelling is of a similar scale to neighbouring properties and is designed to step down the slope of the land to integrate with the landform and landscape.

The proposed dwelling fronts Attunga Road on its northern (rear) and southern (front) boundary. As the building's footprint is located behind the front building line of the adjacent properties it will not dominate its surroundings. In addition to this, the Norfolk Island Pine to be retained will substantially screen the building from view when viewed from a public place

The issue of view sharing was a major aspect in the development of this design. The footprint of the proposed dwelling is set well back from the predominant front building line to the south in order to preserve the views of the adjacent properties. The first floor bedroom has been further setback from the proposed design of PLM2020/0118 to reduce bulk and scale.

9.3 *To minimise any overshadowing of neighbouring properties*

The proposed building has been designed to ensure the impact of overshadowing on neighbours is minimised. To achieve this, the proposed building envelope is situated behind the predominant building line to the south and has been pulled back on its north-eastern side. These elements and texture reduce, rather than increase the building's perceptible bulk.

9.4 *To allow for the reasonable sharing of views*

The issue of view sharing was a major aspect in the development of this design. The footprint of the proposed dwelling is set well back from the predominant front building line to the south in order to preserve the views of the adjacent properties. The first floor bedroom has been further setback from the proposed design of PLM2020/0118 to reduce bulk and scale. No. 37 Attunga Road currently enjoys cross views from the living room windows on its eastern side towards Newport Beach and these will be preserved. Similarly, there will be minimal impact on the views of No.41 Attunga Road as the proposed building footprint sits behind the southern alignment of this property.

9.5 *To encourage buildings that are designed to respond sensitively to the natural topography*

The proposed development will not adversely impact the natural environment. There is one Norfolk Island pine on the site and the development proposes the retention of this tree. The proposed dwelling and pool have been designed to sit outside the structural root zone of the adjacent tree. Detailed root mapping has been conducted prior to the DA submission to confirm they can be retained. The development steps down and along the slope to integrate with the landform and landscape, and site disturbance is minimised.

The proposed dwelling and driveway will require some excavation on site. Care has been taken to reduce the amount of excavation around the structural root zones of the Norfolk Island Pine at the southern end of the site.

The current proposal has taken council's advice to remove the secondary dwelling and garage proposed in PLM2020/0118, retaining the site's existing southern landscape and topography.

9.6 *To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The proposed dwelling will have a minimal visual impact on the surrounding natural environment as shown above. The development will not dominate the site and will be screened by the Norfolk Island Pine to be retained. All native tree canopy is retained to provide feed trees and undergrowth for animals and to enhance wildlife corridors.

10.0 CONCLUSION

It is submitted that a variation to Pittwater LEP 2014 is appropriate for this Development Application as the non-conformity does not add any impact to adjoining or nearby properties whilst complying with all objectives of the standard and providing suitable accommodation for the occupants.

As demonstrated above, strict compliance with this standard is unnecessary for this Development Application.

Approval should not therefore be withheld due to the non-compliance of the development standard.