

**CLAUSE 4.6 VARIATION – HEIGHT OF BUILDING
ALTERATIONS AND ADDITIONS
TO EXISTING TWO STOREY RESIDENCE**

**205 RIVERVIEW ROAD AVALON BEACH
SEPTEMBER 2019**

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.

1.0 Zoning of the Land

The subject site is zoned E4 Environmental Living

2.0 Objectives of the Zone

The objectives of 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.*

3.0 Standard to be Varied

The standard to be varied is Part 4, Clause 4.3 of LEP 2014, which sets the maximum building height for a building as shown on the Building Height Map.

The maximum building height for 205 Riverview Road is 8.5 metres.

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4.0 Objectives of the Development 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.*

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5.0 Extent of Variation to the Standard

The extent of the non-conformity is described graphically on the North (A201) and South (A202) elevations, Section A-A (A301) and Planning Compliance - Building Height drawing (SK15). These drawings show the non-conformity of both the existing dwelling and the proposed works. This report should be read in conjunction with these drawings.

Numerically, the extent of the non-compliance can be described as follows *at the worst-case location* only, which is the south-western corner of the eave of the master bedroom. Due to the fall of the land, this extent of non-compliance relates to this area, the non-trafficable portion of the master bedroom balcony and parapet. For the elevation facing the street (East Elevation) there is no height non-compliance.

Existing maximum building height	= 9.7m (ridge of pitched roof)
Proposed maximum building height	= 9.96m

It is important to note that the existing building exceeds the 8.5m maximum building height and this includes a portion at the south-western corner that will be retained. The proposed works only exceed that non-compliance by 0.26m and the 8.5m maximum building height by 1.46m or 17%.

The Pittwater LEP 2014 (Clause 2D of Part 4.3 - Height of Buildings) allows for development to exceed the maximum building height of 8.5m but not more than 10m if the following apply:

- (a) *the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*
- (b) *the objectives of this clause are achieved, and*
- (c) *the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) *the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

The proposed building and site fulfil all of the above requirements and therefore should be assessed against the 10m maximum building height. As detailed above, the portion of the building above the maximum height limit is minor and as outlined in detail below, the objectives of this clause are achieved. The building footprint is located on land with slope of 23 degrees which exceeds the requirement of 16.7 degrees in the above clause. The proposed building has also been designed to minimise the amount of cut and fill required on site in comparison to the previously approved design (N0334/15).

Accordingly, the proposed maximum height of 9.96m is compliant with this clause.

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

Strict compliance with this development standard is unreasonable given, as demonstrated above, the proposed building fulfils all of the requirements of subclause 2D of Part 4.3 - Height of Buildings and therefore may exceed a height of 8.5 metres but not be more than 10m.

In addition, the proposed development involves alterations and additions to an existing building. The external walls of the existing building are to be retained and a portion of the existing building currently exceeds the 8.5m building height. These walls are to be retained, retaining the building height non-compliance.

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7.0 Compliance with the Objectives Pertaining to Standard to be Varied

As demonstrated below, all objectives of the Standard are met.

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

The proposed building's height and scale are consistent with the desired character of the Avalon Beach locality. As shown in the waterfront perspective SK32 the proposed building disappears behind the canopy of the existing trees and is integrated with the landform and landscape. Its built form sits well below the canopy of the trees along Riverview Road. The proposed dwelling steps down the site to follow the topography of the land. The first floor addition is set down below the carport level and has been set back from the existing rear alignment of the dwelling to reduce its scale when viewed from the waterfront below.

The objective is maintained.

- b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

The proposed dwelling is similar in scale to the neighbouring properties on the western side of Riverview Road, which vary between two and three stories. Both the neighbour to the north, 207 Riverview Road, and the neighbour to the south, 203 Riverview Road are 3 storey residences with the upper floor of the latter similarly located just below the dwellings street front carport. The proposed carport is a lightweight steel structure that while enclosed with glazing is less prominent than the existing brick carport and its alignment along the front boundary is consistent with the adjoining carport and many other carports along the western side of Riverview Road.

The objective is maintained.

- c) *to minimise any overshadowing of neighbouring properties,*

The proposed dwelling has been designed to minimise its impact on the solar access of neighbouring properties by retaining the setbacks of the existing dwelling. The first floor addition has been setback almost 2.5m from the southern boundary to reduce the overshadowing of 203 Riverview Road as shown on Shadow Diagrams SK17-19 and Shadow Elevation SK20.

The objective is maintained.

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**7.0 Compliance with the Objectives Pertaining to Standard to be Varied
(Continued)**

- d) *to allow for the reasonable sharing of views,*

The proposed dwelling will not adversely impact the views of the neighbouring properties as the existing setbacks have been maintained and the first floor addition has been situated so that it is predominantly behind the existing carport. The views from the living levels of the adjoining neighbor to the south, 203 Riverview Road across the subject site have been preserved by maintaining the existing south-western extent of the building.

There are currently limited views of the Pittwater waterway from the road reserve as a result of the existing carport, the ridge of the existing dwelling and existing timber fence and hedge screening. The proposed design aims to improve these limited views whilst preserving the privacy of the proposed dwelling. To achieve this the ground floor roof above the lounge on the northern side has been lowered so that the ridge height is lower than the both the existing roof and that which was previously approved under development consent N0334/15.

The limited views of the properties opposite on the upper side of Riverview Road that are heavily screened by the existing natural vegetation will not be substantially impacted by the proposal.

The objective is maintained.

- e) *to encourage buildings that are designed to respond sensitively to the natural topography,*

The proposed dwelling has been designed to minimise the amount of excavation previously approved under development consent N0334/15 in order to more sensitively respond to the natural topography of the site. As a result of this the first floor addition has been setback from existing rear alignment and set down from the carport level so that the built form steps up successively from the rear of the dwelling to the street front to more closely match the natural topography of the site.

The objective is maintained.

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**7.0 Compliance with the Objectives Pertaining to Standard to be Varied
(Continued)**

- f) *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The proposed dwelling has been designed to minimise any adverse visual impact on the natural environment through a combination of form and materials and sympathetic landscaping that preserves the existing trees on site. In addition, the subject site is not a heritage item and not located within a heritage conservation area. The nearest Heritage Item (No. I2270086) is located north of the subject site at the end of Stokes Point and the proposed development will have no impact on this item.

The objective is maintained.

8.0 Conclusion

It is submitted that a variation to Pittwater Council LEP 2014 is appropriate for this project, as the proposed maximum height is allowable under Clause 2D and does not adversely impact the neighbouring 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 inappropriate to this Development Application. Approval should not therefore be withheld.