APPENDIX 1
CLAUSE 4.6 – HEIGHT OF BUILDINGS

WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

52A CONSUL ROAD< BROOKVALE

PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING

VARIATION OF A DEVELOPMENT STANDARD REGARDING COUNCIL'S HEIGHT OF BUILDINGS CONTROL AS DETAILED IN CLAUSE 4.3 OF THE WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

For: Proposed construction of alterations and additions
At: 52A Consul Road, Brookvale
Owner: Mr & Mrs Anderson
Applicant: Mr & Mrs Anderson C/- H & C Design Pty Ltd

1.0 Introduction

This written request is made pursuant to the provisions of Clause 4.6 of Warringah Local Environmental Plan 2011 (**WLEP 2011**). In this regard, it is requested Council support a variation with respect to compliance with the maximum building height as described in Clause 4.3 of the WLEP 2011.

The relevant maximum building height on this site is 8.5m, which is a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

This request considers the revised architectural plans prepared by H & C Design Pty Ltd, dated August 2023.

The proposal seeks consent for the construction of alterations and additions to an existing dwelling. Whilst primarily maintained below the 8.5m height plane, given the historical changes in the site, the dwelling will present a stepped two and part three storey height where a portion of the new roof will be up to 9.112m above the altered ground level.

The proposed Building Height will exceed Council's 8.5m height control standard by 0.612m or 7.23%.

The location of the proposed breach is shown in Figure 1, over.

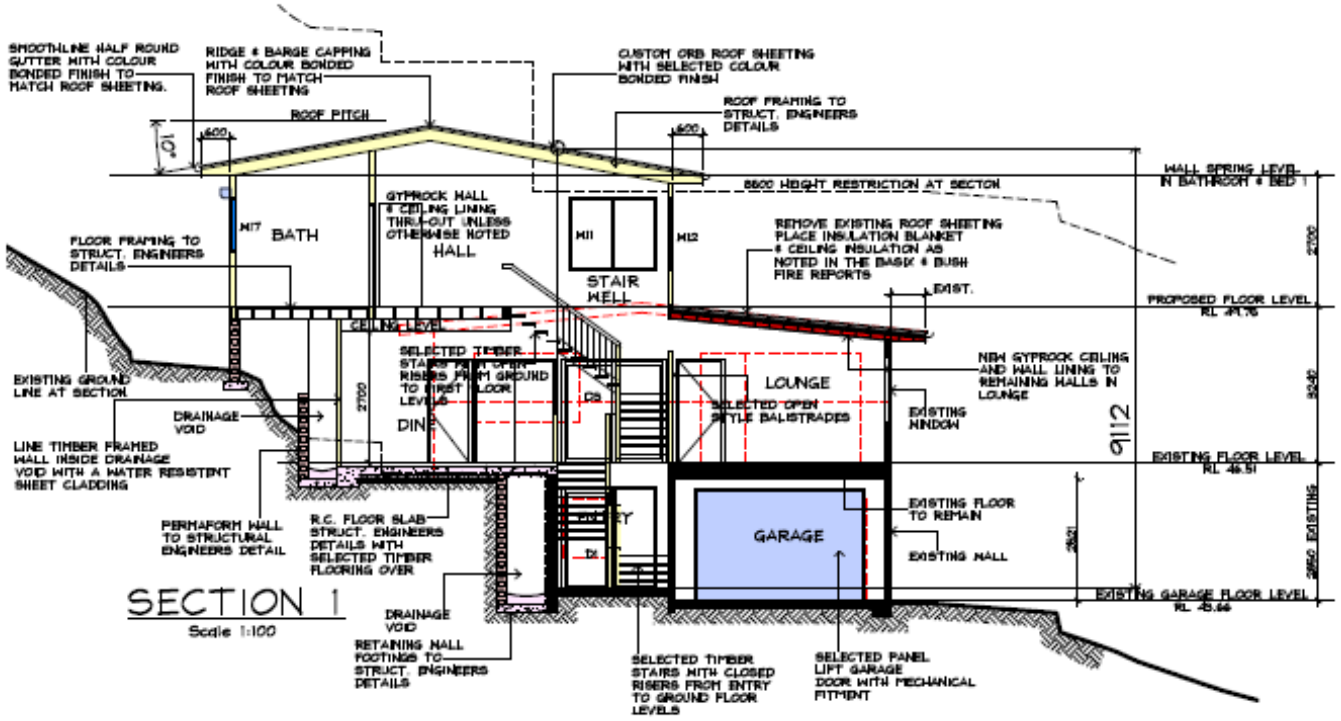


Fig 1: Extract of building section – Proposed building height 9.112m

2.0 Warringah Local Environmental Plan 2011

2.1 Clause 2.2 and the Land Use Table

Clause 2.2 and the Land Zoning Map provide that the subject site is zoned R2 – Low Density Residential (**the R2 zone**) and the Land Use Table in Part 2 of WLEP 2011 specifies the following objectives for the R2 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.*
- *To ensure that low density residential environments are characterized by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposed development is for the alterations and additions to an existing dwelling house and is permissible with consent within the zone.

2.2 Clause 4.3 – Height of buildings

Clause 4.3 of WLEP 2011 prescribes:

> *(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.*

The Height of Buildings Map specifies a maximum building height of 8.5m in relation to the subject site.

The Dictionary to WLEP 2011 operates via clause 1.4 of WLEP 2011. The Dictionary defines "building height" as:

> ***building height*** *(or* ***height of building****) means—*
>
> *(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*

> *(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*
>
> *including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

For the purposes of calculating the maximum building height, the existing excavated level within the site and in particular the excavated lower floor level has been determined in accordance with the principles identified in *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 [at 73].

When the excavated lower level is used as the reference point for the 8.5m height control, the proposed additions and alterations present a non-compliance with the maximum building height standard, having a height of up to 9.112m.

When measured above the external ground levels and in particular the western elevation and the stepped building elevations from the south and east, the visual height of the building does not generally exceed height of 8.5m and presents a stepped two storey height.

As noted in *Merman* [at 74] the prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the land, is considered to be an environmental planning ground within the meaning of clause 4.6 (3)(b) of WLEP 2011.

The proposal is considered acceptable and as discussed further within this request, there are sufficient environmental planning grounds to justify contravening the development standard.

The controls of Clause 4.3 are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

3.0 Is clause 4.3 of WLEP 2011 a development standard?

The definition of "development standard" in clause 1.4 of the EP&A Act means standards fixed in respect of an aspect of a development and includes:

> *"(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,"*

Clause 4.3 relates to the maximum building height of a building. Accordingly, clause 4.3 is a development standard as defined by the EP&A Act.

4.0 Purpose of Clause 4.6

WLEP 2011 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the WLEP 2011 is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is judicial guidance on how variations under Clause 4.6 of the LEP should be assessed. These cases are taken into consideration in this request for variation.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council* [2018] NSWLEC 118 ("Initial Action") have been considered in this request for a variation to the development standard.

5.0 Objectives of Clause 4.6

Clause 4.6(1) of WLEP 2011 provides:

(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 decision of Chief Justice Preston in *Initial Action* provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in ***RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [1], [4] & [51]*** where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

> *"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."*

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of the LEP provides:

> *(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.*

Clause 4.3 (the Height of buildings control) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of the LEP.

Clause 4.6(3) of WLEP 2011 provides:

> *(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.*

The proposed development does not comply with the maximum building height control development standard pursuant to clause 4.3 of WLEP 2011 which specifies a maximum building height of 8.5m at the site. The additions to the existing dwelling will result in a maximum building height of 9.112m, which exceeds the height development standard by 0.612m or 7.23%.

As discussed in *Merman* [at 74] the prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the land, is considered to be an environmental planning ground within the meaning of clause 4.6 (3)(b) of WLEP 2011.

Strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

Clause 4.6(4) of WLEP 2011 provides:

> *(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.*

In *Initial Action* the Court found that clause 4.6(4) required the satisfaction of two preconditions ([14] & [28]). The first precondition is found in clause 4.6(4)(a). That precondition requires the formation of two positive opinions of satisfaction by the consent authority. The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) (*Initial Action* at [25]). The second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will be in the public interest ***because*** it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out (*Initial Action* at [27]). The second precondition is found in clause 4.6(4)(b). The second precondition requires the consent authority to be satisfied that that the concurrence of the Planning Secretary (of the Department of Planning and the Environment) has been obtained (*Initial Action* at [28]).

As confirmed in Planning Circular PS20-002 dated 5 May 2020, the Secretary has given written notice to each consent authority, confirming that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6.

Clause 4.6(5) of WLEP 2011 provides:

> *(5) 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.*

Council and the Court on appeal has the power under cl 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in cl 4.6(4)(a), and should consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: *Fast Buck$ v Byron Shire Council* (1999) 103 LGERA 94 at 100; *Wehbe v Pittwater Council* at [41] (*Initial Action* at [29]).

Clause 4.6(6) relates to subdivision and is not relevant to the development. Clause 4.6(7) is administrative and requires the consent authority to keep a record of its assessment of the clause

4.6 variation. Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.3 of WLEP 2011 from the operation of clause 4.6.

The specific objectives of Clause 4.6 are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The development will achieve a better outcome in this instance as the site will provide for the construction of alterations and additions to an existing dwelling, which is consistent with the stated Objectives of the R2 Low Density Residential Zone, which are noted as:

- *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*

The proposal will provide for the construction of alterations and additions to an existing dwelling to provide for increased amenity for the site's occupants.

The new works maintain a bulk and scale which is in keeping with the extent of surrounding development, with a consistent palette of materials and finishes, in order to provide for high quality development that will enhance and complement the locality.

Notwithstanding the minor non-compliance with the maximum height control of 0.612 or 7.23%, the new works will provide attractive alterations and additions to a residential development that will add positively to the character and function of the local residential neighbourhood.

6.0 The Nature and Extent of the Variation

This request seeks a variation to the maximum building height standard contained in clause 4.3 of WLEP 2011.

Clause 4.3 of WLEP 2011 specifies a maximum building height of 8.5m for this site.

The new upper level roof form will have a maximum height of up to 9.112m which exceeds the height development standard by 0.612m or 7.23%.

7.0 Relevant Caselaw

In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* continue to apply as follows:

> *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
>
> *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
>
> *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
>
> *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
>
> *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*

> *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is clause 4.3 of WLEP 2011 a development standard?

2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:

   (a) compliance is unreasonable or unnecessary; and

   (b) there are sufficient environmental planning grounds to justify contravening the development standard

3. Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 and the objectives for development for in the R2 zone?

4. Has the concurrence of the Secretary of the Department of Planning and Environment been obtained?

5. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.3 of WLEP 2011?

8.0. Request for Variation

8.1 Is compliance with clause 4.3 unreasonable or unnecessary?

This request relies upon the 1st way identified by Preston CJ in Wehbe.

The first way in Wehbe is to establish that the objectives of the standard are achieved.

Each objective of the maximum building height standard and reasoning why compliance is unreasonable or unnecessary is set out below:

(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

The area exhibits a range of building styles and forms, often including up to 3 storeys as a result the sloping topography of the immediate area. The proposed works see the inclusion of new modest first floor addition as an upper floor level, which given the height of the building above the excavated entry floor level at the lowest level of the building, will marginally exceed the maximum height control & the building will present a stepped two and part three storey appearance to Consul Road.

The development is well articulated and appropriately stepped to respond to the slope of the land and the height of the adjoining dwellings.

As seen from Consul Road, the height of the resultant development will sit harmoniously in the streetscape.

The proposed area of non-compliance does not detract from consistency with this objective.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access

The non-compliant portion of the development will not result in any unreasonable impacts the amenity of adjoining properties.

The non-compliant element of the upper floor roof does not result in any unreasonable overshadowing of the surrounding properties, nor does the aspect of the building which exceeds the maximum height control have any significant impact on views to the surrounding properties. Further, there are no adverse privacy impacts associated with the 612mm non-compliance.

The proposed area of non-compliance does not detract from consistency with this objective.

c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

The proposed development will present a stepped two and part three storey presentation to the public domain. The development is well articulated and steps in response to the fall of the land. The proposal does not result in the removal of any protected tree canopy and

will maintain an extensive area for further landscape planting across the site to soften the visual impact of the development.

The minor height non-compliance will not be prominently visible or discernible from the public domain and does not result in an adverse visual impact.

The proposed area of non-compliance does not detract from consistency with this objective.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

The proposed works will maintain a bulk and scale that is in keeping with that of existing surrounding development. The proposal is not considered to present an excessive appearance to the public domain.

The proposed area of non-compliance does not detract from consistency with this objective.

8.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

> *23. As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
>
> *24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposed additions will maintain the general bulk and scale of the existing surrounding residential development and are consistent with the prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).

- The height non-compliance can be attributed to the prior excavation of the site within the footprint of the existing building, which has distorted the height of buildings development standard plane overlaid above the site when compared to the topography of the existing land and this is considered to be an environmental planning grounds which supports the variation to the control.

- The proposed new development is considered to promote good design and enhance the residential amenity of the building's occupants and the immediate area, which is consistent with the Objective 1.3 (g).

- The proposed development improves the amenity of the occupants of the subject site and respects surrounding properties by locating the development where it will not unreasonably impact upon the amenity of adjoining properties (1.3(g)).

- The non-compliance arises as a direct result of the slope of the land, with the majority of the development maintained well below the 8.5m height plane.

- Consistent with the findings of Commissioner Walsh in *Eather v Randwick City Council* [2021] NSW LEC 1075 and Commissioner Grey in *Petrovic v Randwick City Council* [2021] NSW LEC 1242, the particularly small departure from the actual numerical standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development and the elements which breach the maximum height control.

It is noted that in *Initial Action,* the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

> *87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

8.3 Is the proposed development in the public interest because it is consistent with the objectives of clause 4.3 and the objectives of the R2 Low Density Residential Zone?

Section 8.1 of this written request suggests the 1st test in Wehbe is made good by the development.

It is considered that notwithstanding the modest breach of the maximum building height by 612mm, the proposed alterations and additions to the existing dwelling will be consistent with the individual Objectives of the R2 Low Density Residential Zone for the following reasons:

- ***To provide for the housing needs of the community within a low density residential environment.***

  The application proposes alterations to an existing dwelling house, which is a permissible form of development on the land. The resultant development that will retain the nature and character of a single dwelling. The proposed additions provide enhanced amenity to existing and future occupants of the dwellings and will continue 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***

  Not Applicable – the proposal relates to residential development.

- ***To ensure that low density residential environments are characterized by landscaped settings that are in harmony with the natural environment of Warringah.***

  The proposal will not require the removal of any significant protected vegetation and maintains a suitable area of soft landscaping. The proposal provides for the enhancement of landscaping on the site and maintains the dominance of landscaping over the built form.

Accordingly, it is considered that the site may be further developed with a variation to the prescribed maximum building height control whilst maintaining consistency with the objectives of the R2 Low Density Residential all Zone.

8.4 Has the Council obtained the concurrence of the Director-General?

The Council can assume the concurrence of the Director-General with regards to this clause 4.6 variation.

8.5 Has the Council considered the matters in clause 4.6(5) of WLEP 2011?

(a) The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is specific to the design of the proposed development for the particular site and this design is not readily transferrable to any other site in the immediate locality, wider region of the State and the scale or nature of the proposed development does not trigger requirements for a higher level of assessment.

(b) As the proposed development is in the public interest because it complies with the objectives of the development standard and the objectives of the zone there is no significant public benefit in maintaining the development standard.

(c) there are no other matters required to be taken into account by the secretary before granting concurrence.

9.0 Conclusion

This development proposes a departure from the maximum height of a building control, with the proposed additions to the existing dwelling to provide a maximum overall height of 9.112m when measured above the prior excavated levels of the site immediately within the building footprint which results in a non-compliance with the standard of 0.612m or 7.23%.

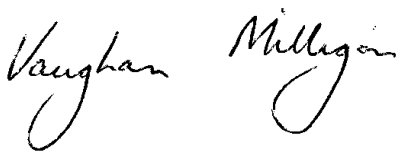
This variation occurs as a result of the sloping topography of the site and the prior excavation of the site within the building footprint, resulting in the distortion of how the building height plane relates to a site with excavated levels below the current building.

The extent of the variation to the building height control does not result in any significant impact for the views and outlook for the neighbouring properties.

This written request to vary to the maximum building height specified in Clause 4.3 of the WLEP 2011 adequately demonstrates that that the objectives of the standard will be met.

The bulk and scale of the proposed development is appropriate for the site and locality.

In summary, the proposal satisfies all the requirements of clause 4.6 of WLEP 2011 and the exception to the development standard is reasonable and appropriate in the circumstances of the case.



VAUGHAN MILLIGAN
Town Planner