

CLAUSE 4.6

Date: December 18, 2019

Owners: Mr. & Mrs. Downey

Subject Property: 1 Kareema Street, Balgowlah
Lot 2, Section E, D.P. 2093

The name of the environmental planning instrument is the **Manly Local Environmental Plan 2013**.

The zoning of the land is R2 – Low Density Residential

Objectives of the 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.

A variation to the Manly Local Environmental Plan 2013 is sought with respect to: Clause 4.3 Height of Buildings.

Clause 4.3 Height of buildings states the following:

- (1) The objectives of this clause are as follows:
- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
 - (b) to control the bulk and scale of buildings,
 - (c) to minimise disruption to the following:
 - (i) views to nearby residential development from public spaces (including the harbour and foreshores),
 - (ii) views from nearby residential development to public spaces (including the harbour and foreshores),
 - (iii) views between public spaces (including the harbour and foreshores),
 - (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
 - (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.
- (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 definition of 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.

The subject site is located in on the western side of Kareema Street. The subject site is a rectangular shaped block with an area of 619.7m² and a frontage of approx. 15.24m to Kareema Street. The site slopes from the eastern (front) boundary to western (rear) boundary.

Councils LEP and Height of buildings map states that the maximum allowable height for this site is 8.5m through the building footprint area.

The proposal has anon-compliance with the numerical 8.5m height requirement. However, we believe the proposal complies with the objectives for height of buildings as it provides a building height and roof

form that is consistent with the typographic landscape, the local area and the streetscape. Therefore, it is consistent with the desired future streetscape character in the locality.

The maximum overall height proposed by this development application is 9.2m at the highest point of the new roof ridge above existing ground level. This is a breach 0.7m above the maximum building height requirement at the worst point.

However, due to the topography of the site sloping up to the street, the non-compliance then decreases towards the front of the home eventually becoming fully compliant with the building height requirement for the bulk of the dwelling and ensuring that the dwelling presents as a 2 storey dwelling to Kareema Street.

The non-compliance is towards the rear of the first-floor level additions. The breach is largely because the existing first floor level and ceiling levels are already established, and the proposed additions work with these established levels. The proposed new roof pitch has been lowered to 22.5 degrees to minimize the overall height non-compliance whilst allowing for a more contemporary look to the dwelling that is more in keeping with the overall streetscape and the locality. The roof over the new additions is to be pitched off the existing top plate level of the first floor which has a floor to ceiling height of 2430mm which is the minimum allowable for habitable rooms.

The new roof lines are to be provided over the original 1st floor + the proposed additions to the first floor level to update the façade and enhance the streetscape with a more contemporary dwelling. Alternative roof options have been considered. However, we believe the current proposal provides the most uniform and practical solution to the structure ensuring the additions and new home blend in with the streetscape and local area.

The area of encroachment into the building height limit is located over the rear of the building platform and will not be visible from the street. This ensures that the dwelling when viewed from the streetscape is compliant as it presents as a 2-storey dwelling and is consistent with the surrounding development.

The proposed roof lines do not cause any significant additional overshadowing to adjoining properties and they do not significantly increase the overall bulk and scale of the dwelling. The proposed roof lines provide a seamless look to the overall dwelling which replaces the obvious additions that were previously completed to the first floor and are completely out of character for the local area and streetscape. This ensures the proposed alterations and additions provide a building height and roof form that is consistent with the typographic landscape which is one of the objectives outlined in the LEP.

Alternative roof lines were considered prior to lodging the application but we believe the current design provides a more contemporary look to the building and a dwelling that is more consistent with the streetscape and surrounding area ensuring that the proposal provides a better overall outcome than the existing residence.

Having considered a number of options to extend the residence, the current proposal lodged as a DA with council is considered to give the best overall outcome to both the owners of the property and to meet the objectives of the LEP and DCP controls.

Strict compliance with building height requirement is unreasonable in this particular case as it would provide a dwelling that is out of character and style with other dwellings in the street and the local area. Alternative solutions for additions to the residence would provide outcomes that either increase negative impact on the amenity of adjoining properties, are cost prohibitive or would breach other planning controls. They would also provide for an overall style of the proposal that is inconsistent with the character of the area and streetscape.

We believe the style of the proposal along with the proposed roof lines add interest and character to the residence and enhance the streetscape and local area whilst meeting the accommodation needs of the owners and that the proposal provides for a better overall outcome for the site and the local area than the existing residence.

The area of noncompliance is located over the rear of the building platform which ensures that there is little or no impact on the streetscape and surrounding development. This also ensures that the perceived bulk and scale of the building is kept to a minimum and is compliant when viewed from the street. The roof lines of the proposal have been designed to provide a building height and roof form that is consistent with the typographic landscape. Views to and from nearby residential development from public spaces will not be impacted by the development and the proposal ensures that solar access to adjoining properties is maintained.

Therefore, we believe the proposed alterations and additions fully comply with the objectives of the LEP.

Strict compliance would hinder the attainment of the objects specified in the act which are to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

In this regard the objects of Section 5(a)(i) and (ii) of the Act are:

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- (ii) The promotion and co-ordination of the orderly and economic use and development of land;

In this regard it is considered that the development standard is not consistent with the aim and objectives of the act as it does not allow flexibility in building design in this instance and fails to recognise the existing character of the residence and locality.

In summary it is felt that the non-compliance with the overall wall height requirement will not have any adverse effect on the built or natural environment, nor will it affect any adjoining neighbours and that reasonable measures have been taken to minimize the encroachments. We believe the proposal meets the objects of the Height requirements outlined in the LEP and therefore Council's favorable consideration is sought.