



# Clause 4.6 Variation – Side Boundary

27 ELLERY PARADE, SEAFORTH

ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING

## 1. What is the name of the environmental planning instrument that applies to the land?

Manly Local Environmental Plan 2013 & Manly Development Control Plan 2013

## 2. What is the zoning of the land?

R2 – Low density residential

## 3. Identify the Development Standard to which this Clause 4.6 Variation applies?

Clause 4.1.4.2 Side setbacks and secondary street frontages

## 4. What are the objectives of the standard?

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Objective 2) To ensure and enhance local amenity by:  
providing privacy;  
  
providing equitable access to light, sunshine and air movement; and  
  
facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.  
  
defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces;  
and

facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.

See also objectives at paragraph 3.4 Amenity.

Objective 3) To promote flexibility in the siting of buildings.

Objective To enhance and maintain natural features by:

- 4)
- accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;
  - ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and
  - ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.

Objective 5) To assist in appropriate bush fire asset protection zones.

#### **5. What are the objectives of the standard?**

- a) Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.
- b) Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.
- c) All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;
- d) For secondary street frontages of corner allotments, the side boundary setback control will apply unless a prevailing building line exists. In such cases the prevailing setback of the neighbouring properties must be used. Architecturally the building must address both streets.
- e) Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties. See also paragraph 4.1.4.3.b.vi. of this plan.
- f) In relation to the setback at the street corner of a corner allotment the setback must consider the need to facilitate any improved traffic conditions including adequate and safe levels of visibility at the street intersection. In this regard Council may consider the need for building works including front fence to be setback at this corner of the site to provide for an unobstructed splay. The maximum dimension of this triangular shaped splay would be typically up to 3m along the length of the site boundaries either side of the site corner.

#### **6. What is the numerical value of the development standard?**

The numerical value is 1740mm

#### **7. How do the existing numerical values relate to the development standard? What is the percentage variation?**

The proposed side setback of the proposed addition being 1590mm. An approximately 9% variation.

**8. How is this compliance with the development standard unreasonable or unnecessary in the circumstances?**

The proposal results in a 9% variation of the development standard of the side setback as it follows the existing outline of the level below. This encroachment is justifiable in our view, due to the proportions of the ground floor structure below that constrain the shape and size of the floor plan.

An increase of the side setback to comply with the numerical control of the DCP in question, will necessitate an equal reduction of the floor plate of the addition on the other side, in order for elevational symmetry to be achieved. The resulting reduction will affect the proportions of the proposed living area critically.

From a structural perspective, the proposed setback will allow for a lightweight addition to align with the double brick cavity wall below, thereby simplifying the structural design.

**9. Are there sufficient environmental planning grounds to justify contravening with the development standard?**

In considering whether there are sufficient environmental planning grounds to support the proposed side setback non-compliance, the following development control of the Manly DCP 2013 is relied upon:

**4.1.7 First Floor and Roof Additions**

**4.1.7.1 First Floor Additions**

- a) *First floor additions must complement the architectural style of the ground floor and where possible retain existing roof forms. Notwithstanding setback provisions, the addition may follow the existing ground floor wall setbacks providing adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues.*
- b) *The dwelling and the form of alterations and additions must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences or the aesthetic quality of the former Manly Council area. In this regard, it may be preferable that the addition be confined to the rear of the premises or be contained within the roof structure.*

With regards to the above it is our view that there are sufficient environmental planning grounds to support the non-compliance. In particular, the proportions and outline of the proposed addition follow and are contained within the outline of the existing dwelling below. No adverse impact to the neighbouring site are produced as a result of this encroachment, due to the conducive layout of the dwelling on the site in relation to the proposed addition that provides increased separation between structures and the existence of dense vegetation along the common boundary in question.

As a result of the above the neighbouring property at No 29 Ellery Parade is not adversely impacted by overshadowing, view loss or privacy issues. See Photos below:

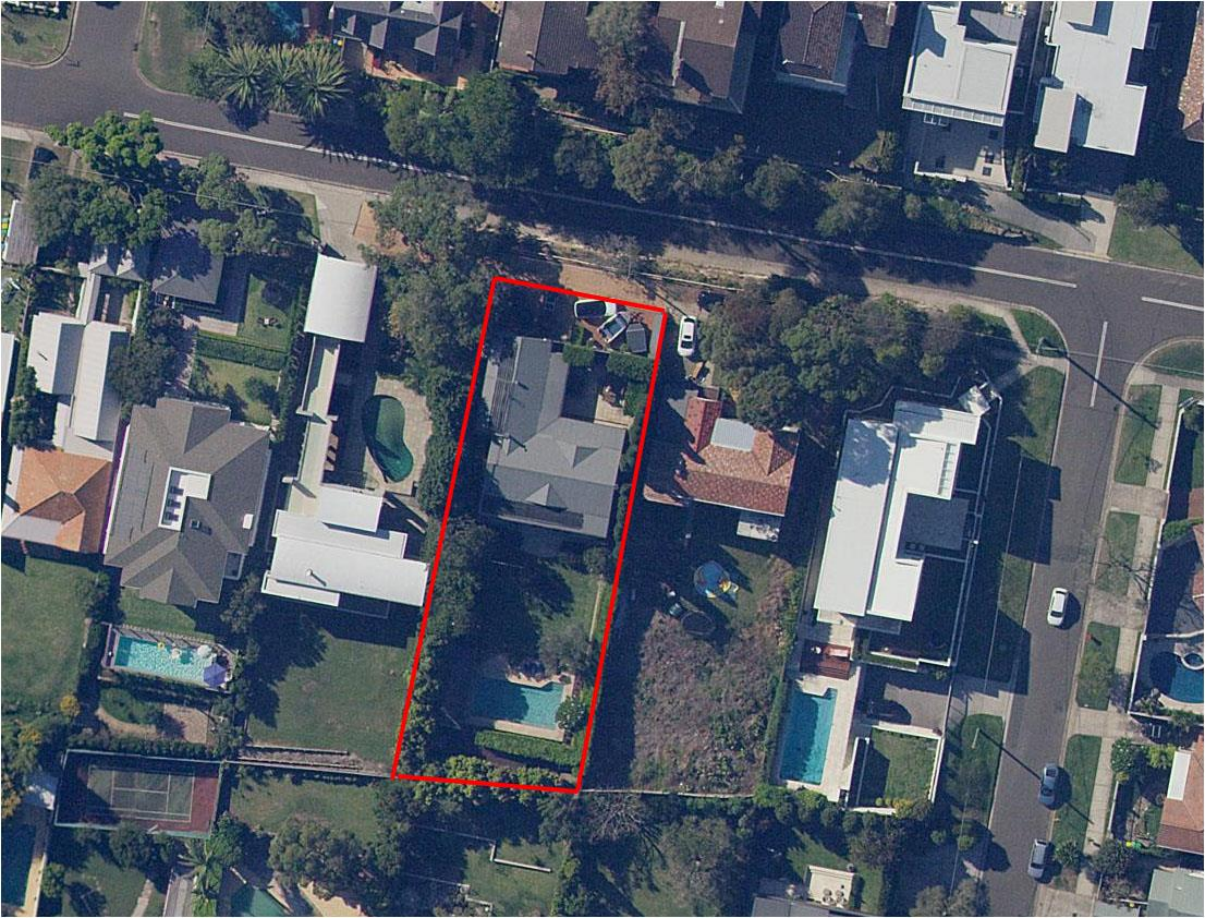


Figure 01.



Figure 02.

## 10. Conclusion

In light of the above, this clause 4.6 request will have little environmental implications and will not change in any significant way the nature of the development originally approved. No prejudice will be caused to any other party.

If any further details are required, or if further justification is required in support of the requested modification, please do not hesitate to contact the undersigned. We trust that you will find the application acceptable and look forward to a prompt and favourable determination. For the above reasons it is considered that the modified proposal will continue to meet the underlying objectives and conditions of the development approval.