



**Clause 4.6 Variation
To Development Application
For
38 Mildred Avenue,
Manly Vale
NSW 2093
For
Sohum Gandhi**

RAPID PLANS

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Issue 2.00
Tuesday, September 15, 2020
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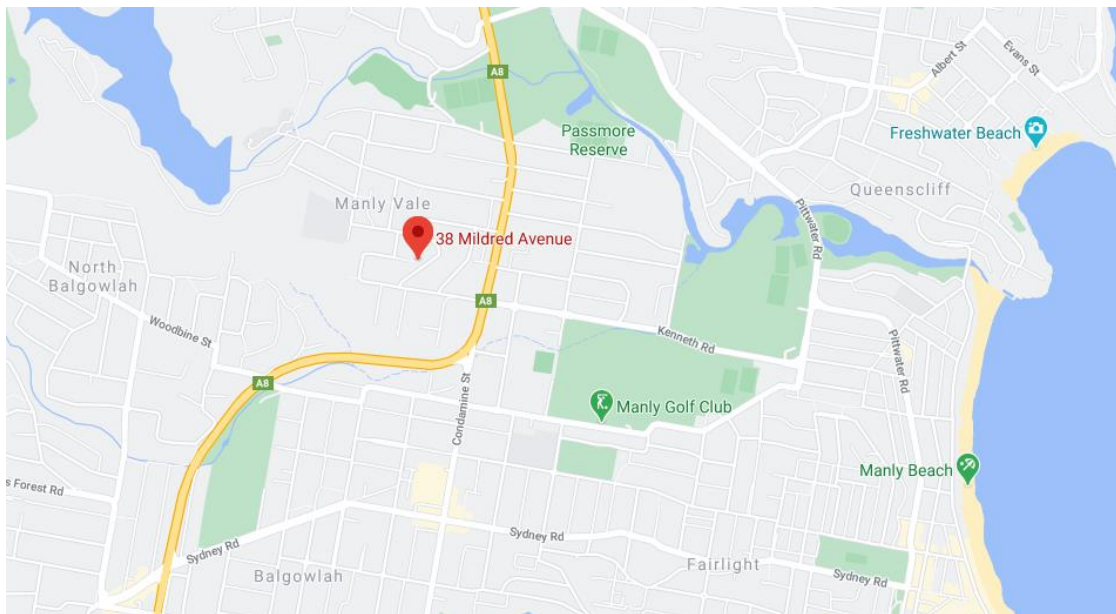
1 INTRODUCTION

This report pertaining to Clause 4.6 Variation accompanies the Development Application for the proposed alterations & additions at 38 Mildred Avenue in Manly Vale.

1.1 Site

The residence is located on the eastern side of Mildred Avenue in the residential neighbourhood of Manly Vale.

LOCATION PLAN



1.2 Local Authority

The local authority for this site is:
Northern Beaches Council (Warringah)
Civic Centre, 725 Pittwater Road,
Dee Why NSW 2099
DX 9118 Dee Why
Telephone: 9942 2111

1.3 Environmental Planning Instrument that Applies to the Land

Warringah Local Environment Plan 2011

1.4 Zoning of the land

R2 Low Density Residential

1.5 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.
- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah

Comment:

It is considered that the proposed development meets the objectives of the Zone R2 Low-Density Residential. This opinion is justified on the basis that this application provides for the owner's housing needs within the low-density area that is consistent with surrounding properties. The proposal allows front areas to be usable for the owners to assist in day to day living without adversely impacting the low-density environmental aspects as no substantial vegetation is proposed for removal. The works proposed will significantly improve the design and aesthetic quality of the site with the built form outcome complimenting newer style properties along Mildred Avenue.

There are no statutory zoning or zone objectives that are an impediment to the granting of approval to the proposed development.

2 Clause 4.6 Variation to Development Application

4.6 Exceptions to development standards

(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.*

2.1 Development Standard Being Varied

After reviewing Northern Beaches Council WLEP 2011 we advised that a Clause 4.6 Exception to Development Standard is required due to:

- This development is classified as a non-complying development due to the rear of the roof being over the 8.5m building height
- The favourable option for Council is a Development Application with a Clause 4.6 Variation for the structures to be considered for approval.

2.2 Clause of the Development Standard listed in the Environmental Planning Instrument

- Warringah LEP 2011 Part 4 4.3 Height of Buildings

2.3 Objectives of the Development Standard

- to ensure that buildings are compatible with the height and scale of surrounding and nearby development
- to minimise visual impact, disruption of views, loss of privacy and loss of solar access
- to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments
- to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities

Comment:

It is considered that the proposed development meets the objectives of the height of buildings development standard. This opinion is justified on the basis that this application is compatible with surrounding properties that have substantial height & scale namely the adjacent property at 36 Mildred Avenue that all has expansive NE elevated decks. The visual impacts are minimised as there is sufficient separation between the subject & adjacent dwellings That face Mildred Avenue & Horning Parade with all dwellings enjoying substantial views across the district & east to the ocean. The proposal is located well up the property away from Horning parade to allow for the surrounding properties in maintaining the scenic quality of the Manly Vale area. With the existing location of the subject & adjacent dwellings enjoying an elevated position there is no adverse impact of view lines with privacy improved as well as the shadow cast from the proposed works having minimal impact on surrounding properties.

2.4 Numeric value of the development standard in the environmental planning instrument

MLEP2012 Height = 8.5m

2.5 Proposed numeric value of the development standard in your development application

Proposed Height = 9.565m

2.6 Percentage variation between the proposal and the

environmental planning instrument

Proposed Height = 0.125% (8.979-8.5=0.479/8.5=0.056)

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

There many surrounding lots that provide elevated roof positions. These include No.36 Mildred Avenue & No.26 & 28 Horning Parade. The variation in this case is very similar in comparison as the designs all use flat roofs & stepped decks using the existing topography. This application is actually in keeping with a low-density residential environment desired by Council in this area as well as the objectives of the zone. The development has no negative consequence of significance as a result of this minor noncompliance, further it meets the objectives of the development standard, and therefore strict compliance with the development standard would be unreasonable and unnecessary.

In this circumstance, it is unreasonable and unnecessary to strictly comply with the building height standard given that the resulting development will be absent of any negative environmental or planning outcomes. The proposal would be indiscernible to a development that strictly complied with the numerical control. For the reasons stated above, it is argued that a variation be supported as it ultimately results in an improved planning outcome for the streetscape and general locality along Mildred Avenue & Horning Parade.

- ***Streetscape*** – The visual quality of the streetscape is to be enhanced with the alterations to the front & rear of the property as the design is in keeping with renovated & new dwellings along Mildred Avenue & Horning Parade. The intention for the rear addition to the dwelling is to present a renovated dwelling that is consistent front to back. Extending the upper eastern end of the rear roof increases the height slightly, as it provides cover over the rear deck area, but does not detract from the streetscape along Mildred Avenue & Horning Parade. The proposed additions provide a generally consistent pattern of development with regard to adjoining front & secondary front building setbacks, and as such, the proposal will not result in any visually prominent element that will result in an unreasonable impact on the streetscape & is not out of character for the neighbourhood. These characteristics for the building height conform to the R2 low density

residential requirements for the Manly Vale area & modifying the structure would, in our opinion, contravene the R2 zoning objectives by adversely affecting the streetscape along Mildred Avenue & the desired future character of the area.

- *Bulk & Scale* is maintained for the area. Although the bulk & scale of the building is increased, the overall size & bulk in relation to the surrounding neighbourhood is to be maintained throughout the development. There is no adverse visual impact as viewed from Horning Parade to the east with surrounding properties to maintain their existing visual amenity. It is in our opinion that a smaller dwelling would be unreasonable with the flat roof & stepped deck design allowing for a more appealing streetscape with the design in keeping with other properties along Horning Parade. It should also be noted that the slope between the external walls of the building footprint is 29% as the property falls dramatically part way through the existing building footprint. The area is known for views due to the escarpment sloping with tiered gardens & stepping with rock outcrops creating near vertical changes in elevation.



No's 26 & 28 Horning Parade, Manly Vale



No's 16 & 18 Horning Parade, Manly Vale



No's 36 & 38 Horning Parade, Manly Vale

Existing front façade of the subject property

The existing topography & built form prevents the proposed roof line from adhering to the 8.5m building height. The proposal presents as a regular two storey dwelling from the Mildred Avenue streetscape with the design stepping with the topography to the rear. It would be unreasonable to force a lowering of the ridge as it would not only have differing ceiling heights internally, the flat box style contemporary design of the dwelling would be adversely impacted from the streetscape from Horning Parade as there would be too

many changes in façade. The proposal is a design option that supports a preferred planning outcome of a contemporary design that compliments the existing surrounding neighbourhood. The intention is to provide a balance between the proposed additions to the existing landscaping & built form.

- **Openness** - A sense of openness has been improved with the majority of the existing building footprint used with the additional areas largely taken up with deck space. Along with the proposed stairs to the front & rear of the dwelling, the circulation has been improved & hence the general openness of the overall property improved. The proposed design to the rear decks & roofs creates flow between the internal & open space areas for the owners with elements of the proposal over the height limit to continue to allow for a sense of openness to support the desired future character of the Manly Vale low density area. In addition, the proposed landscaped area of 46% far exceeds the minimum 40% required that allows adequate usable outdoor recreation space & water infiltration.
- **Public & Private Views** - The view lines are maintained for the subject & surrounding dwellings as there is substantial separation to the adjacent properties with no dwellings looking in the vicinity of the height encroachment. The aerial photo below indicates the height encroachment area shown with a red circle & the substantial separation to the surrounding dwellings.



38 Mildred Ave highlighted with area of height encroachment circled in red

- *Site Access & Circulation* is maintained with the vehicular access drive to Mildred Avenue widened to continue to allow for parking for 2 vehicles. The rear deck & stairs provides improved & safer access & circulation to the rear yard for the owners. It is anticipated that the proposed development will have no detrimental impact on traffic flow.
- *Planting* – There has been generous amount of area maintained for the provision of planting in the front & rear areas of the property. The existing vegetation softens the streetscape & allows the development to blend in with the existing environment along Mildred Avenue.

2.8 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The proposal extends the existing built form of the subject property with well-designed additions improving on the ageing traditional dwelling. The proposed works add to the already renovated dwellings along Mildred Avenue & Horning Parade, and as such, strict compliance in this regard would limit the objects being fully attained. The proposed works provide a more efficient and orderly development on the land

that is of high-quality architectural design which maximises the sites development potential along with providing appropriate housing stock within the locality.

2.9 Is the development standard a performance based control?

The objectives of the development standard provide the controls to allow a performance based solution. For the reasons outlined herein, it is demonstrated the proposal meets the objectives of the development standard, therefore Council should consider “compliance to the standard unreasonable in the circumstances of the development”.

2.10 Would strict compliance with the standard be unreasonable or unnecessary?

Yes, please refer to answer in 2.7, 2.8 and 2.9 preceding.

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

Yes, Section 4.6 enables a development standard within an LEP to be varied, providing sufficient and compelling arguments based on sound planning rationale and legislation are put forward to support the variation.

The following environmental planning grounds justify contravening the development standard.

- The proposal provides a more environmentally friendly dwelling.
- The proposal utilizes existing services.
- The proposal provides compliant private open space and landscaping.
- The proposal provides onsite parking.
- The proposal provides improved housing in a low-density environment.

The variation to the maximum building height requirements is, in our opinion, acceptable and there are appropriate planning grounds in support of the non-compliance.

CONCLUSION

2.12 Summary

The resulting development has been designed to enhance the existing residential building by improving the amenity for the residents while maintaining, where possible, the conditions set out by Northern Beaches Council Warringah Local Environment Plan 2011. The proposed works included in this report are, in our opinion, reasonable in relation to the existing built works & do not adversely impact the surrounding properties whilst justifying the environmental planning grounds for Northern Beaches Council. We consider that the proposal will impose minimal impact and maintains the streetscape & character of the neighbourhood & request that council support the Clause 4.6 Variation of the Development Application.