

ADDITIONAL CLAUSE 4.6 FORM

34 COASTERS RETREAT, PITTWATER

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,

FLEXIBILITY IS NECESSARY AND APPRECIATED ON SITES SUCH AS THIS WHICH SLOPE IN SEVERAL DIRECTIONS MAKING A CONSISTANT ACTUAL HEIGHT POINT BY POINT QUITE DIFFICULT TO ACHIEVE.

WE HAVE STUCK AS CLOSE AS WE SEE POSSIBLE TO THE BUILDING ENVELOPE GUIDELINES AND TRUST THAT OUR SMALL AREA OF NON COMPLIANCE WILL BE TREATED AS MINOR AND OF NO CONSEQUENCE TO ACHIEVING APPROVAL.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

A BETTER OUTCOME IS ACHIEVED DUE TO THIS FLEXIBILITY IN THAT A SIMPLE ELEVATED STRUCTURE HAS BEEN ABLE TO BE DESIGNED WHICH SITS MORE DELICATELY IN A SENSITIVE ENVIRONMENT THAN A BULKY LOWER MORE SOLID FORM.

(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.

(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,

WE SEEK TO HAVE THIS STANDARD WAIVERED IN THE LIGHT THAT IT DOES NOT ADVERSELY AFFECT NEIGHBOURS AND IS A SOLUTION THAT SOLVES A MYRIAD OF OTHER ISSUES ON A SITE OF THIS NATURE.

WE HAVE HAD DISCUSSIONS WITH BOTH NEIGHBOURS.

IN DISCUSSIONS WITH THE WESTERN NEIGHBOUR, A SUGGESTION WAS MADE FOR ALTERNATIVE SITING FURTHER NORTH, DOWN THE SLOPE. THIS WOULD HAVE REQUIRED THE REMOVAL A NUMBER OF EXTRA TREES. THIS PROPOSAL WAS CONSIDERED BUT RULED OUT IN ORDER TO PRESERVE AS MANY TREES AS POSSIBLE AND TO PRECLUDE ENCROACHMENT ON THE EXISTING ASPECTS ENJOYED BY THE EASTERN NEIGHBOUR.

THE EASTERN NEIGHBOUR EXPRESSED A DESIRE TO MAINTAIN THEIR EXISTING VIEWS ACROSS OUR PROPERTY TO THE BASIN. WE HAVE ACHIEVED THIS THROUGH LOCATION OF THE DWELLING FURTHER SOUTH UP THE SLOPE. THE LOCATION THAT BEST ACHIEVES THIS HOWEVER PUTS BED 1 DIRECTLY OVER A DIVOT IN THE LAND AROUND THE BASE OF A ROCK OUTCROP CREATING THE MINOR DEVIATION IN THE BUILDING ENVELOPE. BUSHFIRE CONSIDERATIONS ALSO RESTRICT FURTHER MOVEMENT UP THE SLOPE.

THE CURRENT LOCATION PLACES US MIDWAY BETWEEN THE EAST AND WEST NEIGHBOURS IN THE NORTHERLY PLANE ALLOWING ALL 3 SITES TO ENJOY VIEWS TO THE BASIN. ESSENTILLY STEPPING BACK TO THE WEST AND DOWN TO THE EAST.

OVERALL WE FEEL THIS IS THE BEST LOCATION FOR THE BUILDING AS IT CONSIDERS SITE, NEIGHBOURS AND ENVIRONMENT AND FITS WITH THE OVERALL OBJECTIVES OF PITTWATER DCP AND LEP GUIDELINES.

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

THERE ARE SUFFICIENT ENVIRONMENTAL GROUNDS TO CONTRAVENE THE DEVELOPMENT STANDARD IN THAT ALL OTHER ASPECTS OF ENVIRONMENTAL CONSIDERATION HAVE BEEN ADHERED TO AND THE SMALL UPPER PORTION OF BED 1 DOES NOT IMPACT ON ANY ENVIRONMENTAL CONCERNS.

THE OVERALL DEVELOPMENT SEEKS TO IMPROVE THE SITE BY OCCUPATION TO MANAGE AND MAINTAIN THE ECOLOGY OF THE AREA.

WITHOUT MANAGEMENT, THIS SITE IS QUICKLY OVERGROWN WITH WEEDS AND IS DETRIMENTAL TO THE TRUE NATURE OF THE PITTWATER LOCALITY.

(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,

THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLICS BEST INTEREST AS IT IS CONSISTANT WITH THE DESCRIBED OBJECTIVES. PAGE 05 OF THE ARCHITECTURAL DRAWINGS ENCLOSED SHOWS THE VISUAL RELATIONSHIP OF OUR SMALL AREA OF NON-COMPLIANCE AND HOW OVERALL THIS DOES NOT IMPACT ON THE OVERALL PLACEMENT IN FITTING WITH THE SURROUNDING BUILDINGS, SITE AND TREE CANOPY.

THE STRUTURE DESIGNED IS A GOOD EXAMPLE OF ENVIRONMENTAL ARCHITECTURE THAT IS GENERALLY ENCOURAGED IN THIS LOCALITY.

(b) the concurrence of the Secretary has been obtained.

(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,

WE BELIEVE THERE IS NO MATTER OF SIGNIFICANCE THAT COULD BE RAISED AS THE DEVIATION TO THE STANDARD IS MINIMAL.

(b) the public benefit of maintaining the development standard,

THERE IS NO PUBLIC BENEFIT TO BE DERIDED FROM MAINTAINING THIS STANDARD ON THIS PARTICULAR SITE AT THIS PARTICULAR CORNER OF THE PROPOSED BUILDING.

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3

Environmental Management or Zone E4 Environmental Living if: **NOT APPLICABLE TO THIS SITE**

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4.