



24th July 2019

General Manager
Northern Beaches Council
PO Box 82
Manly NSW 1655

SECTION 4.55 Modification (1a)
49 Lauderdale Ave, FAIRLIGHT

CLAUSE 4.6 (Exceptions to Development Standards) – Height of Building

Dear Sir/Madam,

Pursuant to Clause 4.6 (Exceptions to Development Standards) of the Manly LEP 2013, please see below for a request to vary the Height of Building development standard as detailed in the Manly Local Environmental Plan 2013.

According to the Manly LEP 2013 Clause 4.3 and the LEP maps, 49 Lauderdale Avenue, Fairlight is within the zone restricted to an overall height of 8.5m.

The proposed rear deck extension extends out over the natural cliff face on the site and subsequently causes the development to exceed this control. Heights range from 10.9m to top of proposed balustrade and 11.4m to top of privacy screens.

This non-compliance has no adverse impacts upon the street-scape, building bulk or the surrounding properties. The proposed deck extends a maximum of 1.65m on the eastern side over the line of the cliff face, and 600mm on the western side. A 1.8m high privacy screen to both the east/western sides is proposed to prevent any privacy impacts on adjoining properties. The extended deck provides a much more usable deck directly accessible from the main living area of the property, thus improving the amenity of the development property.

Clause 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.*

Assessment against this clause is requested, as the proposed variation to the development standard will result in better outcomes for the development whilst having minimal impacts to the surrounds.

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- (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.*

Pursuant to this clause, this written request has been prepared to address the relevant objectives. The development standard in question is not 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, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

We believe that enforcing the Height of Buildings development standard for this development is un-necessary in the circumstances as the proposed non-compliance remains compatible with the building bulk, street-scape, setbacks and has minimal overshadowing impacts on adjoining properties, whilst greatly improving the amenity of the development property.

- (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 Secretary has been obtained.*

The proposed development will be in the public interest because it is consistent with the objectives as demonstrated herewith.

- (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.*

The proposed rear deck extension will not create any excessive environmental impacts, and is not visible from the street, so has no impact on the streetscape character.

Clause 4.3 – Height of Buildings

The objectives of the height of buildings development standard set by clause 4.3 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.

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We believe the variation to this control is justified in this instance on the following grounds:

- (a) The proposed variation is not visible from the street and therefore has no impact on the streetscape character of the locality.
- (b) The proposed rear deck extension has minimal impact on the overall perceived bulk of the building.
- (c) Existing views are not affected by the proposed rear deck extension.
- (d) The proposed variation does not affect the solar access of neighbouring properties, with any minor additional overshadowing from the extended first floor deck not impacting neighbouring primary private open space.
- (e) Not applicable.

Conclusion

In conclusion, the proposed non-compliance satisfies the objectives of the Height of Buildings development standard of the Manly LEP 2013. Therefore we would ask that Northern Beaches Council consider this Clause 4.6 Variation request and determine the application favourably.

We trust this request to vary the planning controls meets with your approval, and if you have any queries regarding the application please do not hesitate to contact the undersigned.

Yours Sincerely,



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