

**CLAUSE 4.6 – EXCEPTION TO HEIGHT CONTROL IN PURSUANT TO
CLAUSE 4.3(2) HEIGHT OF BUILDINGS, PITTWATER LEP 2014**

69 BASSETT STREET MONA VALE

Submitted to
NORTHERN BEACHES COUNCIL

On behalf of
CHROME TEMPLE GARAGE

Prepared by
MHDP ARCHITECTS

Date
AUGUST 2024

**CLAUSE 4.6 – EXCEPTION TO HEIGHT CONTROL IN PURSUANT TO CLAUSE 4.3(2)
HEIGHT OF BUILDINGS, PITTWATER LEP 2014**

This statement constitutes a request for variation to a development standard, made under the Clause 4.6 of Pittwater Local Environmental Plan 2014.

It has been prepared on behalf of Chrome Temple Garage submitted to Northern Beaches Council to accompany a S4.55(1a) modification application to DA2023/1068.

Building height (or height of building) is defined in the Dictionary of the PLEP as:

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.

Clause 4.3(2) of PLEP 2014 states:

(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 relevant map indicates that the subject site has a maximum height control of 11m.

Subclause 4.3 (2B) provides that despite subclause (2) development on land:

(a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and

(b) that has a maximum building height of 11 metres shown for that land on the Height of Buildings Map, may exceed a height of 11 metres, but not be more than 10.5 metres above the flood planning level.

In the approved Flood Management Report prepared by NB Consulting Issue A, it has been concluded that the adopted Flood Planning Level (FPL) in this flooding assessment is RL3.26m. Therefore, the development standard for building height is calculated as 10.5m above the FPL which equates to RL13.76m.

The maximum height of the proposed modification is RL15.01m which exceeds the maximum building height by 1.25m. This equates to a 9.1% variation to the development standard.

CLAUSE 4.6 – EXCEPTIONS TO DEVELOPMENT STANDARD

The relevant parts of Clause 4.6 of Pittwater LEP 2014 are:

(1) The objectives of this clause are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

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

(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, and

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

(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 Director-General has been obtained.

Clause 4.6(3)(a) – whether compliance with the development standard is unreasonable or unnecessary in this particular case

The LEP provides the following objectives for the height of buildings in Clause 4.3(1)

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.

Comment

The desired future character for the Mona Vale Locality envisions retail, commercial, and light industrial land uses that generate employment, with an increased permissible building height to foster economic growth.

The proposed modification aligns with this vision by maximizing the site's potential, thereby supporting the economic growth of the area.

The plan for a 3-storey mixed-use building fits well with the industrial-scale structures in the Mona Vale IN2 zone, which range from 1 to 3 storeys.

The analysis confirms that the proposed modification is consistent with the heights of newer buildings and the evolving character of the area, both in terms of maximum RLs and the number of stories.

The building is lower than the recently approved and now under construction neighbouring property at 8 Tengah Crescent, even though that site is at a lower level than the subject site. The building is also highly articulated particularly stepping back significantly from Bassett Street on the top floor such that the upper level (with the minor non-compliance) will not be visible from street level on Bassett Street. Further, the major corner element has been significantly reduced in height to reduce the apparent bulk and scale when viewed from the street. The only point at which the higher portion of the building is clearly visible is when it is immediately adjacent to its higher neighbour to the South.

As a result, the proposed development is consistent with the height and scale of buildings outlined in the relevant locality statement.

- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.

Comment

The 11m height limit generally corresponds to a 3-storey building within this industrial zone. However, due to flooding issues, the Council mandates a minimum floor level for developments. As a result, to achieve a 3-storey building that aligns with the desired future character, structures must exceed the 11m height limit. This is demonstrated by the recently approved 3-storey storage building to the south at 4-8 Tengah Crescent, which rises about 1.4m above the height limit. Similarly, while not a 3-storey structure, the neighbouring Mitre 10 building also reaches a comparable height that exceeds the limit.

The modification complements the variety and style of buildings in the industrial area. Its bulk and scale are consistent with the desired character of the locality and align with existing and planned infrastructure. It provides highly articulated detailing and finishes that complement the architectural diversity of the area consisting of industrial buildings.

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Tengah Cr looking North West



Tengah Cr looking South West

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Tengah Cr looking West



Tengah Cr & Bassett St corner



Bassett St looking South



Bassett St looking South East



Mitre 10 Building max height RL 14.99m

(c) to minimise any overshadowing of neighbouring properties

Comment

Updated shadow diagrams have been prepared to demonstrate the proposed modification. The results have minimal difference to the approved proposal and will not result in any overshadowing of residential dwellings.

The modification will not result in any non-complying impacts on adjoining properties.

(d) to allow for the reasonable sharing of views

Comment

There are no public viewpoints over the site or neighbouring properties that will be affected by the proposed modification.

The modification to the building height standard will not affect any scenic views, considering the heights of surrounding buildings and the site's topography.

(e) to encourage buildings that are designed to respond sensitively to the natural topography

Comment

No change is proposed to the floor structure and ground level in this modification.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items

Comment

The proposal includes a landscape buffer along the street frontage and will preserve existing canopy trees as outlined in the DA conditions. More landscaping is proposed as a replacement of existing driveway and crossings to the property.

When viewed from Bassett Street the development will have a consistent visual appearance to neighbouring 8 Tengah Crescent and 73 Bassett Street. Notwithstanding the excess of the height control, the modification to building is still under 8 Tengah Crescent. Further, the roof of the stairwell has been lowered to improve and balance the articulation of the street-facing façade.



Considering the above, the non-compliant part of the building will meet the objectives of the standard to a development that adheres to the building height standard. Given the development's alignment with the standard's objectives, strict adherence to the height limit is deemed both unreasonable and unnecessary in this context.

Clause 4.6(3)(b) – whether there are sufficient environmental planning grounds to justify contravening the development standard

Lack of Impact

The modification does not affect in any way neighbouring developments negatively in terms of view obstruction, loss of solar access, privacy concerns, or other amenity issues. Regarding visual impact, the proposal is well-aligned with both the current and envisioned character of the area and is expected to greatly enhance the visual appeal of the surroundings.

Existing Height Character

The proposed modification is consistent with the height and scale of surrounding and nearby buildings. The extent of articulation particularly on Bassett Street and the corner means that it is graphically well within keeping of the surrounding building scale.

Flood Impacts

The adopted Flood Planning Level (FPL) in this flooding assessment is RL3.26m which is above the existing ground level. This increases the building height beyond what would be necessary otherwise.

The development standard for building height is calculated as 10.5m above the FPL which equates to RL13.76m. The maximum height of the proposed modification is RL15.01m which exceeds the maximum building height by 1.25m.

Nature of the Height Breach

The modification to the building's height has no impact to the surroundings and nearby buildings. It is under the height of 8 Tengah Crescent and the roof of the stairwell has been lowered to reduce the bulk and scale of the building. The only visible portion of the parapet that has been raised is directly adjacent to 8 Tengah Crescent. The articulation of 69 Bassett Street and its stepping down towards Bassett Street is seen as beneficial to the overall streetscape and built form of Bassett Street.

Clause 4.6(a)(ii) – whether 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 modification serves the public interest as it aligns with both the objectives of the development standard that is being exceeded and the goals of the zoning regulations.

The following indicates consistency with the objectives of the subject E4 General Industrial Zoning:

- The proposed modification will retain to create job opportunities both during and after construction. By introducing additional light industrial units and storage facilities, it will support businesses in the Northern Beaches area.
- The modification is required to provide internal clearance for car stackers essential to the viability of the Business Model thus allowing successful operation of a new business.
- The modification will not cause any unacceptable amenity impacts.
- The development maintains the site's industrial zoning and offers versatile space for various uses. It features high-quality architectural and landscape design, enhancing the appearance of the Bassett Street and Tengah Crescent streetscape.
- A revised landscape plan has been provided by a Landscape Architect that follows Council's Conditions of Consent. Landscaped buffer is added along the street frontage, contributing to an appealing and healthy streetscape.

CONCLUSION

A variation to Clause 4.3 of Pittwater Local Environmental Plan 2014 is appropriate for this modification as the non-conformity is minor in scale, does not add any impact to adjoining or nearby properties whilst complying with all objectives of the standard and providing suitable accommodation for the occupants.

As demonstrated above, strict compliance with this standard is unreasonable or unnecessary to this Development Application.

Approval should not therefore be withheld due to the non-compliance with the development standard.