

# **Clause 4.6 Variation Request Clause 4.3 Height of Buildings**

**Lot 60 LITTLE WOBBY, HAWKESBURY RIVER  
Lot 60 DP 7842**

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**For:** I. Thew

## **Introduction**

Concurrent with the above Development Application we submit this letter addressing the provisions of Central Coast (Gosford) Council **LEP 2014**, specifically **cl. 4.3– Height of buildings** regarding development that exceeds the maximum height on Council's Heights of Buildings Map under the provisions of **LEP 2014 cl.4.6 Exceptions to development standards**.

This document shall demonstrate compliance with the outcomes of **LEP control 4.3 Height of buildings** with regard to the proposed water access only family dwelling.

Clause 4.6 of the Gosford Local Environmental Plan 2014 enables Central Coast Council to grant consent to the development even though the dwelling contravenes a development standard. The clause aims to provide flexibility in applying certain development standards to achieve better outcomes for and from the development.

This clause 4.6 variation request demonstrates that compliance with the height standard is unreasonable and unnecessary in the circumstances of this case, and there are sufficient environmental planning grounds to justify contravention of the standard.

This clause 4.6 variation request demonstrates that the proposed development:

- Satisfies the objectives for development standard clause 4.3 PLEP 2014 Building Height,
- Is consistent with applicable state and regional planning policies,
- Provides for a better planning outcome,
- Has sufficient environmental planning grounds to permit the variation, and
- Is in the public interest.

The DA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.3 of the Pittwater LEP 2014.

### **VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDINGS**

The finished upper floor level of the proposed dwelling is nominated at 8.60m AHD and the maximum ridge is 12.20m AHD. The existing natural ground level under the highest ridge point is 2.60m AHD, giving a ridge height 9.60m above natural ground level. From the LEP Heights of buildings map the maximum height of the dwelling should be no more than 8.5m above natural ground. The proposed dwelling ridge exceeds this height by 1.10m.

The area of roof exceeding the 8.5m height limit amounts to 9.87sqm, with the floor area,

including external walls, amounting to 4.81sqm. The edge of the roof exceeding the 8.5m height limit is 5.8m from the northern neighbouring side boundary, and 4.6m from the southern side boundary.

Of the roof that exceeds the 8.50m height limit 50% is made up of a west facing eaves projection to shade the bedroom from the afternoon sun. The internal area where the roof exceeds the 8.5m height limit amounts to 2.8sqm of bedroom floor space.

The Architectural form and details in 2.1.11.7 describe light weight structures with light weight cladding, as is the case with this proposal, along with pitched roofs and shady eaves. The west facing orientation of the site makes large eaves on the western elevation a design benefit in terms of sun protection from excessive solar heat gain.

The site has no reticulated water supply so all water must be collected from the roof and stored in tanks on the site. A simple roof design with a fall to one gutter makes for a more efficient water collection system, to operate and maintain. With this proposal the collecting roofs are in one plane falling to one gutter to the rear of the dwelling. The low 7deg. roof pitch makes it safer to walk on for cleaning of tree and leaf debris on this woodland site. Falling the roof contrary to the ground slope allows the gutter to be lower to the ground and closer to the water tanks behind the dwelling.

LEP Clause 5.6 Architectural roof features allows for decorative roof features to exceed the building height limit provided the feature does not allow for the creation of additional floor area, such as a loft, create overshadowing or be used as an advertising feature. These issues are not the case with this application. The simple skillion roof design is a classic feature of this simple post and beam light weight dwelling perched on the hillside.

#### JUSTIFICATION FOR CONTRAVENTION OF THE DEVELOPMENT STANDARD

**Clause 4.6(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 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) there are sufficient environmental planning grounds to justify contravening the development standard.

**Clause 4.6(4) Development consent must not be granted for development that contravenes a development standard unless:**

(a) the consent authority is satisfied that:

(i) the applicants written request has adequately addressed the matters required to be demonstrated by sub-clause (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.

**CLAUSE 4.6(3)(a) COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY**

The objectives of the standard are achieved notwithstanding non-compliance with the standard. The objectives of the standard are:

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

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

(c) to minimise any overshadowing of neighbouring properties,

(d) to allow for the reasonable sharing of views,

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

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

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

The proposed dwelling is entirely consistent in form and height with similar buildings in the neighbourhood with small footprints on their sites.

As such, the proposal's height, whilst seeking a variation to the height control, still results in a development which is consistent with the expectations for dwellings at Little Wobby, and remains consistent with the desired character of the Lower Hawkesbury River waterway.

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

Many of the dwellings on Dangar Island and Little Wobby are two storey structures, similar in height and scale.

**Objective (c) to minimise any overshadowing of neighbouring properties.**

The non-complying roof will not result in any additional overshadowing of neighbouring property to the south due to the location of the higher roof being central on the site. Therefore, the variation to the height limit does not result in any overshadowing on neighbouring properties.

**Objective (d) to allow for the reasonable sharing of views.**

Due to the location of the dwellings at Little Wobby being in a single line along the waters edge there is minimal loss of view from any dwelling as a result of the neighbouring dwelling.

The proposal does not interrupt or obstruct any significant views to or from the adjoining sites or the Hawkesbury River, making the proposed development consistent with this objective.

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

The proposed post and beam development with its minimal excavation has been designed to respond sensitively to the natural topography, which slopes steeply away from the seawall and path directly behind the Mean High Water Mark.

The building sits lightly on the existing terrain.

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

There are no heritage items affected by the proposal, and the building will have a similar visual impact on the existing environment being entirely consistent with waterfront dwellings in this area of the Lower Hawkesbury.

**Gosford LEP 2014 cl. 4.6 Exceptions to development standards** sets out the parameters for varying a development standard such as cl. 4.3 Height of buildings described above. Compliance with the relevant provisions of cl 4.6 is achieved as follows:

- (3) (a) as demonstrated above compliance with the development standard cl.4.3 is unreasonable or unnecessary in this case, and,
- (b) there are sufficient environmental planning grounds to justify contravening the development standard in this instance.
- (4) (a) (i) the proposed dwelling is modest in scale and typical of dwellings for water access only properties.

CLAUSE 4.6(4)(a)(ii) IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE ZONE AND DEVELOPMENT STANDARD.

**Consistency with the objectives of the development standard.**

The proposed development is consistent with the objectives of the height of buildings standard in clause 4.3, for the reasons discussed previously in CLAUSE 4.6(3)(a) COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY.

#### **Consistency with the objectives of the zone.**

The proposed development is consistent with the underlying objectives of the E2 Environmental Conservation zone. The primary driver of the variation is the result of designing a dwelling fit for purpose with minimal impact on the natural environment. The proposal will have minimal visual impact on the development on neighbouring sites or the Hawkesbury River.

The proposed siting and design of the dwelling will not affect public access along the existing waterfront pathway.

The proposed development is of good design, occupying only 20% of the site, will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying the requirement that the proposal, and the height limit standard variation, are in the public interest.

#### **Overall public interest.**

The proposed development is considered to be in the public interest for the following reasons:

Dwellings are a specifically permissible use of the site and “pole frame” structures are consistent with the character of the Lower Hawkesbury River localities.

Dwellings of this light form add character to waterways foreshores when viewed by the public using the waterway for recreational purposes.

The majority of the site shall be left in its natural state as native forest.

On the basis of the above, we believe that the consent authority can be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard for building height contained in clause 4.3 of the PLEP 2014, and with the objectives of the E2 Environmental Conservation zone under the Gosford LEP 2014.

#### **CONCLUSION**

The assessment above demonstrates that compliance with the maximum building height development standard in Clause 4.3 of the Gosford LEP 2014 is unreasonable and unnecessary in the circumstances of this case and that the justification is well founded. It is considered that the variation allows an orderly and economic use and development of the land, and that the structure is of good design that will reasonably protect and improve the amenity of the surrounding built environment.

This clause 4.6 variation demonstrates that, notwithstanding the variation to the maximum

building height development standard, the proposed development:

- Satisfies the objectives of the development standard for height of buildings in clause 4.3 of Gosford LEP 2014,
- Satisfies the objectives of the E2 Environmental Conservation zone under LEP 2014,
- Provides for a better outcome,
- Has sufficient environmental planning grounds to permit the variation, and
- Is in the public interest.

As such, the Development Application may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of the Gosford LEP 2014.

**STEPHEN CROSBY**