

DA NO: DA-2014/552/C
ADDRESS: 56 WILLOWIE ROAD, CASTLE COVE NSW 2069.
PROPOSAL: MODIFY EXISTING CONSENT INCLUDING INTERNAL AND EXTERNAL MODIFICATIONS.
RECOMMENDATION: APPROVAL
ATTACHMENTS:
1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. APPLICANT'S SUBMISSION IN RESPECT TO FSR CONTROL
4. OFFICER'S ASSESSMENT OF PROPOSED FSR
5. APPLICANT'S SUBMISSION IN RESPECT TO HEIGHT
6. OFFICER'S ASSESSMENT OF PROPOSED HEIGHT
7. SECTION 4.55(2) ASSESSMENT AND RELEVANT AND RELEVANT MATTERS UNDER SECTION 4.15(1)
8. SCHEDULE OF CONDITIONS
9. NOTIFICATION MAP
RESPONSIBLE OFFICER: PATRICK WILLIAM – ACTING TEAM LEADER
AUTHOR: ADIBA KASHFI - SENIOR DEVELOPMENT ASSESSMENT OFFICER
REPORT DATE: 27 MARCH 2024
REPORT FOR: ELECTRONIC DETERMINATION

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of modification application DA-2014/552/C. The application seeks consent to modify the original proposal for alterations and additions for internal and external changes to and associated works at 56 Willowie Road, Castle Cove.

The application is required to be referred to the WLPP for determination because the development contravenes a development standard imposed by an environmental planning instrument by more than 10%. The proposed modifications result in a breach of the of the maximum *Floor space ratio* control as stipulated in *Clause 4.4 and 4.4A of Willoughby Local Environmental Plan 2012*. The proposed modification also proposed to exceed the maximum height allowed under *Clause 4.3 of Willoughby Local Environmental Plan 2012*.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Approve the modification application despite the development exceeding the maximum floor space ratio by 75.5% for the following reasons:

2.1.1 The proposed gross floor area (453.9m²) is less than the gross floor area (458.3m²) approved under the previous MOD-2014/552/B.

2.1.2 The modifications propose a reasonable rearrangement of the internal layout of the approved development and does not extend beyond the envelope of the approved building.

2.1.3 The development continues to provide a suitable architectural response and in keeping with the locality.

2.2 Approve the modification application despite the development exceeding the height by 28.1% for the following reasons:

2.2.1 The exceedance to the height represents the existing dwelling and will therefore makes no visible impacts to the existing scale, building profile or the reading and expression of the dwelling within its immediate context nor the relationship to adjoining and surrounding development.

2.2.2 The proposed maximum height (10.89m) is already existing and the exceedance is an established and technical departure, due to a portion of the site having been excavated and which now forms the existing ground level. All other areas of the dwelling are suitably within the 8.5m height limit.

2.2.3 The modification does not seek an increase in height that would otherwise further disrupt existing views.

2.3 Approve Modification Application DA-2014/552/C, for the following reasons:

2.3.1 The proposed development will not have unreasonable impacts on the streetscape, the residential amenity of the neighbouring properties or the surrounding locality.

2.3.2 It is considered that the proposed development application meets the desired outcomes and objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP)* and objectives of the *Willoughby Development Control Plan (WDCP)*.

3. BACKGROUND

On 11 September 2015, development application DA 2014/552 was approved for *Alterations and additions to existing dwelling to include new basement garage, lift, swimming pool, landscaping and associated works.*

On 28 April 2016, modification application 2014/552/A was approved to *Modify original proposal to include internal reconfigurations and changes to openings, reducing the size of the fish tank to about one storey, changes to the drying yard and removal of the skillion roof.*

On 10 March 2021, modification application 2014/552/B was approved to *Modify the proposal by making internal and external changes by converting the ground floor to home office, reinstating the existing pool and deleting the fish tank.*

The original application was about to expire on 12 September 2020, but approval has been implicitly extended for another two (2) years under the provisions made by NSW Government under the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020 which made changes to the *Environmental Planning and Assessment Act 1979*:

Lapsing periods for development consents and deferred commencement consents have been extended to ensure approved projects can start once economic conditions

have improved. Consents granted before 25 March 2020 will be extended by 2 years and all consents granted since 25 March 2020 will have a lapsing period of 5 years (which cannot be varied during the pandemic period).

Therefore, the relevant lapsing date of the original consent is 12 September 2022. Construction works (demolition of internal living room wall) was carried out on the Site in accordance with Construction Certificate No. BW17214 dated 4 July 2017. The demolition of the internal living room wall commenced on 09 September 2022 at or before 2:21pm, thereby occurring before the Lapsing Date of the Original Consent. Physical commencement letter and demolition photos are saved in ECM (Document set ID 6832517).

The modification application 2014/552/B was determined by the Willoughby Local Planning Panel due to a 67.4% breach of the FSR. This was supported by the Panel and the report also advised that the height was compliant with the maximum permissible under Clause 4.4A.

On 3 November 2022, modification application DA-2014/552/C was lodged for further internal and external changes to the existing dwelling with Council.

On 28 September 2023, a meeting was organised to advise applicant that we cannot support the variation as the current proposed GFA is 453.9m² which exceeds the maximum FSR by 75.5%. Applicant then explained that no additional breach is being sought under this modification application. In fact, there is a slight reduction in the GFA by 4.4m². This is because, the GFA (433m² or 67.4%) was calculated incorrectly in the previous modification application (DA-2014/552/B). Certain parts of the dwelling were not included in the GFA calculation (i.e. Sauna, internal stairs, lift and storage area). If these areas were included, then the GFA would have been 458.3m² which means an exceedance of 77.2%.

On 19 February 2024, the applicant submitted a detailed comparison of the calculation of GFA. The approved GFA was calculated to be a 77.2% variation to FSR and a height breach of 25.53%, despite being assessed as compliant with the Height in the report to the WLPP. Although, this is to be noted that the proposed modification will create a new breach of 28.1%. However, this breach is already existing. The proposed building height will therefore make no visible impacts to the existing scale, building profile or the reading and expression of the dwelling within its immediate context nor the relationship to adjoining and surrounding development.

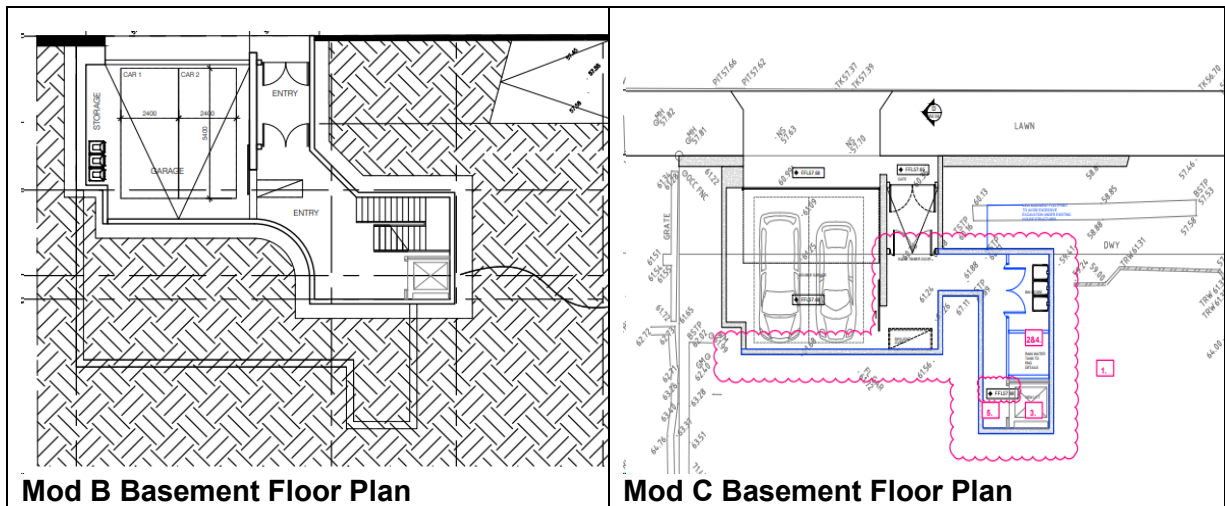
On 13 March 2024, the applicant updated all their reports and updated the plans to reflect the exact GFA and height of both what was approved under DA-2014/552/B and proposed under DA-2014/552/C.

4. DISCUSSION

This Section 4.55(2) modification application seeks to make the following modifications to the approved development:

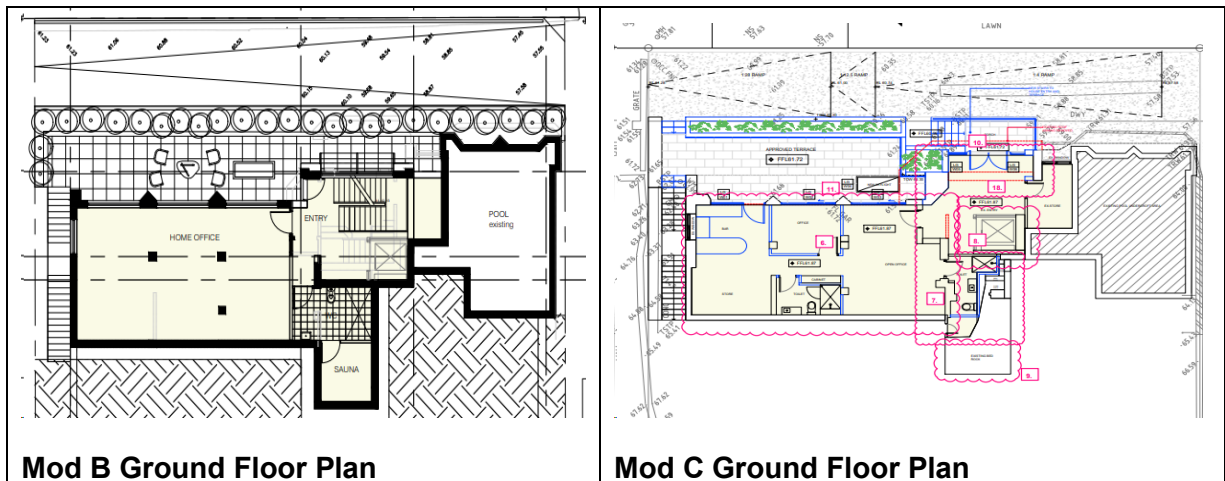
Basement

1. Change to the approved footprint and configuration of the basement level garage including
 - (i) Deletion of internal stairs between basement and first floor levels;
 - (ii) Relocation of lift structure;
 - (iii) Relocation of bin storage (to facilitate an accessible car parking space requiring a width of 3.6m);
 - (iv) New rainwater tank.



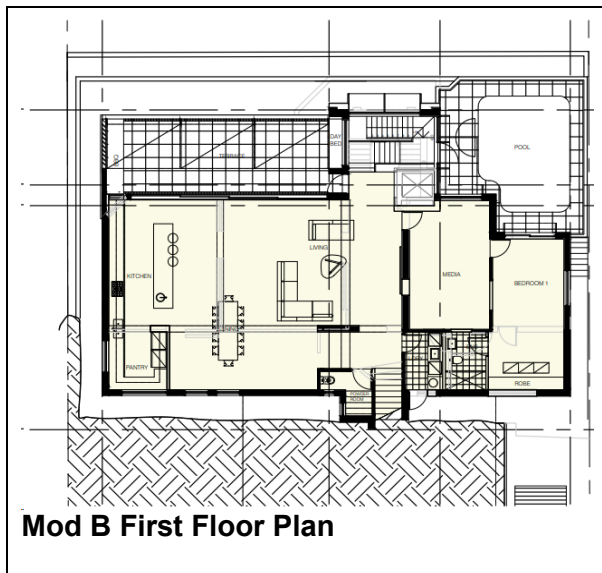
Ground Floor

1. Internal reconfiguration of home office to include office spaces, and ancillary bar and storage areas, and bathroom;
2. Deletion of internal stairs between basement and first floor levels;
3. Relocation of lift structure;
4. Deletion of sauna room and reconfiguration of adjacent water closet;
5. Existing storeroom and window adjacent to entry lobby to be retained;
6. Retention of and modification to the existing ground floor entry arrangement as the principal entry for guests and visitors, (as a more suitable 'public' access arrangement), including extension of entry patio with new external stairs;
7. Glazed panels to outdoor terrace area (North elevation) to comprise 1 x swing door with fixed sidelight and 2 x sliding doors.

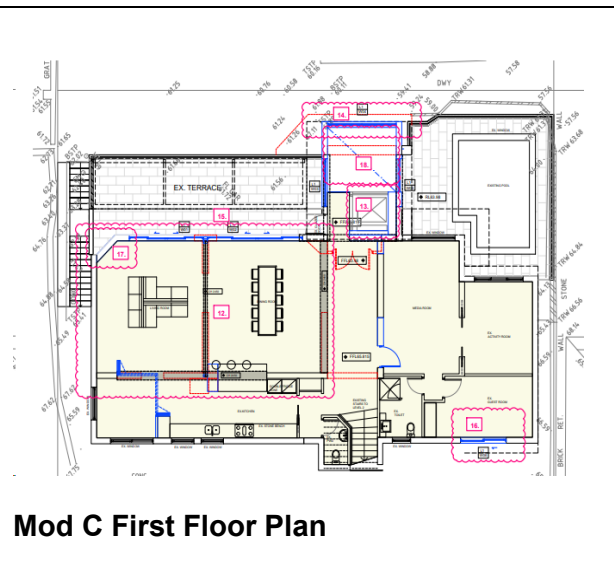


First Floor

1. Internal reconfiguration of living spaces, kitchen and guest bedroom,
2. Relocation of lift structure,
3. Extension of part northern primary façade (at former location of approved stairs) over new ground floor entry to create extended predominantly glazed wall to void area.
4. New sliding door configuration to openings between internal living and external outdoor terrace areas;
5. New sliding door to existing guest room (south elevation),
6. Retention of the chamfered façade at the north western corner of the dwelling.



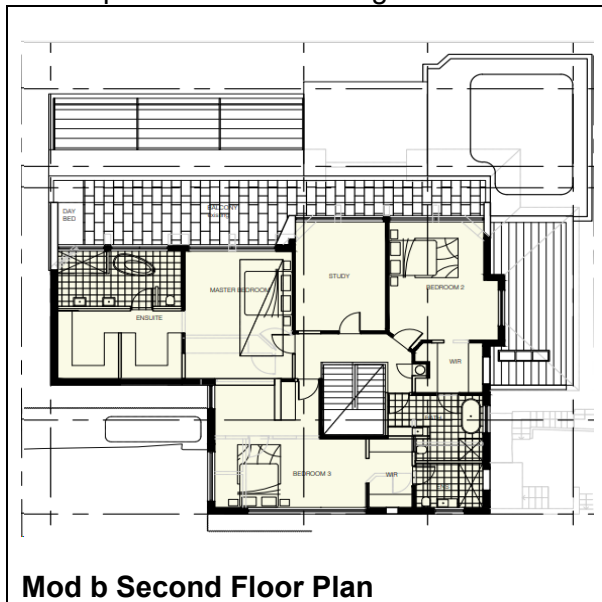
Mod B First Floor Plan



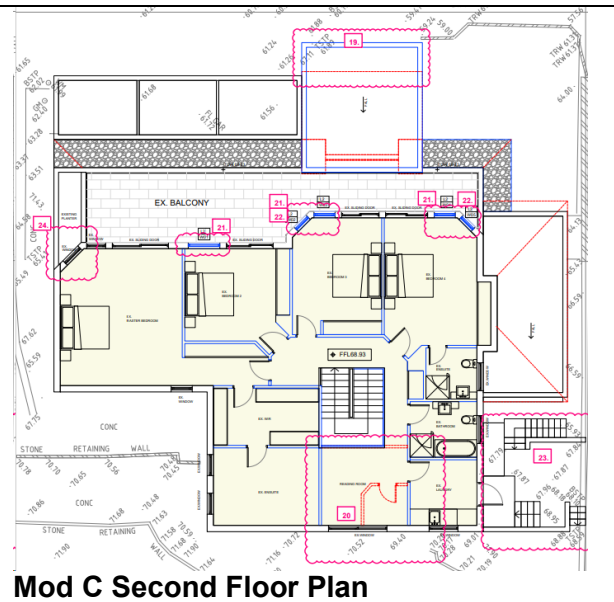
Mod C First Floor Plan

Second Floor

1. Deletion of metal shade hoods,
2. Retention of existing room configuration, except for the demolition of an existing wall and toilet compartment (current utility room to become open reading room) at the south east corner of the dwelling,
3. New full height windows to existing bedrooms 2, 3 and 4
4. Retention of existing façade articulation
5. Retain external stairs (south eastern corner) leading to terrace area,
6. Retention of the chamfered façade at the north western corner and north eastern portion of the dwelling.



Mod b Second Floor Plan



Mod C Second Floor Plan

Roof

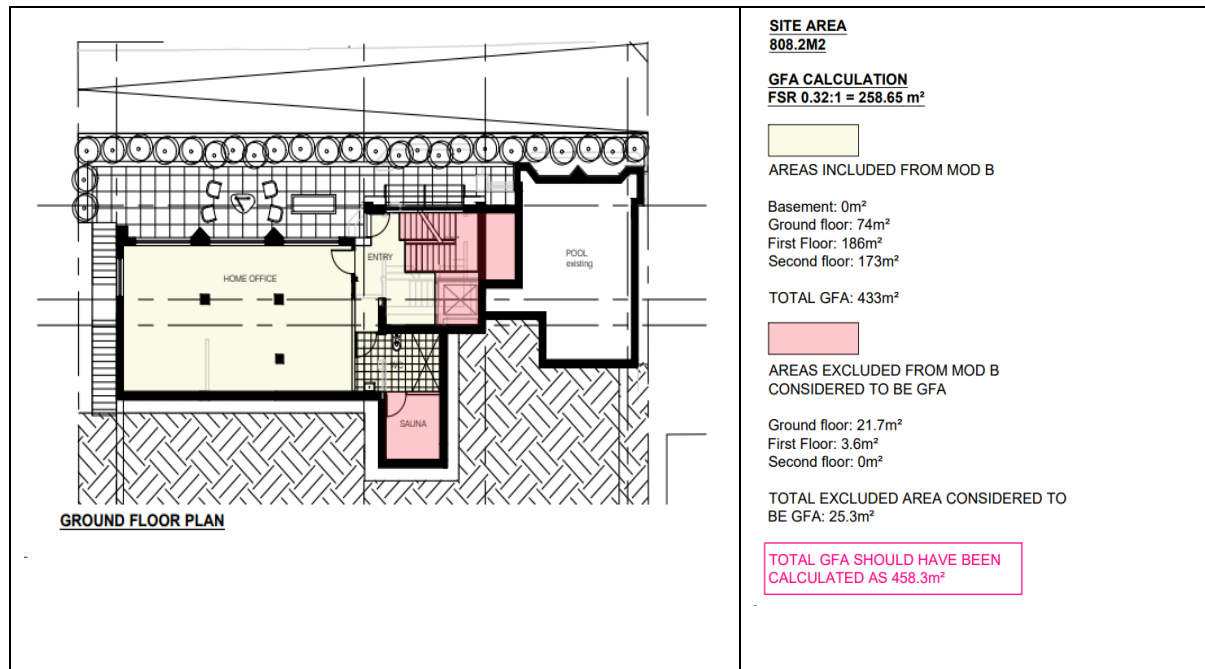
1. Existing angled tiled roof at first floor (over proposed lift, entry and void area) to be removed and replaced with metal roof over.
2. Concrete soffit at first floor to be retained with removal of existing tiled roof perimeter skirting and pebbles over (non-trafficable),
3. Existing tiled roof perimeter skirting to be retained over second storey. The retention of this element maintains the existing height of the building.

Other

1. The chamfered corners of the dwelling form at level 1 and level 2 have been retained
2. Correction to Basement RL level misdescription / inconsistencies annotated on the approved Mod B drawings.

Floor Space Ratio

The maximum permissible FSR is 0.32:1. The site area is 808.3m² allowing a maximum GFA of 258.65m². The approved plans under DA-2014/552/B were assessed as having a GFA of 433m². A review of the approved Mod B GFA/FSR calculation has been undertaken identifying several areas where floor area has been inadvertently excluded from the calculation of gross floor area calculation. This has understated the actual gross floor area contained within the dwelling by 25.3m². The Mod B GFA is calculated at 433m² representing an FSR of 0.57:1. The difference is associated with the sauna at ground floor, stairs, storage behind the stairs and lift at ground floor, and stairs at Level 1, as demonstrated in the Table 1 below.



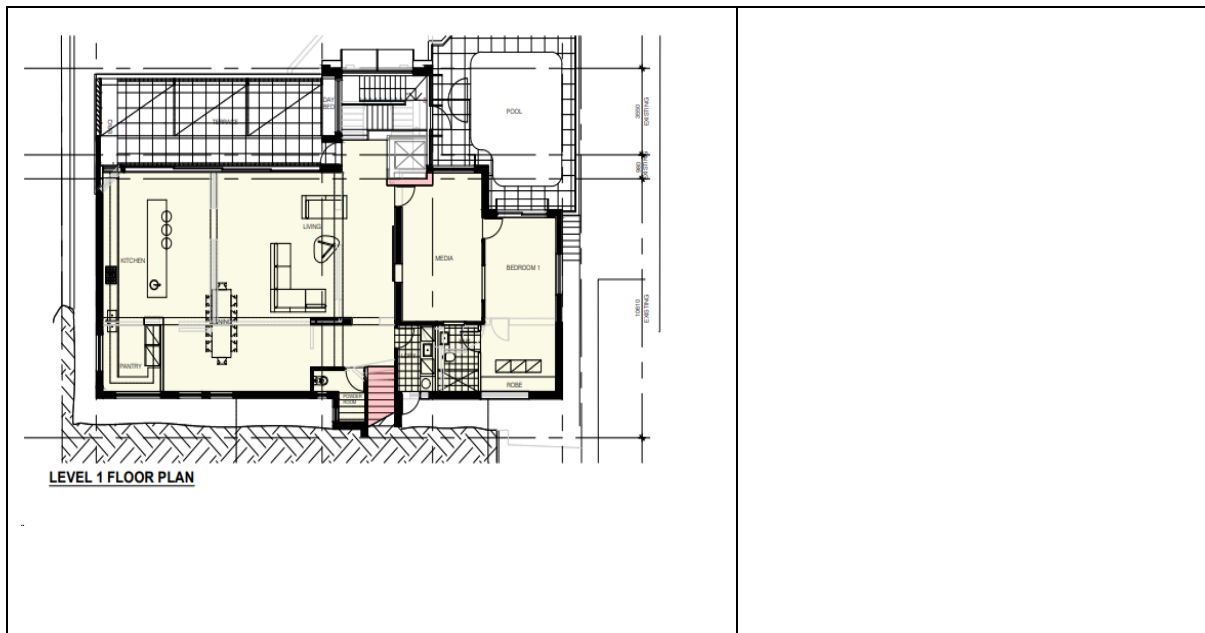


Table 1 Areas excluded in the GFA calculation

A comparison of GFA calculations: Approved floor plans and proposed floor plans demonstrated in the Table 2 below,

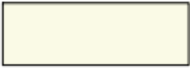

<u>MOD B GFA CALCULATION</u>	<u>MOD C GFA CALCULATION</u>
	
Basement floor: 0m ²	Basement floor: 0m ²
Ground floor: 95.7m ²	Ground floor: 91.3m ²
First Floor: 189.6m ²	First Floor: 190.7m ²
Second floor: 173.0m ²	Second floor: 171.9m ²
TOTAL GFA: 458.3m²	TOTAL GFA: 453.9m²

Table 2 Comparison of GFA

Height

The maximum permissible height is 8.5m. The approved plans under DA-2014/552/B were assessed as having a compliant height of 8.1m. A review of the approved Mod A and Mod B plans has been undertaken identifying an error in the height calculation. The height of the dwelling approved under Mod A and Mod B should have been 10.67m (proposing a variation of 25.53% to the maximum permissible height). Under this modification application, the existing tiled roof perimeter skirting to be retained over second storey. The retention of this element maintains the existing height of the building (10.89m) resulting in a height breach of 28.1%. However, this breach is already existing. The proposed building height will therefore make no visible impacts to the existing scale, building profile or the reading and expression

of the dwelling within its immediate context nor the relationship to adjoining and surrounding development.

A comparison of the height: approved section and proposed section demonstrated in the Table 3 below,

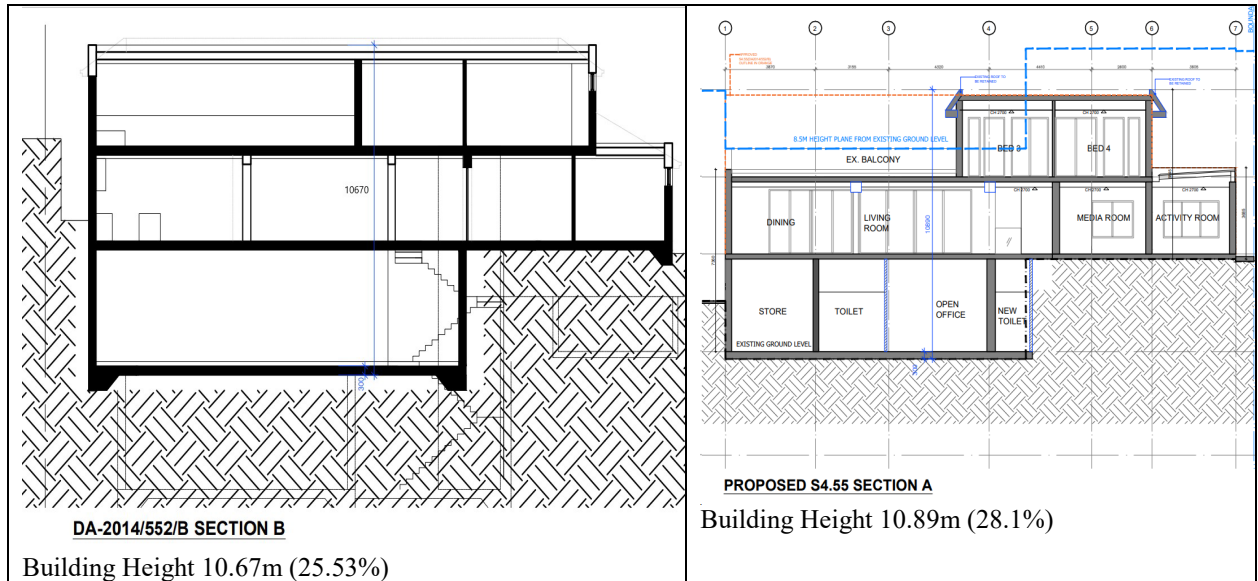


Table 3 Comparison of Height

It is noted that excavation has not yet commenced and the height plane is taken from the existing ground level. The height departure is attributed to the stepping of the dwelling north to south whereby a portion of the second storey overlaps the previously excavated ground floor footprint. Variation of up to 2.39m at location of bedroom 3 (28.1%), measured from the existing excavated ground level.

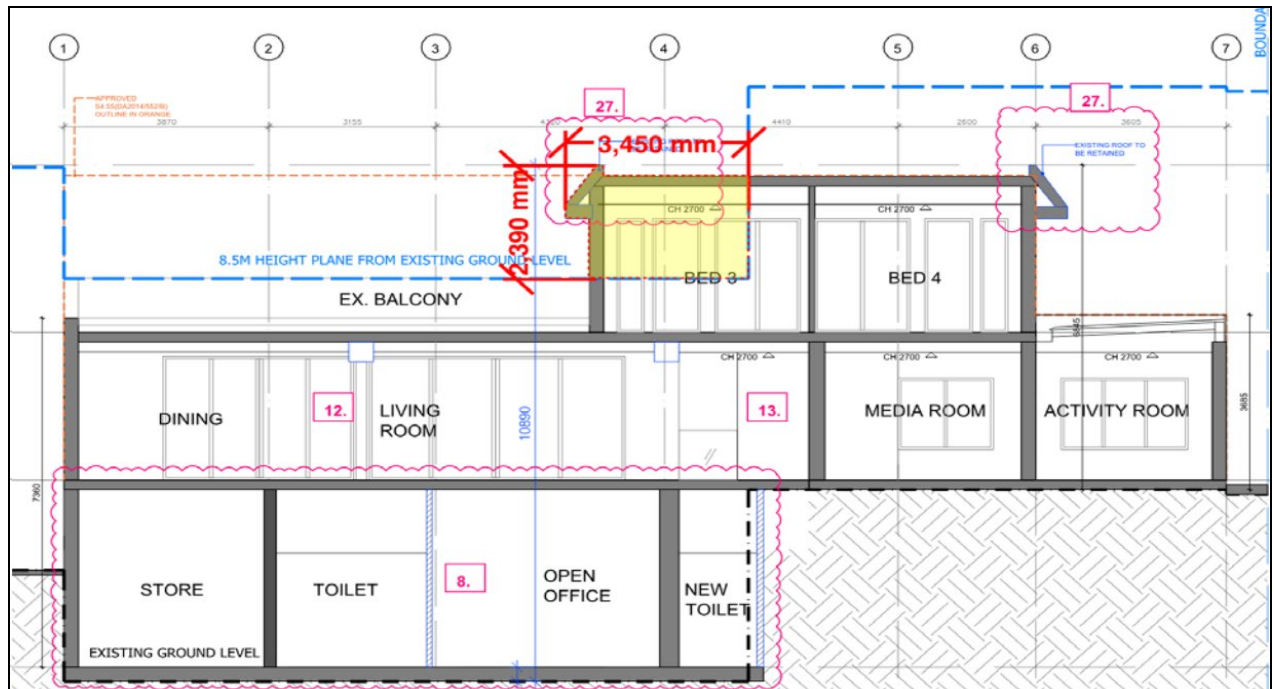


Figure 1 Variation in height shown on the long section

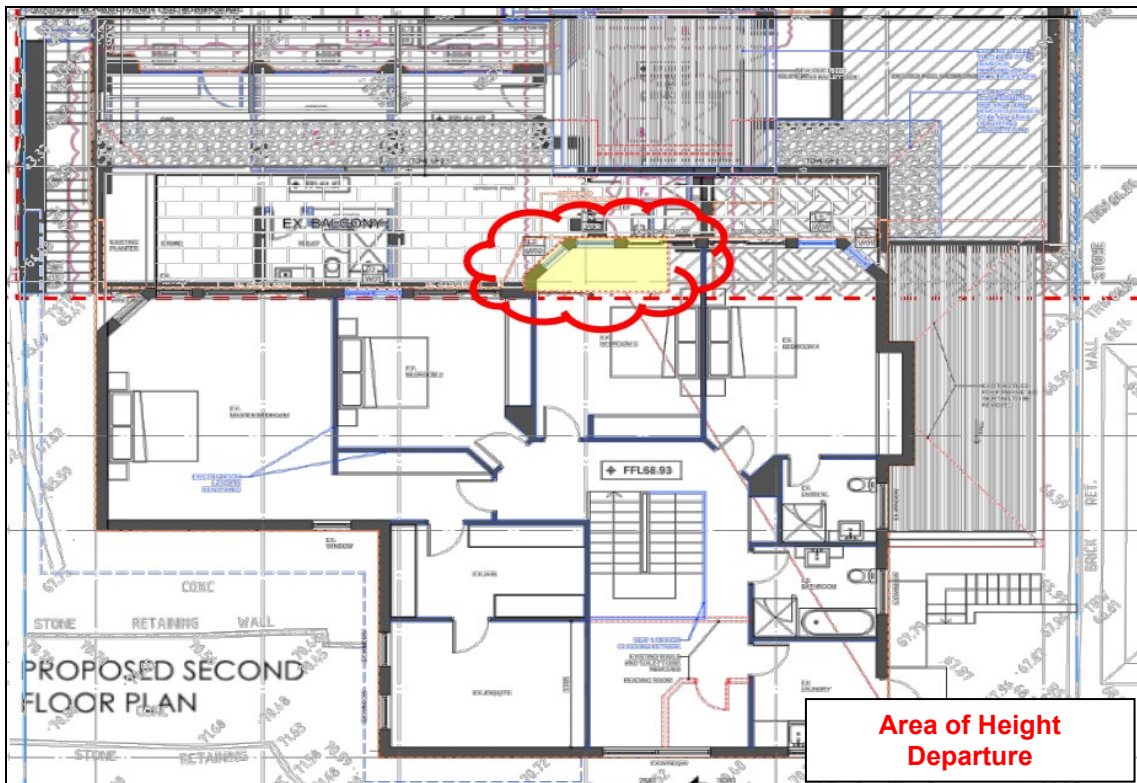


Figure 2 height departure shown on overlay of ground and second floor plan

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

The controls and development statistics that apply to the subject land are provided in **Attachment 2**.

An assessment in accordance with the relevant controls in the *Willoughby Local Environmental Plan 2012 (WLEP)* is provided in **Attachment 2**.

A detailed assessment of the variation to FSR is provided in **Attachment 4**.

A detailed assessment of the variation to height is provided in **Attachment 6**.

An assessment in accordance with S4.55 of the *Environmental Planning and Assessment Act (EP&A Act)* and S4.15 (1) of the EP&A Act is provided in **Attachment 7**.

The **WLPP plans** used for this assessment can be found under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=524179>

5. CONCLUSION

The modification application DA-2014/552/C has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in **Attachment 8**.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO



Figure 3 The site – Aerial Imagery (Nearmap)

The subject site is known as 56 Willowie Road, Castle Cove (Lot 462 in DP31070). The site is regular shaped, with a site area of 808.3m² and a north-south orientation. The site is situated on an escarpment and consequently has significant level differences south (rear) to north (Willowie Road) of up to 14m and cross fall west to east of up to 4m. A 3.66m wide vehicular easement is located across the frontage of the site. No 52, 54 and 58 Willowie Road benefit from this easement.

The site is a waterfront property situated along the southern side of Willowie Road situated between Neerim Road to the west, Padulla Place to the east, and an outlook towards H.D Robb Reserve located on the northern side of Willowie Road. The dwelling is elevated above the roadway enjoying extensive views across H.D. Robb Reserve and to the waterway beyond. The dwelling is described as a contemporary 3 storey dwelling house constructed of masonry brick with rendered facade with a pitched tiled roof. H.D. Robb Reserve is characterised as a woodland area providing significant landscaped aesthetic outlook and value to the subject and adjoining sites and the public domain.

The site is surrounded by residential development characterised as largely modern contemporary two to three storey housing with elevated ground floors above the road carriageway.



Figure 4 – site surrounding



Figure 5 Front elevation

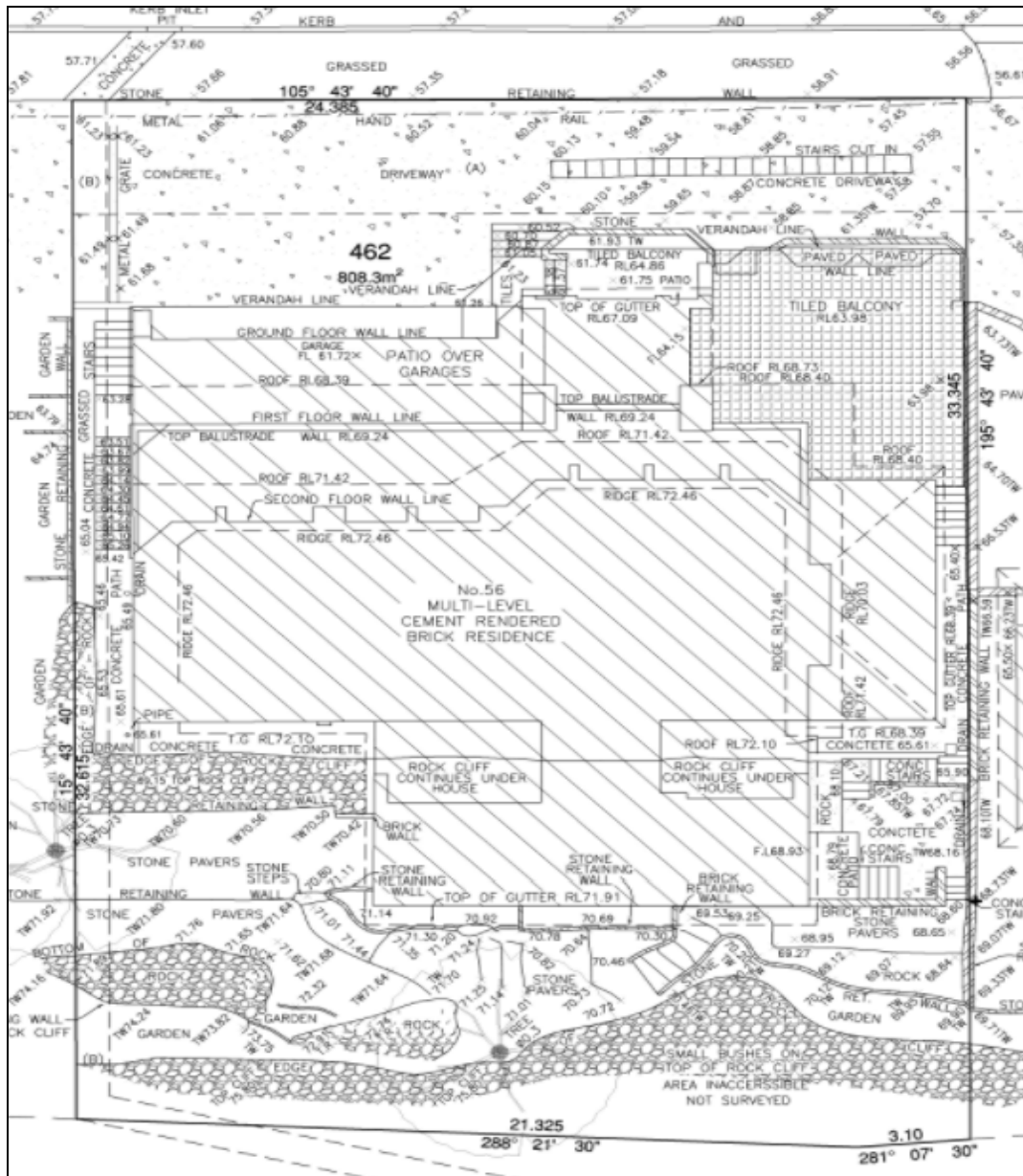


Figure 6 Detailed survey

The site is currently occupied by a three-storey dwelling house with a pitched tiled roof to the front and a flat metal sheet roof to the rear. The dwelling is elevated above the road level. The garage occupies most of the ground floor and it is accessed through the elevated vehicular easement/driveway. The dwelling house benefits of extensive views to the Harbour obtained across Willowie Road.

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

<i>Willoughby Local Environmental Plan 2012 Zoning:</i>	C4 Environmental Living
Existing Use Rights	No
Conservation area	No
Heritage Item	No
Vicinity of Heritage Item	No
Bushfire Prone Area	Yes, relevant conditions included in the original consent
Foreshore Protection Area	No
Flood related planning control	No
Adjacent to classified road	No
Road/lane widening	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Adjacent / above Metro	No
BASIX SEPP	Yes
SEPP (Transport and Infrastructure) 2021	No
SEPP (Resilience and Hazards) 2021	No
Chapter 2 Coastal Management	
Chapter 4 Remediation of Land (Contaminated Land)	
SEPP (Biodiversity and Conservation) 2021 Chapter 10 Sydney Harbour Catchment (former Sydney Regional Environmental Plan (Sydney Harbour Catchment))	No No change in use proposed. No evidence of likelihood of contamination.
Other relevant SEPPS	Nil
Relevant policies and resolutions	<i>WDCP, Sydney Harbour DCP</i>

Main Development Statistics							
Site Area		808.3m ²					
Willoughby Local Environmental Plan 2012 ("WLEP 2012")							
WLEP Control		Approved under DA-2014/552	Approved under DA-2014/552/A	Approved under DA-2014/552/B	Proposed	Standard	Compliance
CI 4.3	Height	8.1m Should be 10.67m (if correctly measured (25.53%))	8.1m Should be 10.67m (if correctly measured (25.53%))	8.1m Should be 10.67m (if correctly measured (25.53%))	10.89m (28.2%)	8.5m	NO (*)
CI 4.4 and CI 4.4A	Gross Floor Area	366m ² 107.35m ² above control (41.5%)	386.36m ² 127.71m ² above control (49.37%)	433m ² 174.35m ² above control (67.4%) 458.3m² 199.65m² (if calculated accurately) 77.2% above control	453.9m ² 195.25m ² above control (75.5%)	258.65m ²	NO (*)
	FSR	0.45:1	0.48:1	0.53:1 0.57:1 (if calculated accurately)	0.56:1	0.32:1 (Clause 4.4(1))	

Compliance with Plans or Policies

(*) Although not required with a S4.55 application, a written exception pursuant to Clause 4.6 has been made requesting variation to the Floor Space Ratio standard and height standard in Clause 4.3 and Clause 4.4 in *WLEP 2012*. The applicant argues that the proposal results in decrease in the approved FSR (approved under Mod-2014/552/B) by 4.4%. Any variation to the distribution of the floor area within the approved building envelope is contained within the already approved spaces and maintains the existing/approved bulk and scale of the development. The exceedance in height is established and localised to a small portion of the dwelling and does not arise as a result of any desire to increase yield or density. There will be no significant adverse impacts to adjacent properties by way of overshadowing, privacy and view loss.

Details can be found under the Assessment section below and in this particular case the variation is supported.

Referrals

Building	Acceptable
Engineering	Acceptable subject to conditions

ATTACHMENT 3: APPLICANT'S SUBMISSION IN RESPECT TO FSR CONTROL

CLAUSE 4.6 EXCEPTION

**REQUEST FOR AN EXCEPTION TO THE FSR DEVELOPMENT
STANDARD**

56 Willowie Road, CASTLE COVE

13th March 2024

Report Ref: P13722-FSR/Rev B

Prepared for and on behalf of



Prepared By
Mark Solomon

PLANNING INSTITUTE OF AUSTRALIA
(PIA) MEMBERSHIP No. 7915

ASSOCIATION OF CONSULTANTS IN ACCESS AUSTRALIA
(ACAA) ASSOCIATE MEMBERSHIP No. 651

mark@planurbia.com.au
Mobile 0490 143 274
PO BOX 86 GLEBE NSW 2037

INTRODUCTION

This request for a variation to a development standard is submitted in respect of the development standard contained within Clause 4.4 of the Willoughby Local Environmental Plan 2012 (WLEP 2012). The request relates to a modification application for alterations and additions to a residential dwelling at 56 Willowie Road, CASTLE COVE.

This exception to the 'FSR' Development Standard relates to an existing departure of the FSR development Standard with no change proposed to the approved building envelope, form and scale of the dwelling as a result of this Modification application.

CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

Clause 4.6(2) of the WLEP 2012 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the WLEP 2012, or any other environmental planning instrument.

However, clause 4.6(3) states that 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.*

In accordance with clause 4.6(3) the applicant requests that the FSR development standard contained within Clause 4.4A(2) of the WLEP 2012 be varied.

DEVELOPMENT STANDARD TO BE VARIED

Pursuant to Clause 4.4 (Floor Space Ratio) of the WLEP 2012, the maximum FSR for the site shown on the map to which the proposed development relates is 0.25:1 as illustrated in Figure 1.

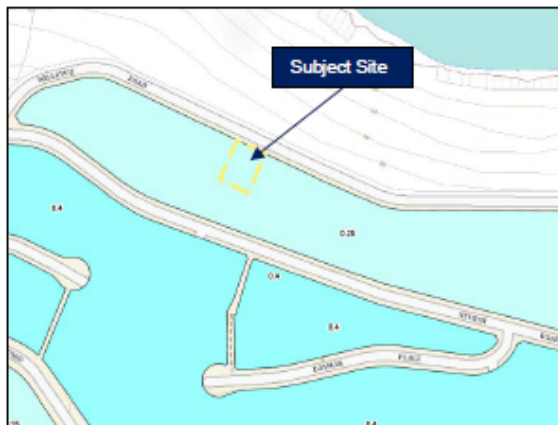


Figure 1

FSR Map – 0.25:1 (Source: NSW ePlanning Portal, 1st October 2022).

Pursuant to Clause 4.4A(2), the site is located in “Area 2” and benefits from an increase in FSR to 0.32:1, the subject site having a site area of 808.2m².

EXTENT OF VARIATION TO THE DEVELOPMENT STANDARD

The site has an area of 808.2m². Accordingly, the permitted maximum FSR for the site under Clause 4.4A(2) is 0.32:1 representing a gross floor area of 258.624m². A summary is provided below at Table 1 showing the progression of GFA/FSR since application was first made under DA-2014/552, (reproduced from Council’s delegated Planning Report (Mod B):

Table 1: Summary of GFA / FSR applying to the site

	STANDARD	EXISTING DWELLING	DA-2014/552 (Mod A)	DA-2014/552 (Mod B)	PROPOSED Mod C
GROSS FLOOR AREA	258.624m ²	381.51m ²	386.36m ²	433m ²	453.9m ²
FLOOR SPACE RATIO	0.32:1	0.472:1	0.478:1	0.536:1	0.561:1
VARIATION (%)		47.5%	49.4%	67.4%	75.5%

It is noted that whilst the delegated planning report (Mod B) records the GFA at 433m², a review of the file and GFA calculation drawing shows that several areas were inadvertently excluded from the calculation. This has understated the approved gross floor area (Mod B) contained within the dwelling by 25.3m², illustrated at drawing Nod. A602, Revision E dated 14th February 2024. The Mod B GFA is calculated at 458.3m² representing a FSR of 0.567:1 (a variation of 77.5%).

The modification, the subject of this Application, does not seek to increase the building footprint or envelope, and retains and reinstates much of the original dwelling structure, resulting in a reduced GFA to 453.9m² representing a FSR of 0.561:1 (a variation of 75.5%), and an overall reduction in GFA by 4.4m².

Consequently, the departure is technical in nature, with environmental impacts to surrounding development having already been assessed and considered acceptable by Council. Additionally, notwithstanding that modification applications are merit based assessments and not subject to the Clause 4.6 Exceptions, a written request is made pursuant to Clause 4.6 of the Willoughby Local Environmental Plan 2012 (WLEP 2012).

Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council*. [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 has recently required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of the Floor Space Ratio (FSR) development standard, as specified in clause 4.4(1) of WLEP 2012 are identified below at Table 2. A comment on the proposal's consistency with each objective is also provided.

Table 2: Objectives of the Floor Space Ratio Development Standard

TABLE 2	
OBJECTIVE	RESPONSE
<p>(a) <i>to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,</i></p>	<ul style="list-style-type: none"> ▶ The gross floor area of the dwelling is a result of an already approved building envelope under Development Consent D/2014/552 [as amended]. The FSR exceedance does not translate to additional floor area for the sake of increasing population density or increased building bulk. ▶ The approved built form of the dwelling will continue to have the same relationships of bulk, scale and height to surrounding development and the streetscape, with no change arising as a result of this modification. ▶ The Modification application as proposed does not change the approved building envelope or volume and as such will continue to respect and respond to the approved scale relationship of the dwelling when viewed against surrounding development and within the Willowie Road streetscape setting. ▶ The approval of the building envelope under Development Consent DA-2014/552 [as amended] has determined the building envelope and massing of the dwelling house is appropriate to the subject site and its context. ▶ There are no adverse impacts resulting from the approved floor area or as modified by this application, above that which is permitted by the WLEP 2012, and consequently preserving the environmental capacity of the land.
<p>(b) <i>to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,</i></p>	<p>Whilst the extent of the departure of the GFA was understated within the Mod B application, the associated bulk and scale has been assessed as acceptable in the assessment and approval of DA-2014/552 [as amended].</p> <p>The gross floor area arising from this Application represents a reduction (albeit minor) of 4.4m² and is a technical matter, with the proposal not altering the form, bulk or scale of the existing dwelling, maintaining its existing density and land</p>

TABLE 2	
OBJECTIVE	RESPONSE
	use intensity on the site and will not result in the demand for or generation of increased vehicular or pedestrian traffic.
<i>(c) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The modification the subject of this application does not represent new development. Notwithstanding, the exceedance to the FSR standard is existing and will not result in any additional impacts by way of disruption to views, loss of privacy, increased overshadowing or visual intrusion.
<i>(d) to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,</i>	The bulk and scale of the dwelling remains unchanged and is appropriate to the land use and site and compatible with surrounding development.
<i>(e) to permit higher density development at transport nodal points,</i>	Not Applicable.
<i>(f) to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,</i>	Not Applicable.
<i>(g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	Not Applicable.
<i>(h) to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,</i>	Not Applicable.
<i>(i) to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,</i>	Not Applicable.

TABLE 2	
OBJECTIVE	RESPONSE
<i>(j) to encourage the consolidation of certain land for redevelopment,</i>	Not Applicable.
<i>(k) to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.</i>	Not Applicable.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the floor space ratio control is relevant to the proposed development. The approved dwelling [as amended] is consistent with those objectives on the basis that the floor space ratio still results in a development which is compatible with the existing and emerging scale of development within the visual catchment of the site and will continue to sit comfortably amongst surrounding development and the streetscape. No additional adverse impacts arise and which has been assessed by Council in previous applications as appropriate and suitable.

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objective of the floor space ratio is to achieve an appropriate density on the site which is compatible with the context of the site and preserves the amenity, privacy and view corridors (where applicable) of adjacent properties. The design and configuration of the approved alterations and additions to the dwelling has been assessed under Development Consent D/2014/552 [as amended] and was found to successfully achieves these objectives.

The modification application does not alter the approved siting, building envelope or relationship with existing surrounding buildings, the streetscape and waterway and accordingly, it is considered that strict compliance in this instance would result in the defeat of the underlying object and purpose of the floor space ratio development standard, given that Council has already determined that the dwelling as amended is a desirable outcome for the subject and adjacent sites.

4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The floor space ratio development standard has not been virtually abandoned or destroyed by Council's own actions. The variation to the standard results from the existing approval [as amended]. Notwithstanding this variation, the modifications sought under this application does not significantly change the existing or approved form or relationship of the dwelling to surrounding development or the streetscape.

5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The proposed zoning of the land is considered to be reasonable and appropriate.

The C4 'Environmental Living' zoning of the land has been previously assessed and considered to be reasonable and appropriate within its setting and context. The objectives are identified in the Table 3 and demonstrates that the variation is consistent with the objectives of the zone.

TABLE 3	
Objective	Comment
(a) <i>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i>	<p>The development as approved and the proposed modifications has regard for the specific characteristics of the locality, ecological, scientific or aesthetic values.</p> <p>In summary, the proposed modification inter alia reduces the extent of the proposed excavation and seeks to retain the majority of the existing external fabric and roof detailing previously approved to be demolished, as well as maintaining the existing bulk and scale of the dwelling.</p> <p>The proposed modifications maintains the site for residential purposes without increasing the approved density, building footprint or envelope nor the relationship of the dwelling's form, scale and intrinsic contemporary design when viewed within its context, setting and the waterway.</p>
(b) <i>To ensure that residential development does not have an adverse effect on those values.</i>	<p>The residential dwelling is existing with the proposed modifications seeking to reduce the scale and extent of the excavation and works approved under DA-2014/552 [as amended]. As a consequence, the development will not adversely impact any special ecological, scientific or aesthetic values of the surroundings.</p>
(c) <i>To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential.</i>	<p>The proposed modifications do not impact any existing natural features, bushland drainage patterns and the like, and will not result in the increase of bush fire hazard potential.</p>
(d) <i>To maintain the scale, character and streetscape of individual localities.</i>	<p>The proposed modifications maintain and is compatible with the scale, character and streetscape of Willowie Road and the locality.</p>

TABLE 3	
Objective	Comment
(e) <i>To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.</i>	The proposed modifications will not have any adverse impact to residential amenity or the aesthetic and landscape qualities of the foreshore and bushland to the north.

Strict compliance with the floor space ratio development standard is considered unreasonable or unnecessary in this instance given that the modification, the subject of this application:

1. is consistent with the relevant objectives of the C4 Environmental Living zone and floor space ratio control under Clause 4.4(1) of the WLEP 2012;
2. results in a decrease in the approved GFA / FSR by 4.4m², which Council has previously assessed and determined as acceptable and reasonable. Any variation to the distribution of floor area within the approved building envelope is contained within the already approved spaces;
3. does not change in any significant way the presentation of the dwelling (as amended) within its setting, remaining essentially the same in terms of form, scale, presentation, textures, and aesthetics;
4. is generally limited to habitable spaces within the existing / approved building footprint and seek to retain the elements of the principal façade including the tiled roof skirting and chamfered / splayed corners;
5. maintains the existing / approved bulk and scale of the development which is comparable to and compatible with the bulk and scale of similar contemporary dwelling houses along Willowie Road and in the locality;
6. will not cause any additional environmental impacts such as disruption to views, privacy or overshadowing to the adjacent neighbours;
7. does not impact the scenic quality of Sydney Harbour with the modification not altering the outlook from / to the existing dwelling;
8. does not increasing bush fire risk;
9. retains the dwellings existing relationship (as approved and as proposed to be modified by this application), to its surroundings and within the Willowie Road streetscape setting by maintaining the character of the immediate streetscape and the desired future character of the Castle Cove and Middle Cove locality.

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

The following environmental planning grounds are sufficient to justify contravention of the development standard:

- ▶ The departure is technical in nature with the quantum GFA having already been approved under DA-2014/552 [as amended], with environmental impacts to surrounding development subsequently assessed and considered acceptable and reasonable by Council.

- ▶ The proposed GFA represents a decrease from that approved under Mod B) which continues to be contained within the existing / approved building envelope [as amended] with no increase to the approved massing, bulk or scale of the dwelling across the site or the density accommodated by the dwelling.
- ▶ Does not change in any significant way the visual reading and presentation of the dwelling within its context and setting, remaining essentially the same in terms of form, scale, presentation, textures, and aesthetics;
- ▶ The modifications do not intensify the use of the site nor increase the density able to be accommodated;
- ▶ The dwellings relationship with surrounding development and the Willowie Road streetscape remains essentially unchanged as that approved under D/2014/552 [as amended], remaining compatible with the existing character and consistent with the desired future character for the Castle Cove and Middle Cove locality;
- ▶ Strict compliance with the FSR standard in this particular instance would be unreasonable as it would not result in any discernible or additional adverse impacts over and above that assessed under the approved development DA-2014/552 [as amended], which would warrant strict compliance.

Clause 4.6(4)(a)(i) – Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters were comprehensively above within this written request with reference to the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided with reference to the matters specific to the subdivision proposal and site, sufficient to justify contravening the development standard.

Clause 4.6(4)(a)(ii) – Consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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 objectives of the development standard have already been addressed previously in this written request, and for the sake of brevity has not been reproduced in specific reference to Clause 4.6(4)(a)(ii). However the proposed development was found to be consistent with the objectives of the development standard as outlined in Table 2. Additionally, the development remains consistent with the C4 'Environmental Living' Zone objectives that apply to the site and have been addressed at Table 3.

CLAUSE 4.6(5)(B) – IS THERE A PUBLIC BENEFIT OF MAINTAINING THE PLANNING CONTROL STANDARD?

The proposed development achieves the objectives of the FSR development standard and the land use zoning objectives despite the non-compliance. As outlined in the SEE and this written request for an exception to variation of a development standard, there are no unreasonable environmental impacts from the variation, with the variation largely a technical breach representing already approved GFA / FSR for the site. The proposed development is therefore not contrary to the public interest, and there is no quantifiable or perceived public benefit in maintaining the development standard in this case.

CLAUSE 4.6(5)(C) – ARE THERE ANY MATTERS REQUIRED TO BE TAKEN INTO CONSIDERATION BY THE PLANNING SECRETARY BEFORE GRANTING CONCURRENCE?

Concurrence can be assumed. Nevertheless, there are no known additional matters that need to be considered within the assessment of the Clause 4.6 Request and prior to granting concurrence, should it be required.

OBJECTIVES OF CLAUSE 4.6

The specific objectives of Clause 4.6(1) are:

- (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.*

The development remains substantially the same in form, scale, materials and presentation maintaining the approved relationship to the streetscape and within its surrounding context and setting. The majority of the proposed modifications largely represent a reduction in the scope and extent of the approved works with much of the original building fabric and structure to be retained.

In this regard, the modifications will not diminish the aesthetic and scenic / streetscape qualities when viewed from the public realm nor create any additional unreasonable privacy or amenity impacts, and does not materially impact significant views from adjacent residential properties.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets the objectives of Clause 4.6 in that allowing flexibility in relation to the FSR development standard will achieve the outcome desired and approved by Development Consent DA-2014/552 [as amended] and continues to ensure that the dwelling remains relevant to and compatible with surrounding development, the streetscape and the Waterway and consistent with the desired future character for the Castle Cove and Middle Cove locality.

CLAUSE 4.6(5)(A) – WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING

The non-compliance will not raise any matters of significance for state or regional environmental planning.

CLAUSE 4.6(5)(b) – IS THERE A PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD

Under Clause 4.6(5)(b) the consent authority must consider if there is public benefit associated with maintaining the development standard. Given the nature of the proposed variation, and that it represents already approved GFA / FSR within the existing building envelope, and the justification of the impacts provided within this written request and the Statement of Environmental Effects, there is not considered to be public benefit in applying it strictly.

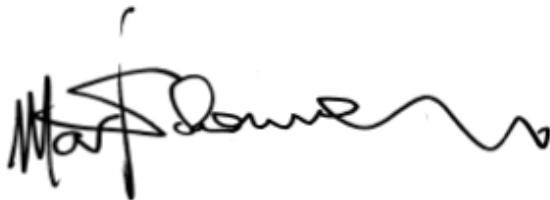
The proposed development remains consistent with the objectives of the Development Standard with no unreasonable or additional social or environmental impacts arising from the variation. The proposal is therefore not contrary to the public interest, and there is no quantifiable or perceived public benefit in maintaining the standard. As such, there would be no public benefit in maintaining the development standard in this case.

CLAUSE 4.6(5)(c) – ARE THERE ANY MATTERS REQUIRED TO BE TAKEN INTO CONSIDERATION BY THE PLANNING SECRETARY BEFORE GRANTING CONCURRENCE?

Concurrence can be assumed. Nevertheless, there are no known additional matters that need to be considered within the assessment of the Clause 4.6 Request and prior to granting concurrence, should it be required.

CONCLUSION

The variation to the floor space ratio development standard contained within clause 4.6 of WLEP 2012 has been found to be reasonable in the circumstance of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.



MARK SOLOMON
DIRECTOR
PLAN URBIA PLANNING AND ACCESS CONSULTANTS
PLANNING INSTITUTE OF AUSTRALIA (PIA) MEMBERSHIP No. 7915
ASSOCIATION OF CONSULTANTS IN ACCESS AUSTRALIA (ACAA) ASSOCIATE MEMBERSHIP 651

ATTACHMENT 4: OFFICER'S ASSESSMENT – FSR VARIATION

Description of non-compliance

Development Standard	FSR Standard	Approved DA-2014/552	Approved DA-2014/552/A	Approved DA-2014/552/B	Proposed FSR	%Variation
Cl 4.4/4.4A Floor space ratio	0.32:1 258.65m ²	0.45:1 366m ² (41.5%)	0.48:1 386.36m ² (49.37%)	0.57:1 458.3m ² (77.2%)	0.56:1 453.9m ²	75.5%

Key points of the applicant's submission:

- i) Internal refinements only and no change to the approved building envelope.
- ii) Consistent with the objectives of the FSR clause 4.4.
- iii) No impact on neighbours.
- iv) No increase in bedrooms, or intensity of development.

Assessment

The primary tests for determining a modification application under section 4.55 of the Act are assessed in Attachment 7 of this report.

However, section 4.55(3) of the Act requires Council to consider relevant matters referred to in section 4.15(1) of the Act.

Relevant to the consideration of this application is the maximum FSR specified in clauses 4.4 and 4.4A *Willoughby LEP 2012*.

Clause 4.4 requires that the maximum floor space ratio must not exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The subject land is shown to be subject to a maximum FSR of 0.25:1. Clause 4.4A provides exceptions to the maximum FSR specified under clause 4.4. The land is in Area 2 on the FSR Map, and has an area of between 800m² 900m². Consequently, the land is subject to a maximum FSR of 0.32:1 under clause 4.4A.

The original proposal DA-2014/552 exceeded the maximum FSR development standard by 41.5% and the previous modification application (DA-2014/552/B) exceeded the maximum FSR development standard by 77.2%.

The site area is 808.3m² allowing a maximum GFA of 258.65m². The approved plans under DA-2014/552/B were assessed as having a GFA of 433m². A review of the approved Mod B GFA/FSR calculation has been undertaken identifying several areas where floor area has been inadvertently excluded from the calculation of gross floor area calculation. This has understated the actual gross floor area contained within the dwelling by 25.3m². The Mod B GFA is calculated at 458.3m² representing an FSR of 0.57:1. The difference is associated with the sauna at ground floor, stairs, storage behind the stairs and lift at ground floor, ad stairs at Level 1. No additional breach is being sought under this modification application (DA-2014/552/C). In fact, there is a slight reduction in the GFA by 4.4m².

Clause 4.6 provides an exception to development standards in the *LEP* including the FSR standard, subject to Council being satisfied of certain matters. Due to the application being for a modification under section 4.55, there is no requirement for Council to consider a written submission under clause 4.6. However, it is necessary to consider whether Council would have been satisfied that compliance with the maximum FSR was unnecessary or unreasonable in the circumstances and that the development would be in the public interest

because it is consistent with the objectives of the FSR standard and with the objectives of the zone.

Consistency with the objectives of the Floor Space Ratio development standard:

Consistency of the proposed development with the floor space ratio standard's objectives is discussed below:

Floor Space Ratio Development Standard Objectives	Response
a) <i>to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,</i>	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.
b) <i>to limit traffic generation as a result of that development,</i>	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B. There is no impact on traffic generation.
c) <i>to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B. Given the minimal changes and retention of envelope, there are minimal to no impacts of the modifications on adjoining or nearby properties.
d) <i>to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,</i>	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B. No change to the approved bulk and scale of development.
e) <i>to permit higher density development at transport nodal points,</i>	NA.
f) <i>to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,</i>	NA.
g) <i>to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	NA.
h) <i>to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,</i>	NA.

i) <i>to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,</i>	NA.
j) <i>to encourage the consolidation of certain land for redevelopment,</i>	NA.
k) <i>to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.</i>	NA.

Consistency with the objectives of the C4 Zone:

Consistency of the proposed development with the Zone's objectives is discussed below:

Zone Objective	Response
<ul style="list-style-type: none"> • To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. 	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.
<ul style="list-style-type: none"> • To ensure that residential development does not have an adverse effect on those values. 	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.
<ul style="list-style-type: none"> • To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential. 	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.
<ul style="list-style-type: none"> • To maintain the scale, character and streetscape of individual localities. 	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.
<ul style="list-style-type: none"> • To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value. 	The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.

There are sufficient environmental planning grounds to vary the standard as outlined below:

- a) The increase the gross floor area is numerical, abstract, when in practice, the modifications convert spaces already approved, within the existing approved envelope of the building
- b) The amended proposal does not increase the undesirable impacts on the amenity of the surrounding properties and on the streetscape.
- c) The amended proposal remains consistent with the objectives for development within the **C4 Environmental Living zone**.
- d) The building remains in harmony with the surrounding buildings and in keeping with the desired character of the Castle Cove and Middle Cove locality.

ATTACHMENT 5: APPLICANT'S SUBMISSION IN RESPECT TO HEIGHT CONTROL

CLAUSE 4.6 VARIATION

**REQUEST FOR AN EXCEPTION TO THE HEIGHT OF BUILDING
DEVELOPMENT STANDARD**

56 Willowie Road, CASTLE COVE

13th March 2024

Report Ref: P13722-HoB/Rev A

Prepared for and on behalf of



PLAY CO ARCHITECTS
ARCHITECTS • DESIGN BUILD • PROJECT MANAGEMENT

Prepared by
MARK SOLOMON

PLANNING INSTITUTE OF AUSTRALIA
(PIA) MEMBERSHIP No. 7915

ASSOCIATION OF CONSULTANTS IN ACCESS AUSTRALIA
(ACAA) ASSOCIATE MEMBERSHIP No. 651

mark@planurbia.com.au
Mobile 0490 143 274
PO BOX 86 GLEBE NSW 2037

INTRODUCTION

This request for an exception to a development standard is submitted to support a development application in respect of the 'Height of Buildings' development standard contained within Clause 4.3(2) of the Willoughby Local Environmental Plan 2012 (WLEP 2012). The request relates to a modification application for alterations and additions to a residential dwelling at 56 Willowie Road, CASTLE COVE.

The exception to a development standard relates to an existing height breach at the north eastern corner of the site. In this regard the breach is a technical breach and not caused by any new works or modifications arising from the subject modification. The exception is made pursuant to Clause 4.6 of the Willoughby Local Environmental Plan 2012 (WLEP 2012).

CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

Clause 4.6(2) of the WLEP 2012 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the WLEP 2012, or any other environmental planning instrument.

However, clause 4.6(3) states that 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.*

In accordance with clause 4.6(3) the applicant requests that the maximum permitted Height of Buildings development standard contained within Clause 4.3(2) of the WLEP 2012 be varied.

DEVELOPMENT STANDARD TO BE VARIED

Pursuant to Clause 4.3 (Height of Buildings) of the WLEP 2012, the maximum Height of Buildings for the site shown on the map to which the proposed development relates is 8.5m as illustrated in Figure 1.



Figure 1
Height Map - 8.5m (Source: NSW ePlanning Portal,
1st October 2022.

EXTENT OF VARIATION TO THE DEVELOPMENT STANDARD

It is noted that excavation has not yet commenced and the height plane is taken from the existing ground level. The height departure is attributed to the stepping of the dwelling north to south whereby a portion of the second storey overlaps the previously excavated ground floor footprint between north-south grids "C" and "D" and east-west grids "4" and "5". This is a very localised occurrence and has no impact to the reading and expression of the dwelling from the public domain or adjoining development.

Table 1 provides the extent of variation, with the location of the departure illustrated at Figure 1, Figure 2 and Figure 3 below.

TABLE 1	
Height of Buildings Control	8.5m
Max. Proposed Height (m) – measured from EGL	Variation of up to 2.39m at location of bedroom 3 (28.1%), measured from the existing excavated ground level.

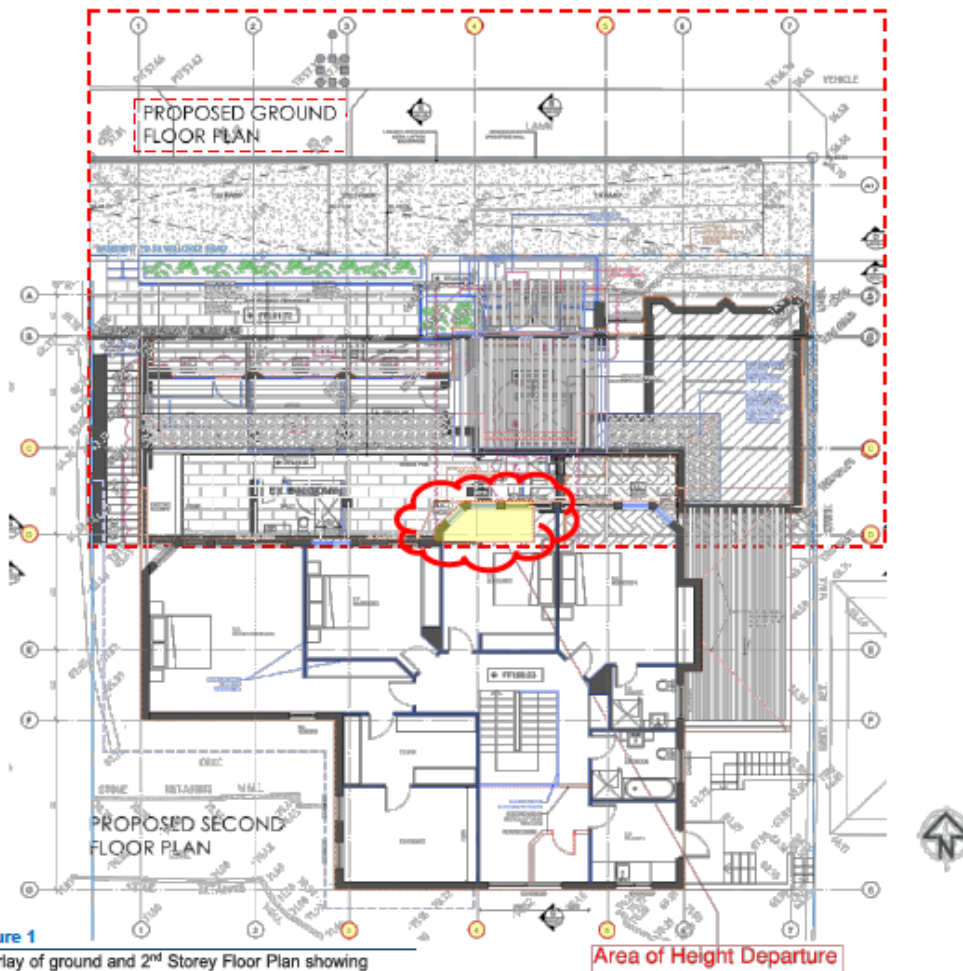


Figure 1
Overlay of ground and 2nd Storey Floor Plan showing location of 'Height Departure', highlighted Yellow.

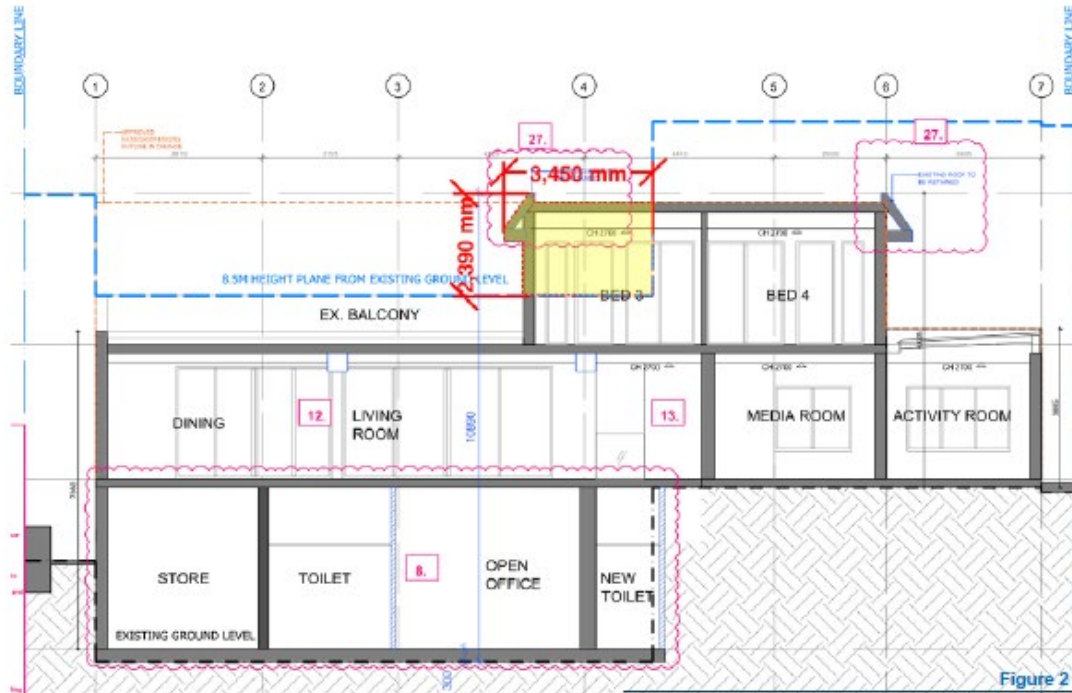


Figure 2
Long section showing variation in height longitudinally through the site.

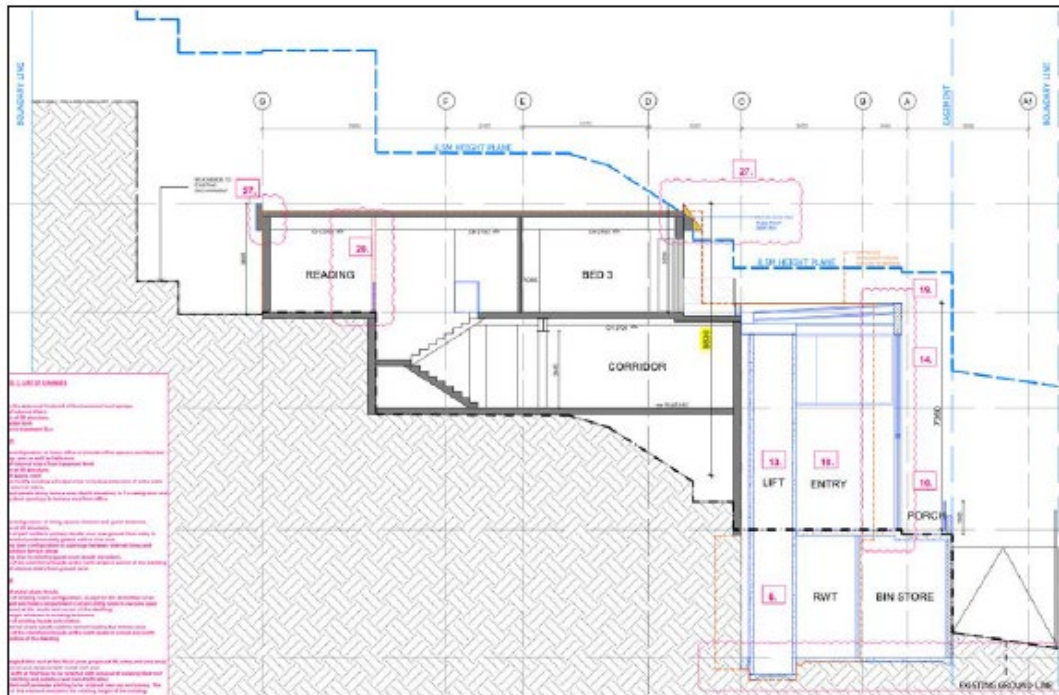


Figure 3
Short section showing variation in height.

The exceedance to the height represents the existing dwelling and will therefore makes no discernible impacts to the dwellings existing scale, building profile or the reading and expression of the dwelling within its immediate context nor the relationship to adjoining and surrounding development.

CLAUSE 4.6(3)(A) – IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council*. [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 has required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of the 'Height of Buildings' development standard, as specified in clause 4.3(1) of the WLEP 2012 are identified at Table 2 below. A comment on the proposal's consistency with each objective is also provided.

TABLE 2	
OBJECTIVE	COMMENT
<i>(a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape.</i>	The development does not represent new development, with the exceedance to the height representing the existing dwelling. The form, bulk and scale of the dwelling, including the retention of the tiled roof skirting as part of this modification, is established and as such the dwellings presentation, outlook or relationship when viewed from adjoining development or the public domain will continue.
<i>(b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The development does not represent new development. The exceedance is localised and is within the building envelope at the location of bedroom 3. The exceedance arises due to the excavated nature of the ground floor at this location, which represents the existing ground level. The existing dwelling has a stepped form such that each consecutive storey has a setback from the storey below minimising any intrusion and apparent scale when viewed from Willowie Road and between adjoining dwellings. <i>Harbour Foreshore</i> Notwithstanding that the height, form and scale of the dwelling is established, the site is situated approximately 135m from the

TABLE 2	
OBJECTIVE	COMMENT
	waterway, and together with its stepped built form, diminishes any visual impact when viewed from the harbour and surrounding waterways allowing it to blend in with the surrounding built and natural environment.
(c) <i>to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,</i>	The dwelling is situated among similarly contemporary dwellings which are consistent in massing, height, bulk and scale. As such the dwelling sits comfortably within its setting and forms part of the rich and varied architectural styles that characterises Willowie Road.
(d) <i>to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,</i>	The modification does not seek an increase in height that would otherwise further disrupt existing views enjoyed by surrounding residential development.
(e) <i>to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,</i>	The 8.5m height is appropriate to the locality and when taken together with other development restrictions aims to establish the desired character for the locality. Notwithstanding, the exceedance is an established and technical departure, due to a portion of the site having been excavated and which now forms the existing ground level. All other areas of the dwelling are suitably within the 8,5m height limit which has been achieved through the stepping of the built form with the topography of the site.
(f) <i>to use maximum height limits to assist in responding to the current and desired future character of the locality,</i>	Noted. As above.
(g) <i>to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	Not Applicable.
(h) <i>to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.</i>	Noted.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the Height of Buildings development standard is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that:

- ▶ represents the existing built form and retained roof profile (the latter approved to be deleted as part of Mod B).
- ▶ the exceedance in height is established and localised to a small portion of the dwelling and does not arise as a result of any desire to increase yield or density,
- ▶ does not diminish or materially impact the existing and approved relationship of the dwelling within its context and setting,
- ▶ there are no significant adverse impacts to adjacent properties by way of overshadowing, privacy or view loss.
- ▶ To the casual observer in Willowie Road, the departure to the 'height of building' development standard would continue to appear compliant with the stepped built form minimising any scale and visual impact when viewed from Willowie Road.
- ▶ Given the varied building typologies and heights within Willowie Road, and when viewed against similar contemporary developments is compatible with the existing, emerging and desired character of the locality.

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objective of the Height of Buildings development standard is to achieve an appropriate height on the site which is compatible with the context of the site and preserves the amenity, view sharing opportunities and privacy of adjacent properties.

The proposed development satisfies the Building Height objectives. In addition, the departure is localised to small portion of the building footprint and occurs due to the stepping of the dwelling north to south. The departure is established and forms part of the original dwelling and not part of any works associated with the development approved under DA-2014/552 [as amended].

Accordingly, it is considered that strict compliance would likely result in the defeat of the underlying object and therefore compliance in this instance is considered unreasonable.

4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The Height of Building development standard has not been virtually abandoned or destroyed by Council's own actions.

5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The C4 ‘Environmental Living’ zoning of the land has been previously assessed and considered to be reasonable and appropriate within its setting and context. The objectives are identified in the Table 3 and demonstrates that the variation is consistent with the objectives of the zone.

TABLE 3	
Objective	Comment
(a) <i>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i>	<p>The development as approved and the proposed modifications has regard for the specific characteristics of the locality, ecological, scientific or aesthetic values.</p> <p>In summary, the proposed modification inter alia reduces the extent of the proposed excavation and seeks to retain the majority of the existing external fabric and roof detailing previously approved to be demolished, as well as maintaining the existing room configuration at the second storey.</p> <p>The proposed modifications maintain the site for residential purposes without increasing the approved density, building footprint or envelope nor the relationship of the dwelling’s form, scale and intrinsic contemporary design when viewed within its context, setting and the waterway.</p>
(b) <i>To ensure that residential development does not have an adverse effect on those values.</i>	<p>The residential dwelling is existing with the proposed modifications seeking to reduce the scale and extent of the works approved under DA-2014/552 [as amended]. As a consequence, the development will not adversely impact any special ecological, scientific or aesthetic values of the surroundings.</p>
(c) <i>To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential.</i>	<p>The proposed modifications do not impact any existing natural features, bushland drainage patterns and the like, and will not result in the increase of bush fire hazard potential.</p>
(d) <i>To maintain the scale, character and streetscape of individual localities.</i>	<p>The proposed modifications maintains and is compatible with the scale, character and streetscape of Willowie Road and the locality.</p>
(e) <i>To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.</i>	<p>The proposed modifications will not have any adverse impact to residential amenity or the aesthetic and landscape qualities of the foreshore and bushland to the north.</p>

CLAUSE 4.6(3)(B) – ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

As previously stated, the proposed development is consistent with the underlying objectives of the Height of Buildings and the C4 'Environmental Living' zone. As per the decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, a variation must justify sufficient environmental planning grounds particular to the circumstances of the proposed development and development site rather than grounds that would apply to a similar development on the site or a development in the vicinity.

This Clause 4.6 Request has been prepared in reference to the above LEC decision. As such, the grounds for the variation are particular to the circumstances of the proposed development noting that the development approved under DA-2014/552 [as amended] has been designed in response to the existing site and environmental conditions. The subject modifications are in accordance with and substantially the same as that approved under Development Consents DA-2014/552 and subsequent Modifications A and B.

In view of the particular circumstances of this case, strict compliance with Clause 4.3 of the WLEP 2012 is considered to be both unnecessary and unreasonable on the following environmental planning grounds:

1. The proposal achieves the objectives of the development standard as provided in clause 4.3 and continues to meet the objectives of the C4 'Environmental Living' Zone of the WLEP 2012, discussed above.
2. The height exceedance represents the existing built form occupying the site, with no additional height resulting from this modification. The area is localised representing a small proportion of the overall building footprint arising from the stepped building form and previously excavated site which has established the existing ground level..
3. The height variation does not provide any additional density or gross floor area (GFA) and does not materially impact the established bulk, scale or presentation of the dwelling within its setting of Willowie Road or surrounding development.
4. The modifications sought in this application is within the existing building footprint / envelope and consequently does not result in any additional environmental impacts by way of additional, height, bulk, scale, or overshadowing.
5. The height variation does not cause any additional view loss impacts with the height variation represents the existing built form.
6. The height variation does not result in unreasonable privacy or amenity impacts on neighbouring properties.
7. The visual reading of the principal form from the public domain, waterway and surrounding development is maintained irrespective of the height variation, and consequently will not be incompatible with or result in any adverse impacts to the existing context and setting.

For the reasons provided above, it is considered that achieving strict compliance would not result in an improved planning outcome. Overall, it is considered that strict compliance with the development standard in this instance is unreasonable and unnecessary.

CLAUSE 4.6(4)(A)(I) – CONSENT AUTHORITY SATISFIED THAT THIS WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY CLAUSE 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

CLAUSE 4.6(4)(A)(II) – CONSENT AUTHORITY SATISFIED THAT THE PROPOSAL IS IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE ZONE AND DEVELOPMENT STANDARD OBJECTIVES

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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 objectives of the development standard have already been addressed previously in this written request, and for the sake of brevity has not been reproduced in specific reference to Clause 4.6(4)(a)(ii). However the proposed development was found to be consistent with the objectives of the development standard as outlined in TABLE 2. Additionally, the development remains consistent with the C4 'Environmental Living' Zone objectives that apply to the site and have been addressed at TABLE 3.

OBJECTIVES OF CLAUSE 4.6

The specific objectives of Clause 4.6(1) are:

- (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.*

The development remains substantially the same in form, scale, materials and presentation maintaining the approved relationship to the streetscape and within its surrounding context and setting. The majority of the proposed modifications largely represent a reduction in the scope and extent of the approved works with much of the original building fabric and structures to be retained.

In this regard, the modifications will not diminish the aesthetic and scenic / streetscape qualities when viewed from the public realm nor create any additional unreasonable privacy or amenity impacts, and does not materially impact significant views from adjacent residential properties.

Accordingly, it is considered that the consent authority can be satisfied that the proposed modifications satisfy the objectives of Clause 4.6 in that allowing flexibility in relation to the Height of Building development standard having minimal impact to the subject dwelling, surrounding development or the streetscape qualities, and will continue to maintain its relationship within its setting as envisaged through the current development consents.

CLAUSE 4.6(5)(A) – WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING

The non-compliance will not raise any matters of significance for state or regional environmental planning.

CLAUSE 4.6(5)(B) – IS THERE A PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD

Under Clause 4.6(5)(b) the consent authority must consider if there is public benefit associated with maintaining the development standard. Given the nature of the proposed variation and the justification of the impacts provided within this written request and the Statement of Environmental Effects, there is not considered to be public benefit in applying it strictly.

The proposed development remains consistent with the objectives of the Development Standard with no unreasonable social or environmental impacts arising from the variation. The proposal is therefore not contrary to the public interest, and there is no quantifiable or perceived public benefit in maintaining the standard. As such, there would be no public benefit in maintaining the development standard in this case.

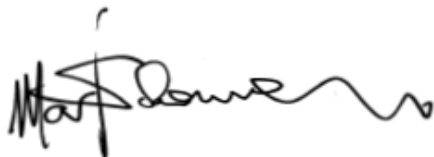
CLAUSE 4.6(5)(C) – ARE THERE ANY MATTERS REQUIRED TO BE TAKEN INTO CONSIDERATION BY THE PLANNING SECRETARY BEFORE GRANTING CONCURRENCE?

Concurrence can be assumed. Nevertheless, there are no known additional matters that need to be considered within the assessment of the Clause 4.6 Request and prior to granting concurrence, should it be required.

CONCLUSION

A small portion of the existing dwelling exceeds the maximum height limit for the site and therefore requires a merit based assessment on the appropriateness of this variation and any associated impacts.

Considering the particular circumstances of this development and for the reasons outlined within this written request, strict compliance with the numerical standard is both unreasonable and unnecessary with sufficient environmental planning grounds to justify the variation. It is therefore concluded that the request is well founded and that the particular circumstances of the case warrant flexibility in the application of the development standard to the extent proposed.



MARK SOLOMON
DIRECTOR
PLANURBIA PLANNING AND ACCESS CONSULTANTS
PLANNING INSTITUTE OF AUSTRALIA (PIA) MEMBERSHIP No. 7915
ASSOCIATION OF CONSULTANTS IN ACCESS AUSTRALIA (ACAA) ASSOCIATE MEMBERSHIP 651

ATTACHMENT 6: OFFICER'S ASSESSMENT – HEIGHT VARIATION

Description of non-compliance

Development Standard	Height Standard	Approved DA-2014/552	Approved DA-2014/552/A	Proposed Height	%Variation
Cl 4.3 Height of buildings	8.1m Should be 10.67m (25.53%)	8.1m Should be 10.67m (25.53%)	8.1m Should be 10.67m (25.53%)	10.89m	28.2% 2.39m over the standard

Key points of the applicant's submission:

- i) The exception to a development standard relates to an existing height breach at the north eastern corner of the site. In this regard the breach is a technical breach and not caused by any new works or modifications arising from the subject modification.
- ii) Internal refinements only and no change to the approved building form.
- iii) The scale of encroachment is within the character of the area and does not create unreasonable bulk and scale.
- iv) Consistent with the objectives of the Height clause 4.3.
- v) Does not negatively impact the existing environmental capacity of the land.

The maximum permissible height is 8.5m. The approved plans under DA-2014/552/B were assessed as having a compliant height of 8.1m. A review of the approved Mod A and Mod B plans has been undertaken identifying an error in the height calculation. The height of the dwelling approved under Mod A and Mod B should have been 10.67m (proposing a variation of 25.53% to the maximum permissible height). Under this modification application, the existing tiled roof perimeter skirting to be retained over second storey. The retention of this element maintains the existing height of the building (10.89m) resulting in a height breach of 28.1%. However, this breach is already existing. The proposed building height will therefore make no visible impacts to the existing scale, building profile or the reading and expression of the dwelling within its immediate context nor the relationship to adjoining and surrounding development.

It is noted that excavation has not yet commenced and the height plane is taken from the existing ground level. The height departure is attributed to the stepping of the dwelling north to south whereby a portion of the second storey overlaps the previously excavated ground floor footprint. Variation of up to 2.39m at location of bedroom 3 (28.1%), measured from the existing excavated ground level.

Consistency with the objectives of the Height of Buildings development standard:

Consistency of the proposed development with the height of building standard's objectives is discussed below:

Height of Building Development Standard Objectives	Response
a) <i>to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,</i>	The development does not represent a new development. The exceedance to the height represents the existing dwelling. The form, bulk and scale of the dwelling, including the retention of the tiled roof skirting as part of this modification, is established and as such the dwellings presentation, outlook or

	relationship when viewed from adjoining development or the public domain will continue.
<i>b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The 2.39m breach has minimal impact on the surrounding amenity, with no loss of privacy or visual intrusion. The majority of the building will be less than 8.5m height. The 2.39m breach is already existing. The proposed addition does not further negatively impact on the surrounding properties.
<i>c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,</i>	The dwelling is situated among similarly contemporary dwellings which are consistent in massing, height, bulk and scale.
<i>d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,</i>	The modification does not seek an increase in height that would otherwise further disrupt existing views enjoyed by surrounding residential development.
<i>e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,</i>	The exceedance is an established and technical departure, due to a portion of the site having been excavated and which now forms the existing ground level. All other areas of the dwelling are within the 8.5m height limit. The height variation does not provide any additional density or gross floor area (GFA).
<i>f) to use maximum height limits to assist in responding to the current and desired future character of the locality,</i>	The height variation does not provide any additional density and does not materially impact the established bulk, scale or presentation of the dwelling within its setting of Willow Road or surrounding development.
<i>g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	N/A
<i>h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.</i>	N/A

Consistency with the objectives of the C4 Zone:

Consistency of the proposed development with the Zone's objectives is discussed below:

Zone Objective	Response
<ul style="list-style-type: none"> To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. 	<p>The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.</p>
<ul style="list-style-type: none"> To ensure that residential development does not have an adverse effect on those values. 	<p>The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.</p>
<ul style="list-style-type: none"> To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential. 	<p>The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.</p>
<ul style="list-style-type: none"> To maintain the scale, character and streetscape of individual localities. 	<p>No change resulting from the modification. The visual reading of the principal form from the public domain, waterway and surrounding development is maintained irrespective of the height variation, and consequently will not be incompatible with or result in any adverse impacts to the existing context and setting.</p>
<ul style="list-style-type: none"> To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value. 	<p>The proposed modification is a technical reduction in FSR. Compliance with this control has not changed from the previous assessment under DA-2014/552/B.</p>

ATTACHMENT 7: SECTION 4.55(2) ASSESSMENT AND RELEVANT MATTERS UNDER SECTION 4.15 (1)

SECTION 4.55(2) CONSIDERATIONS

Section 4.55(2) of the Act allows Council to modify the consent to DA 2014/552/C if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	Based on court precedent, particularly <i>Hrsto v Ku-Ring-Gai Council</i> [2011] NSWLEC 1169, the proposed development is substantially the same development.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	NA.
(c) it has notified the application in accordance with— i. the regulations, if the regulations so require, or ii. a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	The application was notified in accordance with Council's <i>DCP</i> and Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.	Nil

RELEVANT MATTERS UNDER SECTION 4.15(1)

(a) the provisions of i. any environmental planning instrument.	No relevant matters other than the exceedance of the maximum FSR under clause 4.4 and 4.4A of <i>Willoughby LEP</i> 2012. Refer to Attachment 4 & 6.
ii. the provisions of any draft environmental planning instrument,	No relevant matters.
iii. any development control plan,	No relevant provisions of <i>Willoughby DCP</i> or <i>Sydney Harbour Foreshores and Waterways DCP</i> .

iv. any planning agreement,	NA.
v. the regulations,	No relevant matters.
(b) the likely impacts of the development, and	No relevant considerations.
(c) the suitability of the site for the development.	No relevant considerations.
(d) any submissions made in accordance with this Act or the regulations,	Refer Attachment 3.
(e) the public interest.	The proposed modifications are substantially the same as approved. Therefore, it will continue to respond to its immediate context, desired character and its compatibility with the surrounding built environment as envisaged by the development consent under DA-2014/552 [as amended]. The modifications are considered minor and will not impact the approved form and presentation of the dwelling, surrounding development, and is therefore in the public interest.

ATTACHMENT 8: SCHEDULE OF CONDITIONS

SCHEDULE

Development Consent DA-2014/552 is modified as follows:

A. Condition No. 1, 10 and 57 are amended to read as follows:

1. Approved Plan/Details

The development must be in accordance with the following plans:

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
arch	2013-066-A00, 2013-066-A01, 2013-066-A02, 2013-066-A03, 2013-066-A04, 2013-066-A05	A	Mar 2015	18 May 2015	BRENCHLEY Architects
eng	C1.00, C1.01, C1.02, C2.01, All SY150179	A	29 Apr 2015	18 May 2015	ACOR Consultants Pty Ltd

the application form and any other supporting documentation submitted as part of the application,

As modified only by (DA-2014/552/A)

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Received by Council	Prepared by
arch	2013-066-A00, 2013-066-A01, 2013-066-A02, 2013-066-A03, 2013-066-A04	S96	Mar 2016	18 May 2015	BRENCHLEY Architects

the application form and any other supporting documentation submitted as part of the application,

As modified only by (DA-2014/552/B)

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
arch	2013-066-A00, 2013-066-A01, 2013-066-A02, 2013-066-A03, 2013-066-A04	S4.55	Feb 2021	GROUP Architects

As modified only by (DA-2014/552/C)

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Proposed Basement Floor Plan	A211	D	24.10.2023	Play Co Architects
Proposed Ground Floor Plan	A212			
Proposed First Floor Plan	A213			
Proposed Second Floor Plan	A214			
Proposed Roof Plan	A215			
Proposed North Elevation	A301			
Proposed South Elevation	A302			
Proposed West Elevation	A303			
Proposed East Elevation	A304			
Section A	A401	E	08.03.2024	
Section B	A402			
Section C	A403			
Section D E F	A404	D	24.10.2023	
Finish Schedule	A501			
Window Schedule	A511			

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
 - (b) otherwise provided by the conditions of this consent.
- (Reason: Information and ensure compliance)

10. Detailed Stormwater Management Plan (SWMP)

Submit for approval by the Principal Certifying Authority, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and in accordance with the stormwater management plans, prepared by ACOR. The rainwater tank shall be located in a position where it can be accessed for maintenance and replacement and an overflow path provided in the event of rupture. Runoff from all roof areas shall drain to the tank. All drawings shall comply with Part C.5 of Council’s Development Control Plan and Technical Standards, AS3500.3 – *Plumbing and Drainage Code* and BCA.

(Reason: Ensure compliance)

57. Rainwater Re-use – Major

The applicant shall supply and install rainwater re-use tanks with a minimum storage volume of 10 m³ in accordance with the approved stormwater management plans by ACOR, Sydney Water’s requirements and Council’s *DCP* and Technical Standards. Runoff from all roof areas shall drain to the tank. The rainwater reuse system shall be connected to supply non-potable use including, but not limited to laundry, toilet flushing and landscape irrigation. The rainwater tank shall be located behind the front alignment of the building to which the tank is connected and shall be located in

a position where it can be accessed for maintenance and replacement and there is an overflow path in the event of rupture.

(Reason: Ensure compliance and conserve natural resources)

B. Comply with all other conditions of the original development consent.

ATTACHMENT 9: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2014/552/C

At: 56 Willowie Road, CASTLE COVE NSW 2069.

