

Attachment C

Clause 4.6 Variation Request

20th December 2018

Mr Ross Meachin
Planner
City of Sydney Council

**Re: Clause 4.6 request to vary a development standard
D/2018/1411: Unit 902, 13-15 Bayswater Road, Potts Point**

On behalf of the owners, we wish to request a Clause 4.6 variation to the development standard clause 4.3 Height of Buildings under Sydney Local Environmental Plan 2012.

The objectives of this clause are as follows:

- (a) to ensure the height of development is appropriate to the condition of the site and its context,*
- (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*
- (c) to promote the sharing of views,*
- (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,*
- (e) in respect of Green Square:*
 - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and*
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.*

A maximum height of 27m is permitted for the site under the development standard.

The proposed pergola / plant room is 34.88m in height from natural ground level on Goderich Lane which is a variation of 7.88m or 2.9% which is considered as minor. The proposed pergola is below the height of the existing roof structure on the terrace so the proposal would not result in an increase in height to the overall building.

Strict compliance with the development standard would be unreasonable or unnecessary in this particular case due to the following:

- The existing building does not comply with the maximum height of 27m. The proposed pergola is below the existing roof structure on the terrace.
- The height of the pergola is under 3.5m and therefore at an acceptable height for this type of structure.
- The proposal is consistent with the character of the area.

- Council have recently approved the same structure for the roof terrace of Unit 903. Therefore council have departed from the standard and strict compliance for Unit 902 would be therefore unreasonable.
- The structure will not adversely impact the character of the area as it is not visible from the streetscape and located at the rear of the site.

There are sufficient environmental planning rounds to justify contravening the development standard as outlined below.

- The proposal is consistent with the character of the area
- The structure will have minimal impact to neighbouring properties and will not cause any overshadowing.
- The development is a minor modification to the existing building
- The pergola will not obstruct views and as such is consistent with the objective.
- The same structure was recently approved for unit 903 therefore this approval will not set precedent.

It is felt the objectives of the standard have been achieved notwithstanding non-compliance with the numerical standard as detailed below.

(a) to ensure the height of development is appropriate to the condition of the site and its context,

The variation proposed will not exceed the height of the existing roof structure. Therefore it is appropriate to the condition of the site and its context.

(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,

The development respects the existing ridge height being lower so there is an appropriate height transition to other buildings.

(c) to promote the sharing of views,

The pergola will not obstruct any views.

(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,

Not applicable.

(e) in respect of Green Square:

*(i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
(ii) to ensure the built form contributes to the physical definition of the street network and public spaces.*

Not applicable.

Conclusion

It is considered the proposed covered pergola to the rooftop terrace generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012. Therefore there is sufficient environmental planning grounds to justify a variation of the standard.

The existing building already exceeds the maximum height under the development standard. The pergola is below the existing roof structure of the building and will not detract from the form and scale of the building. Therefore for the reasons provided above, we request the variation to the standard is supported by council.



Amanda Elboz
Director