

TWEED SHIRE COUNCIL

CLAUSE 4.6 VARIATIONS REGISTER 2021

DA Reference No.	Lot No.	DP No.	Apartment/Unit No.	Street No.	Street Name	Suburb/Town	Postcode	Environmental Planning Instrument	Development Standard to be Varied	Justification of Variation	Extent of Variation	Concurring Authority	Date DA Determined
DA21/0244	1	781510		4	Heffron Street	TWEED HEADS SOUTH	2486	Tweed Local Environmental Plan 2014	Clause 4.3 - Heights of Buildings	The proposed development includes a maximum height of 10.146m. The site is mapped as having a maximum height of building of 9.0m. The percentage of variations is 12.7% at the highest point.	12.7%	Northern Regional Planning Panel	21/12/2021
DA20/0311	6	524303		26	George Street	MURWILLUMBAH	2484	Tweed Local Environmental Plan 2014	Clause 4.2A(2) - Subdivision of land in Zone R5	The Rural Landscape area is 26,160m ² is less than the minimum lot size of 40,000m ² .	45%	Tweed Shire Council under assumed concurrence	08/11/2021
DA21/0253	17	1252272		5	Denman Drive	CUDGEN	2487	Tweed Local Environmental Plan 2014	Clause 4.3 - Heights of Buildings	Minor variation to the 9m LEP height of buildings limit to allow a maximum height of 9.5m due to the slope of the land.	5%	Tweed Shire Council under assumed concurrence	02/11/2021
DA21/0438	266	31998		90	Broadwater Esplanade	BILAMBIL HEIGHTS	2486	Tweed Local Environmental Plan 2014	Clause 4.3 – Heights of Buildings	<p>The proposal seeks a variation to the 9m height development standard with a maximum height of 9.147m.</p> <p>The matters required by sub clause 3 are considered satisfied. The non-compliant portion of the dwelling is located entirely within the roof. Strict compliance with the 9m building height standard given the minor nature of the development would be unnecessary and unreasonable in this instance. The justification by the applicant is considered acceptable. The overall height of the building will be 9.147m and the design is consistent with the bulk and scale of the area. The proposal will not set an unnecessary precedent nor will it look out of character with immediate development. The height encroachment is unlikely to create a visual impact and is isolated to the roof pitch. The proposal will minimise the detrimental impact on the amenity of the area.</p> <p>The proposed development is considered to be in the public interest, being consistent with the objectives of Clause 4.3 - Height of Buildings, and the zone objectives for Low Density Residential Land. The proposal is considered to be of an appropriate height for the locality. The minor nature of the variation resulting from the continuation of existing roof pitch is likely to be in keeping with the public interest and the proposal will be consistent with the bulk and scale of surrounding development.</p>	1.6%	Tweed Shire Council under assumed concurrence	13/09/2021
DA21/0111	4	286030	4	36	Old Ferry Road	BANORA POINT	2486	Tweed Local Environmental Plan 2014	Clause 4.3 – Heights of Buildings	<p>The applicant has submitted a written request to vary Clause 4.3 Height of Buildings which has been considered against the provisions of Cl. 4.6 below.</p> <p><i>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</i></p> <p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>The applicant has submitted the following written request:</p> <p>3(a) - The site is a steeply sloping site with the building designed to complement the topography of the land. A minor height variation at the front façade has been proposed to provide an appropriate design for the use of the dwelling. The proposed variation will reduce the need for additional earthworks.</p> <p>Given the minor nature of the variation and the circumstances of the case, it is considered unlikely that the proposal would establish an undesirable precedent.</p> <p>The Design Package prepared by Luke Holmes Design includes a number of plans demonstrating the suitability of the proposed building from an urban design and amenity perspective. In addition, only a minor portion of the dwelling is located above the maximum building height [refer to Sheet # A4.1).</p> <p>As indicated, there are a number of detailed justifications provided there-in which support the current request. In summary, these include the following:</p> <ul style="list-style-type: none"> - The variation to the height control is minor and only relates to a small part of the building. - No privacy or overshadowing impacts are created by the minor variation requested. - Increased side setbacks are provided to minimise issues associated with privacy, acoustic and overshadowing impacts. - The proposal will not impact upon views from private or public areas. <p>(b) As outlined in the Statement of Environmental Effects, other than building height, the current project complies with all elements of the Tweed Local Environmental Plan 2014. The proposal is also compliant with the Tweed Development Control Plan apart from a justifiable variation to the front setback being a private road. These matters, combined with the comprehensive design of the dwelling, are such that it is considered that there are sufficient environmental planning grounds to justify varying the height control in this instance.</p> <p><i>(4) Development consent must not be granted for development that contravenes a development standard unless:</i></p> <p><i>(a) the consent authority is satisfied that:</i></p> <p><i>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i></p>	6%	Tweed Shire Council under assumed concurrence	01/07/2021

TWEED SHIRE COUNCIL

CLAUSE 4.6 VARIATIONS REGISTER 2021

DA Reference No.	Lot No.	DP No.	Apartment/Unit No.	Street No.	Street Name	Suburb/Town	Postcode	Environmental Planning Instrument	Development Standard to be Varied	Justification of Variation	Extent of Variation	Concurring Authority	Date DA Determined
										<p>The matters required by sub clause 3 are considered satisfied. The applicant has identified that the proposed building height remains consistent with the objectives of the clause and would not result in a detrimental contravention of the standard.</p> <p>The non-compliance results from the slope of the land and the development maintaining a consistent floor level. The proposal also does not result in significant earthworks outside of the footprint. The non-compliant portion of the dwelling is minor roof form and is a direct result of the significant slope of the land. The rear of the development reaches a maximum height of 4.540m which further demonstrates the impact the slope has on the overall height exceeding 9m. Strict compliance with the 9m height limit on this sloping site would be considered to be both unnecessary and unreasonable in the circumstances of the application and the justification provided by the applicant is considered to be acceptable. The overall height of the building is 9.55m and the proposal has achieved a design that allows for suitable living space area while maintaining a consistent floor level to each storey. The majority of the dwelling also complies with the 9m height limit.</p> <p><i>(ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</i></p> <p>The submitted written variation request has demonstrated that the proposed dwelling will remain consistent with the objectives of the Height of Buildings Development Standard, despite the 550mm variation.</p> <p>With consideration of this the proposed development is considered to be in the public interest, being consistent with the objectives of Clause 4.3 - Height of Buildings, and the zone objectives for Low Density Residential Land. The proposal is considered to be of an appropriate height for the locality and is consistent with adjoining recently approved single dwellings. The slope of the site directly impacts on the height of the building and the proposal has limited the amount of earthworks necessary by incorporating a design that does not disturb the site significantly outside of the building footprint.</p>			
DA21/0039	343	249520		29	Leeward Terrace	TWEED HEADS	2485	Tweed Local Environmental Plan 2014	Clause 4.3 – Heights of Buildings	<p>The non-compliance results from the slope of the land and the development maintaining a consistent floor level. The proposal also does not result in significant earthworks. The non-compliant portion of the dwelling is minor roof form and privacy screening. Strict compliance with the 9m height limit on this sloping site would be considered to be both unnecessary and unreasonable in the circumstances of the application. The justification provided by the applicant is considered to be acceptable. The overall height of the building is 9.9m. The proposal has achieved a design that allows for suitable living space area without the need for stepping to be incorporated to the upper level. The majority of the dwelling complies with the 9m height limit.</p>	10%	Tweed Shire Council under assumed concurrence	10/06/2021
DA20/0813	93	263367		20	Commodore Court	BANORA POINT	2486	Tweed Local Environmental Plan 2014	Clause 4.3 – Heights of Buildings	<p>The site has a building height limit of 9m with the proposed building having a maximum height of 9.375m (4.16%) for a minor portion of the roof.</p>	4.16%	Tweed Shire Council under assumed concurrence	25/05/2021
DA20/1040	15	28390		2	Seaview Street	TWEED HEADS SOUTH	2486	Tweed Local Environmental Plan 2014	Clause 4.3 - Heights of Buildings	<p>The applicant has provided a request seeking to justify the contravention of the building height development standard. The proposal received two submissions, however based on the overall assessment of the relevant objectives below, it is not considered that the development contravene the public interest.</p> <p>The proposed variation is less than 10% (5.55%) and may therefore be determined under delegation.</p> <p>The five part test (The Varying development standards: A Guide dated August 2011 published by the NSW Department of Planning & Infrastructure (NSW Department of Planning, Industry and Environment dated 25/3/2020) was considered as part of the assessment.</p> <p>Although it is not considered that compliance with the building height is unnecessary in this instance, the minor nature of the variation and the supporting variation request by the applicant is considered satisfactory. The proposed variation is considered acceptable based on the constrained allotment and the proposed design of the dwelling.</p> <p>The proposed variation is considered acceptable having regard to site constraints, adjoining and adjacent development and vacant allotments. The proposal is considered to be in accordance with the objectives of the R2 zone being for a single dwelling and the height variation is not considered to cause adverse impacts.</p> <p>The development standard for building height in the Tweed LEP 2014 is not considered to have been virtually abandoned or destroyed, however the site is located on residential zoned land with a steep slope of approximately 17 degrees and due to the site constraints and assessment of the adjoining and adjacent properties, the proposed height variation is not considered to contravene the objectives of the R2 zone and is therefore considered acceptable.</p> <p>The parcel of land is zoned R2 Low Density Residential measuring 569.1m2 and the development is permitted with consent in this zone.</p> <p>The proposed dwelling is considered to generally comply with controls under the Tweed DCP. The dwelling is considered to be consistent with the existing and future development of the area and is not considered to have an adverse impact on the locality.</p>	5.4%	Tweed Shire Council under assumed concurrence	06/05/2021
DA19/0875	2	1139059		102	Lundberg Drive	SOUTH MURWILLUMBAH	2484	Tweed Local Environmental Plan 2000	Clause 20(2)(a) - Minimum lot size 40ha	<p>The proposed development is considered to result in an appropriate development at this location, in particular noting that there are no development works on the 7(l) zoned land which would compromise the objectives of the control. Furthermore, the subdivision results in all 7(l) zoned land on a single allotment. The NSW Department of Planning, Industry and Environment granted concurrence in this instance.</p>	77.4%	Director General of the Department of Planning	19/04/2021

TWEED SHIRE COUNCIL

CLAUSE 4.6 VARIATIONS REGISTER 2021

DA Reference No.	Lot No.	DP No.	Apartment/Unit No.	Street No.	Street Name	Suburb/Town	Postcode	Environmental Planning Instrument	Development Standard to be Varied	Justification of Variation	Extent of Variation	Concurring Authority	Date DA Determined
DA20/0984	12	1066506		30	North Point Avenue	KINGSCLIFF	2487	Tweed Local Environmental Plan 2014	Clause 4.3 - Heights of Buildings	<p>The proposal seeks a variation to the 9m height development standard with a maximum height of 9.5m.</p> <p>The matters required by sub clause 3 are considered satisfied. The non-compliant portion of the dwelling is located entirely within the roof and is a result of a continuation of the existing roof pitch. Strict compliance with the 9m building height standard given the minor nature of the development would be unnecessary and unreasonable in this instance. The justification by the applicant is considered acceptable. The overall height of the building will be 9.5m and the design is consistent with the bulk and scale of the area. The proposal will not set an unnecessary precedent nor will it look out of character with immediate development. The height encroachment is unlikely to create a visual impact and is isolated to the roof pitch. The proposal will minimise the detrimental impact on the amenity of the area.</p> <p>The proposed development is considered to be in the public interest, being consistent with the objectives of Clause 4.3 - Height of Buildings, and the zone objectives for Low Density Residential Land. The proposal is considered to be of an appropriate height for the locality. The minor nature of the variation resulting from the continuation of existing roof pitch is likely to be in keeping with the public interest and the proposal will be consistent with the bulk and scale of surrounding development.</p>	5.5%	Tweed Shire Council under assumed concurrence	23/03/2021
DA20/0317	11	1254208		30	Fraser Drive	TWEED HEADS SOUTH	2486	Tweed Local Environmental Plan 2014	Clause 4.3 - Heights of Buildings	Building Height required 10m. Building height proposed 11.4 m. Variation sought 1.4m or 14%.	14%	Tweed Shire Council under assumed concurrence	19/03/2021
DA20/0027	8	3123		5	Kennedy Drive	TWEED HEADS	2485	Tweed City Centre Local Environmental Plan 2012	Clause 4.3 - Heights of Buildings	Variation to building height control - Tweed City Centre LEP max height 9m. Proposed max height 9.598m.	6.644%	Tweed Shire Council under assumed concurrence	19/03/2021
DA20/0930	11	1243926		21	Winchelsea Way	TERRANORA	2486	Tweed Local Environmental Plan 2014	Clause 4.3 - Heights of Buildings	The proposal seeks a variation to the 9m height development standard with a maximum height of 9.85m.	9.4%	Tweed Shire Council under assumed concurrence	12/02/2021