

12 GREGORY ST
SOUTH WEST ROCKS

SECTION 96 MODIFICATION

to DA T6-16-112

DECEMBER 2016

KEMPSEY SHIRE





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Annexure A: Plans by Architects Nicholas & Associates

Annexure B: Clause 4.6 submission

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Geraldine Haigh
GEM Planning Projects Pty Ltd

Date: 15 December 2016.....

Job: 001 QDF



Section 96 Modification Statement

1. Introduction

This application under S96 1(A) of EP & A Act seeks to modify DA T6-16-112 to provide for an improved top floor design outcome. The preferred design outcome requires a slight variation to the height of the approved building.

The current approval includes a condition of consent:

- 2** The design of the development shall be modified as set out in the following table. Amended plans and specifications incorporating the following design amendments shall be approved by Council, and incorporated in the plans and specifications submitted with the application for a Construction Certificate:

Design Amendment	Reason for Amendment
(a) The height of the building shall be limited to not more than 12.1m above existing natural surface.	(a) To maintain not more than a 10% variation to the height limitation provided by the <i>KLEP 2013</i> .

The amended proposal seeks approval for the design included at Appendix A, which includes a height variation of up to 12.4m above natural surface as part of the recessed partial fourth storey. Above the roof line are 3 lift overruns and architectural roof features.

Discussion of the proposal in relation to the Kempsey LEP Clause 4.3 Height of Building is provided below.

1.1 Clause 4.3 Height of Building

a) Mapped Height Limit: 11m.

The development application proposes a building of 9.30 m height (3 storey) for the first 5m from Gregory Street stepping up to 12.4m high beyond that creating a recessed partial fourth storey. Above the roof line there are 3 lift over runs and architectural roof features including solar panels.

The current site Natural Surface Level (NSL) has been surveyed and the 11m Height of Building limit is illustrated on the AN+A section plans Sheet Ref DA- 200,201 & 202.

The plans also demonstrate the building height in relation to the agreed finished floor level. The proposed finished floor level (FFL) of 18.5m AHD was agreed with Council staff (as part of the pre-lodgement meeting process) in the context of the Gregory Street footpath level and existing buildings adjacent the site.

b) Natural Surface Levels

The surveyed Natural Surface Levels vary marginally across the site by approximately 30mm. Section A-A of Sheet 200 is considered most typical of the site levels and building height and is discussed below.

The proposed building height of the serviced apartments is proposed at RL 30.90m AHD and additional architectural roof treatments together with lift over runs up to RL 32.00m AHD. The surveyed Natural Surface (NSL) level along the alignment of Section A – A varies from RL 18.90 m AHD to RL 19.27m AHD, with a typical level of RL 19.20m AHD which has been adopted for the purpose of discussing the building height above NSL.

The proposed fourth storey roof height of RL 30.90m AHD height represents a variation of 6.3% (0.7m) above the 11m height of building limit when measured from NSL. The core/lift overrun to a maximum level of 32.00m AHD represents a variation of 16.3 % above Natural Surface Level

c) Building Height in relation to Finished Floor Level

When building height is measured from the proposed Finished Floor Level (FFL) of RL18.50m AHD it represents 12.7% variation. The core/lift overrun to a maximum level of 32.00m AHD represents a variation of 22.7% from the proposed Finished Floor Level (FFL) of RL 18.50m AHD. However, it represents a very small area of the building roof and contributes little to the overall height, bulk & scale of the building.

The building height at the Gregory Street & Paragon Avenue frontages are proposed at 9.30m high which is approximately 15.45% below the 11m height measured from Finished Floor Level.

d) Proportion of roof area over the building height.

In terms of the Serviced Apartment building footprint, the fourth storey has a roof area of 967sqm over a building footprint of 1517 sqm, approximately 63.7%. The 3 lift over run areas total approximately 15.6sqm together with architectural roof treatments, solar panels and the like. These small areas of building core & lift overrun represent a very minor proportion of the roof area and are incorporated into architectural roof features, such that it makes minimal contribution to the height, bulk or scale of the proposed building.

ANA +A Architects Sheet DA- 200 demonstrates that the fourth level would not be visible as a full floor from the pedestrian footpath at Gregory Street. The building presentation along the Gregory Street frontage is that of a predominantly 3 storey building with the partial fourth floor recessed beyond footpath grade sight lines

Sheets DA-900. 901 & 902 Gregory Street Site Perspectives demonstrate the proposed design will be compatible with the existing street scale & building mass.

The elegant design sits comfortably against the existing 3 storey buildings adjacent to the North along Gregory Street and addresses the corner in a manner that announces this building as the entrance to the South West Rocks Town Centre.

A request to vary part of the building height under addressing *Clause 4.6 Exceptions to Development Standards* is addressed below and attached to this application.



Figure 1: *Architectural illustration of proposal*

1.2 *Clause 4.4 Floor Space Ratio*

The proposed modification does not alter the approved Floor Space Ratio under DA T6-16-112.

1.3 *Clause 4.6 Exceptions to development standards*

The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development by allowing flexibility, in particular circumstances.

The request under Clause 4.6 is attached to this application and seeks to justify the contravention of the building height 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 addition, the request seeks to demonstrate under subclause 4(a) (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.

The submission also addresses whether contravention of the development standard raises any matter of significant for State or regional environmental planning and the public benefit of maintaining the development standards.



S96 (1A) modification & the EP&A Regulations

2.1 Name and address of applicant

In accordance with Clause 115 (1) (a) of the EP&A Regulation 2000 the name and address of the applicant is:

Applicant: Architects Nicholas & Associates
 Street C/- GEM Planning Projects Pty Ltd
 P O Box 2068
 Port Macquarie NSW 2444

2.2 Title particulars of the land

In accordance with Clause 115 (1) (c) of the EP&A Regulation 2000 the land description at the time of development consent was Lot 71 DP 811904 & Lot 132 DP 707345, Gregory Street, South West Rocks.

Address: No. 12 Gregory Street & 13 Livingstone Street, South West Rocks
 Owner: Gregory Street Pty Ltd & Quadrafox Pty Ltd

Owners consents attached.



Figure 2: Subject land & current land title description





2.3 *Description of proposed modification*

In accordance with Clause 115 (1)(d) of the EP&A Regulation 2000, the proposed Section 96(2) modification application proposes to incorporate roof treatment features and design elements to the partial fourth floor to enhance the architectural character of the building and improve light and ventilation opportunities at the top floor apartments.

2.4 *Statement of modification*

Under Clause 115 (1)(e)(ii) of the EP&A Regulation 2000 this application is made under Section 96(1A) to modify an existing development consent by deletion of condition 2 of the consent and consideration of the Clause 4.6 submission. The proposed modification is considered minor and would not significantly increase the environmental effects of the total development.

2.5 *Description of expected impacts of modifications*

The proposed Section 96 (1A) modification to DA T6-16-112 is anticipated to have no additional environmental impact than the approved proposal.

2.6 *Substantially the same development*

In accordance with Clause 115 (1)(i) of the EP&A Regulation 2000, the following confirms the proposed Section 96(1A) modification will remain substantially the same as the development that was originally approved.

- The proposal seeks to modify the roof elements and part of the building height as it pertains to the partial fourth floor.
- No other elements are affected.
- There is no change to the number of serviced apartments, the number of bedrooms nor their location within the site.
- There is no change to location of windows & openings.
- No change to the nature of the land use, nor any alteration to approved infrastructure and services requirements.

2.7 *Land owner consent to application*

Clause 115 (1)(h) of the EP&A Regulation 2000, requires that a signed statement be provided by the owner/s of the land, if the applicant is not the owner of the land consenting to the making of the application.

Signed owners consent has been provided.



2.8 Application being made to the Council

Clause 115 (1)(i) of the EP&A Regulation 2000, requires a statement be made by the owner/s of the land, as to whether the application is being made to the court of the consent authority.

The application is being made to the consent authority.

3 Conclusion

The modifications proposed for the development will result in a slight increase to the roof height of the approved building, resulting in overall improvement to the amenity and architectural treatments associated with the partial fourth floor apartments and roof design treatments.

The modified proposal remains compliant with the planning provisions in effect at the time of the application and Council's early approval of the modified development would be most appreciated.

Yours faithfully

A handwritten signature in black ink, appearing to read 'G Haigh', is written over a light blue circular stamp.

Geraldine Haigh
Director & Senior Planner
GEM Planning Projects

0439 836 711

Geraldine@gemplanningprojects.com.au