



24 January 2022

Manager Development Assessment
Northern Beaches Council
725 Pittwater Road
DEE WHY NSW 2099

Attention to: Lashta Haidari

**RE: Manly LEP 2013 Clause 4.6 Exception to development standard
Floor Space Ratio (Cl. 4.4)**
Proposal: Alterations and additions DA 2021/1789
Premises: 22 Violet Street, Balgowlah

The purpose of this letter is to provide written justification pursuant to Manly LEP 2013 *Clause 4.6 Exception to development standard* relating to the proposed maximum floor space ratio (FSR) stipulated within Clause 4.4.

This request is to be considered with reference to architectural plans and supporting documentation.

Clause 4.6 – Exception to Development Standards

The relevant provisions of Clause 4.6 have been addressed below

- 1) *The objectives of this clause are:*
- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
 - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 allows for the assessment of proposals that do not strictly accord with development standards. The criteria under which an exemption may be sought includes the question as to whether compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard.

- 2) *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.*
- 3) *Consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3), and*

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Director-General has been obtained.*

4) *This clause does not allow consent to be granted for development that would contravene any of the following:*

- a) *clause 5.4.*

In granting an approval after consideration of an exception, the consent authority considers whether the development is in the public interest, consistent with the objectives of the development standard and those that relate to the land use zone.

An assessment against the relevant objectives is provided below.

Zone R1 General Residential

Objectives of zone

To provide for the housing needs of the community

The proposal seeks consent for alterations and additions to an existing dwelling, improving the layout and upgrading the home with the needs associated with modern accommodation.

To provide for a variety of housing types and densities

The proposal does not seek to alter the dwelling density or housing type, i.e. a single dwelling typology is being retained. The proposal complies with the objectives of the zone.

4.4 Floor Space Ratio

An assessment of the proposal against Clause 4.4 *Floor Space Ratio* is provided below;

- (1) *The objectives of this clause are as follows:*

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

The size and scale of development is consistent with the desired character of the R1 General Residential land use zone and in keeping with residential dwellings in the locality.

The dwelling will continue to present as single storey in scale as viewed from Violet Street, aided by the sloping topography to the north, allowing a large proportion of additional floorspace (49.6sqm or 75%) to be located at the lower ground floor, which is below the Violet Street level.

The additional proposed building length of 4.6m is considered moderate in the context of the site and is only visible from Violet Street via an acute view line between the subject property and adjoining dwellings. Although partly visible from Maretimo Street, the addition is screen by landscaping and sufficiently set back considering the property is separated from Maretimo Street by 24 Violet Street. The proposal therefore does not alter or influence either the Violet or Maretimo streetscapes.

Furthermore, approximately 16.5 sqm of the proposed lower ground floorspace is contained within the existing dwelling footprint and is provided via the conversion of existing sub-floor areas, therefore not adding to the appearance of bulk or scale.

(b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

The proposed alterations do not inhibit views to landscape features or significant vistas. The extension of building length by 4.6m is considered modest in the context of the site and surrounds.

(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

The character and architectural style of the dwelling is being retained as alternations to the front façade are limited to the garage only. The proposed rear addition is only marginally visible from the street due to the modest scale of those additions and that the majority of additional floorspace is located on the lower ground floor level at a level below street level.

The proposal reduces total existing open space (as defined by the Manly DCP) by 7.2sqm or 5% whilst retaining the contiguous deep soil landscaped areas within 4m of the rear boundary and within the front setback.

(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

The proposal will not impact the use or enjoyment of the public domain.

Due to the extended roofline, a minor increase in overshadowing will be experienced during the AM period to No 24 Violet Street and midday to afternoon to 20 Violet Street. In both cases the additional overshadowing is considered minor and does not restrict solar access beyond that stipulated in the Manly DCP.

In terms of the potential for overlooking, the proposed first floor balcony incorporates a privacy screen along the eastern elevation. No first-floor windows are proposed along the western elevation maintaining the existing level of privacy for adjoining residents.

In addition to the demonstrated compliance with the objectives of the R1 land use zone and Clause 4.4, the consideration of the following matters is also relevant in determining whether the strict application of the FSR control is reasonable and necessary in this circumstance:

- i. A total of 16.5sqm of the proposed floorspace is provided within the existing sub-floor area/existing external walls at the lower ground level. The deletion of the subfloor alternations would result in a compliant development whilst maintaining the scale of the proposal as presented.
- ii. The proposal exceeds the maximum permissible floor space ratio by a relatively minor amount of 13.4sqm (or 6.5%) resulting in a proposed FSR of 0.53:1. Due to the marginal non-compliance, once completed, it is unlikely that the dwelling would be viewed as possessing an increased bulk and scale compared to a proposal that strictly complies with the 0.5:1 standard.
- iii. The proposed alteration does not alter the character of the dwelling or streetscape. A significant proportion (75%) of the proposed floorspace is located at the lower ground level which is not visible from Violet or Maretimo Street
- iv. The proposal complies with maximum building height control of 8.5m.
- v. The proposed building setbacks associated with the rear addition are deemed compliant with the Manly DCP.
- vi. The proposal does not restrict views to or from a public place of interest.

Conclusion

For the reasons expressed above, compliance with the maximum floor space ratio is deemed unreasonable and unnecessary in this instance.

The exception to development standard will not set an unwanted precedent considering that the objectives of Clause 4.4 Floor Space Ratio and land use zone R1 General Residential have been met by the proposal.

In consideration of the matters outlined in this submission, granting consent would not contravene the public interest.

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