

**CLAUSE 4.6 VARIATION – FSR
ALTERATIONS AND ADDITIONS TO EXISTING BUILDING
1/84 LAUDERDALE AVENUE FAIRLIGHT
MARCH 2024**

1.0 Introduction

This statement constitutes a request for variation to a development standard, made under Clause 4.6 of Manly Local Environmental Plan 2013 for Northern Beaches Council.

The objectives of Clause 4.6 are as follows:

- (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.

For this to occur, the Development Application is to be supported by a written application that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case. This application should be read in conjunction with the accompanying Development Application drawings prepared by MHDP Architects and Statement of Environmental Effects.

2.0 Zoning of the land

The site is zoned R1 General Residential.

3.0 Objectives of the zone

The objectives of the zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

4.0 Standard to be varied

The standard to be varied is Part 4, Clause 4.4 of LEP 2014 which sets the maximum FSR for a building as shown on the FSR Map. The maximum FSR for 84 Lauderdale Avenue is 0.5:1.

The following definitions within the LEP are relevant for this 4.6 variation:

floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

4.0 Standard to be varied (Continued)

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes—

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

5.0 Objectives pertaining to standard to be varied

The objectives that relate to the FSR standard is found in LEP 2014, Clause 4.4.

The objectives of the standard to be varied are as follows:

- a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,
- 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,
- c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,
- d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,
- e) (N/A for this application)

6.0 Extent of non-conformity to the standard

The site area is 529.5 sq.m.

The allowable floor space is 0.5:1 = 265 sq. m.

The site consists of two units (one above the other). Unit 2 is the lower floor apartment and Unit 1 is the upper floor apartment (the subject of the DA).

The existing floor area is as follows:

Unit 1 129.6 sq.m

Unit 2 144.5 sq.m

Existing total = 274.1 sq.m

The existing total therefore exceeds the allowance but only by 9.1 sq.m (3.4%)

The proposed additional floor space to be added to Unit is only 18.1 sq.m. The revised total FSR is as follows:

Unit 1 147.7 sq.m

Unit 2 144.5 sq.m

Existing total = 293.2 sq.m (11% variation)

The proposed FSR is 0.55:1

As a result, the overall proposed works do not comply with the FSR control. However, the extent of the non-compliance is less than 11%. This can be considered as negligible.

It is important to note that the entire new building area occupies the same footprint when decks or terraces are included. The entire additional floor area comprises of existing suspended concrete slab terrace area, with the exception of the walk-in-robe at the rear, which is a very small increase in footprint.

7.0 How strict is compliance with the development standard unreasonable or unnecessary in this particular case?

The proposed final FSR does not comply with the FSR control, however this non-compliance is justifiable and strict compliance can be regarded as unreasonable or unnecessary for the following reasons:

- The FSR control is effectively used to control bulk and scale as viewed from outside the building – from the street, from public places and from neighbours. All other buildings in the area have a similar proportion of this bulk and scale. The neighbour to the West is a much larger unit development. This is a unique case with minimal change to the bulk and scale and as such it is unreasonable to require strict compliance of the proposal based on bulk and scale provisions.
- The site is small and the internal layout of the existing apartment is inefficient. The proposed design is very compact and makes efficient use of the available space provided by terraces that are not required.
- The non-compliance variation exceeds the control by less than 11%. Typically, this is regarded as a reasonable variance from the control.
- The proposed additions do not cause any other impact on the neighbours or the locality. It has been demonstrated in the application that the works will not cause unreasonable view loss nor will it decrease privacy or increase overlooking or overshadowing. Therefore, it is unreasonable to require strict compliance of the proposal because there is very little demonstrable impact to surrounding neighbours.

8.0 Compliance with the objectives pertaining to standard to be varied

The objectives of the standard to be varied are as follows:

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

A streetscape perspective has been included in the application which shows the way that it sits in the context of neighbour's either side. Beyond this, the upper side of Lauderdale Avenue is full of examples of much taller and bulkier buildings set even closer to the road. It is submitted therefore that the very minor amendments to Unit 1/84 Lauderdale are reasonable. Changes to the existing are primarily filling in space that already exists. In utilising the front and side verandah space, the building

8.0 Compliance with the objectives pertaining to standard to be varied (Continued)

does come further forward to the street but this is negligible in consideration to its placement on site.

The objective is maintained.

- 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,*

This is answered above

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

Along this strip of Lauderdale it is easy to see that there is no defined or repeated visual character to all the buildings, other than that most are modern in character. The proposal seeks to sit within that framework and “modernize” the look of the existing, slightly dated building.

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

The SEE and DA submitted drawings demonstrates that the proposed additions do not impact on any neighbours in terms of privacy, overlooking and overshadowing.

This objective is maintained.

9.0 Are there sufficient environmental planning grounds to justify contravening the development standard?

Clause 4.6 requires the departure from the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

Environmental planning grounds that would generally preclude a non-compliance of the FSR would be if the non-compliance generated a particular impact such as view loss, overshadowing or privacy. In this instance the DA documents adequately describe that there are no impacts resulting from the non-compliance.

On the basis of the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed FSR non-compliances in this instance.

10.0 Conclusion

It is submitted that a variation to the maximum FSR control within the Manly Council LEP 2013 is appropriate for this project as the non-conformity does not add any specific impact to adjoining or nearby properties whilst complying with all the objectives of the standard and providing suitable services for the locality.

As demonstrated above, strict compliance with this standard is inappropriate to this Development Application.

Approval should not therefore be withheld due to the non-compliance of the development standard.