

6.1 Floor Space Ratio FSR_003 LEP Clause 4.6 Exception to Development Standard

The objectives contained within Manly LEP 2013 clause 4.6 as paraphrased below are to allow the consent authority:

- (1a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, &
- (1b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances
- (2)...even though the development would contravene a development standard imposed by the LEP or any other environmental planning instrument.

However, to grant development consent the consent authority must be satisfied that the applicant has demonstrated:

- (3a) that compliance with the development standard is unreasonable & unnecessary in the circumstances of the case; &
- (3b) that there are sufficient environmental planning grounds to justify contravening the development standard; and that the consent authority is satisfied that

(4a(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 the planning secretary must consider

(5b) the public benefit of maintaining the development standard.


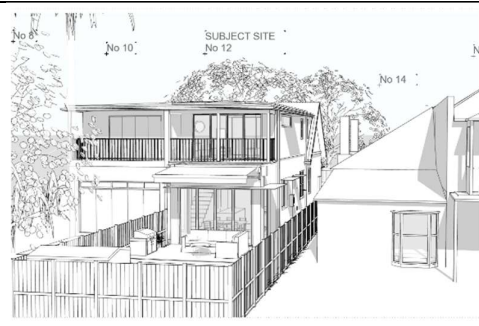
In this particular case, the applicant requests a variation to the **Floor Space Ratio** FSR standard, clause 4.4 of Manly Local Environmental Plan LEP 2013.

The proposed development is located within Zone F of the Manly LEP Floor Space Ratio Map FSR_003 which has a floor space ratio to site area control for the zone of 0.6:1. With only 223.2m² of site area, the allowable floor space permitted on the site is 133.9m². The site of the existing semi-detached dwelling on Lot 37A of DP 438218 is an undersized allotment for Zone LSZ_003 which for Zone C has a minimum site area of 250m². The existing GFA gross floor area of 136.0m² results in an existing floor space ratio of 0.609:1 which has a percentage variation of 101.5% of the development standard.

The proposed development includes a new hardstand driveway & first floor roof dormer facing the street front and a new ground floor 4m wide rear extension of only 2m beyond the existing party wall location to align with the adjacent neighbouring semi-detached dwelling at No 14. The total proposed additional floor space over 2 levels = 16.2m². As per the table below, the proposed new GFA gross floor area = 152.2m² which increases the floor space to site ratio to 0.682:1 for this undersized allotment. The proposed alterations and additions to the existing semi-detached dwelling represents a 113.7% variation to the development standard.

Development Control	LEP Requirements	Existing	Proposed
Floor Space Ratio FSR_003	Zone F = 0.6:1 site area = 223.2 m ² (survey calc) x 0.6 = 133.9m ²	135.9 / 223.2 = 0.609:1	152.2 / 223.2 = 0.682:1
GFA = Gross Floor Area m ²	GFA – Ground Floor	72.5m ²	87.9
	GFA – First Floor	63.5m ²	64.3
	Total GFA	136.0m ²	152.2m ²
	% Variation from LEP Standard	101.5 %	113.7 %

	
<p>Existing 2 Storey Semi Detached Dwelling viewed from Pacific Parade – exceeds permissible FSR</p>	<p>Existing 2 Storey Semi Detached Dwelling viewed from the rear garden – exceeds permissible FSR</p>

	
<p>Proposed Street View – Substantially the same development with dormer shown behind street tree – Refer also ppmbc DA200</p>	<p>Proposed Rear Garden View – Substantially the same development with ground floor addition – Refer also ppmbc DA200</p>

As both the existing building and the proposed development cannot achieve numerical compliance with Manly LEP 2013 clause 4.4 Floor Space Ratio, strict numerical compliance with clause 4.4 is considered unreasonable & unnecessary, in this particular case. Referencing Manly LEP 2013 clause 4.6 allows the consent authority some degree of flexibility to provide consent if the objectives of the clause and the objectives of the zone can be met.

The objectives of LEP clause 4.4 Floor space ratio and the proposed development response to the objectives are:

Objective (1a) to ensure the bulk and scale of development are consistent with the existing and desired streetscape character

Proposed Development Response – The proposed works visible from the streetscape include a new driveway crossing & hardstand with a first floor roof dormer which does not provide any significant additional bulk & the will result in a development that is “substantially the same”. The proposed bulk and scale of the development will remain consistent with the existing and desired streetscape character.

The design proposals are consistent with Floor Space Ratio objective (1a).

Objective (1b) to control building density and bulk in relation to site area to ensure that development does not obscure important landscape and townscape features

Proposed Development Response – The proposed works will result in a development that is “substantially the same” and the development will not obscure important landscape and townscape features. The front building setbacks shall remain as existing and the heritage listed street trees will not be obscured by the proposed development. The rear building setback will be

increased by 2m to align with the neighbour at No 14, but as demonstrated on Site Analysis Plan ppmbc_DA006, the proposed rear setback is equal to or further back than similar nearby rear development setbacks and the building bulk is not inconsistent with the adjacent buildings. No important townscape or landscape features are impacted by the proposed rear extension & the screening cluster of trees on the rear boundary shall remain. The proposed building density and bulk in relation to site area is controlled & does not obscure important landscape and townscape features

The design proposals are consistent with Floor Space Ratio objective (1b).

Objective (1c) to maintain an appropriate visual relationship between new development and the existing character & landscape of the area

Proposed Development Response – Similar to objective (1b) the proposed works will result in a development that is “substantially the same” and the visual relationship between new development and the existing character & landscape of the area will remain. The front alignment & street trees are not impacted by the proposed works & the rear setback is not inconsistent with similar rear development setbacks. The screening cluster of trees on the rear boundary shall remain and a usable area of turfing shall be retained for private use in the rear garden.

An appropriate visual relationship is maintained between the proposed new development and the existing character & landscape of the area. The design proposals are consistent with Floor Space Ratio objective (1c).

Objective (1d) to minimize adverse environmental impacts on the use or enjoyment of adjoining land and the public domain

Proposed Development Response – The proposed works will result in a development that is “substantially the same” and there are no new adverse environmental impacts anticipated for the use or enjoyment of adjoining land and the public domain. The street front public domain is not impacted by the proposed development including driveway hardstand & first floor roof dormer & the rear extension is proposed to align with the adjacent western neighbour at No 14. With north to the rear of the property, there are no visual or solar impacts anticipated to arise to the western neighbour at No 14 as a result of the proposed development.

With the 4m wide rear addition proposed to extend 2m beyond the existing party wall of the eastern neighbouring semi-detached dwelling at No 10, the proposals have been carefully designed to mitigate any possible impacts arising from the new addition. The new rear works are proposed to be only single storey & are proposed to be inset 900mm from the party wall boundary. As a result, the neighbouring eastern property at No 10 shall retain 4 hours of solar access to north facing living rooms between 9am & 3pm on the winter solstice and the design proposals provide compliant solar access and overshadowing. The No 10 rear deck and garden shall retain its existing outlook and solar access to the No 10 POS shall not be reduced by more than 1/3 of the currently available solar access.

The proposals are carefully designed to minimize adverse environmental impacts on the use of and enjoyment of adjoining land and the public domain.

The design proposals are consistent with Floor Space Ratio objective (1d).

Objective (1e) to provide for the viability of Zone E1 and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres

Proposed Development Response – The proposed works will not impact the viability of Zone E1 and Objective (1e) is not applicable to this development application.

The objectives of Land Zone R1 General Residential and the proposed development response to the objectives are:

Objective (1) to provide for the housing needs of the community

Proposed Development Response – The proposed alterations & additions to the existing residential semi-detached dwelling will maintain the existing housing supply & will continue to provide for the housing needs of community.

The design proposals are consistent with Land Zone R1 General Residential objective (1).

Objective (2) to provide for a variety of housing types & densities

Proposed Development Response – The proposed alterations & additions to the existing residential semi-detached dwelling will maintain the existing housing type and densities. The design proposals are consistent with Land Zone R1 General Residential objective (2).

Objective (3) to enable other land uses that provide facilities or services to meet the day to day needs of residents

Proposed Development Response – The proposed alterations & additions to the existing residential semi-detached dwelling will not impact other land uses that provide facilities or services to meet the day to day needs of residents.

The design proposals are consistent with Land Zone R1 General Residential objective (3).

Given that the existing building and proposed works do not achieve numerical compliance for floor space ratio but have been carefully designed to mitigate impacts upon the streetscape, landscape character & adjoining properties and do achieve compliance with the objectives for both the General Residential R1 zoning and the objectives of Manly LEP clause 4.4 for Floor Space Ratio, strict compliance is considered unreasonable & unnecessary in this particular case.

Northern Beaches Council, as the consent authority can exercise its degree of flexibility under clause 4.6 to achieve a better outcome & grant consent to the development as it has been demonstrated that the development proposals comply with both the objectives for the Land Use Zone R1 General Residential and the objectives of clause 4.4 for Floor Space Ratio.

The proposed works to the existing semi-detached dwelling will result in a development that is “substantially the same” and the environmental impacts of the proposed development are minimal. The proposed development will be in the public interest because it has been demonstrated that the proposed development is consistent with both the objectives of the standard and the objectives of the land use zone and there are sufficient environmental grounds to justify contravening the development standard to achieve a better outcome.

In this particular case, there is no public benefit to maintaining the development standard and the consent authority can use their degree of flexibility to grant development consent under clause 4.6 of Manly Local Environment Plan to permit a variation to development standard clause 4.4 of Manly Local Environment Plan 2013, in this particular case.