



Alterations & Additions to:  
Lot 1 DP64165  
21 White Street  
Balgowlah  
NSW 2093

**Clause 4.6 – Exception to a Development Standard in relation to;**  
Clause 4.4 – Floor Space Ratio of the Manly Local Environmental Plan 2013.



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## **Introduction**

This written request is made pursuant to the provisions of Clause 4.6 of the Manly Local Environmental Plan 2013 (the LEP). A variation is sought in relation to the Floor Space Ratio development standard of Clause 4.4 of the LEP, in relation to alterations and additions to 21 White Street, Manly.

## **Clause 4.6 Exceptions to development standards**

1. The objectives of this clause 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.
2. Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
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:
  - (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.
4. Development 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 subclause (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.

5. In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

6. (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.

7. (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

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

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection

with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

- (c) clause 5.4.

An exception to a development standard is required because the proposal will exceed the Floor Space Ratio development standard of Clause 4.4 of the LEP.

## **The Development Standard and the Variation Sought.**

### **Manly Local Environmental Plan 2013 Clause 4.4 – Floor Space Ratio**

The allowable Floor Space Ratio (FSR) map makes recommendation for a 0.50:1 FSR.

The surveyed site area is 367.9m<sup>2</sup> on lot 1 DP 64165.

PERMISSIBLE FLOOR AREA - 0.50:1 (367.9m<sup>2</sup> x 0.50) = 183.5m<sup>2</sup>

\*EXISTING FLOOR AREA = approx. 206m<sup>2</sup> (6% over permissible)

\*PROPOSED FLOOR AREA = 229.5m<sup>2</sup> (12% over permissible)

VARIATION BETWEEN PERMISSIBLE & PROPOSED = 12% (23.5m<sup>2</sup>)

\*Note – above areas excluded the proposed garage & associated access

This exception statement is looking for dispensation from FSR of 0.50:1 to 0.62:1 on grounds that it meets the objectives of LEP Clause 4.4 FSR .

## **The Objectives of the Development Standard.**

The purpose of the Floor Space Ratio standard is stated in the objectives in Clause 4.4 of the LEP as follows:

(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,

(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) to provide for the viability of business zones 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.

## **Why the objectives of the standard are achieved**

This departure from the standards is consistent with the objectives of the FSR Standards because:

- The bulk and scale of proposed design is in keeping with the neighbouring property. The built form of the property is remaining relatively as-is with the majority of the floor area increase by way of enclosing the existing entry porch

area and re-purposing the existing garage. The only built increase to the FSR is the garage access stair which equates to an increase of 3m<sup>2</sup>.

- The development will have minimal adverse environmental impact on the adjoining neighbours due to the minor nature of the works.

**How is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

Compliance with the development standard is unreasonable or unnecessary in this case due to;

- The FSR of the existing building being over the current zoned FSR (0.5:1). The proposal for additional FSR has negligible impact on neighbours or streetscape of the locality.
- The proposed increase in FSR to the property will have only a small increase (3m<sup>2</sup>) to the building envelope as the majority of the increase to the FSR will be gained from the re-use of the existing entry porch and garage.
- The proposal is in keeping with the locality and surrounding buildings and will have limited impact to the adjacent properties.
- The development does not impact any important Landscape and townscape features

**Are there sufficient environmental planning grounds to justify variation of the development standard(s)?**

Yes.

The proposal is consistent with the relevant aims/ objectives of the LEP and the objectives for R1 General residential zone.

- It will have no negative impact on the adjoining neighbours and the immediate surrounds.
- No additional overshadowing will be created by the proposal.
- Privacy and overlooking of neighbouring properties have been considered and only one new window to the stairwell has been introduced at ground level which will be obscured by the garden fence.
- It will have no impact on any views that may be enjoyed by neighbouring properties and public land.
- The alterations and additions will be of a height, scale and design that complement's the design and character of the original and surrounding buildings.

**Is there any other relevant information to be considered to justify variation of the development standard(s)?**

- The bulk and scale of proposed design is in keeping with the neighbouring property.
- This application seeks dispensation from FSR of 0.50:1 to 0.62:1 on grounds that it meets the objectives of LEP Clause 4.4 Floor Space Ratio and fits into its local context without adversely affecting neighbouring properties.

The exception to the Floor Space Ratio is considered to be well founded. Council as the consent authority can be satisfied for the reasons outlined, that the proposed

development will be in the public interest because it is consistent with the objectives of the standards and the objectives of the R1 General residential zoning.