

Clause 4.6: Exception to the Development Standards

Proposed

ALTERATIONS and ADDITIONS to existing
single storey dwelling

at

**36 Pacific Parade, MANLY
NSW 2095**

Manly Local Environmental Plan 2013

Current version for 5 August 2016 to date (accessed 22 December 2016 at 10:05)

[Part 4](#) [Clause 4.6](#)

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.*

We request an exception to the development standard for Floor Space Ratio under this clause of the Manly Local Environmental Plan 2013 (Clause 4.6).

The proposed works provide the following compliance table where by all other built form, height, solar access conditions are met.

AREAS:

Site Area:	222.8m ²			
Existing Site Coverage:	123.0m ²	(0.55:1)		
Proposed Site Coverage:	145.0m ²	(0.65:1) (10% increase)		
Existing GFA	96.0m ²	(0.43:1)		
Proposed GFA	173.0m ²	(0.77:1) (34% increase)		
		Clause 4.6 exception to the development standard		
Existing Ridge Height:	highest ridge rl 8.45			
Proposed Ridge Height:	new ridge height at the highest point of new addition rl 10.697 (7.570m above natural ground level)			
Front and Side Setbacks:	REFER TO PLANS			
Proposed Deep Soil Landscaping	n/a	existing areas to remian. Permeable paving where possible		
Private Open Space	58.0m ²	includes rear yard and balconies		
Items	Complies	Applies	Requirement	Proposal
LZN_003	Yes		R1-General Residential	no change
FSR_003	No		Area F 0.6:1	173.0m ² 0.77:1
HOB_003	Yes		Area I 8.5m	7.57m
ASS_003	Yes		Class 4	no ground works beyond 600mm depth
HER_003	Yes		Street Trees	no work in street

The proposed GFA is equal to 173.0m² FSR (0.77:1)

The allowable GFA under the FSR Map_003 allowance for Area F is 0.6:1 at 133.68m².

The proposal is an increase of 39.32m² over this allowable ratio, and is a 34% increase over the existing condition.

The proposal seeks approval for an additional bedroom. The area associated with this bedroom and subsequent additional living area is relative to the additional area proposed. A comfortable bedroom would equal 20-25m² and associated storage and living space would amount to 15-20m². Therefore 40m² in our opinion is a modest request.

- (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.*

The standard is not excluded from the operation of this clause. It is in our opinion that the request additional FSR is not inconsistent with the immediate area it is in, nor does it contravene any other development standards.

- (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.*

The statement forms the request to justify the contravention and we have demonstrated within the design and this statement, the statement of environmental effects and other supporting documents that the requested increase to the FSR is modest and relative to the immediate area.

As an average calculation of the immediate vicinity based on recent house sales and plans available to us, the average FSR within the street and adjoining streets, is **0.8:1**. Lot sizes are 200m² or over, but not greater than 500m². This is reflective of a family orientated community.

The proposed 0.77:1 FSR is therefore consistent with the immediate area.

- (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 Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary 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 Secretary before granting concurrence.*

No significant regional or state matter will arise from this contravention, nor does the increase in FSR affect the interests of the public.

- (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.

The site is zoned R1 – General Residential.

- (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) 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,
 - (ca) clause 6.15,
 - (cb) a development standard on land to which clause 6.19 applies.

The proposed 0.77:1 FSR will not contravene any requirement under the Basix SEPP 2004 or Complying Development Standards.