

**Clause 4.6 – Exception to a Development Standard  
(Clause 4.4(2), Floor space ratio)**

**of the**

**Manly Local Environmental Plan 2013  
For the Proposed Alterations of Unit 1  
at  
29 Margaret St, Fairlight, 2094**

*Prepared by*

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## **CLAUSE 4.6 VARIATION – FLOOR SPACE RATIO**

Request for exception under Clause 4.6 of the  
Manly Local Environmental Plan (LEP) 2013 to Clause 4.4(2) of the LEP 2013.

Premises: 29 Margaret Street, Fairlight

Proposal: Renovation of ground floor Unit 1, 29 Margaret St, Fairlight, remodelling rooms to include ensuite to Master bedroom

## **CONTROL FLOOR SPACE RATIO**

The Development Standard provides that the FSR of a building cannot exceed 0.6 to 1 on the subject site.

The existing building built in 1968 results in a FSR of 0.64 to 1. The proposal will not result in any increase to the current FSR.

### **1. WHAT IS THE NAME OF THE ENVIRONMENTAL PLANNING INSTRUMENT THAT APPLIES TO THE LAND?**

The relevant Environmental Planning Instrument applying to the subject site is the Manly Local Environmental Plan (LEP) 2013

### **2. WHAT IS THE ZONING OF THE LAND?**

The subject site is zoned R1 General Residential under the provisions of the Manly Local Environmental Plan (LEP) 2013

### **3. WHAT ARE THE OBJECTIVES OF THE ZONE?**

To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents.

**4. WHAT IS THE DEVELOPMENT STANDARD BEING VARIED?**

e.g. FSR, HEIGHT, LOT SIZE

The Development Standard sought to be varied by this request is the FSR Standard of 0.6 to 1, under Clause 4.3 (2) of the Manly LEP 2014.

**5. UNDER WHAT CLAUSE IS THE DEVELOPMENT STANDARD LISTED IN THE ENVIRONMENTAL PLANNING INSTRUMENT?**

Clause 4.4 (2) of the Manly LEP 2013.

**6. WHAT ARE THE OBJECTIVES OF THE DEVELOPMENT STANDARD?**

(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

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

**7. WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT?**

The numeric value of the Development Standard in Clause 4.4(2) of the LEP 2013 is 0.6 to 1

**8. WHAT IS PROPOSED NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN YOUR DEVELOPMENT APPLICATION?**

The proposal, the subject of this request to vary the standard, seeks a max. FSR of 0.64 to 1.

**9. WHAT IS THE PERCENTAGE VARIATION (BETWEEN YOUR PROPOSAL AND THE ENVIRONMENTAL PLANNING INSTRUMENT)?**

The percentage variation sought by this request is 6%

**10. HOW IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THIS PARTICULAR CASE?**

The proposal, with a 0.64 to 1 FSR of the site, breaches the Development Standard of 0.6 to 1 max. by 0.04. This breach however, will not result in a completed proposal that will offend the following relevant objectives of Clause 4.4 (2) of the LEP 2013 for the following reasons:-

- (1) The building that breaches the development standard is existing and was built in 1968, well prior to the current LEP 2013 following LEP objectives for FSR of buildings are fully complied with by:-
  - Being consistent with the prevailing building FSR and desired future streetscape character.
  - The bulk and scale of the building is consistent remains unchanged

**11. HOW WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 5(A)(I) AND (II) OF THE ACT.**

The relevant Objects of the Environmental Planning and Assessment Act are:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land, strict compliance with the Development Standard will not hinder the attainment of object (i) above however, strict compliance with the Development Standard will hinder the provision of improved housing stock in the locality, re-using existing structures and meeting the provision of modest accommodation in the locality.

**12. IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL?**

The Development Standard is a visual performance standard.

**13. WOULD STRICT COMPLIANCE WITH THE STANDARD BE UNREASONABLE OR UNNECESSARY?**

Yes, for the reasons set out above.

**14. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?**

As the Objectives of Clause 4.6 of the LEP 2013 seek to provide a degree of flexibility in applying development standards to achieve better outcomes for and from development, the provision of a breach of a development standard by the amount requested and the lack of material environmental impacts provide sufficient grounds to justify contravening the development standard.

For the reasons given above the exception request is considered to be well founded and therefore we seek Council's support for the proposal.