

Attachment B

Clause 4.6 Variation Request

APPENDIX 1

**CLAUSE 4.6 TO CLAUSE 4.4 OF CITY OF SYDNEY LEP 2012
EXCEPTIONS TO DEVELOPMENT STANDARDS - FSR VARIATION**

Demolition of existing warehouse building and construction of a 4-storey commercial building
with basement parking

15 BOURKE ROAD, ALEXANDRIA

SUBMITTED TO
CITY OF SYDNEY COUNCIL

PREPARED BY
ABC PLANNING PTY LTD

JANUARY 2018

SYDNEY LEP 2012 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 submission has been prepared to accompany the Statement of Environmental Effects submitted to City of Sydney Council by ABC Planning Pty Ltd for demolition of the existing warehouse building and erection of a 4-storey commercial building at 15 Bourke Road, Alexandria.

The proposal seeks a variation to the development standard contained within Clause 4.4 (FSR of 1.5:1) and Clause 6.14 (bonus FSR of 0.5:1) of the *Sydney LEP 2012* - maximum FSR of 2:1.

The proposed FSR of 2.6:1 represents a variation of 0.6:1 from the numerical FSR standard in the LEP.

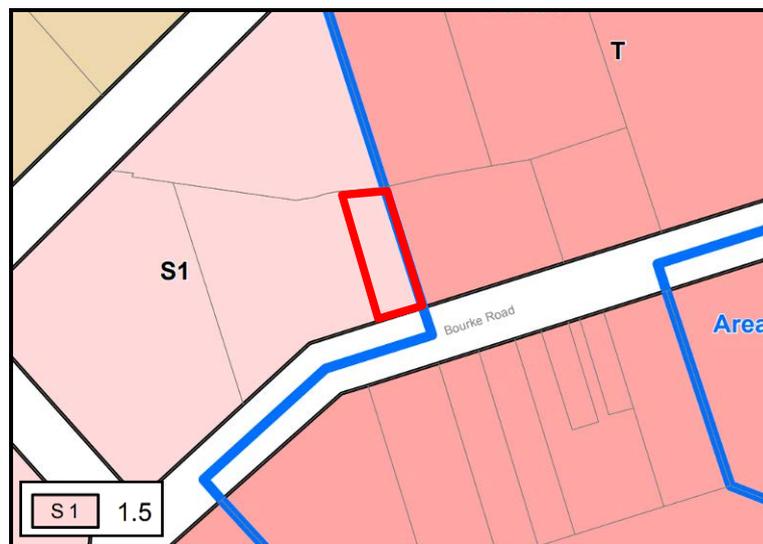


Figure 21: Floor Space Ratio

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.

Clause 4.6 provides for flexibility to the development standard relating to FSR for the proposed commercial building. It is considered that the proposed FSR variation provides for a better urban design and planning outcome which confirms that the flexible application of the standard is suitable in this instance.

This Clause 4.6 variation demonstrates that the development standard is unreasonable and unnecessary in the circumstances of this development application and that the justification is well founded. The variation allows for the orderly and economic use of land in an appropriate manner whilst it is also considered that the variation allows for a better planning outcome.

The proposed FSR adopted on the site, combined with the transitional nature of the built form, achieves a responsive urban design outcome that is better suited to its context than a proposal with a compliant FSR, noting that the proposal is fully compliant with the building height and setback requirements, thereby being within a compliant building envelope.

Compliance with the building envelope controls provides for a height, bulk and scale outcome consistent with that anticipated by the controls. The high degree of articulation and design quality further ensures that the built form will have a positive contribution to the locality.

The proposed FSR and provides increased floor space on the subject site for employment opportunities which meets the objectives of the B7 Business Park zone.

It is considered that the proposed FSR is suitable for the subject site and capacity of existing infrastructure, being 250m from Green Square train station as well as being in close proximity to numerous bus services along Botany Road.

A cycle lane exists adjacent to the Bourke Road frontage of the subject site which encourages bicycle use and alternative means of transport.

It is considered that the compliant bulk and scale of the building reflects the desired future character of the area and will not generate any unreasonable impacts on the locality.

This Clause 4.6 variation demonstrates that the proposed FSR:

- satisfies the relevant objectives of the FSR standard,
- satisfies the objectives of the B7 Business Park zone under *Sydney LEP 2012*
- is consistent with relevant State and Regional Planning Policies
- provides for a better planning outcome
- has sufficient environmental planning grounds to permit the variation
- is in the public interest

The combined effect of these assessments confirms that the flexible application of the FSR standard is appropriate in this instance, that the variation is well founded and that the FSR

standard is unreasonable and unnecessary in the circumstances of this development application.

1. Consistency with the objectives of the FSR standard in the LEP

The following assessment addresses each of the relevant criteria under Clause 4.6:

Clause 4.6 Floor Space Ratio:

1. *The objectives of this clause are as follows:*

a. *to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*

Assessment: The proposed additional floor space is considered to respond to the need for commercial space in this well serviced and convenient location. The proposed FSR provides for additional employment opportunities that will support the vitality of the Green Square commercial precinct, as desired by the suite of controls within the Sydney LEP and DCP. It is reiterated that the proposed FSR is contained within a compliant building envelope and is therefore consistent with the scale and intensity of the development anticipated by the controls.

b. *to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*

Assessment: The additional FSR is able to be provided in a compliant building envelope, as demonstrated by a compliant height and setbacks. It is therefore considered that the density of the development is suitable for the subject site.

The site is located in a well serviced area, being in close proximity to Green Square Railway Station and numerous bus services along Botany Road.

The proposal also provides a compliant level of parking within the basement levels of the proposed development.

The accompanying Traffic and Parking Assessment confirms that the proposal will not generate any unreasonable traffic impacts.

c. *to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*

Assessment: As discussed above, sufficient infrastructure exists to support the proposed additional FSR including Green Square Railway Station, numerous bus services along Botany Road and cycle lanes along Bourke Road.

The proposal also includes on-site parking for 16 cars, 4 motorcycles and 25 bicycles.

The proposal will not generate any unreasonable traffic impacts on the surrounding road network.

d. *to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*

Assessment: The proposed FSR variation does not generate any height, bulk or scale impacts which are out of character with that anticipated by the LEP and DCP controls. The

compliant height and number of storeys as well as front and rear setbacks ensures that no unreasonable amenity impacts to surrounding properties will be generated by the proposed development. In this regard, the additional FSR does not generate any adverse overshadowing, view loss or privacy impacts on the surrounding warehouse developments.

It is therefore considered that the proposed additional FSR is consistent with the desired future character of the locality.

2. Consistency with the objectives of the B7 Business Park zone

Objectives of zone

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To ensure uses support the viability of nearby centres.

Assessment: The proposed commercial building is permissible in the B7 Business Park zone.

The provision of an office premises on the subject site encourages employment opportunities and will support the viability of Green Square commercial centre. The site is conveniently located to a host of services being immediately east of Green Square Railway Station and the evolving Town Centre.

The proposal provides for a ground floor retail unit which will service the day to day needs of the workers in the area.

The proposed FSR is therefore not considered to generate any inconsistency with the zone objectives.

3. Consistency with State and Regional planning policies

Assessment: The proposed FSR variation ensures the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*. The provision of additional commercial floor space in close proximity to public transport and established services and recreation areas is consistent with State Government Urban Consolidation Policy.

4. The variation allows for a better planning outcome

Assessment: The additional floor space allows for increased employment opportunities on the subject site and will support the vitality of the Green Square commercial centre.

The proposed distribution of FSR on the site has been provided in an appropriate and skilful manner by the architect and a compliant FSR would compromise the efficient and well-planned commercial floor plates.

The well-serviced location of the subject site is considered to be able to support a greater FSR than that stipulated by the 2:1 LEP standard.

Given that there are no adverse streetscape or amenity impacts associated with the additional FSR, it is considered that the proposed FSR allows for a better planning outcome.

It is also noted that the site lies directly adjacent to the junction with sites to the east which have a greater FSR and height, noting that the sites to the east are permitted a height of 35m. Therefore, the proposed height, bulk and scale will sit comfortably alongside future development to the west and east of the site.

5. There are sufficient environmental grounds to permit the variation

Assessment: The positive and appropriate streetscape and amenity outcomes for the commercial building are considered to contribute to an appropriate built form outcome for the site and the broader locality.

The absence of environmental impacts to the surrounding warehouse buildings in regard to overshadowing, view loss, privacy and traffic generation confirms that there are sufficient environmental grounds to permit the variation in this instance.

The additional FSR allows for increased employment opportunities within a built form that achieves excellent internal amenity whilst also enhancing the public domain.

It is therefore considered that there are sufficient environmental grounds to support the proposed FSR variation.

6. The variation is in the public interest

Assessment: The above justification demonstrates that the proposed FSR satisfies the objectives of the standard and the zone and therefore confirms that the proposed FSR is in the public interest.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the FSR variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the FSR control.

It is also noted that there is no public benefit in maintaining the FSR standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation to the FSR standard is forwarded to Council in support of the development proposal at 15 Bourke Road, Alexandria and is requested to be looked upon favourably by Council.