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**DATE:**15/3/2024

**Project:** Proposed attached Dual Occupancy with Torrens title subdivision  
**Location:** 2 Handle Street Bass Hill

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## 1. Introduction:

This 4.6 variation Statement accompanies a Development Application.

## 2. Detail of Site:

**Address:** 2 Handle Street Bass Hill

**Site Details:** LOT 29

D.P. 2383462

**Site Area:** 719 m<sup>2</sup>

### The section 4.6 variation to address floor space ratio for Lot B:

This report is to be considered in conjunction with the Statement of Environmental Effects (SEE) for the application for the proposed attached dual occupancy, torrens title subdivision and demolition of existing structures.

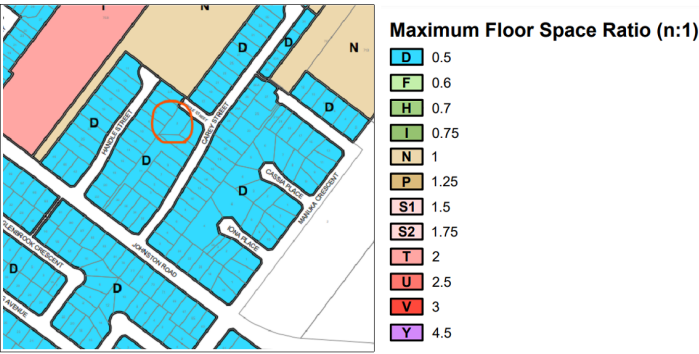
### Clause 4.6:

Pursuant to Clause 4.6 of the Bankstown LEP 2023 (BLEP 2023), this objection seeks to vary the FSR standard stipulated in Clause 4.4 that states:

(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.

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The relevant portion of the maximum Floor Space Ratio Map of the BLEP 2023 is shown on Figure 1 below. The maximum FSR for the site is 0.5:1.

3. Proposed Variation

The table below is an extract from the development data on the Cover Page (Sheet A5 SITE CALCULATIONS) of the submitted architectural plans and outlines the proposed variation.

SITE CALCULATIONS FOR LOT B	
FLOOR AREA CALCULATIONS	
SITE AREA:	291.4m <sup>2</sup>
AREA OF THE PROPOSED GROUND FLOOR:	88m <sup>2</sup>
AREA OF THE PORPOSED FIRST FLOOR:	83m <sup>2</sup>

4. Justification for the exception and matters for consideration

Compliance to Clause 4.6 BLEP

The following provides the justification with regards to the objectives of 4.6 of the BLEP

- (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.

Comment

The non-complying element of the proposed development is a 0.58 excess over the maximum FSR standard of 0.5:1 Of lot B, but total floor area for two dwellings is 0.49:1 < 0.5:1 . This numerical breach is considered acceptable as it is the outcome of a well balanced urban design solution to achieve maximum site yield without adversely impacting on the local character of the area.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

### **Comment**

Clause 4.6 of the BLEP allows a proponent to seek approval from Council for consent to be granted to an application that contravenes a development standard, in this case the maximum floor space ratio. As outlined in the SEE, the proposed development complies with other standards of BLEP and BDCP and will create a minimal impact on the locality and its surrounds; The SEE has demonstrated that there is no disruption to existing views, loss of privacy, overshadowing or visual intrusion despite numerical excess in the maximum FSR.

The Reason of having two lots in different sizes because the land is irregular shaped allotment and due sewer location . Two dwellings designed to achieve required Private open space and landscape area.

Two dwelling met council requirements regarding amenities and achieved maximum site yield without adversely impacting on the local character of the area

Based on the above, there is sufficient environmental planning ground to justify contravening the development standard.

- Clause 4.6 (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".

**Comment:** The FSR standard is not expressly excluded from variation.

- Clause 4.6 (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".

**Comment: As discussed below, it is unreasonable and unnecessary to require compliance with the FSR control as all key Clause 4.6 requirements are satisfied.**

- "(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposal does not result in an unreasonable scale or bulk of built form and will be consistent with streetscape and foreshore character of the locality. As above, the FSR proposed represents a technical non-compliance whereby the proposal sits well within the locality and presents a compatible built form, scale and bulk to other existing dwellings in the area, and to the desired building scale as intended by Clause 4.4 FSR controls.

- The non-compliance is minor: The non-compliance is minor, being only an 0.08:1 exceed of the maximum FSR for lot B, but total floor space ratio s 0.49:1<0.5:1

## **Conclusion**

In summary, compliance with the development standard restricting the maximum FSR is unreasonable and unnecessary. This is because the objectives of the development standard can still be achieved notwithstanding non-compliance. The development standard is not an end in itself but rather a means of achieving desired outcomes.

Council is therefore urged to support this Clause 4.6 objection.