

Request to Vary LEP Development Standards Pursuant to Clause 4.6

The Proposal involves development of a new Cultural and Civic Space for Coffs Harbour known as “*All Welcome*”. The proposed building is mixed use as described in the EIS. The proposed building height ranges from four to six storeys, plus rooftop plant room, lift overrun and services (and excluding basement). The bulk of the building reaches a maximum height of 26.8 m from ground level (Gordon Street) to the upper parapet, however on top of this roof there are services and a lift overrun, including enclosed plant room, set back from the building edge up to a height of approximately 29.24 m above natural ground level. It is noted that cooling towers are also positioned on the roof. The main body of the cooling towers reflect the height of the adjacent plant room; however, the cooling tower exhaust fans/vents would marginally exceed the building height by approximately 0.5 m (subject to final plant selection). For the purpose of calculating maximum building height, the exhaust fans/vents of the cooling towers have been excluded based on the definition in the LEP (being similar to chimneys and flues).

A variation to the provisions of Clause 4.3 (Height of Buildings) of the Coffs Harbour Local Environmental Plan (LEP) 2013, facilitated by Clause 4.6 (Exceptions to Development Standards) of the LEP 2013, is sought regarding the proposed building height. This is because the overall proposed maximum building height of approximately 29.24 m above natural ground level (to rooftop plant room) exceeds the 28 m height control that applies to the site as shown on the LEP 2013 Height of Buildings Map. Such a variation would have no unreasonable or adverse impact on the surrounding area or adjoining properties, and the objectives of Clause 4.3 of the LEP 2013 would still be achieved.

Clause 4.6 of the LEP 2013 allows for a level of flexibility in applying certain development standards and therefore variation/ contravention of the development standards on the basis of a written request from the applicant that seeks to justify the variation/ 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.*

This section outlines the variation request and provides justification as to why it is acceptable and supported by sound planning principles.

What is the name of the environmental planning instrument that applies to the land?

Coffs Harbour Local Environmental Plan (LEP) 2013

What is the zoning of the land?

B3 Commercial Core.

What are the objectives of the zone?

The site is zoned B3 Commercial Core. The objectives of this zone are:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure that the scale and nature of future development reinforces the role of the Coffs Harbour central business district as the primary commercial, employment and retail centre in the region.*

- *To ensure that the design of new commercial buildings makes a positive contribution to the streetscape through opportunities for improved pedestrian links, retention and creation of view corridors and the provision of a safe public domain.*

What is the development standard and clause being varied?

Height of Buildings - pursuant to Clause 4.3 of the Coffs Harbour LEP 2013.

What are the objectives of the development standard?

The objectives of Clause 4.3 of the Coffs Harbour LEP 2013 are:

- *To ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
- *To ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
- *To ensure that the height of future buildings has regard to heritage sites and their settings and their visual interconnections,*
- *To enable a transition in building heights between urban areas having different characteristics,*
- *To limit the impact of the height of a building on the existing natural and built environment,*
- *To encourage walking and decreased dependency on motor vehicles by promoting greater population density in urban areas.*

What is the numeric value of the development standard in the environmental planning instrument?

Maximum Building Height of 28 m (Height of Building Map, Sheet HOB_006D). Map accessible online at following website address:

https://www.legislation.nsw.gov.au/maps/2d416182-0adf-4b2c-b4d7-297b02f9551d/1800_COM_HOB_006D_020_20170719.pdf

What is the proposed numeric value of the development standard in the development application?

The Proposed maximum building height (to top of rooftop plant room) is 29.24 m above natural ground level (refer to plans at **Appendix B** of EIS).

What is the percentage variation (between the proposal and the environmental planning instrument)?

The maximum height proposed is 1.24 m over the building height control standard. This is equivalent to a 4.43 per cent variation to the development standard and is not significant. Furthermore, the majority of the proposed building, including the main form and storeys, is below the maximum building height. The variation is required to accommodate an enclosed plant room, services and lift overrun, that are setback from the outer walls of the main building form.

Objects of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The Proposal is consistent with the objects of the EP&A Act. It represents an important and worthwhile opportunity for development of significant cultural and civic facilities for the community. It offers revitalisation of an infill site that will also achieve and drive substantial public realm improvements. This includes the orderly and economic use and development of land in a centrally established location, and the ability to carry out a development that will have significant socio-economic benefits, with minimal environmental impact.

The Proposal will significantly enhance the site and overall streetscape, while being site responsive and appropriate in the context of the existing and emerging urban character. The development and associated improvements to the pedestrian experience and public realm will benefit the entire streetscape and surrounding businesses with improved access, appeal, activation and safety.

The development provides for mixed uses that have been thoughtfully integrated into a single building that will form a key cultural and civic hub for the city. A high-quality urban design outcome will be realised. The site is in an established location that has excellent access to goods, services and facilities. The Proposal will contribute to reinforcing the role of the Coffs Harbour CBD as the primary commercial, employment and retail centre in the region. This is directly consistent with the objectives of the B3 Commercial Core zone.

The design has considered the relevant matters to be addressed and sought to resolve them in the most effective and suitable manner, which results in the proposed building height. Whilst the height exceeds the development standard of the LEP 2013, this is not significant. The height has been restrained as much as practical and is consistent with other built form scales present and expected to emerge in Gordon Street. As discussed in the EIS, the urban design and built form outcomes are highly considered and acceptable. Strict compliance with the LEP 2013 height standard is not necessary and the objectives of the EP&A Act, the zone and building height standard would be upheld. The development will have public realm, arts, cultural, civic, and socio-economic benefits for the local and regional community.

Is the development standard a performance based control?

No, it is a prescriptive 28 m height limit for the site.

How and why would strict compliance with the standard, in this particular case, be unreasonable or unnecessary?

It would be both unreasonable and unnecessary to pursue strict compliance with the building height standard for the proposed development. The design response is highly considered and suitable for the context. The development balances the scale/height of the building with the intend use, respect for heritage and amenity, and is an efficient use of infill land resources that are situated in an established and central location of the city.

The main form of the building complies with the current 28 m height control, being 26.8 m from ground level (Gordon Street) to the upper parapet. The variation to the building height control is required due to a plant room, external plant and lift overrun on the roof, set back from the building edge and up to a height of approximately 29.24 m above ground level.

The EIS (at Sections 7.1 and 7.2) provides an overview of the design process, how design excellence has been achieved, and the overall built form and urban design considerations of the Proposal.

The proposed development:

- makes efficient use of an inner urban infill site;
- is consistent with the CBD Masterplan;
- is compatible with the commercial core land use context and existing and emerging commercial/civic character, that also anticipates and supports denser and taller developments;
- provides for ESD initiatives;
- supports the revitalisation of the site;
- will stimulate and deliver significant public realm improvements, including pedestrian linkages and streetscape activation; and
- delivers high quality cultural and civic facilities for the community in a well serviced and accessible location, consistent with planning objectives.

The objectives of the building height development standard would be upheld as the design is site responsive and would have minimal environmental and amenity impact, while delivering significant socio-economic benefits for the local and regional community. Strict compliance with the 28 m standard is not necessary to achieve the objectives. The Proposal appropriately responds to the local character (existing and emerging) and is consistent with the direction/policy for growth and development of the Coffs Harbour CBD. The proposed maximum height (1.24 m over the standard of 28 m) is not a significant departure from the standard. The element of the building that exceeds the height standard is limited to rooftop plant room and services which are well setback from the edges of the main building form and the street frontages. This arrangement would largely conceal their appearance from street level and no unreasonable amenity impacts would result.

There has been a recent significant extension to Coffs Central (main CBD shopping centre), involving a multi-storey retail and office development, plus hotel (approved in 2017). This development significantly exceeded the 17 m height standard for this site, allowing a building of approximately 39 m or 11 storeys. This development is located approximately 70 m south-west from the subject site. In response to this, and the desire to stimulate investment in the CBD, Council resolved to review the CBD height limits. In early 2019 a Planning Proposal was exhibited by Council that intends to amend the LEP 2013 to permit a large area of the CBD, proximal to the site, to accommodate buildings up to 44 m (currently 17 m controls generally apply). Additionally, a short distance to the east and north of the site, the LEP 2013 allows for building heights up to 40 m. These examples demonstrate the appropriateness and desired character/future development potential of the Coffs Harbour CBD, supported by sound planning principles. The Proposal is situated in an area that can and could (subject to the Planning Proposal) accommodate built form ranging from 28-44 m in height, highlighting the appropriateness of its height.

The building is highly articulated and visually interesting. Given the site context, use of the building, small scale of the variation required, and the high-quality urban design outcome, it would be unreasonable to impose strict compliance with the height standard. Enforcing the height standard would result in a largely imperceptible change to the scale of the building. However, such an imposition would compromise the design and impact internal functions and amenity.

Approving the height variation is considered an environmentally, socially and economically responsible decision and is consistent with the objective of the height standard under the LEP 2013.

Are there sufficient environmental planning grounds to justify contravening the development standard?

There are sufficient environmental planning grounds to justify contravening the building height development standard for the Proposal. Approval of a variation to the building height standard is integral to its success and the functional design needs of the building. In this instance, a variation is justified as the objectives of the standard would still be achieved notwithstanding noncompliance with the standard. The standard's objectives primarily relate to ensuring building height is appropriate for the area in which the development is situated, that it does not adversely impact amenity and that taller developments are located in more structured urbanised areas and adequately serviced.

The development would revitalise the site, enhance the public realm and appropriately integrates into the commercial core of Coffs Harbour where denser and higher developments are anticipated and supported by policy. The design response integrates with the streetscape and the overall height, massing, articulation and character of the building are acceptable as addressed in the EIS.

There would be no significant environmental, heritage, visual or off-site amenity impacts. The objectives of the building height standard would be upheld by the Proposal. Surrounding sites and precincts within the Coffs Harbour CBD are currently permitted to have building heights up to 40 m. A Planning Proposal exhibited by Council in early 2019 intends to amend the LEP 2013 to permit a

large area of the CBD, proximal to the site, to accommodate buildings up to 44 m in height (as shown in Plate 1). A submission on behalf of Council was made during the exhibition of the Planning Proposal that advocated that the subject site and immediate surrounds should also be included in the proposed amendment to building height controls (44 m).



Plate 1 - Proposed Height of Building Mapping in the exhibited Planning Proposal

The development will stimulate socio-economic benefits and achieve positive outcomes for the community and locality in terms of economic investment, improved arts and cultural facilities for the community, and substantial public realm improvements. The development, through the provision of a variety of uses, seamlessly integrated into the one cultural and civic hub presents an innovative and attractive utilisation of an inner urban site within a key regional city. The building is located in an established and serviced urban area (being the commercial and civic core of Coffs Harbour) which can, and is encouraged by existing and draft planning policy, to support growth and denser/higher development. This is further reinforced as the development has excellent access to goods, services and facilities, and would promote walking and cycling modes of transports. As outlined in the EIS, the Proposal is consistent with the CBD Masterplan and has been designed to effectively integrate with improvements to Riding Lane and Gordon Street.

Considering the objectives of the B3 Commercial Core zone in which the Proposal is located, the Proposal and height variation are further justified as it would attain the primary objectives for this zone without any unreasonable detriment to the locality or other surrounding land uses as follows:

- The zone is to provide for a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community. This Proposal directly achieves this.
- The Proposal supports employment opportunities in an accessible setting and would stimulate economic activity.

- Given the setting of the site, public realm improvements and inclusion of alternative transport facilities, the development would facilitate walking, cycling and use of public transport. This is directly consistent with the zone objectives.
- The Proposal is entirely consistent with ensuring that the scale and nature of future development reinforces the role of the Coffs Harbour CBD as the primary commercial, employment and retail centre in the region.
- The Proposal involves a high quality and site responsive design of a new building that makes a positive contribution to the streetscape through improved pedestrian links, retention and creation of view corridors and the provision of a safe and activated public domain.

Based on these considerations, the Proposal and associated variation remain consistent with the objectives and intent of the LEP 2013. The variation is relatively minor and is acceptable and supported by both the physical and environmental planning context of the site. It is a reasonable request that would on balance result in a positive development outcome and one that would be in the public interest. Approval of such a variation would not result in undesirable outcomes or cumulative impacts, and is justified on its merits and sound planning grounds.