

ANNEXURE 3

**Submission under Clause 4.6
of Shoalhaven LEP 2014**

prepared by

Cowman Stoddart Pty Ltd

**PROPOSED MODIFICATION TO
ETHANOL DISTILLERY PLANT TO INCREASE
THE PROPORTION OF "BEVERAGE" GRADE
ETHANOL PRODUCED
MODIFICATION TO THE SITING AND TYPE
OF EVAPORATOR APPROVED UNDER MOD. 2
STRUCTURES AND ASSOCIATED WORKS
IN EXCESS OF ELEVEN METRE
MAXIMUM BUILDING HEIGHT LIMIT**

**Lot 1 DP 838753, Lot 241 DP 1130535 and
Lot 143 DP 1069758
160 Bolong Road
Bomaderry**

Prepared for

Shoalhaven Starches Pty Ltd

November 2016



Prepared by:

COWMAN STODDART PTY LTD

Town Planning, Agricultural & Environmental Consultants

SUBMISSION UNDER
CLAUSE 4.6 OF SHOALHAVEN LEP 2014

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ETHANOL DISTILLERY PLANT TO INCREASE
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IN EXCESS OF ELEVEN METRE
MAXIMUM BUILDING HEIGHT LIMIT
(Clause 4.3(2A) Shoalhaven LEP 2014)

Lot 1 DP 838753, Lot 241 DP 1130535 and
Lot 143 DP 1069758
NO. 160 BOLONG ROAD
BOMADERRY

Ref. 15/45

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FIGURES

- Figure 1** Site Locality Plan
 (extract from Shoalhaven City Council)
- Figure 2** Aerial Photograph of Shoalhaven Starches
 Factory Site

1.0 INTRODUCTION

This submission has been made in support of a modification application to the existing ethanol distillation plant to enable an increase in capacity of the plant to produce up to 110 ML/year of beverage grade ethanol. This proposal will not involve an increase in overall ethanol production above the current approved 300 ML/year. Rather it will enable greater flexibility in the **type** of ethanol that is produced from the plant within the existing Shoalhaven Starches factory site at Bolong Road Bomaderry.

The site is zoned IN1 General Industrial under the provisions of Shoalhaven LEP (SLEP) 2014. There are no specific maximum building height provisions specified for the subject site on mapping supporting the LEP. Clause 4.3(2A) of the Shoalhaven LEP stipulates that if no height limit is specified then a maximum height of any buildings is to be eleven (11) metres.

The proposal seeks Council's consent to erect a range of storage tanks and columns and other structures that will have heights ranging from 19 metres to 46 metres in height. The proposed structures will therefore exceed the 11 m building height limit set by Clause 4.3(2A) of SLEP 2014.

Clause 4.6 of Shoalhaven LEP 2014 deals with exceptions to development standards and provides that Council may consent to a development even though it contravenes a development standard. The provisions of Clause 4.6 require that a written request accompany a proposal that justifies the contravention of a development standard.

This submission has therefore been prepared pursuant to Clause 4.6 and provides justification that the proposal is appropriate and that strict compliance with the provisions of Clauses 4.3(2A) are unreasonable and unnecessary under the specific circumstances associated with the application.

2.0 DESCRIPTION OF SITE AND SURROUNDS

The Shoalhaven Starches Factory site is situated on various allotments of land on Bolong Road, Bomaderry within the City of Shoalhaven. The factory site is located on the south side of Bolong Road on the northern bank of the Shoalhaven River. The factory site (excluding the former Dairy Farmers site) has an area of approximately 12.5 hectares.

This development application concerns land located at 160 Bolong Road Bomaderry (Lot 1 DP 838753, Lot 241 DP 1130535 and Lot 143 DP 1069758).

The town of Bomaderry is located 0.5 km (approx.) to the west of the factory site, and the Nowra urban area is situated 2.0 km to the south west of the site. The “Riverview Road” area of the Nowra Township is situated approximately 600 metres immediately opposite the factory site across the Shoalhaven River.

The village of Terara is situated approximately 1.5 kilometres to the south east of the site, across the Shoalhaven River. Burruga (Pig) Island is situated between the factory site and the village of Terara and is currently used for dairy cattle grazing.

There are a number of industrial land uses which have developed on the strip of land between Bolong Road and the Shoalhaven River. Industrial activities include a metal fabrication factory, the Shoalhaven Starches site and the Shoalhaven Paper Mill (Australian Papers). The industrial area is serviced by a privately owned spur railway line that runs from just north of the Nowra-Bomaderry station to the starches plant.

The state railway terminates at Bomaderry with a separate, privately owned spur line to the factory site. Shoalhaven City Council sewerage treatment works is situated between the railway line and the factory.

The Company also carries out irrigation activities on the Company’s Environmental Farm located over 1000 hectares on the northern side of Bolong Road. This area is cleared grazing land and also contains spray irrigation lines and wet weather storage ponds). These wet weather storage ponds on the farm form part of the irrigation management system for the factory.

The proposed works associated with this modification application to be situated entirely within the factory site located on the southern side of Bolong Road and the west of Abernethys Creek.

The land is zoned IN1 General Industrial pursuant to Shoalhaven Local Environmental Plan (SLEP) 2014. Mapping that supports the SLEP 2014 does not identify the subject site as having a specified building height limit. The provisions of Clause 4.3(2A) of the SLEP state that if no height limit is specified for a parcel of land then a maximum building height of eleven (11) metres applies.

Figure 1 is a site locality plan, whilst **Figure 2** is an aerial photo of the locality.

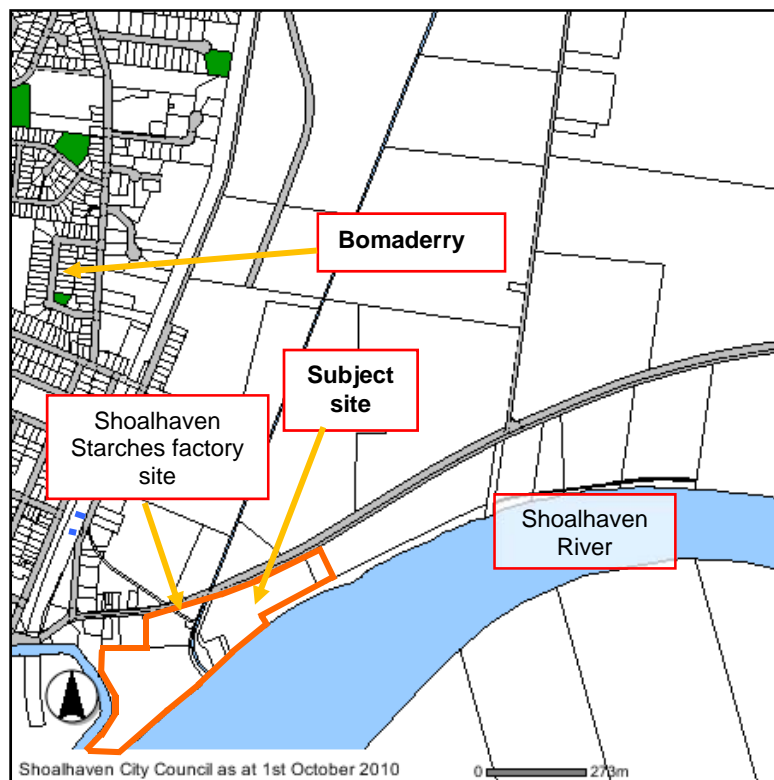


Figure 1: Site locality plan.



Figure 2: Aerial photograph of Shoalhaven Starches factory site.

3.0 THE PROPOSAL

This submission made pursuant to Clause 4.6 of the SLEP 2014 supports a modification application that seeks approval from the NSW Department of Planning & Environment to undertake modifications to the ethanol distillery and relocate an approved evaporator. The works will involve a number of structures which will have heights ranging from 19 to 46 metres.

3.1 JUSTIFICATION FOR PROPOSAL

The objective of Shoalhaven Starches Expansion Project which was the subject of the Project Approval MP06_0228 sought to increase ethanol production at the site to meet the expected increase in demand for ethanol arising from the NSW Government's mandate to increase the blending of ethanol in the total of volume of petrol sold in NSW towards an ethanol content of 10% by 2011.

Unfortunately the expected increase in demand for ethanol to meet the demand arising from this mandate has not occurred due largely from a failure of the mandate to be imposed on petroleum suppliers.

As a result Shoalhaven Starches have been investigating alternative markets for the ethanol that is and will be produced at their Bomaderry plant in accordance with the Project Approval. One such market is the "beverage" market where ethanol is further treated and purified to enable it to meet stringent beverage grade specifications and pass organoleptic testing requirements (ie. taste and odours) to enable it to be utilised in the production of alcoholic drinks.

Shoalhaven Starches therefore propose to undertake modifications to the existing ethanol distillation plant to enable an increase in capacity of the plant to produce up to 110 ML/year of beverage grade ethanol. This proposal will not involve an increase in overall ethanol production above the current approved 300 ML/year. Rather it will enable greater flexibility in the **type** of ethanol that is produced from the plant.

4.0 CLAUSE 4.3 OF SHOALHAVEN LEP 2014

Clause 4.3 of Shoalhaven LEP 2014 stipulates the following:

4.3 Height of buildings

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
 - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
 - (c) *to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*
- (2A) *If the Height of Buildings Map does not show a maximum height for any land, the height of a building on the land is not to exceed 11 metres.*

Mapping supporting the SLEP 2014 does not identify a maximum building height that applies to this land. Under these circumstances, and having regard to Clause 4.3(2A) a maximum building height of 11 metres applies to the subject site.

The heights of the works associated with this modification application will be above the eleven metre maximum building height limit. The development therefore does not comply with the provisions of Clause 4.3(2A) of Shoalhaven LEP 2014.

5.0 **CLAUSE 4.6 OF SHOALHAVEN LEP 2014**

Clause 4.6 of Shoalhaven LEP 2014 stipulates:

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.*
- (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.*

Note. *When this Plan was made it did not include all of these zones.*

- (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 6.1 or 6.2*

5.1 CLAUSE 4.6 AND ITS USE

Clause 4.6 of the SLEP 2014 sets out the general principle that a development standard may be varied where strict compliance can be shown to be unreasonable or unnecessary in the circumstances of the case; and that there are sufficient environmental planning grounds to justify contravening the development standard.

Before applying the discretionary power of Clause 4.6 the consent authority must be satisfied that the standard for which the departure is sought is a "development standard" and not a matter which would prohibit the proposal.

A development standard is defined within Section 4 of the EP&A Act.

"Development standard" means provisions of an environmental planning instrument in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of -

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or works, or the distance of any land, building or work from any specified point;*

- (b) the proportion or percentage of the area of a site which a building or work may occupy;*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work;*
- (d) the cubic content or floor space of a building;*
- (e) the intensity or density of the use of any land, building or work;*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment;*
- (g) the provision of facilities for the standing, movement, parking, servicing manoeuvring, loading or unloading of vehicles;*
- (h) the volume, nature and type of traffic generated by the development;*
- (i) road patterns;*
- (j) drainage;*
- (k) the carrying out of earthworks;*
- (l) the effects of the development on patterns of wind, sunlight, daylight or shadows;*
- (m) the provision of services, facilities and amenities demanded by the development;*
- (n) the emission of pollution and means for its prevention or control or mitigation; and*
- (o) such other matters as may be prescribed.*

Having regard to the definition of “*development standard*”, particularly paragraph (c), it is considered that Clause 4.3 contains a development standard limiting the height of a building. Furthermore, Clause 4.3 is contained in Part 4 of the Shoalhaven LEP, which contains the primary development standards outlined in the LEP. This reinforces the contention that the provisions of Clause 4.3 are a development standard. Such a development standard is therefore open to a written request made pursuant to Clause 4.6.

A consent authority must also be satisfied of three matters (pursuant to the provisions of Clause 4.6) before it may agree with the written request and grant development consent to a development application for development that could, but for a development standard, be carried out with development consent.

First, the request is to be in writing (Clause 4.6(3)), demonstrate that the compliance with that development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a)) and that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

Secondly, the consent authority must also be satisfied that 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 (Clause 4.6(4)(a)(ii)).

Finally, the consent authority can only grant development consent for a development that contravenes a development standard if the concurrence of the Secretary (formerly Director General) of Planning and Infrastructure has been obtained (Clause 4.6(4)(b)).

The Secretary in deciding whether to grant concurrence must consider pursuant to Clause 4.6(5):

- (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.*

As this matter does not concern the subdivision of land zoned *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* the provisions of Clause 4.6(6) are also not applicable to this proposal and are not further addressed in this written request.

This submission has been prepared having regard to the above relevant matters.

5.2 DEPARTMENT OF PLANNING AND INFRASTRUCTURE GUIDELINES

The Department of Planning and Infrastructure has produced a document entitled “*Varying Development Standards – A Guide*” dated August 2011. This document updates the former Circular B1 which applied to *State Environmental Planning Policy No. 1 (SEPP No. 1) - Development Standards* to include the relevant matters applying under Clause 4.6 where the Standard Instrument LEP has been adopted.

The Guidelines build upon the matters outlined above and in Clause 4.6 itself, and also stipulates that the application should address the “five part test”. In this regard, the Land and Environment Court (*Wehbe v Pittwater Council [2007] NSWLEC827 (21 December 2007)*) has set out a “five part test” for consent authorities to consider when assessing a proposal that seeks to vary a development standard. The “five part test” is as follows:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

Relevant matters are addressed in Section 7.0 below.

6.0 ASSUMED CONCURRENCE

The Guidelines prepared by the Department deal with the concurrence requirements of proposals reliant upon an exception to development standards. Where a Standard Instrument LEP applies, as is the case with this proposal and the provisions of Shoalhaven LEP 2014, the Guidelines reference Planning Circular PS 08-003 issued in May 2008 and which advises that the concurrence can be assumed with respect to all environmental planning instruments that adopt Clause 4.6, or a similarly worded clause, providing for exception to development standards.

The concurrence of the Secretary of the Department of Planning and Infrastructure can therefore be assumed with respect to this proposal.

7.0 THE REQUEST

7.1 WRITTEN REQUEST JUSTIFYING CONTRAVENTION OF CLAUSE 4.3 SLEP 2014

This written request seeks to justify the departure to the provisions of Clause 4.3(2A) of the SLEP 2011 which imposes a maximum building height of eleven (11) metres. The proposal seeks to erect a range of structure, columns and storage tanks within the existing Shoalhaven Starches factory site associated with proposed modifications to the Ethanol Distillery Plant and relocation of an approved evaporator, that will have heights ranging for 19 metres to 46 metres in height above ground level.

This written request demonstrates that compliance with Clause 4.3(2A) of SLEP 2014 is unreasonable and unnecessary given the specific circumstances of this case; and that there are sufficient environmental planning grounds to justify contravention of the maximum height limit.

7.1.1 Objectives Underpinning Clause 4.3 are Achieved

Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC827 (21 December 2007) provides commentary with respect to establishing whether compliance with a development standard is unreasonable or unnecessary under the specific circumstances of a particular matter. Whilst this case related to the use of SEPP 1, given the similarities between the objects of SEPP No. 1 and Clause 4.6 the findings of Preston CJ does provide guidance with respect to the implementation of this clause.

According to Preston CJ one of the most commonly invoked ways to establish that compliance with the development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

As outlined in Section 6.2 above, the objectives underpinning the development standard – in this instance the maximum building height of eleven metres is a relevant consideration in determining whether strict compliance with that standard under the specific circumstances of the case would be unreasonable or unnecessary.

The objectives of the height of buildings standard are expressly stated in Clause 4.3 as follows:

- (1) *The objectives of this clause are as follows:*
- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
 - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
 - (c) *to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

The above objectives in my view provide a clear understanding of the purposes underpinning the building height standard outlined in Clause 4.3(2A) and which applies to the subject site.

This written submission will demonstrate that this proposal will not prevent the above objectives from being achieved notwithstanding non-compliance with the eleven metre height restriction development standard in the specific circumstances of this case.

Having regard to the objectives of Clause 4.3, it is my view that the proposal is not inconsistent with these for the following reasons:

- The proposal seeks consent to erect works associated with the proposed Beverage Grade Ethanol Plant will include the erection of storage tanks, columns and tanks that will have heights ranging from 19 m to 46 m at the Shoalhaven Starches site. The proposed works will not be dissimilar to existing structures within the existing Shoalhaven Starches complex. The building forms, heights, shapes and characteristics are also similar to those that presently exist on the site, and will conform to the visual character of the site, ie. it is industrial development within an industrial setting. Detailed plans of the proposed development are attached as **Annexure 2** to the EA.

The subject site is zoned IN1 general industrial and the proposed development meets the current and desired future character of the locality in which it is sited.

- The proposed development will have a limited visual impact. The bulk and scale of the structures associated with this modification application will not be dissimilar to that of other industrial type development associated with the existing factory site. Furthermore the proposed works will be sited within proximity of similar structures of a similar nature. The works will be sited in the midst of the existing factory complex, and will be viewed within this context. As such this development will not diminish the

views of existing development. The visual impact of the modification proposal is discussed in Section 8.5 of the EA.

- The development will not lead to excessive overshadowing of foreshore areas given the existing shadows cast by existing development and the nature of the foreshore in this locality.
- The proposed development site is not subject to a heritage listing under the provisions of SLEP 2014 nor is it sited within the in the vicinity of a heritage item or within a heritage conservation area.
- The proposed development has been designed to comply with all relevant statutory planning provisions applying to this form of development.

Given these circumstances, it is our view that the works associated with this modification proposal will not be inconsistent with the prevailing character of this locality; or the envisaged character of the area given the planning provisions applying to the land, and will therefore not be inconsistent with the objectives outlined in Clause 4.3(1) of SLEP 2014.

7.1.2 Environmental Planning Grounds that Justify Contravening Development Standard

The written request is also required to demonstrate that there are sufficient environmental planning grounds to justify contravening the eleven metre height restriction.

- The proposal is not inconsistent with state and regional planning provisions applying to this land.
- The proposal is consistent with the objectives and is permissible within the IN1 zone that applies to the land.
- Despite non-compliance with 11 metre height restriction, the proposal is consistent with the stated objectives of Clause 4.3 as they relate to the building height requirements as outlined above in Section 7.1.1 of this written request.
- The proposed development is representative of the prevailing character of the locality, ie industrial development within an industrial zone and is of a height consistent with buildings already existent on the development.
- The subject site is eminently suitable for the proposal development.

7.1.3 Public Interest

The written request is also required to demonstrate that 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.

Section 7.1.1 of this submission demonstrates that the proposal will be able to satisfy the objectives of the development standard as enunciated within Clause 4.3 notwithstanding contravention of the eleven metre height restriction.

The subject site is zoned IN1 General Industrial under the provisions of the Shoalhaven Local Environmental Plan 2014.

The objectives of the IN1 zone are:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

It is our view that the proposal is not inconsistent with the above objectives:

- The site is an existing factory complex and the development will ensure that land that is zoned for industrial purposes is fully utilised for that purpose.
- The proposed works will support and protect both the industrial use of the subject site and the employment opportunities provided by Shoalhaven Starches.
- Section 8.5 of the EA addresses the visual impact of the proposal and concludes that the proposal will not adversely impact the scenic amenity of this locality.

Given the proposal is consistent with the objectives that underpin Clause 4.3 and is consistent with the objectives of IN1 zone that apply to the land. It is our view that the proposal will be in the public interest having regard to clause 4.6(4)ii) of SLEP 2011.

7.1.4 Clause 4.6(5) Matters for Consideration by Director-General

As outlined the concurrence of the Director-General is to be assumed in this case.

- As identified in the original EA for the SSEP the overall proposal is consistent with state and regional planning provisions that apply to the site.
- As outlined in Section 7.1 of the submission it is our view that the proposal is in the public interest.

Under these circumstances it is my view that this objection made pursuant to Clause 4.6 is well founded and strict compliance with Clause 4.3(2A) of Shoalhaven LEP 2014 would be unreasonable under the specific circumstances of this case as:

- The objectives that underpin the development standard outlined in Clause 4.3 of Shoalhaven LEP are achieved notwithstanding non-compliance with the development standard.
- This proposal is consistent with state and regional planning provisions applying to this land.
- The proposal is consistent with the objectives of the IN1 zone that applies to the land.
- Despite non-compliance with the eleven metre height restriction, the proposal is consistent with the stated objectives of Clause 4.3 as they relate to the height of building requirements as outlined above in this written request.
- The proposed development is representative of the prevailing character of the locality, ie. industrial development within an industrial zone.
- The modified proposal is of a form, bulk and height consistent with buildings already existent on the development.
- The underlying purpose of the proposed works associated with this modification application would be defeated if compliance was required as restricted height would limit the ability to construct the proposed modifications and their associated infrastructure and therefore compliance is unreasonable. Such would have an adverse impact on the ongoing operations on the site.
- The subject site is eminently suitable for the proposal development.

Although well considered, the eleven metre height restriction for the broader Shoalhaven encapsulated within Clause 4.3 should not be rigidly enforced as a development standard in all cases.

This submission demonstrates that the variation to the development standard sought by this proposal is consistent with the objectives of the state, regional and local planning provisions for this site. It is my opinion that strict compliance with this development

standard under the specific circumstances of this case would be unreasonable and unnecessary.

For these reasons, this submission pursuant to Clause 4.6 requests that the Department exercise the discretionary power and support this proposal and the development application.

A handwritten signature in black ink that reads "Stephen Richardson." The signature is written in a cursive, flowing style.

Stephen Richardson
TOWN PLANNER CPP MPIA