



# REQUEST TO VARY A DEVELOPMENT STANDARD

## CLAUSE 4.6 VARIATION STATEMENT

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### Request to vary clause 6.9.e in UPPER LACHLAN LEP

Address: 14 PEELWOOD ROAD LAGGAN NSW 2583

LOT 1/-/DP 583484

Date: 04/04/2024

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### Site and proposed development

#### 1. Describe the site.

*Please provide the address and describe any features of the site.*

The former St Andrews Catholic Church is proposed to be adapted as a house. The church is listed as a heritage item on the Upper Lachlan Shire Council LEP. The building is the main feature on the site.

#### 2. Describe the proposed development.

*Please provide details about the proposed development, including land use and works*

The proposal is to adapt the interior of the former church into a three-bedroom residence with a mezzanine.

## Planning instrument, development standard and proposed variation

### 3. What is the environmental planning instrument/s you are seeking to vary?

*Please identify the relevant Local Environmental Plan or State Environmental Planning Policy that you seek to vary.*

Clause 4.6 of the Upper Lachlan Local Environment Plan 2010 states the following:

#### **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 to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—

The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(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 C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 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.

(7) (Repealed)

(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,
- (caa) clause 5.5.

Clause 6.9.e of the Upper Lachlan Local Environment Plan 2010 states the following:**6.9 Essential services**

Development consent must not be granted to development unless the consent authority is satisfied that those of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—

...

(e) suitable road access.

**4. What is the site's zoning?**

*Please identify the land use zone that applies to the site.*

RU5: Village

**5. Identify the development standard to be varied.**

*Please identify the name of the development standard being varied (for example, minimum lot size, floor space ratio, height of building), its relevant environmental planning instrument clause and the objectives of the development standard.*

Provision of no road access.

**6. Identify the type of development standard.**

*Please identify if the development standard you are seeking to vary is numeric or non-numeric. For more guidance, see Part A, Chapter 1.3 of this guide.*

Numeric

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

*This should be specific and address all non-compliance. Please see the relevant environmental planning instrument to determine the numeric value of the development standard for your site.*

1.

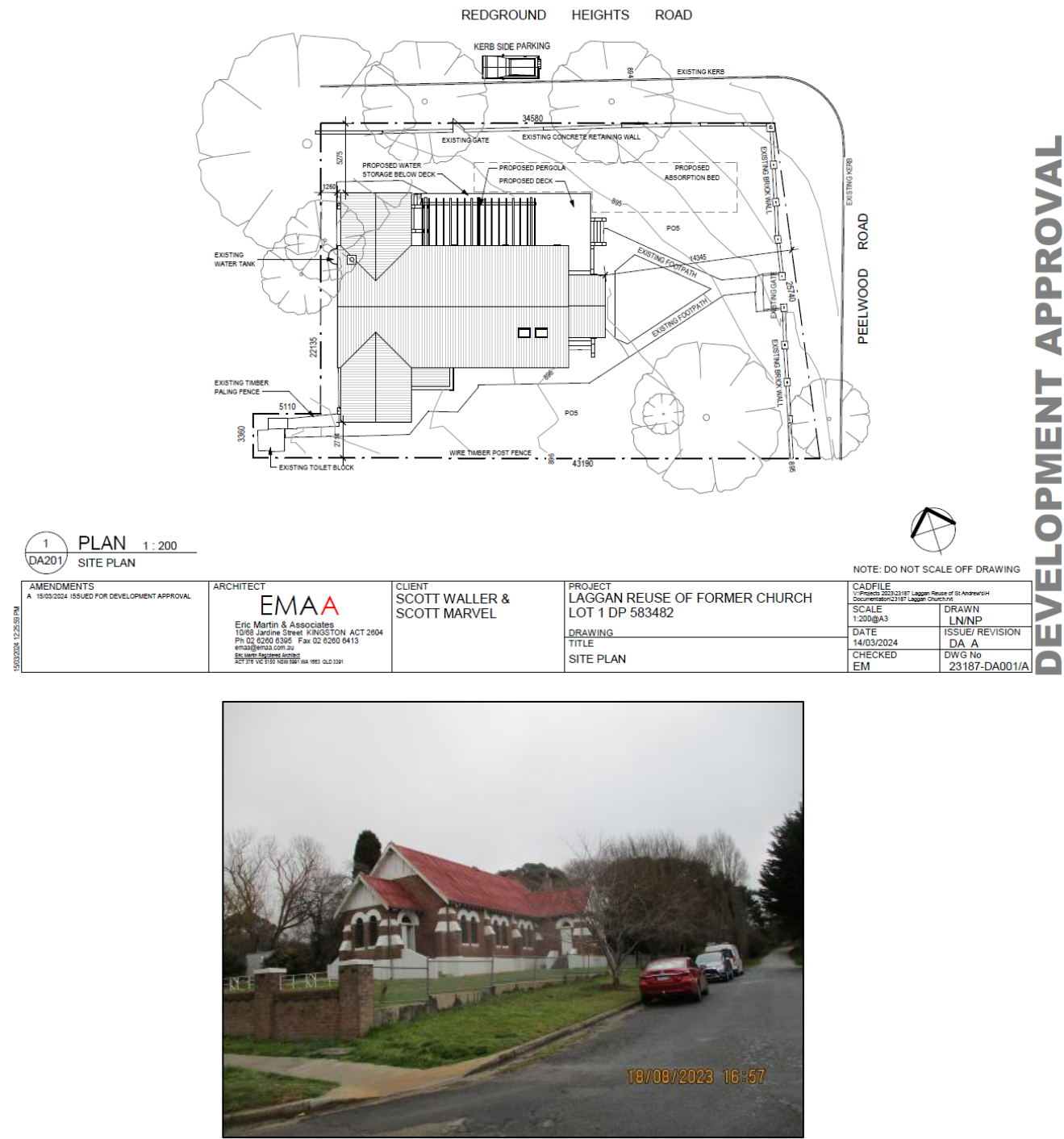
**8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?**

*For example: The proposal exceeds the maximum \_\_\_\_\_ development standard by \_\_\_\_\_, which is a percentage variation of \_\_\_\_%.*

Nil so 100%

9. Visual representation of the proposed variation (if relevant)

If relevant, provide a diagram or image showing the proposed variation.



## Justification for the proposed variation

### 10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

*There are 5 common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary (items a to e). An applicant must satisfy at least one. This list is not exhaustive – there may be other ways available.*

a) Are the objectives of the development standard achieved notwithstanding the non-compliance? *(Give details if applicable)*

b) Are the underlying objectives or purpose of the development standard not relevant to the development? *(Give details if applicable)*

c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? *(Give details if applicable)*

Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard? *(Give details if applicable)*

e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary? *(Give details if applicable)*

The site is heritage listed on the Council LEP and contains a retaining wall and fence around the site. These are part of the heritage fabric and setting of the former church, raising its presence and dominant position in the village.

To contemplate road access means cutting through the retaining wall and substantial intrusion into the site which was considered to adversely affect the significance of the place.

The site is within the village and the side road Redground Heights Road has low volume and one house and it is considered that there is plenty of street parking capacity to accommodate the parking requirements of the site.

In summary the heritage significance would be adversely affected by providing road access to the site and there is plenty of capacity in the street to accommodate the parking needs.

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

*Note: Environmental planning grounds are matters that relate to the subject matter, scope and purpose of the EP&A Act including the Act's objects (see Part A, Chapter 2.6 of this guide). They must relate to the aspect of the proposed development that contravenes the development standard and not simply promote the benefits of the development as a whole. You must provide substantive justification as to why the contravening the development standard is acceptable.*

We believe the heritage issues and adverse impact on the significance of the site are sufficient grounds to support the proposal.

**12. Is there any other relevant information relating to justifying a variation of the development standard? (If required)**

Please provide any other information that you feel is relevant in justifying your proposed variation to the development standard.

No.

Yours faithfully



Eric Martin, AM

*Director*

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