

Request to Vary LEP Clause 4.3 Development Standard Pursuant to Clause 4.6 of the Bellingen Local Environmental Plan 2010

The proposal is for a new residential flat building (affordable housing), including the construction of four 2-storey buildings to accommodate 23 one-bedroom dwellings and one level of basement carparking to accommodate 24 parking spaces, access via a new vehicle entry point on Watson Street.

A variation to the provisions of Clause 4.3 (Height of Buildings) of the Bellingen Local Environmental Plan (BLEP) 2010, facilitated by Clause 4.6 (Exceptions to Development Standards) of the BLEP 2010, is sought in regard to the proposed building height. This is because the proposed maximum building height of 11.01 m (at the western side of the building) exceeds the 10 m height control that applies to the entire Bellingen Shire as shown on the BLEP 2010 Height of Buildings Map.

Clause 4.6 of the BLEP 2010 allows for a level of flexibility 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.

Such a variation would have no unreasonable or adverse impact on the surrounding area or adjoining properties, and the objective of Clause 4.3 of the BLEP 2010 would still be achieved.

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

Bellingen Local Environmental Plan (BLEP) 2010

What is the zoning of the land?

R1 General Residential

What are the objectives of the zone?

- To provide for the housing needs of the community.*
- To provide for a variety of housing types and densities.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To ensure that any non-residential land uses permitted within the zone are compatible with the amenity of the area.*
- To ensure that the height and scale of buildings are compatible with a low density residential character.*

What is the development standard and clause being varied?

Height of Buildings – pursuant to Clause 4.3 of the BLEP 2010.

What are the objectives of the development standard?

To restrict the height of buildings in a manner that preserves the character and amenity of localities in Bellinghen.

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

Maximum building height of 10 m

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

The proposed maximum building height is 11.01 m (refer to plans at **Appendix A** of SEE).

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

The maximum height proposed is equivalent to a 10.1 per cent variation to the development standard and is not significant. Furthermore, the majority of the proposed building is below the maximum building height.

How would strict compliance hinder the attainment of the objects specified in Section 5(a) (i) and (ii) of the Act?

S5(a)(i) To encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

S5(a)(ii) To encourage the promotion and co-ordination of the orderly and economic use and development of land

The proposal for redevelopment of a site within proximity of the main street commercial area of Bellinghen with a two-storey affordable housing development, represents an important and worthwhile opportunity for revitalisation and provision of much needed housing diversity. The proposal will have great socio-economic benefits, with minimal environmental impact.

The existing hostel on the site is not currently in use, as it is no longer fit for purpose and requires redevelopment. This is an underutilisation and an inefficient use of valuable land that also detracts from the valued heritage streetscape and public realm/ pedestrian experience. The proposal represents an improvement in the appearance of the site and overall streetscape, whilst harmonising with the local heritage character. The development provides for greater housing supply and choice in an established location that has excellent access to goods, services and facilities.

These aspects contribute toward the achievement of the objectives of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The development will have aesthetic and socio-economic benefits for the local community of Bellinghen.

The design has taken into account 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 BLEP 2010, this is not significant. The height has been restrained as much as practical and is consistent with other built form scales in the street and surrounds. As discussed within the SEE, this

development could not viably progress if strict compliance with the height standard was imposed and this would hinder the achievement of the objectives of the EP&A Act.

Is the development standard a performance based control?

No, it is prescriptive.

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. It has been determined that in order to facilitate the proposed redevelopment, the most effective utilisation of the site requires a proposal that balances financial viability, respect for heritage and an efficient use of infill land resources that are situated in an established and central location of the township.

The SEE (at Section 3) provides an analysis of the building design. A single storey plus basement car park option is not the most efficient use of land resources in this context, nor would it be financially viable. Such an option would also forgo the worthy opportunity to provide a greater number of affordable housing units.

The proposed two-storey plus basement car park development:

- *makes efficient use of the site;*
- *is in keeping with the Bellinghen Heritage Conservation Area;*
- *provides for significant ESD initiatives;*
- *supports the revitalisation of the site and delivers more housing supply and choice in a well serviced and accessible location, consistent with planning objectives; and*
- *is financially viable.*

The objective of the building height development standard is *to restrict the height of buildings in a manner that preserves the character and amenity of localities in Bellinghen*. Strict compliance with the 10 m standard is not necessary to achieve the objective. The Proposal responds to its setting within the Bellinghen Conservation Area, as discussed in detail in the Statement of Heritage Impact prepared for the project. The proposed maximum height is not a significant departure from the standard and this element is in the western part of the site, toward Rawson Street. The two properties that adjoin the western part of the development, that exceeds the building height limit, will form part of a future Stage 2 of this affordable housing project. The buildings have been setback and are suitably articulated and restrained. No unreasonable amenity impacts, such as overshadowing of private open space or visual bulk, would result.

Shadow diagrams have been prepared for the proposal, which show that the proposed height variation will result in a very minor increase in shadows cast. With regard to the heritage impact, the height of the proposal presents the most significant potential detrimental impact to surrounding conservation area. However, the height of the development will be offset by the presence of the plantings and double storey school buildings at the St Mary's Primary School. It is not expected that the height of the new additions will detrimentally impact on the St Mary's Catholic Church or Hall as the new units will be behind the school buildings. The scale and design of the church is such that it dominates views from Park Street.

Reduction of the height of the proposed affordable housing buildings to be consistent with residential dwellings on the south side of Watson Street has been considered. However, double story buildings are the main dominate pattern of development on the northern side of Watson Street and the proposed works will not result in a significant variation to the prescribed maximum building height.

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 BLEP 2010.

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

There are sufficient environmental planning grounds to justify contravening the height development standard for this proposal. Approval of a variation to the building height standard is integral to its success and the functional design needs of the development. 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 primary objective relates to ensuring building height preserves the character and amenity of the area. The development would revitalise the site and appropriately integrates into the streetscape in terms of height, massing and character as assessed within the SEE.

There would be no significant environmental, heritage, visual or off-site amenity impacts. The objective of the building height standard would be upheld by the proposal. The development will achieve positive outcomes for the community and locality in terms of boosted affordable housing supply. The development directly addresses the need for increased housing supply, diversity, choice and opportunities for more affordable dwellings. This is further reinforced as the development utilises an infill site, having excellent access to goods, services and facilities. These aspects directly support the objectives and direction of the *North Coast Regional Plan 2036*.

Considering the objectives of the R1 General Residential 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 allow for a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area. 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 within the centre of Bellingen and on Hyde Street, the development would facilitate walking, cycling and use of public transport.*

Based on these considerations, the proposal and associated variation remain consistent with the objectives and intent of the BLEP 2010. The variation 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.