

ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018
MOTION

094	Councillor Giacomo Arnott Councillor Chris Doohan It was resolved that Council move into Committee of the Whole.
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Mayor Ryan Palmer left the meeting at 6:32pm, in Committee of the Whole. The Deputy Mayor, Cr Sarah Smith Chaired the meeting during the absence of the Mayor.

ITEM NO. 4

FILE NO: 18/109715
EDRMS NO: PSC2007-1204V3

**NELSON BAY TOWN CENTRE & FORESHORE STRATEGY IMPLEMENTATION
AND DELIVERY PROGRAM**

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the outcomes of the exhibition of the draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' (Delivery Program) and draft Clause 4.6 Policy - Exceptions to Development Standards summarised in the Community and Stakeholder Consultation Report (**TABLED DOCUMENT 1**).
 - 2) Adopt the Delivery Program which recommends raising the height limit in Nelson Bay Town Centre to 10 storeys and other actions to increase investment feasibility, whilst maintaining a high quality public domain and improved design outcomes (**TABLED DOCUMENT 2**).
 - 3) Endorse the Clause 4.6 Policy - Exceptions to Development Standards (**ATTACHMENT 1**).
 - 4) Endorse the preparation and submission of a planning proposal for a Gateway certificate to the NSW Department of Planning seeking to amend the *Port Stephens Local Environmental Plan 2013* and implement the relevant actions in the adopted Delivery Program.
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ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018
COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Nell Councillor Glen Dunkley
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MINUTES ORDINARY COUNCIL - 25 SEPTEMBER 2018

	<p>That Council:</p> <ol style="list-style-type: none">1) Note the outcomes of the exhibition of the draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' (Delivery Program) and draft Clause 4.6 Policy - Exceptions to Development Standards summarised in the Community and Stakeholder Consultation Report (TABLED DOCUMENT 1).2) Adopt a revised version of Tabled Document 3, to retain a height limit of 5 storeys in the core of the town centre, and reduce the height limit of the area proposed at 10 storeys along the edges of the town centre to 8 storeys (28 metres). Make all necessary changes to the Delivery Program to give effect to these height limits.3) Endorse the Clause 4.6 Policy - Exceptions to Development Standards (ATTACHMENT 1).4) Endorse the preparation and submission of a planning proposal for a Gateway certificate to the NSW Department of Planning seeking to amend the <i>Port Stephens Local Environmental Plan 2013</i> and implement the relevant actions in the adopted Delivery Program.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott and Ken Jordan.

The motion was carried.

ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018 PROCEDURAL MOTION

	<p>Councillor Giacomo Arnott</p> <p>That Council allow Nigel Waters from the Tomaree Ratepayers and Residents Association to speak on this item prior to a decision for five minutes and allow questions from Councillors, in accordance with the normal public access process.</p>
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The motion lapsed without a seconder.

MINUTES ORDINARY COUNCIL - 25 SEPTEMBER 2018

ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018 PROCEDURAL MOTION

	Councillor Giacomo Arnott Councillor John Nell That Council suspend the Council meeting to allow Nigel Waters from the Tomaree Ratepayers and Residents Association to speak for five minutes, in accordance with the normal public access process.
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ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018 MOTION

	Councillor Giacomo Arnott Councillor John Nell That a division be recorded.
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Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, John Nell and Steve Tucker.

Those against the Motion: Crs Ken Jordan, Paul Le Mottee and Sarah Smith.

The motion was put and carried in Committee of the Whole. The Council meeting was suspended and Mr Waters presented to Council.

ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018 AMENDMENT

	Councillor Giacomo Arnott Councillor Jaimie Abbott That the item be deferred until the next Council meeting to be held on 9 October 2018.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott and John Nell.

Those against the Motion: Crs Chris Doohan, Glen Dunkley, Ken Jordan, Paul Le Mottee, Sarah Smith and Steve Tucker.

The motion on being put was lost.

Mayor Ryan Palmer left the meeting at 8:42pm in Open Council. The Deputy Mayor, Cr Sarah Smith Chaired the meeting during the absence of the Mayor.

**ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018
MOTION**

095	<p>Councillor John Nell Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note the outcomes of the exhibition of the draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' (Delivery Program) and draft Clause 4.6 Policy - Exceptions to Development Standards summarised in the Community and Stakeholder Consultation Report (TABLED DOCUMENT 1).2) Adopt a revised version of Tabled Document 3, to retain a height limit of 5 storeys in the core of the town centre, and reduce the height limit of the area proposed at 10 storeys along the edges of the town centre to 8 storeys (28 metres). Make all necessary changes to the Delivery Program to give effect to these height limits.3) Endorse the Clause 4.6 Policy - Exceptions to Development Standards (ATTACHMENT 1).4) Endorse the preparation and submission of a planning proposal for a Gateway certificate to the NSW Department of Planning seeking to amend the <i>Port Stephens Local Environmental Plan 2013</i> and implement the relevant actions in the adopted Delivery Program.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Glen Dunkley, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan and Ken Jordan.

Mayor Ryan Palmer returned to the meeting at 8:46pm in Open Council and resumed the Chair.

BACKGROUND

The purpose of this report is to advise Council of the outcomes of the consultation during the public exhibition of the draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' and draft Clause 4.6 Policy - Exceptions to Development Standards (draft Clause 4.6 Policy). The report recommends Council adopt the final versions of the documents that have been amended in response to submissions, and endorse the preparation of the amendments to the *Port Stephens Local Environmental Plan 2013* (PSLEP) that are necessary to implement the adopted Delivery Program.

The Delivery Program is the end product of the 'Discussion Paper: Progress of the Nelson Bay Town Centre and Foreshore Strategy' prepared in 2016 to examine why limited private investment and economic development has occurred in the Nelson Bay since the preparation of the Nelson Bay Town Centre and Foreshore Strategy (2012). The Discussion Paper was publicly exhibited in the first half of 2017 and a summary of submissions was reported back to Council on 12 December 2017.

The Delivery Program includes actions to introduce new development standards and controls in the legal planning framework that will improve design outcomes, encourage an activated town centre, and stimulate investment. It also contains actions related to planning for a vibrant public domain, addressing traffic and parking management, and actions related to resourcing and implementation.

The Clause 4.6 Policy has been prepared in response to community feedback about managing building heights in Nelson Bay, however the Policy will apply across the entire local government area to guide the assessment of applications that seek to vary any relevant development standard. The Policy seeks to provide greater transparency, community participation and more robust assessments when a variation to a development standard is proposed.

It is noted that Clause 4.6 of the PSLEP is a standard provision of local environmental plans, and provides the necessary criteria for Council to assess variations to development standards.

A frequently asked questions document (FAQs) setting out further details on the principles and objectives of the Delivery Program and Clause 4.6 Policy is attached to this Report (**ATTACHMENT 2**). The FAQs provide information and responses to some of the key issues raised during exhibition period and the next steps for change in Nelson Bay. The FAQs will be made available on Council's website and provided to interested community members.

The draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' and draft Clause 4.6 Policy - Exceptions to Development Standards were exhibited from 21 February 2018 to 4 April 2018.

During the public exhibition period, 151 submitters made individual written submissions. Submissions were also received from peak organisations, such as Destination Port Stephens and the Tomaree Business Chamber, community groups such as EcoNetwork and the Tomaree Residents and Ratepayers Association, and a submission was received from the NSW Department of Planning and Environment. There were also 1674 pro forma submissions and one petition with 813 signatures. A detailed report, and response to the issues raised in the submissions is provided in **(TABLED DOCUMENT 1)**.

Overall the key issues raised in submissions related to the proposed increase in building height controls in the town centre. Over 90% of submissions expressed concern over a proposed height increase, however some submitters supported a modest increase in height from the existing five (5) storey height limit. Close to 90% of submissions supported all other recommendations or actions they referred to, including proposed public domain improvements and design excellence initiatives.

The NSW Department of Planning and Environment has expressed support for Council's strategic vision for the revitalisation of Nelson Bay in correspondence dated 11 April 2018:

'Nelson Bay is identified as a strategic centre in the Hunter Regional Plan 2036 because of its role as a tourist centre for the region and as a hub for the Tomaree Peninsula. It is recognised that, among other matters, the delivery plan responds to the Regional Plan's desire for Council to investigate opportunities for high density development that maintains and enhances the tourist, recreation and residential appeal of the centre.'

Further details on the consultation and the submissions received are summarised in the Community and Stakeholder Consultation Report **(TABLED DOCUMENT 1)**.

Whilst it is recommended that the height limits in the Town Centre be raised to 10 storeys to maximise improvements to investment feasibility, a version of the Delivery Program has been prepared to respond to the submissions that expressed concerns about the impact of the proposed changes to height limits **(TABLED DOCUMENT 3)**.

A five (5) storey height limit could be retained in the core of the Town Centre, and height limits of 10 storeys could be confined to along the edges of the Town Centre **(ATTACHMENT 3)**.

Analysis has indicated that 10 storeys, with the incorporation of floor space ratio controls, can be achieved across the Town Centre, particularly along the Town Centre 'edges'. It is acknowledged that the core of Nelson Bay Town Centre is highly fragmented and, without consolidation of multiple lots, analysis shows that there may be limitations to achieving 10 storeys given the proposed controls for floor space ratio.

Raising height limits to 10 storeys across the town centre remains the preferred option to respond to the economic analysis and recommendations outlined in the Delivery Program, however given the existing development pattern, a 10 storey height limit in the core of the centre may not have the intended impact on development feasibility to the same extent as within the edges of the Town Centre.

A five (5) storey height limit in the Town Centre core may also retain the natural amphitheatre and 'coastal village feel', whilst facilitating greater view sharing.

It is noted that the height limits that currently apply to Nelson Bay Foreshore Reserve are not proposed to be amended, and were shown in the exhibited draft Delivery Program as they currently exist in the *Port Stephens Local Environmental Plan 2013*.

As it is not proposed to amend this development standard, these height limits are not shown in **(TABLED DOCUMENT 2, TABLED DOCUMENT 3 and ATTACHMENT 3)**.

The other key changes to the Delivery Program and Clause 4.6 Policy that have been proposed in response to the issues raised in the submissions include:

Issue	Exhibited	Changes after exhibition
Plan for a vibrant town centre.	Requirements for new buildings to provide an activated street frontage in some parts of the town centre.	The area in the town centre where new buildings will be required to provide an activated street frontage has been extended.
Address solutions for peak season parking and traffic.	New Citizen's Panel will be established to reach consensus and make recommendations to Council.	Expedited establishment of the Panel to the immediate term and commissioned consultants to establish the Panel following a random survey of residents and visitors. The Panel will consider a range of options to address traffic and parking and give an objective community perspective on what can be done to ease the pressure on parking during peak periods.
Prepare and implement public domain improvements to the town centre and foreshore as a priority.	Prepare Public Domain Plan in medium term (1-3 years from Strategy adoption). In the meantime, Yacaaba St works have been recently completed.	Expedited this action to the immediate term and commissioned consultants to prepare a Public Domain Plan, Street Tree Masterplan, and Wayfinding / Signage package for Nelson Bay Town Centre. This will be subject to public exhibition prior to final adoption.

MINUTES ORDINARY COUNCIL - 25 SEPTEMBER 2018

Issue	Exhibited	Changes after exhibition
Plan for an improved pedestrian and visitor experience.	No express actions related to utilising technology to resolve traffic and parking issues or to facilitate better wayfinding.	New action directly related to incorporating 'Smart City' initiatives wherever possible to improve the visitor and pedestrian experience. This may include initiatives such as a Smart parking app and digital information. These initiatives can help resolve traffic and parking issues and facilitate a better visitor experience.
Plan for density with an accompanying focus on design excellence to improve amenity.	Design excellence initiatives included in the Implementation Plan including training for staff and the establishment of an independent urban design panel.	Additional initiatives have been added to the Implementation Plan including a new action to commission a digital 3D model of the existing town centre using digital aerial mapping. The tool will be able to be used by assessment staff to support decision making and to inform the assessment of impacts including overshadowing, bulk and scale, and pedestrian amenity.
Ensure new buildings are designed to maximise view sharing where possible and minimise overshadowing of the public domain.	Bulk and scale of new buildings is to be addressed through floor space ratio controls and side and rear setback requirements.	Development controls will be prepared to include objectives for upper storey setbacks to facilitate view sharing and visual privacy for residential flat buildings. Upper storey setbacks will also increase day light access to the street and improve the quality of the public domain.
The Clause 4.6 Policy - Exceptions to development standards, is too broad. Development standards should be enforced in Nelson Bay.	Proposals that exceed height (or other limits) by greater than 10% will be peer reviewed prior to determination.	Note that Clause 4.6 is a standard clause of the <i>Port Stephens Local Environmental Plan 2013</i> and applies across the local government area. All councils must include this clause in their local environmental plans and cannot amend the clause. The Clause 4.6 Policy has been further strengthened following exhibition and proposals that exceed height (or other limits) by greater than 10% will now be determined by the full Council. The elected Council will have the final say on these variations.

This report recommends Council endorse the preparation of an amendment to the *Port Stephens Local Environmental Plan 2013*, which is necessary to implement the actions in the Delivery Program to change the development standards for building height, floor space ratio and to introduce new requirements for active street frontages and appropriate vertical to horizontal proportions for new buildings in the Town Centre.

The planning proposal to amend the *Port Stephens Local Environmental Plan 2013* will:

1. Increase height limits in Nelson Bay Town Centre in accordance with the adopted Delivery Program.
2. Set floor space ratios in Nelson Bay Town Centre in accordance with the adopted Delivery Program.
3. Set minimum vertical to horizontal proportions for new buildings to limit tall and skinny developments by encouraging existing lots that are less than 15m wide and 35m long to amalgamate in order to re-develop.
4. Include provisions for active street frontages in the areas identified in the adopted Delivery Program.

The proposed amendment to require 'active street frontages' in Nelson Bay Town Centre will require all premises on the ground floor of the building facing the street to be used for the purposes of business premises or retail premises. This could include amusement centres, community facilities, educational establishments, entertainment facilities, function centres, information and education facilities, medical centres, public administration buildings, recreation facilities (indoor), or registered clubs.

The land use planning objectives of the planning proposal will seek to create a lively Nelson Bay Town Centre with an amenable and pedestrian-focused public domain, activated by building uses that engage with the street.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	To be determined	Funding will be required to implement a range of actions in the Delivery Program, including works associated with the Public Domain Plan and Apex Park Masterplan and projects related to traffic, transport and parking improvements. This will be implemented consistent with the relevant actions in the Delivery Program.
Reserve Funds	No		
Development Contributions (\$7.11)	Yes	To be determined	Future development will be subject to local infrastructure contributions calculated in accordance with the Port Stephens Development Contributions Plan with a specific action in the Delivery Program to give effect to this.
External Grants	Yes	\$70,000	Grant for the preparation of a Public Domain Plan received from the Tourism Demand Driver Infrastructure grant program. This has been matched through Council funding.
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONSHunter Regional Plan

The Delivery Program is consistent with the Hunter Regional Plan 2036 (HRP). The HRP lists Nelson Bay as a regionally significant centre with the following priorities:

- Maintain it as one of the primary tourist centres for the region and a hub for the Tomaree Peninsula.
- Maintain retail and professional services for the surrounding communities.
- Investigate opportunities for high-density development that maintains and enhances the tourist, recreational and residential appeal of the centre.

- Balance the mix of permanent residential and tourist accommodation to enhance the vibrancy and appeal of the centre and surrounds.

The submission for the NSW Department of Planning and Environment also confirmed the consistency of the Delivery Program as exhibited with the Hunter Regional Plan.

Port Stephens Planning Strategy 2011-2036

The Delivery Program is consistent with the Port Stephens Planning Strategy (PSPS). The PSPS provides a comprehensive planning strategy for the LGA. The PSPS identifies a number of key challenges and opportunities for Nelson Bay which are addressed in the Delivery Program.

Port Stephens Local Environmental Plan 2013

Land use changes envisioned by the Delivery Program will be facilitated by amendments to the *Port Stephens Local Environmental Plan 2013* through the planning proposal process. The planning proposal will be prepared to address the comments received from the NSW Department of Planning and Environment will give effect to the strategic direction outlined in the adopted Delivery Program.

The proposed amendment will follow the relevant processes for all planning proposals, including provision for further public consultation.

The Clause 4.6 Policy is consistent with the model clauses of the Standard Instrument Local Environmental Plan and the guidance published by the NSW Department of Planning and Environment on the administration of the clause.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the strategy does not address all State government issues and a planning proposal will not be supported.	Low	Address the comments in the submission provided by the NSW Department of Planning and continue to consult with the Department prior to the submission of a planning proposal.	Yes

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that future development is not supported by adequate infrastructure.	Medium	Ensure Council's Strategic Asset Management Plan and development contributions plans are updated to align with the Delivery Program, including the Nelson Bay Public Domain Plan (when adopted).	Yes
There is a risk that funding to implement the Delivery Program will not be available.	Medium	Apply for grant funding and commit to reviewing the Delivery Program to monitor whether proposed development standards remain appropriate for market conditions.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the Delivery Program and Clause 4.6 Policy has broad positive social, economic and environmental implications. It ensures that strategic land use planning in Nelson Bay Town Centre plans to accommodate growth and facilitates an activated centre that includes community infrastructure.

The Delivery Program and Clause 4.6 Policy contain measures that increase opportunities for community participation in planning processes and increase transparency and facilitate improved decision making.

The Delivery Program aims to achieve improved economic and environmental outcomes by encouraging private investment and facilitating better quality public spaces in Nelson Bay Town Centre.

CONSULTATION

Consultation with the community and key stakeholders has been undertaken by the Strategy and Environment Section.

The objective of the consultation was to obtain community and stakeholder feedback on the draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' and the draft Clause 4.6 Policy - Exceptions to Development Standards.

Internal

Internal consultation was undertaken prior to exhibition and will be ongoing as part of the implementation of the Delivery Program and Policy. This will include the establishment of an Implementation Panel involving the various sections of Council on an 'as needed' basis. Other actions identified in the Delivery Program will also include ongoing internal consultation with the relevant Council sections during implementation.

External

Community and external stakeholder consultation has been ongoing since the preparation and exhibition of the initial Discussion Paper: Progress of the Nelson Bay Town Centre and Foreshore Strategy in the first half of 2017. This included community consultation initiatives such as surveys on Engagement HQ (an online consultation tool on Council's website), letter drops to local businesses, special interest groups and other stakeholders, key stakeholder meetings, including with Tomaree Ratepayers and Residents Association (TRRA), Tomaree Business Chamber, local real estate agents, Destination Port Stephens, meeting with TRRA planning assessment team, the Aboriginal Strategic Committee, the Nelson Bay Pop-

Up Shop (Smart Art Program), the NSW Department of Planning and Environment and NSW Crown Lands. A total of 82 individual and 67 survey submissions were made on the Discussion Paper that were considered in the preparation of the Delivery Program. This was previously reported to Council on 12 December 2017.

The draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' and the draft Clause 4.6 Policy - Exceptions to Development Standards were exhibited from 21 February 2018 to 4 April 2018.

A number of supporting documents were also exhibited with these documents, including an updated traffic and transport study, a report on the feasibility testing of residential development sites in Nelson Bay Town Centre, and an independent third party peer review of the feasibility testing.

The information was made publicly available on Council's website and Engagement HQ, notification letters were sent to businesses, key stakeholders and special interest groups, and public notices were published in the local newspaper. Social media promotions (Port Stephens Council website, Twitter, Facebook, LinkedIn) were conducted, and articles and interviews with the Mayor were published in the local newspaper.

More than 50 people attended a launch of the 'Nelson Bay Next' brand and over 30 people attended two 'Drop-In Sessions' held in Apex Park, Nelson Bay. Both events took place within the public exhibition period and the community could speak directly to Council Officers at the Drop-In Sessions. Councillors and Council Officers also

spoke and answered questions at a TRRA meeting at the Nelson Bay Bowling Club within this period.

A summary of the submissions received during the exhibition of the draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' and the draft Clause 4.6 Policy - Exceptions to Development Standards and the responses to the issues raised in submissions is set out in the Community and Stakeholder Consultation Report (**TABLED DOCUMENT 1**).

The FAQ document (**ATTACHMENT 2**) will be made public on adoption of the Delivery Program to provide further details on some of the principles and objectives of the Delivery Program and the Clause 4.6 Policy (**ATTACHMENT 1**), subject to Council adoption.

Further community consultation will be undertaken in accordance with the *Environmental Planning and Assessment Act 1979* should Council endorse the preparation and submission of a planning proposal to the NSW Department of Planning seeking to amend the *Port Stephens Local Environmental Plan 2013* to implement aspects of the adopted Delivery Program.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Clause 4.6 Policy - Exceptions to Development Standards.
- 2) Nelson Bay Frequently Asked Questions.
- 3) Height Map - 10 storeys + five (5) storeys.

COUNCILLORS ROOM

- 1) Draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' (Delivery Program) and draft Clause 4.6 Policy - Exceptions to Development Standards – Submissions.

TABLED DOCUMENTS

- 1) Community and Stakeholder Consultation Report.
- 2) Nelson Bay Town Centre Delivery Program.
- 3) Nelson Bay Town Centre Delivery Program – 10 storeys + five (5) storeys.