

FAQs

Nelson Bay frequently asked questions



This fact sheet responds to key issues raised during the exhibition of the Nelson Bay Revised Implementation and Delivery Program, and outlines the next steps towards initiating change in the Town Centre.

NELSON BAY
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Building heights

Current NB Strategy 2011

LEP Height Limit	5 storeys
With bonus incentives under the Strategy	Clause 4.6 (as per Standard Instrument) may be used to gain an additional 2 storeys for outstanding design excellence and public benefit

Adopted Nelson Bay Revised Implementation and Delivery Program

LEP Height Limit	8 storeys and 5 storeys
No bonus incentives Introduce floor space ratio controls Establish design excellence panel Clause 4.6 (as per Standard Instrument) may be used to exceed limit	If Clause 4.6 is relied on for more than 10% increase, the full Council determines the application

1 Why increase heights in Nelson Bay town centre?

Limited private investment and economic development over the past decade has hampered the progress of Nelson Bay. This has impacted both businesses and the community, who are struggling with the lack of services available.

Despite the current housing boom, the residential unit market in Nelson Bay has declined since 2006 due to a number of defaults and stalled development activity. An independent feasibility appraisal and third party peer review by local economists indicates current height limits are unfeasible for re-development.

The State Government has identified Nelson Bay as a 'strategic centre' in the Hunter Regional Plan 2036, suitable for increased densities that will enhance the tourist, recreation and residential appeal of the town centre.

Increasing heights is the most sustainable way to accommodate the growth and density needed to rejuvenate Nelson Bay's town centre, rather than allowing urban sprawl to creep into the precious surrounding bushland.

2 Why will increasing building heights benefit the town and the community?

In order to thrive, Nelson Bay needs a larger permanent population and the best way to achieve this is by creating a walkable, liveable town centre. Increasing heights will make new developments and investments in the town centre feasible, which will fund public domain improvements and other community facilities.

Building height can also directly influence access to services. The community has asked for investment in health care facilities, educational services and improved transport infrastructure. Only a higher population density will attract this level of investment in urban infrastructure and services in Nelson Bay.



Hamlet

A cluster of small scale residential development of low to very low density in a rural or coastal setting, with very limited services or facilities.



Village

Lower density areas typically have smaller scale development within a more natural setting with a limited mix of retail, commercial and service needs principally servicing the village.



Town

Towns, like Nelson Bay, include a diverse mix of low to mid-rise building types and offer a range of retail and service needs which often extend beyond the township boundary.



City

Higher density areas include a diversity of building types including high rise development, and wide range of retail and commercial uses and services.

3

Did Council look at similar seaside towns to inform the Nelson Bay Delivery Plan?

Council planners considered a range of similar seaside towns, their local economies and their planning controls. Most recently, Mid Coast Council has prepared amendments to allow an 11 storey precinct in the Forster civic centre, citing a need for increased services and a greater diversity of accommodation types in the centre. The proposal will stimulate further interest and investment in Forster Tuncurry, activate retail, commercial and community uses in the centre and responds to the land development economics that make development in that location feasible.

4

How can Nelson Bay maintain its character and amenity with 8-storey apartment blocks?

Nelson Bay town centre already contains several apartment buildings of similar size and scale. Design excellence for new buildings in Nelson Bay and improved amenity in the town centre will be achieved by activated street frontages and the appointment of an independent urban design panel who will provide expert advice to Council.

In addition to overall building height, and floor space ratio, a number of other design elements significantly influence the visual appearance of a building and the perception of its overall bulk, scale and mass.



Source: Final Planning Proposal – Civic Precinct Lake and West Forster, Mid Coast Council 2017



Design elements influencing visual appearance



Source: Apartment Design Guide – Planning & Environment, NSW Government 2015

Strengthening design excellence

Design excellence will be strengthened by new LEP clauses for activated street frontages and appropriate vertical to horizontal proportions. Multi storey buildings in Nelson Bay will be referred to an independent Urban Design Panel which will consider design elements such as:

Facade Layering: Articulated and varied use of materials provides depth and layering to this mixed use development.

Structure: Rectilinear form is broken down by deeper upper level deck areas articulated with screens with the top storey set back from the elevation.

Diversity: Townhouses with a strong individual vertical articulation creates a sense of diversity and material richness within a unified medium density scheme.

Scale: The scale of this larger mixed use building is broken down with a distinctive ground, mid and upper level articulated with blade walls, projecting decks, material and colour.

Form: Fluid form, expressed volumes and material differentiation on the upper setback level articulates this contemporary residential flat building.

5

Existing high rise apartment blocks in Nelson Bay already have high vacancy rates and absentee owners who use their flats only for weekends and holiday rentals.

A more balanced mix of both residential and visitor accommodation stock will enhance the vibrancy and appeal of the town centre and surrounds. Quality residential units are required to provide confidence in the market. Increasing building heights will enable a mix of residential accommodation, such as townhouses and 1,2,3+ bedroom apartments, that can support mixed use activated street frontages for cafes, restaurants and ground level amenities.

New buildings could be marketed at seniors looking to downsize to live near vital services, young people looking to live and work at the Bay or those looking to buy their first home close to services and the Bay lifestyle.



Steps to change heights

1 Identify strategic justification and merit to varying building height

Building heights are reviewed as part of Council's strategic planning.

Higher buildings have been explored as a way of making the best and most efficient use of available serviced land. They provide for housing mix and housing diversity and allow greater density opportunities within a walkable catchment of services, open space and recreation opportunities.

Council will endorse the final strategic planning outcomes through adoption of the Nelson Bay Revised Implementation and Delivery Program.

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2 Initiate a planning proposal to change the *Port Stephens Local Environmental Plan 2013*

Council will be asked to resolve to prepare a planning proposal to facilitate the strategic planning outcomes.

3 Gateway determination from the Department of Planning and Environment

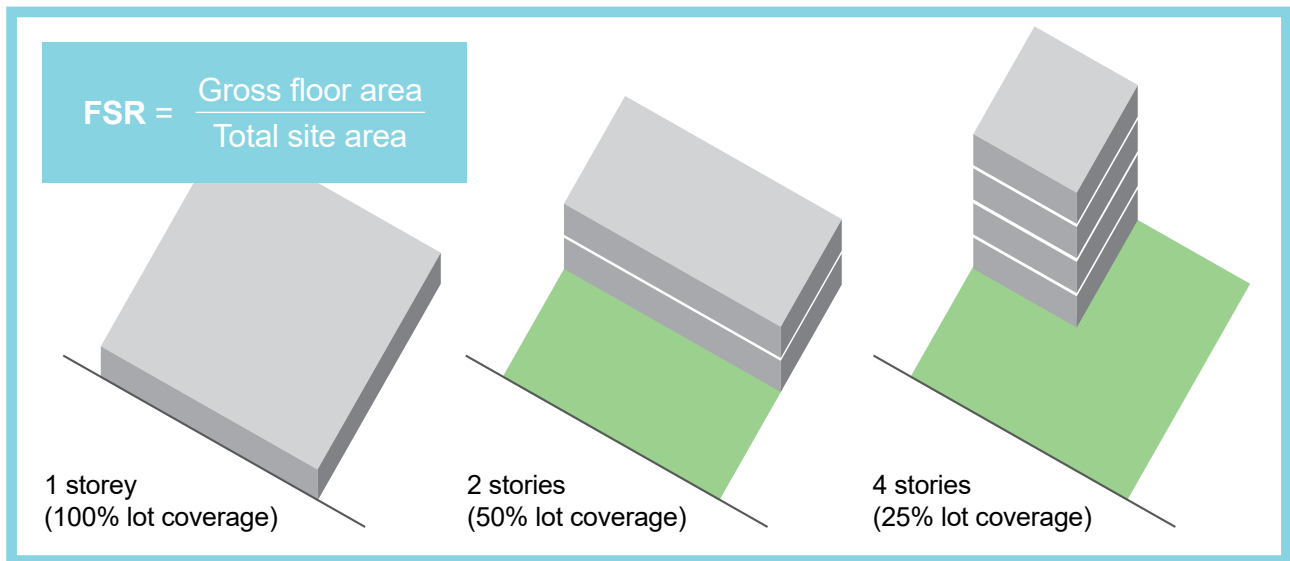
After reviewing the planning proposal and strategic planning justification, the Minister determines whether it should proceed. They then set requirements for further studies, public consultation, State agency consultation and project time frames.

4 Public exhibition of the draft amendment to the *Port Stephens Local Environmental Plan 2013*

5 Council review and determination

Public submissions are reviewed and Council determines whether to proceed, amend the planning proposal or terminate the planning proposal. If approved, the amendment is made to the *Port Stephens Local Environmental Plan 2013* and becomes law.

Floor space ratio



1 What is floor space ratio?

Floor space ratios (FSR) are used to control the size of a building and the amount of land it occupies.

If the FSR is set at 1:1, a new building could cover a site as a single storey, 50% of the site as a 2 storey building or 25% of the site as a 4 storey building.

Statutory FSR controls are being proposed in Nelson Bay for the first time to control bulk and scale of new buildings.

It is proposed to amend the *Port Stephens Local Environmental Plan 2013* to introduce an FSR of 3:1 in Nelson Bay town centre. This is on par with the FSR proposed in Forster town centre.

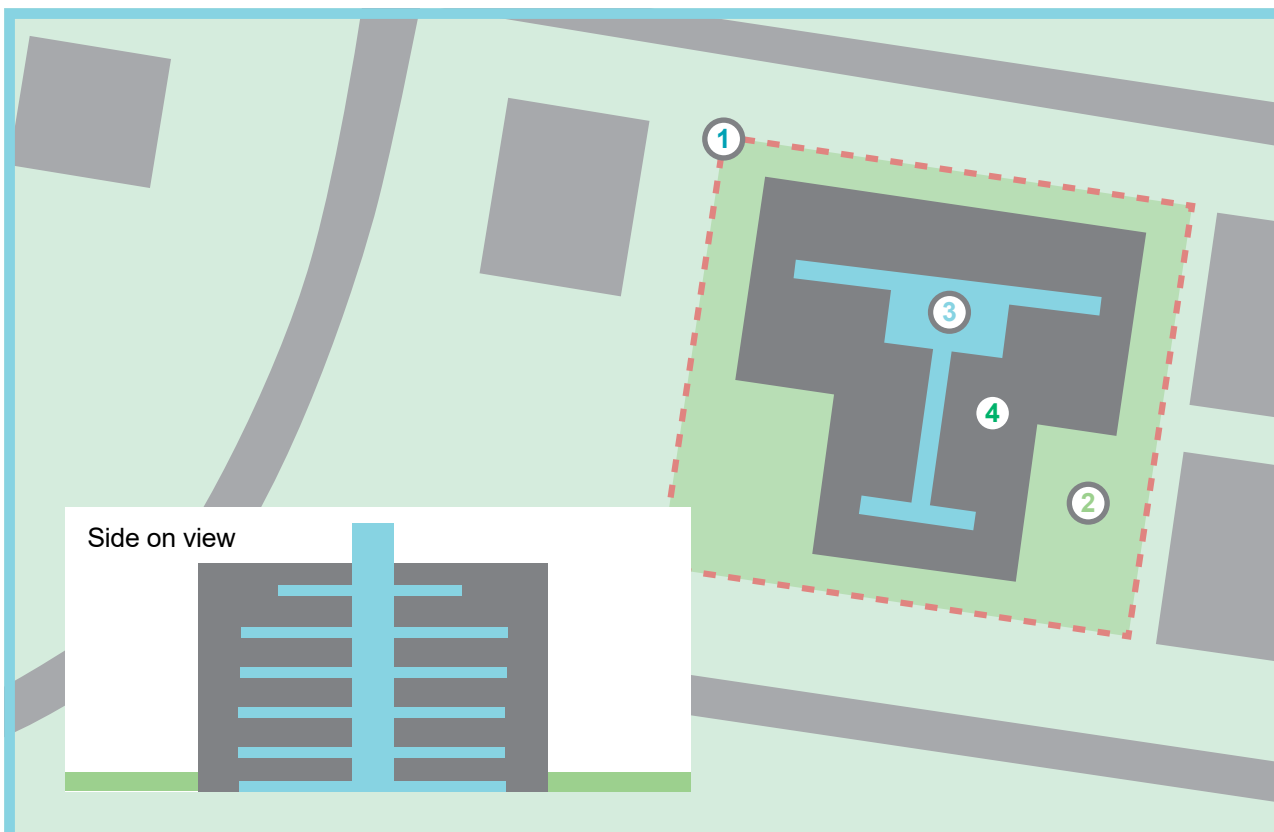
2 How does FSR control the scale of development?

By setting a maximum FSR, the overall building size is limited, as demonstrated above. Height controls can also be used in conjunction with FSR. For example, if height controls only permitted 2 storey development, it would not be possible to build the 4 storey building above even though FSR controls would be satisfied.

In Nelson Bay some sites simply won't be able to be developed to the maximum height limit because of the FSR controls.

Other controls that limit the scale of development include front and side setbacks, which set the minimum distance a building must be from the boundary, as well as open space and landscaping requirements.

These controls are established in Council's Development Control Plan and other policies.



3 How can FSR control the scale of development in Nelson Bay town centre?

Let's examine FSR using a hypothetical site. For this site, FSR, setbacks and landscaping requirements would limit the maximum height of a building to 6 storeys.

$$\text{FSR} = \frac{\text{Gross floor area}}{\text{Total site area}}$$

FSR controls in Nelson Bay town centre are 3:1.

Site area - 2,396sqm

- 1 Development controls stipulate that
- 2 **30% of a site** cannot be built on to meet requirements for setbacks, private open space, landscaped area, etc. This leaves a maximum building footprint of 1,678 sqm (2,396 sqm – 30%).

Of the 1,678 sqm, stairs, voids, storage

areas, parking, driveways and outdoor terraces do not count towards gross floor area. This takes up about **30% of a building**, leaving **1,175 sqm of gross floor area** per storey (1,678 sqm - 30%).

$$\text{FSR} = \frac{\text{GFA}}{\text{Total site area}}$$

$$\text{FSR} = \frac{1,175 \times 6 \text{ storeys}}{2396}$$

$$\text{FSR} = \frac{7050}{2396}$$

$$\text{FSR} = 2.9:1$$

A 7 storey building would exceed the maximum FSR at 3.4:1.

For this site FSR controls limit the height of new development to 6 storeys.



Variations to development standards

Using clause 4.6 of the Port Stephens Local Environmental Plan 2013

1 Why does Council allow people to vary height limits? Council should set a limit and never let anyone build above that limit.

Every council in NSW is required to include a standard clause in their Local Environmental Plan (LEP) that allows an applicant to request a variation to standards like height or subdivision lot size.

The State Government requires councils to include this clause because it recognises that while some developments might not meet strict numerical standards, they still meet the planning objectives for an area. Clause 4.6 applies to the whole Port Stephens Local Government Area, and not just in Nelson Bay.

2 Versions of Clause 4.6 and supporting policies adopted by other councils in NSW are much stricter.

Every Local Environmental Plan in NSW includes the same version of Clause 4.6. The State Government does not allow councils to amend Clause 4.6 or change its operation.

If adopted, Port Stephens Council will be the first and only council in NSW that has an adopted policy to guide the assessment of these applications, which will provide opportunities for greater transparency and community participation.

3

There is no clear criteria for Council to assess variation requests under Clause 4.6.

Clause 4.6 requires an applicant to demonstrate that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- there are sufficient environmental planning grounds to justify contravening the development standard; and
- 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.

The Court also requires councils to take into account specific criteria when making a decision to exceed development standards.

4

How will Council's new Clause 4.6 Policy improve decision making?

Council's new Clause 4.6 Policy creates certainty and transparency in decision-making by setting out the processes that apply and further criteria for a more robust assessment.

The Policy requires:

- Applications increasing heights by 10% or more to be determined by the full council;
- Applications to vary a standard to be accompanied by a 'Clause 4.6 form' which lists the criteria that must be addressed;
- Council to exhibit the Clause 4.6 form when an application is advertised; and
- Council to maintain a register of applications that have varied development standards on Council's website.



