



Albany Investments Pty Ltd

Clause 4.6 Exceptions to Development Standards

Residential Development including 101 units

7 - 11 Bent Street, Gosford

December 2018

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1 Clause 4.6 Exceptions to Development Standards

Clause 4.6 allows Council to vary development standards where better outcomes are achieved. The following standards require approval to be varied in accordance with clause 4.6:

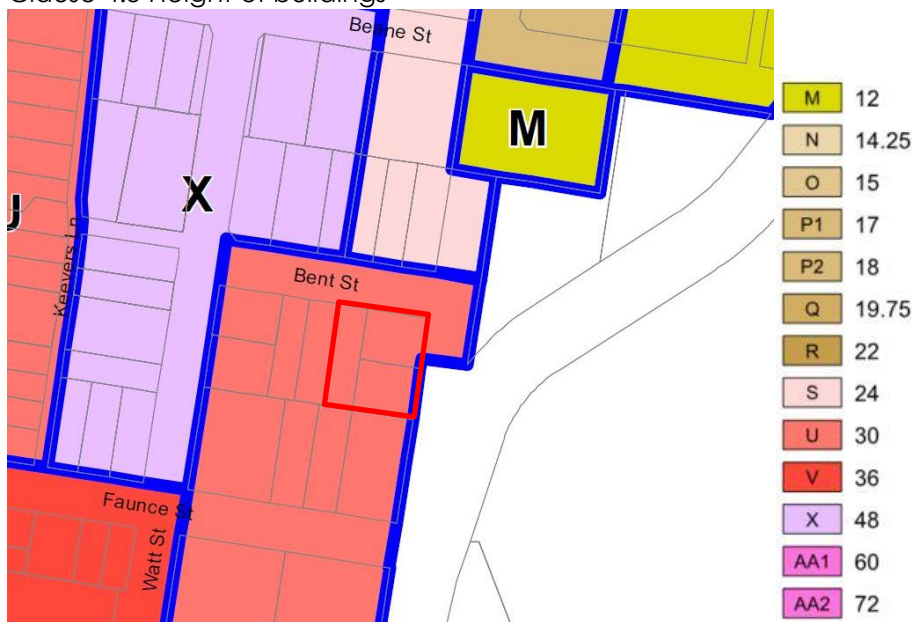
- Height of Buildings, varied from 39m to permit 46.28m

Under sub-clause (3) of Clause 4.6 the variations are required to be justified. The Department of Planning and Environment have prepared advice as to what is required to be considered to address the variations under Clause 4.6 (and what was the previous SEPP No 1). This justification is included below in sections 2 and 3, which provides adequate consideration of the issues and showing that the proposal is a better outcome for the minor variation proposed.

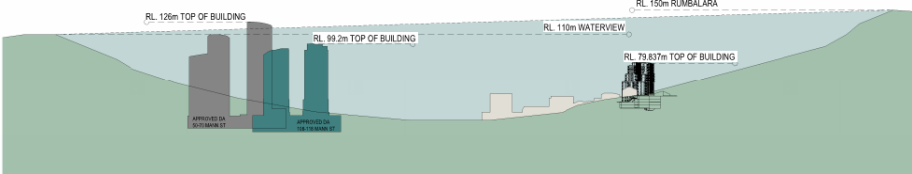
2 Variation to Clause 4.3 - Height of Building

The below table provides justification for variation to the maximum permissible height for the site.

Table 1: Grounds for variation to development standards – Height of Buildings

QUESTION	RESPONSE / JUSTIFICATION
1. What is the name of the environmental planning instrument that applies to the land?	Gosford Local Environmental Plan 2014
2. What is the zoning of the land?	B4 – Mixed Use Zone
3. What are the objectives of the zone?	<ul style="list-style-type: none"> To provide a mixture of compatible land uses. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. To encourage a diverse and compatible range of activities, including commercial and retail development, cultural and entertainment facilities, tourism, leisure and recreation facilities, social, education and health services and higher density residential development. To allow development in Point Frederick to take advantage of and retain view corridors while avoiding a continuous built edge along the waterfront. To create opportunities to improve the public domain and pedestrian links of Gosford City Centre. To enliven the Gosford waterfront by allowing a wide range of commercial, retail and residential activities immediately adjacent to it and increase opportunities for more interaction between public and private domains.
4. What is the development standard being varied?	Height of buildings
5. Under what clause is the development standard listed in the environmental planning instrument?	<p>Clause 4.3 Height of buildings</p>  <p>Figure 1: Extract from Height of Building Map.</p>

QUESTION	RESPONSE / JUSTIFICATION
6. What are the objectives of the development standard?	<p>Clause 4.3</p> <p>(a) to establish maximum height limits for buildings,</p> <p>(b) to permit building heights that encourage high quality urban form,</p> <p>(c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,</p> <p>(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,</p> <p>(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,</p> <p>(f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.</p>
7. What is the numeric value of the development standard in the environmental planning instrument?	<p>Clause 4.3 Height of buildings – 30m</p> <p>Clause 8.9 Development Incentives – Permits a 30% bonus allowing - 39m</p>
8. What is proposed numeric value of the development standard in your development application?	<p>The proposed building height varies due to the sloping site.</p> <p>The maximum proposed building height is – 46.28m.</p>
9. What is the variation (between proposal and instrument)?	<p>Height of building variation – 7.28m or 18.6%.</p>
10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?	<p>Compliance with the height standard is not considered necessary in this instance as the proposed variation to building height is minor. Additionally, the development:</p> <ul style="list-style-type: none"> • Will provide housing options for residents within the Gosford City Centre. • Will provide a residential development within walking distance to public transport and employment centres. • Will increase housing and residents within the areas and contribute to enlivening the Gosford City Centre. • Is well positioned against Rumbalara Reserve and will not be visually prominent from the waterfront. • The proposed development is located directly west of Rumbalara Reserve. The building will not result in the loss of any significant view corridors to or from Brisbane Waters. The footprint and tower of the proposed development is well articulated to allow for filtered views across the site. • The positioning of the development will not cause significant adverse overshadowing impacts that are inconsistent with higher density living. <p>The discussion below regarding scenic values has been extracted from section 5.3 of the Statement of Environmental Effects.</p> <p>SCENIC VALUES</p> <p>The proposed development marginally exceeds the maximum height limits for the site. However, the development has been designed with</p>

QUESTION	RESPONSE / JUSTIFICATION
	<p>consideration of the site context and prevailing view corridors, as well as the existing and future built environment.</p> <p>The below figure shows the proposed development in comparison to other key developments in Gosford. This illustrates that although the building is higher than the permissible LEP limit, due to the location and design, the development it is not obtrusive on the skyline and does not have an appearance of excessive height and bulk. It should also be noted that the proposal only exceeds the Clause 8.9 bonus height provision by 7.28m.</p> <p>The proposed development will have no negative impacts on views to or from the Gosford waterfront. The height sits well below the peaks of Rumbalara Reserve and Presidents Hills, as well as being below both the Waterside and Mariners Plaza developments.</p> <p>The site is also within close proximity to land with a maximum permissible height limit of 62.4m with the bonus provisions.</p>  <p>Figure 19: Proposed development in comparison to other developments.</p> <p>For further detail and images refer to Section 5.3, Scenic Values in the Statement of Environmental Effects.</p>
<p>11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.</p>	<p>Objects are:</p> <p>5(a)...</p> <p>(i) <i>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,</i></p> <p>(ii) <i>the promotion and co-ordination of the orderly and economic use and development of land,</i></p> <p>The objectives will be attained by the development. If the standard is applied to the subject site, the development potential of the site and the ability of the site to meet the desired future character of the Gosford City centre will be greatly reduced and therefore the orderly and economic use of this well positioned, amalgamated site would not achieved.</p>
<p>12. Is the development standard a performance based control? Give details.</p>	<p>The standard is not a performance based control. However, the proposed development meets the height objectives, as noted in question 6, and the variation should be supported as it provides:</p> <ul style="list-style-type: none"> • High quality urban form; • The proposed height is similar to permissible heights on Watt Street; • View corridors to and from the site will be retained; and

QUESTION	RESPONSE / JUSTIFICATION
	<ul style="list-style-type: none"> Overshadowing of adjacent properties is consistent with higher density living and addressed in detail in the SEE. The surrounding useable public open space areas will not be impacted by shadow by the proposal.
13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?	<p>The strict compliance is unnecessary and unreasonable in this instance as the site is within the city centre and within close proximity to higher height zones and only marginally exceeds the permissible building height. The site is heavily constrained by the topography of the land (approx. 5.8m – 10.99m) and were the site a flat parcel of land the proposal would be a complying development.</p> <p>Due to the orientation and design, the development will not create any unreasonable overshadowing or privacy issue.</p> <p>Compliance is unreasonable and unnecessary in this instance as the proposed development is in character and is of a similar height to other residential buildings on Watt Street and in the city centre.</p>
14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.	<p>As shown in the information provided above, there is sufficient planning grounds provided to justify the variation, including:</p> <ul style="list-style-type: none"> The building is not significantly higher than buildings within the Gosford city centre. The topography of the site heavily influences the compliance with this standard. The proposal only exceeds the permissible building height by 7.28m. The building is well designed and will be an asset to the area providing residents to enliven the area and the commercial centre; The development will not result in significant overshadowing, view loss or privacy issues due to the proposed height variation; and The development complies with both zone and city centre objectives. <p>The proposed variation in height should be supported.</p>

3 Gosford City Centre

As well as meeting both the zone and standard objectives, the proposed development is consistent with the majority of the Gosford City objectives, particularly (a), (c), (d), (f) and (g). The below comments further highlight the suitability of the proposed development within the city context.

Economic and social revitalisation

The proposed development promotes the economic and social revitalisation of Gosford City Centre by increasing residential densities. The increased building height is integral in achieving economic viability of the project and redeveloping Bent Street.

Enhance the vitality of the Gosford City Centre

A development of this scale provides an opportunity for the immediate and surrounding area to be revitalised and to improve the amenity of Bent Street. The development will also provide opportunities for increased pedestrian and bicycle activity.

The proposed development will result in upgrades to the road surface and construction of kerb and guttering along the southern side of the road. The turning head proposed within the Gertrude Street road reserve will also improve the street by clearing weed and rubbish and providing clear sight lines, a deterrent to people dumping rubbish. The turning head will also facilitate safer access and manoeuvre for Council Garbage Services and Fire Trucks.

The proposed sandstone block wall retaining wall proposed within the Gertrude Street road reserve, south of the proposed road construction, will facilitate better vegetation and fuel management of this land on behalf of Council and reduce bushfire hazard both to the subject site and surrounding properties.

Promote employment, residential, recreational and tourism opportunities

The increased level of residential units allows people to live within 200m of the Gosford Train Station and Bus interchange which is earmarked as a key pedestrian link to the CBD.

Enhance the natural and cultural heritage

The proposed development will not negatively impact views to or from the Gosford waterfront. The structure has been designed to take advantage of solar access, prevailing winds and views. Although the building is above the permissible height, it is well below the highest point of Rumbalara Reserve.

4 Conclusion

As shown in the information provided above, there is sufficient planning grounds provided the minor variation to building height for the development.