

**Request Variation under Clause 4.6 of
Liverpool Local Environmental Plan (LEP)
2008**

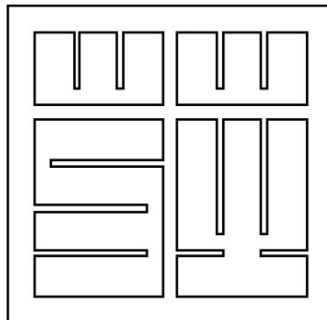
for

**Proposed Place of Worship with
Associated Car Parking and
Demolition of Existing Sheds**

on behalf of

Sasanadhaja Buddhist Association Incorporated
at
**53 Dwyer Road
Bringelly NSW 2556**

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20 January 2020

Job Number: 857

Rev A

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2 DOCUMENT CONTROL

Version	Date	Revision Notes	Status	Author
A	20 January 2020	Variation Clause 4.6 of LLEP	Issued for DA approval	CY

3 INTRODUCTION

This request under Clause 4.6 of the Liverpool LEP 2008 to justifies the variation of the height of building standard stated under Clause 4.3 of LLEP 2008. This request supports the proposal of Burmese Buddhist Temple as a place of worship and this document should be read in conjunction with the submitted Statement of Environmental Effects, Rev C prepared by VT Architects Pty Ltd. The proposed variation of the building height of the proposal is acceptable are discussed in this request.

The site is a single irregular shaped allotment with an area of 32,323.84m² (3.232ha) at 53 Dwyer Road, Bringelly NSW. The site consists of an existing dwelling house close to the lot frontage at Dwyer Road. There are several sheds throughout the site. The existing dams are found to the east, in the middle and to the west within the site.

The proposal includes the construction of public worship (Burmese Buddhist Temple) with associated driveway, car parking spaces, ancillary kitchen and dining area, WC block and storage area. Existing sheds will be demolished whereas the existing dwelling house will be retained. The Temple is run by **Sasanadhaja Buddhist Association Incorporated** and the operations within the temple are overseen by the residing venerable monks.

4 PROPOSED VARIATION TO BUILDING HEIGHT UNDER CLAUSE 4.3 OF LLEP 2008

The Liverpool LEP 2008 include provisions for exception to development standards as follows:

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 for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the 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.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
 - (a) the consent authority is satisfied that—
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) 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, and
 - (b) the concurrence of the Planning Secretary has been obtained.

According to the Clause 4.6(4)(a)(i) above, this variation request to state the issues required to be demonstrated by Clause 4.3(2) in relation to the variation to height of the building as stated in the following:

4.3 Height of buildings

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Height of Buildings Map illustrated the maximum building height of 8.5m applies to the site as indicated under Clause 4.3. The maximum height of the proposed temple is 10.4 metres to the top of the roof ridge. Overall, the maximum building height difference varies from 1.9metres to 0.4metres due to the nature of the land as shown in Figure 1 below.

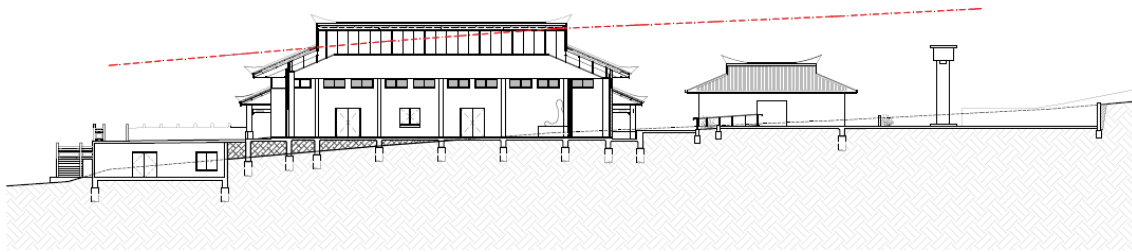


Figure 1: Proposed section of the building showing the 8.5metres maximum building height line

The proposed height of the building differs from Liverpool Council's maximum building height standard and the assessment in this document addresses Clause 4.6 criteria showing the proposed building height variation as following:

- Consistent with the objectives of the height of buildings standard under Clause 4.3
- Consistent with the requirements of the Architectural roof features standard under Clause 5.6
- Consistent with the objectives with the State and regional policies
- The variation is justified on environmental grounds

4.1 CONSISTENT WITH THE OBJECTIVES OF THE HEIGHT OF THE BUILDINGS STANDARD UNDER CLAUSE 4.3

4.3 Height of buildings

(1) The objectives of this clause are as follows—

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

The proposed building height of the temple does not increase floor space nor the density of the development. The exceeded building height is contributed by the high ceiling of a public space and the Burmese Buddhist Architectural style and features of the roof.

The high-volume ceiling space allows natural lighting penetrates the main shrine of the temple and a grand spacious space for the members to gather and pray.

4.2 CONSISTENT WITH THE REQUIREMENTS OF THE ARCHITECTURAL ROOF FEATURES STANDARD UNDER CLAUSE 5.6

5.6 Architectural Roof Features

- (1) The objectives of this clause are as follows—
 - (a) to permit variations to maximum building height standards for roof features of visual interest, and
 - (b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that—
 - (a) the architectural roof feature—
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and

The proposed building height variation ensures the development satisfies with the requirements stated as above under the LLEP 2008. The proposed building height exceeded the maximum building height varies by 0.4metres to 1.9metres, mainly compromising of the architectural roof feature with some decorative element and no advertising structure.

4.3 CONSISTENT WITH STATE AND REGIONAL POLICIES

The proposed building height variation ensures the development can achieve a high-quality outcome without conceding the desired future character or the amenity of the surrounding area. The proposal is consistent with the objectives of the Environmental Planning and Assessment Act 1979 and relevant state and regional policies.

4.4 JUSTIFICATION ON ENVIRONMENTAL GROUNDS

The following justifications to support the variation to the proposed building height on environmental grounds:

- The proposed building height variation does not cause any adverse amenity and environmental impacts to the surrounding area as addressed in this report and the accompanying Statement of Environmental Effects. Specifically, the proposal does not affect the solar access, privacy and view outcomes to the adjacent and surrounding properties.
- The proposed western roof ridge area at a height of 10.4metres which is at its peak is 1.9metres above the maximum building height of 8.5metres and varies at a height of 8.9metres at the Eastern end of the roof ridge. This is due to the nature of the land slope which contributes the varies of the proposed building height.

5 CONCLUSION

Based on the assessment in this report, the proposed Burmese Buddhist Temple at 53 Dwyer Road, Bringelly complies with the objectives of Clause 4.3 Height of Building under the Liverpool LEP 2008. The maximum height standard is given the nature of the site and the architectural aspect of the building to achieve a more desirable character of the building.

In this report, the proposal of variation to the building height should be approved by Council as it does not impose any adverse impacts towards the amenity of the surrounding residential properties in terms of bulk, scale, view sharing/ privacy and overshadowing.