

# GYDE

## Clause 4.6 Request - Height of Building

Coffs Harbour Local Environmental Plan  
2013

1A McLean Street, Coffs Harbour

submitted to Coffs Harbour City Council  
on behalf of Iris Hotels Coffs Harbour Operations P/L

**This report was prepared by:**

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**Project:** 21-300

**Report Version:** Final

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## APPENDICES

APPENDIX	DOCUMENT	PREPARED BY
A	Survey	Steve Russell Surveying
B	Architectural Plans (Revision F, dated 26/1/2023)	EJE Architecture
C	Apartment Design Guide Compliance Schedule (SEPP 65)	EJE Architecture
D	SEPP 65 Design Verification Statement	EJE Architecture
E	Landscape Plan	Terras Landscape Architecture
F	Acoustic Assessment	Reverb Acoustics

## 1. EXECUTIVE SUMMARY

This is a written request prepared in accordance with clause 4.6 of the Coffs Harbour Local Environmental Plan 2013 to justify a variation to the Height of building (HOB) development standard. The request relates to a development application (DA) for a mixed-use building (commercial and residential flat building) at 1A McLean St, Coffs Harbour (the site).

This cl. 4.6 variation request replaces that submitted with the development and relates to the architectural plans prepared by EJE Architecture (Revision G, dated 29/4/23) (**Appendix B**). Key amendments made in the plans are:

- Lowering the building height by 3.6m.
- Stepping of the western wall of the podium and inclusion of planters to articulate it.
- Vertical screens introduced to western elevation to mitigate privacy impacts.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for, and from, development by allowing flexibility in particular circumstances.

As the following request demonstrates, a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application, and accordingly we respectfully submit that Council ought to be satisfied that this variation request addresses all of the matters required by clause 4.6(3). As such, it would be appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various recent decisions in the New South Wales Land and Environment Court (LEC) and New South Wales Court of Appeal (Appeals Court).

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130) and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245:

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)];
2. That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard [clause 4.6(3)(b)]; and
3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out [clause 4.6(4)].

This request considers that compliance with the Height of building development standard is unreasonable and unnecessary in the circumstances of the proposed development because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The non-compliance results from the topography which falls from the northwest to the southeast. The building is compliant with the height of building development standard in the northwestern corner but breaches as the topography falls, having a breach of 0.9m (3%) (to the roof) in the southeastern corner. The breaches are minor and do not result in the building having a form or

impacts significantly different to that of a compliant development. The lift overruns breach the height control by up to 1.8m, they are however a minor element that is centrally located within the roof.

In addition, this variation demonstrates that there is a lack of adverse environmental impacts, consistency with the relevant objects of the *Environmental Planning and Assessment Act 1979* and is consistent with the relevant aims of the Local Environmental Plan.

This request also addresses the requirement for concurrence of the Secretary as required by Clause 4.6(4)(b). It is therefore considered appropriate in these circumstances to grant the clause 4.6 variation request.

## 2. STANDARD TO BE VARIED

The standard proposed to be varied is the Height of Building development standard which is set out in clause 4.3 of the Coffs Harbour Local Environmental Plan 2013 (CHLEP) as follows:

### 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 site is in an area "T" on the Height of Buildings Map and a 28m height control applies (Refer to Figure 1 below).

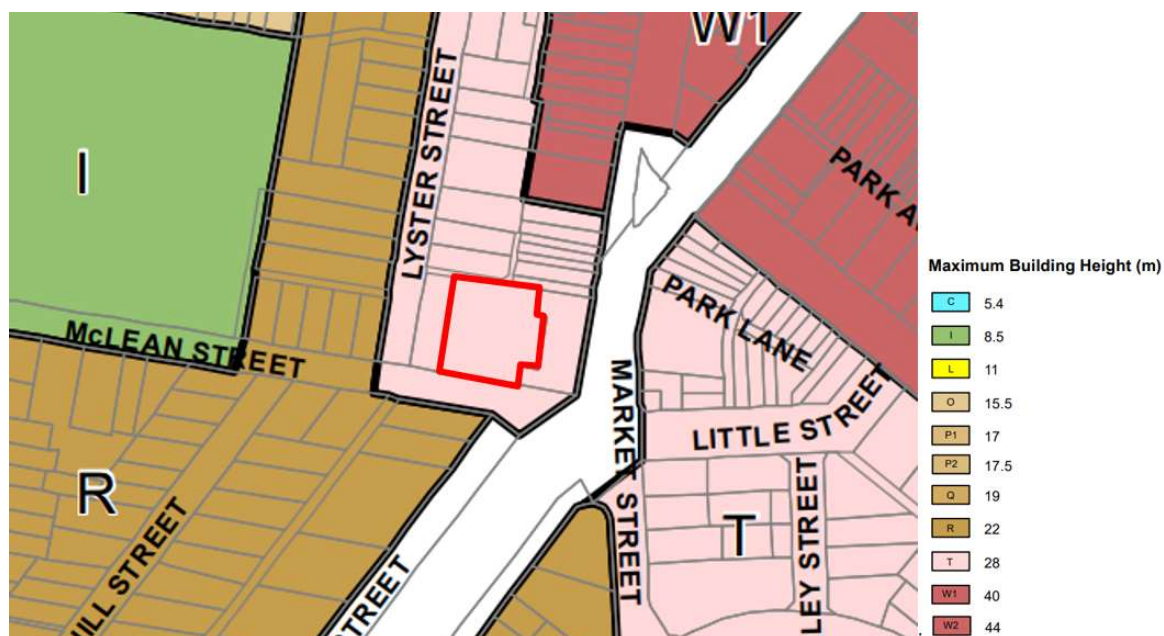


Figure 1: Extract of Height of Building Map (Source: NSW Legislation)

The development standard to be varied is not identified under sub-clause 4.6(8). Therefore, it is not excluded from the operation of clause 4.6 of the LEP.

### 3. EXTENT OF VARIATION

#### 3.1. Proposed Height Exceedances

Clause 4.3(2) of the CHLEP prescribes a maximum building height of 28m for development on the subject site. The proposed height varies due to the topography and building form. The building height and the building height limit are shown in Figures 2 and 3.

The proposed building heights are:

- Lift overrun and access stair:
  - Building height - southern: 29.8m - this equates to a variation of 1.8m or 6%.
  - Building height - northern: 29.4m - this equates to a variation of 1.4m or 5%.

The lift overrun, and access stair have a combined footprint of 84m<sup>2</sup> (approx.) which equates to 4% of the total area. They are centrally located with the roof plane (refer Figure 4).

The proposed breaches are a 3.6m reduction from that proposed in the original architectural plans.

- Roof:
  - Building height – southeast corner: 28.9m - this equates to a variation of 0.9m or 3%.
  - Building height – northwest corner: 27.9m – complies.



Figure 2: Proposed northern elevation (Source: EJE Architecture)



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Figure 3: Proposed South Elevation (Source: EJE Architecture)

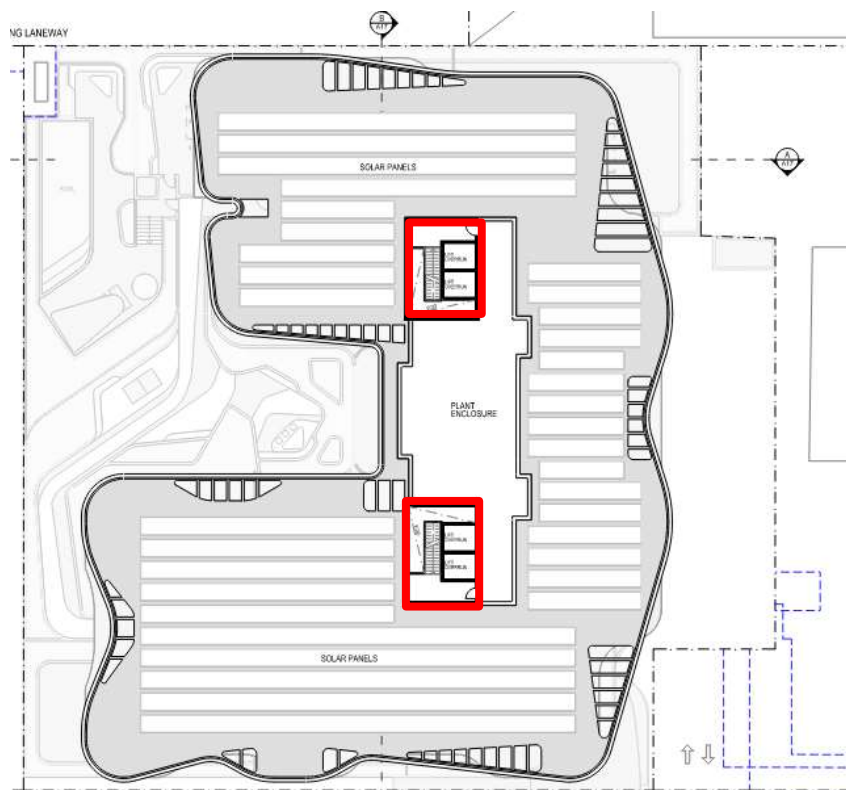


Figure 4: Roof plan - Lift overruns marked red (Source: EJE architecture)

## 4. UNREASONABLE OR UNNECESSARY

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the LEP.

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. See *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard; (First Test)
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary; (Second Test).
3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable; (Third Test).
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; (Fourth Test) and
5. The zoning of the land is unreasonable or inappropriate. (Fifth Test).

It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a) (*Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

Nonetheless, we have considered each of the ways as follows.

### 4.1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The objectives of the Height of Buildings standard is specified in cl 4.3 (1) of the CHLEP. The objectives and the development consistency with them is discussed below.

- Objective 1(a) - to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity.

The site has a high capability for development with its key characteristics being:

- Its large area, long width and depth provide a suitable platform for development. It is the largest consolidated site within the precinct and as such provides a significant development opportunity.
- It has been previously developed and does not have any sensitive environmental attributes. The site has limited vegetation and is not mapped as being flood or bushfire affected.
- The site is near public (roads, bus stops, schools, hospitals, parks) and private infrastructure (retail and commercial premises).
- The site is within the Pacific Highway corridor, the nature and amenity of which will evolve with the delivery of the by-pass road, making this a suitable renewal site.

The Precinct of which the site is a part is to undergo a transition as sites are developed in accordance with the current planning framework. That framework permits additional height and density to achieve city centre buildings forms. The

proposed building height is consistent with the future pattern of development. Figures 5 & 6 illustrate the proposed development within the likely future context.



Figure 5: Future development as viewed from corner Vernon and Grafton Streets (Source: EJE)



Figure 6: Future development as viewed from Pacific Highway (Source: EJE)

The images demonstrate that:

- The proposed additional height fits comfortably within the future scale of development. The additional height is neither prominent nor visually obtrusive.
- Removal of the additional height would not result in any substantive change in the buildings scale.
- The building articulated form breaks down its mass in the horizontal and vertical planes.

Figure 6 does not illustrate the future development permitted on the adjoining lands to the south of the site, being 22m high residential buildings. Development on those adjoining lands would screen views of the lower seven storeys (approx.) of the building from the south.

The building has been designed to create a high level of urban amenity by:

- Providing a single storey podium creating a human scale building at the street. Pedestrian sightlines are limited by the podium such that the upper levels are not visually prominent from the immediately adjoining areas.
- Providing a highly articulated form that achieves design excellence. The western edge of the podium has been amended with the podium height reduced by 3.6m and a 0.7m planter box added. This articulates the boundary wall, lowers its height by 3m and allows for plantings to soften its edge, improving the relationship with the adjoining property.
- Achieving substantial compliance with the general and specific design requirements of the Coffs Harbour Development Control Plan 2015.

Despite the height non-compliance, the concept is substantially compliant with the FSR control on the site. The proposal provides a FSR of 3.06:1, which is significantly less than the permitted 3.5:1 under the CHLEP. In this regard, the proposal aligns with the lands capability to provide an appropriate urban character which aligns with the transitioning locality.

- Objective 1(b) - to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities

The site is located within the southern gateway of the Coffs Harbour City Centre. It forms part of the interface between existing low / medium density residential developments to the south and the higher density mixed use centre further north. The immediate area is well established, providing a mix of local facilities and urban support services.

The site is located within the B3 Commercial Core zone. The Pacific Highway to the east provides a commercial corridor for local business that support the needs of the local community and visitors to the City Centre. Coffs Central Shopping Mall is located 300m to the northeast of the site and is a functional mixed-use shopping complex featuring a variety of retailers, eateries and cafes including Kmart and Coles. The City Centre is also supported by Medical Centre's and specialty health services. Additional urban support facilities are provided within the nearby Jetty Village Shopping Centre, Park Beach Plaza and Northside Shopping Centre which are located further north of the site.

There are various public open spaces / parks that are located within the vicinity of the site. Approximately 100m to the west is Forsyth Park (McLean Street Oval), Pitt Street Park further 200m to the west, North Coast Regional Botanical Garden located approximately 1km to the east and Coffs Harbour War Memorial Olympic Pool 1.2km northeast.

As such, the site is within a structured urbanised area that is supported by services.



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- Objective 1(c) - to ensure that the height of future buildings has regard to heritage sites and their settings and their visual interconnections

The site does not contain a heritage item, there are no heritage items within the immediate vicinity nor is the land located within a heritage conservation area (HCA). The nearest heritage site is located approximately 1.2km west of the site (I7) as outlined in Figure 7 below. Given the proximity from the site to I7, the proposal will not have any impact on the setting and visual interconnection of this heritage item.

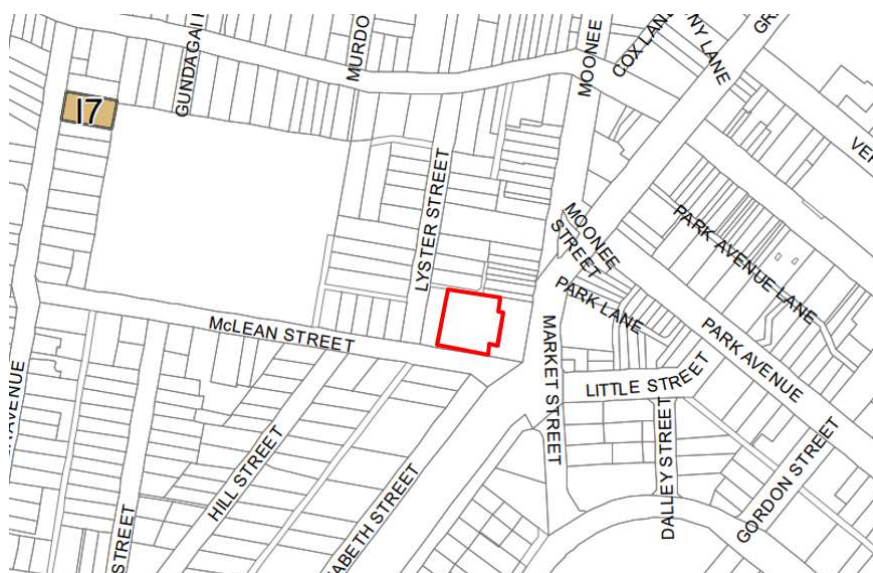


Figure 7: Heritage map (Source: NSW legislation)

- Objective 1(d) - to enable a transition in building heights between urban areas having different characteristics

The LEP controls promote a transitioning in building heights (Figure 8), as follows:

- Development to the north and west of the site are subject to maximum building heights of 40m (W1) and 44m (W2).
- Development on the site is subject to a 28m height control.
- Development to the south and west of the site is subject to a 22m height control.

The proposed building height will maintain the transitional height pattern sought by the LEP, being lower than development to the north and higher than development to the south. The proposed building is sufficiently different in height to that of development permitted in the adjoining different height zones, such that the transition in heights will be visually apparent.

The height difference between the proposed building and development to the south is 6.9m which is greater than the 6m sought by the height control. This increase is acceptable for the following reasons:

- McLean Street is approximately 16m and creates a substantial visual break between development on its northern

and southern sides. The proposed transition in height between the different sides of the roads will not be made visually abrupt or obtuse because of the separation between buildings.

- The LEP does not apply a consistent approach to height transitions on the edges of the City Centre (refer to Figure 9). On the northern edge a transition from 28m to 8.5m (19.5m difference) is permitted across Moonee Street, between B3 and R2 zoned lands. On the northwestern edge a transition from 28m to 15.5m (12.5m difference) is permitted across Murdock Street. The proposed transition in height occurs in similar circumstances being at the edge of zone and on a street boundary and is lesser in height than those on the other edges.

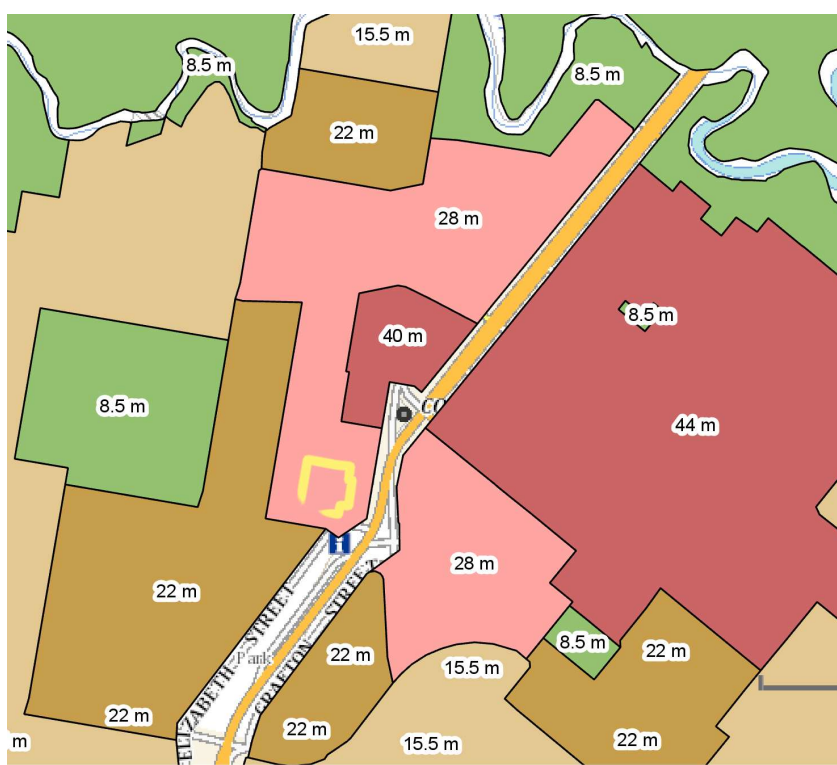


Figure 8: Maximum heights under CHLEP 2013 (Source: NSW ePlanning Spatial viewer)

- Objective 1(e) - to limit the impact of the height of a building on the existing natural and built environment

#### Natural environment

The site has been previously developed and does not have any sensitive environmental attributes. The proposed stormwater system will discharge water to the street under certain circumstances. Any water discharged will have passed through a treatment train and will meet Council's pollutant reduction targets.

#### Built Environment

##### Solar Access

The SEPP 65 design verification statement identifies that:

“84% of apartments receive a minimum of 3 hours solar access to living areas between 8am and 4pm in mid-winter”.

#### Overshadowing

- 9.00am - midwinter: The shadow impact is as follows:
  - Extensive overshadowing of 18 Lyster Ave, due to the difference in building form. The shadow affects east facing windows and courtyards.
  - The St John Anglican Church – Opportunity shop on the corner of McLean Street and unnamed lane.
  - The St Johns Anglican Church.
  - Three dwellings on the northern side of the housing complex at 4 - 8 Elizabeth Street. The dwellings have windows and open space on their northern side which will be affected.
- 12 noon - midwinter: The shadow impact is as follows:
  - Shadows fall upon McLean Street and are generally contained within the road corridor.
  - The eastern side of St Johns Anglican Church.
  - The western side of the commercial premises (Oxley insurance brokers) on the corner of McLean and Elizabeth Street.
- 3pm - midwinter: The shadow impact is as follows:
  - Shadows fall across upon the western elevation of the Coast Hotel and its beer garden. Due to the difference in building form, the shadow is extensive affecting east facing windows and courtyards.
  - The commercial premises (Oxley insurance brokers) on the corner of McLean and Elizabeth Street.

Shadows from the proposed development are commensurate with what is expected by the controls given the site's city core location and the density of development permitted.

The shadow diagrams illustrate the additional impact caused by the non-compliant portion of the building. The additional shadow is generally contained to the surrounding roadways with the exception being at 9am when it impacts a dwelling at 4-8 Elizabeth Street. The shadow has moved from the dwelling by 12pm (and earlier) allowing it to receive greater than 2 hours of sunlight, as required by D3.9 of the Coffs Harbour DCP 2013.

There are limited windows on the northern façade of St John's Church. The major windows and doors are located below a large trapezoidal shaped awning structure over a vehicular drop off from McLean Street. Except for 2 small vertical slot windows outside the extent of the awning, the balance of the northern façade is solid masonry.

#### Acoustic Impacts

An acoustic assessment accompanies the application. Key findings of the report are:

“Noise from nearby external activities/equipment is predicted to exceed the overall criteria at nearest residential apartments by up to 13dB(A). External windows and doors must therefore be modified acoustically”.

- East facing dwellings

The windows open noise criteria will be exceeded for east facing dwellings due to external noise sources. Proposed mitigation measures include:

- Designing most of the apartments so that they have dual aspect, allowing for ventilation to be achieved from another

source

- Use of solid balustrades to create an acoustic and visual barrier from the noise source
- Installation of acoustic vents in the façade which the free passage of air but exclude noise.
- Pool and pool terrace

The pool and its infrastructure including the pump equipment and terrace have the potential to adversely impact on the acoustic privacy of the dwellings to the west. Proposed mitigation measures include:

- Erect a 1.5m high noise barrier along the northern and western side of the pool
- Restrict hours of operation of the pool terrace
- Limit noise emissions from pool equipment.

#### Privacy

The building has been carefully designed to achieve a high level of privacy for future residents and neighbours.

- Internal privacy

The recess in the western elevation is 14.8m (glass to glass) and 12m (balcony to glass), providing a reasonable separation for privacy. The adjacent apartments primary outlook from their living areas is differently oriented to minimise overlooking.

Privacy screens, wall alignments and blade walls are used to prevent overlooking between north and west facing apartments, within the building recess.

- External privacy

North facing apartments would currently overlook a laneway and vacant parcel of land. Figure 11 shows that under potential future developments scenarios building separation (glass to glass) of 16m can be achieved.

East facing apartments will overlook the Coast Hotel. This is a publicly accessible space and not privacy sensitive. Figure 11 shows that under potential future developments scenarios building separation (glass to glass) of 18m can be achieved.

South facing apartments are separated from adjoining dwellings on the southern side of McLean Street by the road corridor which is 19m (approx.) in width.

West facing apartments are separated from the boundary by 4m, 14m or 26m. Due to the difference in building form, the apartments will generally look over rather than into the dwellings on the adjoining site. The proposed separations will provide flexibility in the future form of development on that site to achieve an acceptable privacy relationship. The balconies of the dwellings in the south-western corner of the building include privacy screens to prevent direct overlooking of the neighbouring properties.

#### Wind

The development has been designed to minimise wind effects. The podium and vertically divided façade will assist in mitigating downwash onto the public domain. The corner balconies are wide and have dual aspect providing a usable space under variable wind conditions.



- Objective 1(f) - to encourage walking and decreased dependency on motor vehicles by promoting greater population density in urban area.

The proposal provides a high-density residential development within the southern interface of the Coffs Harbour City Centre. It relates to the revitalisation of an existing site that will deliver excellent design, amenity and attractive residential living to adhere to growing population demands in accordance with the Coffs Harbour City Centre Masterplan 2031.

The area of non-compliance at Level 8 provides five units for future residents of the centre. It directly provides increased population density in an urban area, within land zoned B3 Commercial Core, which will complement existing commercial / retail uses within the City Centre.

The Coffs Harbour bus terminal is located on Elizabeth Street (50m to the south) that allows for local buses as well as regional / state buses. The proximity of the site to this terminal will inherently promote the use of local and state bus services, reducing the dependency on private motor vehicle usage.

The proposed development allows for pedestrian access direct onto the existing footpath on McLean Street. The site is located approximately 200m to the east of ARW Forsyth Park (McLean Street Oval) which will reduce the need for motor vehicle usage to access recreational parks / green spaces. Notably, Coffs creek is located 8 minutes away via bicycle while Coffs Central is located approximately 4 minutes by bike. Bicycle parking is provided in secure storage areas throughout the proposed car park to encourage active transport.

As demonstrated above, the objectives of the Height of building development standard are achieved notwithstanding the proposed variation.

In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245 and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31], therefore, compliance with the Height of building development standard is demonstrated to be unreasonable or unnecessary and the requirements of clause 4.6(3)(a) have been met on this way alone.

For the sake of completeness, the other recognised ways are considered as follows.

**4.2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;**

The underlying objective or purpose is relevant to the development and therefore is not relied upon.

**4.3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;**

This basis is not relied upon.

**4.4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary;**

The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

**4.5. The zoning of the land is unreasonable or inappropriate.**

The zoning of the land is reasonable and appropriate and is therefore not relied upon.

## 5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

The environmental planning grounds to justify the departure of the Height of Building standard are as follows:

- **Object 1.3(a) of the EP&A Act** - The proposed variation to the height of building development standard assists in promoting "the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources" as it enables the provision of high-quality housing near to commercial, community and transport services.  
A requirement to comply with the height of building control would result in the loss of housing whilst having negligible environmental benefit.
- **Object 1.3(d) of the EP&A Act** - The development assists in promoting "*the orderly and economic use of land*" by using underdeveloped land zoned for commercial and residential purposes, within an area serviced by infrastructure.  
The proposed building is well designed and will be an exemplar for other future development in the Precinct. The Coffs Harbour CBD planning framework has been in place since 2013 and there has been limited development activity under its provisions on the western side of the Pacific Highway. It is envisaged that the proposed development will be a leader in the precinct and encourage activity by others.
- **Object 1.3(g) of the EP&A Act** - The proposed variation to the height of building development standard promotes "good design and amenity of the built environment". The proposed building (inclusive of the proposed height variation) is a skilful architectural response to the site and context, providing a height, bulk and scale which is consistent with the topographic landscape, prevailing building heights and desired future character of the locality.  
The proposed building is carefully massed to break up its bulk and scale. It features a mix of materials and architectural treatments to make it visually sympathetic.
- The planning framework establishes a maximum development envelope for the site, via the statutory height and FSR controls. That framework informs investment and design decisions for development of the site. In our view the height and FSR controls are misaligned on this site. This is evidenced by the building being substantially compliant with the FSR control, proposing a FSR of 3.06:1 whilst a FSR of 3.5:1 is permitted.

For the reasons contained in this application there are sufficient environmental grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b).

## 6. PUBLIC INTEREST

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. This is required by clause 4.6(4)(a)(ii) of the LEP.

In section 4 it was demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard (see comments under "public interest"). Table 1 considers whether the proposal is also consistent with the objectives of the zone.

*Table 1 Consistency with B3 Commercial Core zone objectives*

ZONE OBJECTIVE	CONSISTENCY
To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.	The development includes commercial and residential uses. The future use of the commercial tenancy has not been determined but could include a use (e.g. café) that serves the needs of the local and wider community.
To encourage appropriate employment opportunities in accessible locations.	The ground floor commercial facility will enable employment opportunities. Construction associated with the proposal will further promote temporary employment opportunities.
To maximise public transport patronage and encourage walking and cycling.	The proposal aims to facilitate public transport patronage being located approximately 50m north of the bus interchange and through the provision of bicycle parking in secure storage areas on site.
To ensure that the scale and nature of development reinforces the role of the Coffs Harbour City Centre as the principal business, office, cultural, civic, entertainment and retail hub, while supporting the objectives of other business zones.	The scale and nature of the development will reinforce the Coffs Harbour City Centre by providing supportive land uses that are compatible with existing development.
To ensure that development makes a positive contribution to the streetscape through opportunities for improved pedestrian links, retention and creation of view corridors and the provision of a safe public domain.	The proposal makes a positive contribution to the street scape by providing a visually appealing development which exhibits design excellence.
To promote the Coffs Harbour City Centre for higher density living to provide for housing diversity and choice that supports the changing housing needs of the population.	The residential component provides higher density living through the provision of 98 apartments that supports the diverse and changing needs of the population.
To promote uses that activate and add to the vibrancy of the Coffs Harbour City Centre and contribute to the night-time economy.	The ground floor commercial use is provided for compatibility with surrounding land uses and activation of the site at street level contributing to vibrancy of the centre.

ZONE OBJECTIVE	CONSISTENCY
<p>To ensure that development accords with the Coffs Harbour City Centre Masterplan.</p>	<p>The proposal accords with the Coffs Harbour City Centre Masterplan. It demonstrates consistency with its strategic 'vision' as follows:</p> <ul style="list-style-type: none"> <li>• The proposed design is of world class design through demonstration of design excellence in accordance with Council's controls</li> <li>• The development represents investment in the City Centre (particular the southern interface) by presenting an attractive built form that has been carefully planned</li> <li>• The proposed development provides compatible land uses that will support the ongoing vitality of existing retail, business, leisure, cultural and residential interests</li> <li>• The proposal contributes fosters an attractive urban environment that will attract residential living in the City Centre in order to meet residential demand / expectations.</li> </ul>
<p>To encourage active living through the provision of healthy, walkable, green and safe built environments and streets, greener connections and walking and cycling infrastructure.</p>	<p>The proposal encourages active living being located within the southern interface of the town centre and within proximity to a variety of public parks, green spaces and facilities.</p>
<p>To ensure that development reflects design excellence and is of a high visual quality in its presentation to the public realm.</p>	<p>The proposed design exhibits design excellence and is of a high visual quality, particularly in its presentation to the public realm. The buildings design merits are addressed in detail in the SEPP 65 Design Verification Statement (Appendices C and D). The statement concludes the that the development will:</p> <ul style="list-style-type: none"> <li>• "Reinforce and continue to revitalise the Coffs Harbour Precinct</li> <li>• Promote a denser urban design to the area as per the objectives for the precinct</li> <li>• Provides 99 high quality, new residential dwellings to the area, with a range of unit types</li> <li>• Ground floor commercial activation on the McLean Street frontage</li> <li>• Introduction of residential development on this site will provide passive surveillance to the surrounding area</li> <li>• General compliance with objectives of the DCP, LEP &amp; SEPP 65 Guidelines."</li> </ul>

As demonstrated in section 4 the proposal is consistent with the objectives of the zone and I is consistent with the objectives of the development standard. According to clause 4.6(4)(a)(ii), therefore, the proposal in the public interest.

## **7. STATE & REGIONAL ENVIRONMENTAL PLANNING AND INVESTMENT**

### **7.1. State or Regional Environmental Planning**

This section considers whether contravention of the development standard raises any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone and the objectives of the development standard and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

### **7.2. Planned Infrastructure Investment**

The Coffs Harbour Pacific Highway Bypass upgrade presents a unique opportunity to transform the city scape. Traffic will be redirected from the city centre via a new 14-kilometre passage, reducing congestion and improving road safety / transport efficiency for local and interstate motorists. The Transport for NSW web page states that the project will remove about 12,000 vehicles per day from the Coffs Harbour CBD. According to the project timeline, it is expected to be opened to traffic from late 2023.

The Bypass Upgrade will provide opportunities for revitalisation of existing sites within proximity to the Pacific Highway and promote increased density of the centre which provides a greater range of uses and street level activity.

## 8. CONCLUSION

This submission requests a variation, under clause 4.6 of the *Coffs Harbour Local Environmental Plan 2013*, to the Height of building development standard and demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development
- The development achieves the objectives of the development standard (Webb Test 1) and is consistent with the objectives of the B3 Commercial Core zone
- There are sufficient environmental planning grounds to justify the contravention
- The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard
- The variation does not raise any matter of State or Regional Significance

The consent authority can be satisfied to the above and that the development achieves the objectives of the development standard and is consistent with the objectives of the B3 Commercial Core Zone notwithstanding non-compliance with the height of buildings standard and is in the public interest.

The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

On this basis, therefore, it is appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.