



SEE APPENDIX D

Clarence Valley Conservatorium Upgrade: 6 – 8 Villiers Street, Grafton – Request to Vary LEP Height Development Standard Pursuant to Clause 4.6

As described in the Statement of Environmental Effects (SEE), the CVCON redevelopment involves demolition of the existing cottage and ancillary structures, refurbishment of the existing 1980s building, and construction of a new community facility building. The proposal includes rooftop mechanical plant servicing the building.

A variation to Clause 4.3 (Height of Buildings) of the Clarence Valley Local Environmental Plan (CVLEP) 2011, facilitated by Clause 4.6 (Exceptions to Development Standards), is sought due to a localised exceedance of the maximum permitted building height. The Height of Buildings Map prescribes a maximum height of 9 m. A portion of the rooftop mechanical plant will reach approximately 9.7 m, resulting in a 0.7 m exceedance.

The exceedance is limited solely to the mechanical plant and associated screening, which is centrally located on the roof, set well back from all boundaries, and not visible from public vantage points. The non-compliance will have no unreasonable or adverse impact on the surrounding area or adjoining properties. The relevant objectives of Clause 4.3 continue to be achieved.

Clause 4.6 of the CVLEP 2011 enables variation of development standards on the basis of a written request demonstrating:

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances; and
- (b) there are sufficient environmental planning grounds to justify the contravention.

This section outlines the variation request and provides justification as to why it is acceptable, reasonable, and supported by sound planning principles.

What is the name of the environmental planning instrument that applies to the land?

Clarence Valley Local Environmental Plan (CVLEP) 2011

What is the zoning of the land?

R1 General Residential.

What are the objectives of the R1 zone?

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.

What is the development standard and clause being varied?

Height of Buildings - pursuant to Clause 4.3 of the CVLEP 2011. The subject site has a 9 m building height development standard/ control.

What are the objectives of the development standard?

The objectives of Clause 4.3 of the CVLEP 2011 are:

- (a) to maintain the low scale character of towns and villages in the Clarence Valley,*



(b) to protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.

What is the numeric value of the development standard in the environmental planning instrument?

A maximum building height of 9 m.

What is the proposed numeric value of the development standard in the development application?

A maximum height of 9.7 m, limited to the rooftop mechanical plant enclosure (refer to architectural drawings at Appendix A of the SEE).

What is the percentage variation (between the proposal and the environmental planning instrument)?

The variation is 0.7 m above the 9 m standard, representing a 7.7% variation.

Is the development standard a performance based control?

No, it is prescriptive.

How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the EP&A Act?

The CVCON redevelopment delivers improved community infrastructure within an existing civic precinct. The rooftop mechanical plant is essential to the building's operational performance. Strict compliance with the height standard would require relocating, reducing, or redesigning the plant in a manner that would compromise energy efficiency, acoustic performance, and internal functionality.

The project contributes to key objects of the EP&A Act, including:

- (a) promoting the social and economic welfare of the community by supporting delivery of modern community facilities;
- (b) facilitating ecologically sustainable development by enabling contemporary mechanical systems that improve energy performance;
- (c) promoting the orderly and economic use and development of land through upgrading an established community site; and
- (g) promoting good design and amenity of the built environment through coordinated architectural and servicing outcomes.

The height exceedance is technical and localised, will not be visible from public areas, and will not create any additional environmental impacts. Strict compliance would undermine the design intent and operational requirements of the facility without delivering any planning benefit.

CI4.6(3)(a): How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

Strict compliance with the 9 m height standard is unreasonable and unnecessary in the circumstances because:

- The exceedance is confined solely to mechanical plant, not to habitable or occupiable building elements.

- The plant is centrally located, substantially setback from all boundaries, and not visible from surrounding public areas or properties.
- The additional height does not increase visual bulk, does not alter the perceived scale of the building, and does not adversely affect streetscape presentation.
- The proposal meets the objectives of Clause 4.3 notwithstanding the non-compliance.
- The 9 m height limit is a broad control that does not specifically account for essential rooftop mechanical systems associated with civic buildings.

This is demonstrated in Table 1.

Table 1 Consistency with Clause 4.3 (Height of Buildings) Objectives

Clause 4.3 (Height of Buildings) Objectives	Consistency
Objective (a) <i>to establish the maximum height for buildings,</i>	The proposed variation applies to one localised service element and does not undermine the ongoing function of the development standard across the locality. The exceedance is necessary to house required mechanical plant.
Objective (b) <i>to ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,</i>	The additional height is not readily perceivable from the public domain due to its central placement. The development as a whole comfortably fits within the existing civic context and surrounding low-scale buildings.
Objective (c) <i>to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.</i>	The rooftop plant is screened and not visible. There is no measurable change to overshadowing, bulk, or amenity impacts. The proposal therefore maintains the amenity of adjoining development.

Given the above, strict compliance is unnecessary, as the height standard's objectives are met; and unreasonable, as compliance would require design changes that would negatively affect operational outcomes without providing any planning benefit.

CI4.6(3)(b): Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes. The variation is based on specific planning grounds relevant to the site and proposal:

- The mechanical plant is essential infrastructure and cannot be accommodated elsewhere without substantial operational and acoustic impacts.
- The exceedance results in no additional visual, overshadowing, privacy or character impacts.
- The proposal achieves the objectives of Section 1.3 of the EP&A Act by delivering improved community infrastructure in an efficient and well-designed manner.
- The proposed solution is superior to a compliant alternative that would compromise mechanical performance, energy efficiency, building functionality, and acoustic amenity.

There are no significant environmental, visual, heritage or social impacts resulting from the exceedance.

Are there any matters of significance for State or regional environmental planning?

No. The variation does not raise any matter of State or regional significance.

Conclusion

This Clause 4.6 variation request is well-founded and demonstrates that:

- strict compliance with the height standard is unreasonable and unnecessary;

- 
- sufficient environmental planning grounds exist to justify the variation;
 - the proposal remains consistent with the objectives of Clause 4.3 of the CVLEP 2011 and the R1 zone;
 - there are no public, amenity or environmental benefits in enforcing strict compliance; and
 - the proposal results in an acceptable planning outcome that maintains the character and amenity of the surrounding area.

The consent authority is therefore justified in varying Clause 4.3 of the Clarence Valley LEP 2011 as it applies to the proposed CVCON redevelopment.



Megan Smith
GeoLINK
Environmental Planner

21 November 2025