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To: Shoalhaven City Council (SCC)

From: Stantec Australia

File: Review of 4.6 Variation Statement

Date: 15 September 2022

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**Reference: South Nowra Waste Management Centre (Proposed Material Recycling Facility- MRF)**

This statement has been prepared to assess the proposed clause 4.6 variation request made as part of Development Application No. RA21/1002 by the applicant PDC Town Planners (on behalf of Shoalhaven City Council). The exception under clause 4.6 of the Shoalhaven Local Environment Plan 2014 (SLEP) is associated with the height of the proposed Materials Recycling Facility (MRF) building (approximately 12 metres). This height exceeds clause 4.3 of the SLEP and Chapter G20 (Industrial Development) of the Development Control Plan (DCP) which allows buildings to be constructed to a height of 11 metres.

**Building Height requirements (Shoalhaven LEP and DCP)**

Clause 4.3 of the SLEP and Chapter G20 of the DCP state the following requirements with reference to the height of a proposed building:

**4.3 Height of buildings**

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

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- (c) to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

(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](#).*

(2A) *If the [Height of Buildings Map](#) does not show a maximum height for any land, the height of a building on the land is not to exceed 11 metres.*

Review of the clause 4.6 variation prepared by PDC Town Planners provides sufficient evidence that the proposed height of the MRF building will not impact on the requirements of clause 4.3(1) of the SLEP. Further review against the requirements for a 4.6 variation request has been included below.

Chapter G20- Industrial Development identifies a performance criterion (P8) for an industrial building should have a height and bulk consistent with the streetscape. In the instance of this performance criteria the acceptable solutions identified in the DCP include:

*A8.1 The building complies with the height limits in the Shoalhaven LEP 2014.*

*A8.2 If Shoalhaven LEP 2014 does not specify a height limit, the building does not exceed 11m above the natural ground level.*

Given the MRF building height exceeds 11 metres (12 metres proposed) a review against the clause 4.6 variation requirements has been undertaken and included below to confirm that the application prepared by PDC Town Planners meets these requirements and is justified.

Reference: Clause 4.6 Variation Request Review

<b><u>Clause</u></b>	<b><u>Objectives</u></b>	<b><u>Comment</u></b>
(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,	<p><b>The application for clause 4.6 variation provides sufficient justification as to the why flexibility can and should be applied for the proposal.</b></p> <p><b>Consideration of the level of impacts associated with the location, scale, character and surrounding vegetation screening with adjacent land users is considered low (in line with the application).</b></p>
	(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	<p><b>The application for clause 4.6 variation provides sufficient justification as to the why flexibility can and should be applied for the proposal.</b></p> <p><b>Consideration of the level of impacts associated with the location, scale, character and surrounding vegetation screening with adjacent land users is considered low (in line with the application).</b></p>
(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.		<p><b>As above- consideration of the level of impacts was taken when reviewing the application and considered in line with those outlined in the application.</b></p> <p><b>Development consent is recommended in line with the proposal (including the clause 4.6 variation request).</b></p>

Reference: Clause 4.6 Variation Request Review

<u>Clause</u>	<u>Objectives</u>	<u>Comment</u>
(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	<p><b>As above.</b></p> <p><b>The application for clause 4.6 variation provides sufficient justification as to the why flexibility can and should be applied for the proposal.</b></p> <p><b>Consideration of the level of impacts associated with the location, scale, character and surrounding vegetation screening with adjacent land users is considered low (in line with the application).</b></p>
	(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	<p><b>As above.</b></p> <p><b>The application for clause 4.6 variation provides sufficient justification as to the why flexibility can and should be applied for the proposal.</b></p> <p><b>Consideration of the level of impacts associated with the location, scale, character and surrounding vegetation screening with adjacent land users is considered low (in line with the application).</b></p>

Reference: Clause 4.6 Variation Request Review

<b><u>Clause</u></b>	<b><u>Objectives</u></b>	<b><u>Comment</u></b>
(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>As above.</b>  <b>This review is satisfied the requirements of Clause 3 have been met and the proposal is in the public interest.</b>  <b>The proposal meets the objectives of the SP2 - Infrastructure zone and surrounding development currently in operation at the site.</b>
	(b) the concurrence of the Planning Secretary has been obtained.	<b>The draft determination has been provided to the Southern Regional Planning Panel for determination (to fulfill the requirements of this clause).</b>
(5) In deciding whether to grant concurrence, the Planning Secretary must consider—	(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and	<b>No matters identified associated with the exceedance of building height that will impact state or regional planning.</b>
	(b) the public benefit of maintaining the development standard, and	<b>The public benefit in maintaining the standard does not contribute any value to the proposal (see justification assessed in clause 2 above).</b>
	(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.	<b>NA- no further matters identified in the assessment of this application.</b>
(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5	(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or	<b>NA- no subdivision proposed.</b>
	(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.	<b>NA- no subdivision proposed.</b>

Reference: Clause 4.6 Variation Request Review

<u>Clause</u>	<u>Objectives</u>	<u>Comment</u>
Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—	<b>Note—</b> When this Plan was made it did not include all of these zones.	
(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).		<b>A copy of this assessment is attached to s4.15 assessment and retained as part of the Determination.</b>
(8) This clause does not allow development consent to be granted for development that would contravene any of the following—	(a) a development standard for complying development,	<b>NA- Complying Development not proposed as part of this application.</b>
	(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> applies or for the land on which such a building is situated,	<b>NA</b>
	(ba) clause 4.1E, to the extent that it applies to land in a rural or environment protection zone,	<b>NA</b>
	(bb) clause 4.2B,	
	(c) clause 5.4,	
	(caa) clause 5.5,	
	(ca) clause 6.1 or 6.2,	
	(cb) clause 7.25,	
	(cc) clause 4.1H.	

**Reference:**      **Clause 4.6 Variation Request Review**

### **Conclusion**

This statement has reviewed the application prepared by PDC Town Planners (on behalf of Shoalhaven City Council) and considered the justification for a variation to clause 4.3 of the SLEP and Chapter G20 of the DCP.

The review undertaken by Cardno (now Stantec) on behalf of Shoalhaven City Council is satisfied that the justification for a variation to the standard building height outlined in the SLEP and DCP has met the requirements of clause 4.6 of SLEP.

A copy of this statement and the decision to accept this clause 4.6 variation request has been captured in the section 4.15 assessment report prepared for the proposal for determination by the Southern Regional Planning Panel.

#### **Report Author**



**Daniel Lidbetter**  
Senior Environment Planner

Phone: +61 2 4254 8725  
Email: [daniel.lidbetter@cardno.com.au](mailto:daniel.lidbetter@cardno.com.au)

#### **Report Reviewer**



**Nadine Page**  
Senior Environmental Planner

Phone: +61 2 4254 8725  
Email: [Nadine.page@cardno.com.au](mailto:Nadine.page@cardno.com.au)

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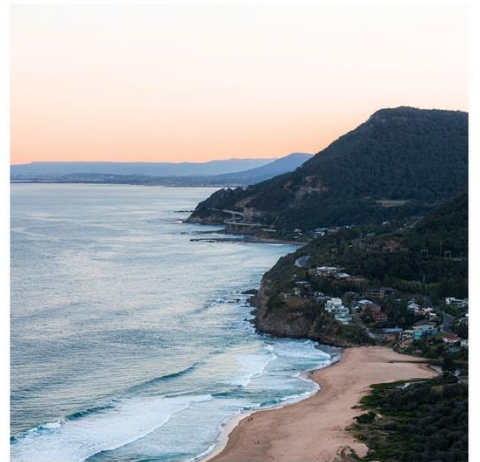
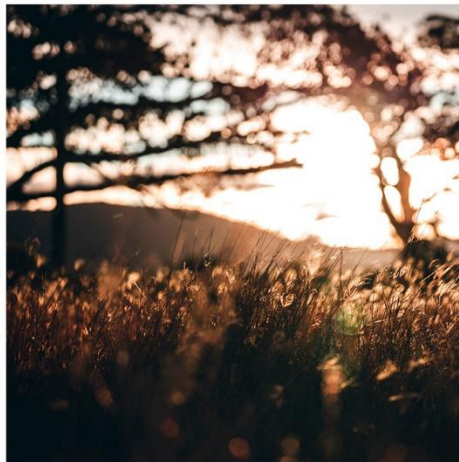
C. Clause 4.6 Variation Request (PDC Town Planners- on behalf of Shoalhaven City Council).



# Lawyers & Town Planners



## CLAUSE 4.6 VARIATION REQUEST



PROPOSED MATERIALS RECYCLING FACILITY  
FLATROCK ROAD MUNDAMIA  
PDC REF: P20-143  
DATE: JANUARY 2022





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## INTRODUCTION

A development application has been lodged with Shoalhaven City Council for the construction of a best-practice Materials Recycling Facility located within the bounds of the existing West Nowra Waste Management Facility off Flatrock Road, Mundamia. All works proposed in this application are contained within Lot 436 DP808415.

The facility will temporarily store and sort co-mingled recyclable materials from a variety of sources and is capable of processing up to 24,000 tonnes of waste per annum. The facility will consist of a series of machine technologies for processing waste streams into individual high-purity material stream. The machinery will be housed within a large shed 121m long by 68m wide and approximately 12m high (max). The proposed shed has been designed to accommodate the machinery, sorting processes and storage areas required for the processing quantities and materials expected. The proposal includes construction of a new access road, parking and manoeuvring areas as indicated on the plans.

The development application relies upon this Clause 4.6 variation request as a means of obtaining consent for the construction of the proposed building which exceeds the 11m height limit applicable to the site.

The reasons for proposing a 12m building height are outlined below:

1. The processing equipment utilises gravity to sort heavy from light materials during multiple stages. Materials need to be lifted to a height and then 'dropped' through cavities of different sizes. The building height of approximately 12m accommodates these processes and allows for clearance and maintenance.
2. Loading machinery utilised in the process has a maximum height of 10m. The proposed building height allows for clearance above the maximum operating height of these machines.
3. Vehicles delivering materials to the facility have a maximum tipping height of 8m.
4. Internal roof fixtures; such as lighting, remote cameras, fire-fighting equipment etc; will reduce ceiling height clearance above machinery and equipment.

This report should be read in conjunction with the Statement of Environmental Effects prepared by PDC Lawyers and Town Planners.

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Clause 4.6 sets out provisions that enable certain development standards within the SLEP 2014 to be varied.

Clause 4.6 reads 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 Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
  - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
  - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,*
  - (ba) *clause 4.1E, to the extent that it applies to land in a rural or environment protection zone,*
  - (bb) *clause 4.2B,*
  - (c) *clause 5.4,*
  - (ca) *clause 6.1 or 6.2,*
  - (cb) *clause 7.25.*

The following information is provided to Council in support of the proposal and to justify the request made for this application to be approved pursuant to Clause 4.6 of the SLEP 2014. The written request made below aims to demonstrate that:

- (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.*

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## STANDARD TO BE VARIED

In this instance, Clause 4.6 is relied upon to vary Clause 4.3 of the SLEP 2014. Clause 4.3 relates to height of buildings.

The SLEP 2014, through Clause 4.3 sets an 11m height limit for the subject land.

Parts of the building proposed exceed the 11m height limit.

The origins of the 11m height limit are such that it is a default height limit applied to sites across the City of the Shoalhaven which have no allocated height limit on the SLEP 2014 *Height of Buildings Map*. The 11m height limit is therefore not in place for this site as a result of any area specific urban design studies or assessments undertaken by the Council. In this regard, there are no documented urban design or planning reasons for the strict imposition of an 11m height limit for the subject land.

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## EXTENT OF THE VARIATION

The elevation plans indicate the maximum building height at the ridge is 12.065m. The development proposed therefore exceeds the 11m height limit by a maximum of 1.065m, or 9.68%.

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## COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

The way in which compliance with a development standard is established as unreasonable or unnecessary is by demonstrating that the underlying objectives of the development standard are met despite the non-compliance. However, in *Wehbe v Pittwater Council (2007) NSWLEC 827*, Preston J identified to four (4) other ways to establish that compliance with a development standard is unreasonable or unnecessary as follows:

- (1) establish that the “*underlying objective or purpose is not relevant to the development*” and consequently compliance is unnecessary;

**Comment:** The purpose of the development standard (height limit) is relevant to the development in this instance.

- (2) establish that the “*underlying objective or purpose would be defeated or thwarted if compliance was required*”, and therefore compliance is unreasonable;

**Comment:** This is not applicable as the objectives of the Development Standard remain relevant to the proposal.

- (3) establish that the “*development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard*”, therefore compliance is both unreasonable and unnecessary; or

**Comment:** This is not applicable.

- (4) establish that “*‘the zoning of particular land’ was ‘unreasonable or inappropriate’ so that ‘a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land’*”, and therefore compliance with the standard is unreasonable and unnecessary.

**Comment:** This is not applicable.

In this instance it is considered that the best way to demonstrate compliance is both unreasonable and unnecessary is because the underlying objectives of the development standard (Clause 4.3) are achieved.

The objectives of Clause 4.3 are to;

- i. *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
- ii. *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- iii. *to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

The proposal is consistent with the above objectives for the following reasons:

### **Height, Bulk and Scale – Compatibility considerations**

The built form of the proposed shed is consistent with the bulk and scale of existing development within the site.

The proposed shed is located on an area of the site that has lower ground elevation than publicly accessible surrounding areas of the facility, such that the roof height, as RL48m, falls below the surrounding landfill level of RL50m.

The existing transfer shed, where co-mingled waste is delivered to the landfill facility, is located approximately 130m east of the proposed shed. The transfer shed has a maximum roof height of approximately RL60m due to the difference in natural/finished ground heights. The existing transfer shed therefore has a roof height approximately 12m higher than the proposed materials recycling facility shed.

With respect to **neighbourhood character**, and in the specific context of the height of the development, the following key points are made:

- The subject site is zoned SP2 Infrastructure (Waste or Resource Management Facility) and is surrounded by similarly zoned SP2 land and C3 zoned Environmental Management Land. The development is associated with an existing waste management facility and involves addition of best practice technology that will improve resource recovery and reduce waste to landfill. The proposed shed is compatible, and consistent, with the scale of development of the area. This is despite the breach to the city wide, standardised 11m 'safety net' height limit.
- Due to the variation of surrounding natural ground levels the proposed building falls well below the maximum height of existing surrounding structures and will not be visually prominent within the site.

- The surrounding environmental management land further screens the site, and proposed development from public and private vantage points.
- The proposed development is consistent with the existing and desired future use of the site and is an expected addition to the waste management facility.
- The character of the site and surrounding land could be described as a waste management facility surrounded by undeveloped natural bushland. The waste management facility is typified by large industrial scale buildings. Given the land uses and zonings of the area it is considered unlikely the existing character will change over time. The proposed development is entirely consistent with the existing, and likely future character of the area.

### **Visual Impacts, disruption of views, privacy, solar access**

The building will not obstruct any important views, nor will it affect privacy or solar access for important private or public spaces, particularly given the surrounding land uses and zones.

### **Heritage Items**

The proposal will have no adverse impacts on any heritage items, as outlined in the due diligence Aboriginal Cultural Heritage Report prepared by Apex Archeology.

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For reasons outlined above, is it considered that the proposal meets the objectives of Clause 4.3 of the SLEP 2014.

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## **ENVIRONMENTAL PLANNING GROUNDS**

### **Objects of the Environmental Planning and Assessment Act 1979 (as amended) are Satisfied**

The relevant objects of the Act are addressed as follows:

<b>Object</b>	<b>Comment</b>
to promote 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	The proposed development will improve waste diversion by increasing resource recovery from waste. This will provide an economic advantage to Shoalhaven City Council through the sale of recovered materials that would otherwise have to be landfilled. Additionally, resource recovery protects the natural environment in two ways: 1. Minimising the area of land

	required for landfilling and 2. Reducing reliance on virgin materials through reuse/recycling.
to promote the orderly and economic use and development of land,	<p>The proposal, with specific reference to its height, facilitates the use of best practice technology for resource recovery.</p> <p>There is a demonstrated, and legislated, need for improved waste resource recovery and landfill avoidance, not just in the local region, but globally. Given the lack of sensitive site attributes, it is considered that the provision of best practice recycling technology in preference to maintaining an arbitrary height 11m limit is far more representative of an orderly, and economic use and development of the land.</p>
to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	<p>The proposed development accommodates best practice resource recovery sorting technology to support waste avoidance and resource recovery/recycling targets. The facility will assist in protecting the environment in two main ways.</p> <ol style="list-style-type: none"> <li>1. Reducing the area of land required for landfill</li> <li>2. Reducing the land/resources required for production of virgin materials (recycling/reuse)</li> </ol>

## Aims of the Shoalhaven Local Environmental Plan 2014 are Satisfied

The proposal is consistent with relevant aims of the Shoalhaven Local Environmental Plan 2014 as demonstrated below.

Aim	Comment
to encourage the proper management, development and conservation of natural and man-made resources,	The proposed development will actively assist in preserving man-made resources for reuse/recycling. The flow on effect, as stated above is protection and conservation of the natural environment by reducing the demand for land and virgin resources.
to facilitate the social and economic wellbeing of the community,	The social and economic wellbeing of the community will be enhanced by the proposal through the protection of the environment and income /resources generated for the Council through the facility.
to ensure that suitable land for beneficial and appropriate uses is made available as required,	The land is clearly suitable for the development proposed with specific reference to its height for reasons outlined within this report and the development application submission at large.
to manage appropriate and essential public services, infrastructure and amenities for Shoalhaven,	The West Nowra waste management facility is an essential public service provided by the Shoalhaven City Council. The proposed waste resource recovery facility will increase the life span of the current landfill, improve compliance with waste avoidance and resource recovery principles and generate additional income/resources for Council.
to minimise the risk of harm to the community through the appropriate management of development and land use.	The proposed development, being contained within the existing waste management facility, and surrounded by environmental conservation land unlikely to be further developed in future, is an appropriate location for the proposed use. The additional height sought does not increase the impact of any development impacts resulting from the proposal.

## The Shoalhaven DCP 2014 is Satisfied

The proposal complies with all relevant provisions of the Shoalhaven DCP 2014 despite the height of the development.



## **No Unreasonable Impacts**

Revision of the submitted plans reveal that the extent of the encroachment is minimal, and the nature of the development isn't altered as a result of the height limit breach. In this regard, there are no additional impacts resulting from the additional height on adjoining properties.

The physical form of the building is appropriate and justified despite the encroachment made to the 11m height limit.

The structure will not be visually prominent from any important public places. The height of the structure is compatible with the existing and expected future character of the area despite the exceedance.

The origins of the 11m height limit are such that it is a default height limit applied to sites across the City of the Shoalhaven which have no allocated height limit on the SLEP 2014 height of buildings Map. The 11m height limit is therefore not in place for this site as a result of any area specific urban design studies or assessments undertaken by the Council. In this regard, there are no documented urban design or planning reasons for the strict imposition of an 11m height limit for the subject land.

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## **PUBLIC INTEREST**

When a proposal does not comply with a development standard the consent authority must be satisfied that, despite the non-compliance, the proposal will be in the public interest. The way in which it is considered appropriate to demonstrate this is to prove consistency with the objectives of the development standard and the objectives of the applicable land use zone.

The proposal if approved will not set an undesirable precedence for reasons outlined detailed within this report.

### **Objectives of the development standard**

In relation to the objectives of the development standard, it has been demonstrated earlier in this statement that the proposal is consistent with these.

### **Objectives of the zone**

Pursuant to the provisions of the SLEP 2014, the land is zoned SP2 – Infrastructure (Waste or Resource Management Facility). The objectives of this zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The proposal is consistent with these objectives for the following reasons:

- 1) The proposed materials recycling facility is directly related to the waste and resource recovery facility activities undertaken on the wider site.
- 2) The proposal represents additional waste management infrastructure.
- 3) The proposal is entirely compatible with the existing uses of the site.
- 4) The facility will be licenced and managed under the existing environmental protection licence, which requires all ground water and litter to be contained within the site. This ensures that the surrounding environmental management zoned land is protected.

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## **OTHER CONSIDERATIONS**

In deciding whether or not to grant concurrence to a proposal that contravenes a development standard, the Director-General of Planning is to consider whether the contravention of the particular development standard raises any matters of State or regional planning significance. Further to this, the public benefit of maintaining the development standard.

### ***State and Regional Planning Matters***

The contravention of the 11m height limit as proposed does not trigger any State or Regional planning matters. The proposal is consistent with all relevant State Environmental Planning Policies and regional strategies.

### ***Public Benefit***

It is considered that, having regard to the circumstances of the case, there is no public benefit to be gained by insisting upon strict compliance with the 11m height limit. The extent of the variation when the specific circumstances

of the case are considered is reasonable and this statement provides sound justification for the approval of the exceedance to the height limit.

The provision of a state of the art materials recycling facility within the curtilage of the existing waste management facility, will be of immense public benefit. To reject the same would, in the opinion of the writer, be detrimental to the public benefits the proposal aims to provide.

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## **CONCLUSION**

The variation to the 11m height limit has been carefully reviewed with proper regard to clause 4.6 of SLEP 2014.

Accordingly, it is considered that the proposal will remain consistent with the objectives of the development standard (Clause 4.3) and the objectives of the SP2 zone.

Strict compliance with the 11m height limit is considered to be unreasonable and unnecessary in this instance. The underlying objectives of the development standard will be achieved by the development proposal despite the exceedance of the 11m height limit. Further to this, a series of environmental planning grounds to support the variation have been outlined. The proposal is not inconsistent with State or Regional planning matters and the public interest is being maintained due to the minor nature of the exceedance which is outweighed due to the public benefits of the proposal proceeding including those associated with waste avoidance and resource recovery.

For the reasons outlined in this statement, the variation is recommended for support.

**Kristin Holt**  
**Town Planner**  
**PDC Lawyers and Town Planners**