



10 December 2020

The General Manager
Port Stephens Council

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EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY

Ref: file number **PSC2018-02573-007**

This Policy (otherwise commonly known as the LEP Clause 4.6 Variation Policy) has been reviewed and was endorsed to be placed on exhibition at the Council meeting on 10 November 2020.

TRRA welcomes the exhibition of the minute of the Council meeting which explains the context – we have recently had cause to comment on the exhibition of some other revised documents without any explanation of changes.

In this case, only cosmetic changes are proposed.

We nevertheless wish to take the opportunity to repeat our criticisms of the Policy made when it was originally presented to Council in September 2018 as part of the Nelson Bay Strategy Delivery Program.

One of our criticisms in 2018 was that inclusion in the Nelson Bay Strategy 'package' obscured from the community the fact that the new Policy applied throughout the LGA.

We submit that this meant the Policy did not receive the level of attention and scrutiny that it deserved. We made a point of submitting our comments on the Clause 4.6 Variation as a separate attachment (now also attached to this submission).

Council's response to our 2018 submission (and those of several other individuals and organisations who also mentioned it in the context of Nelson Bay) was dismissive and did not address the very considerable concerns. The 'standard' response written by contractor Perception Planning to individual submissions on Clause 4.6 did not even attempt to address the specific



criticisms. A slightly more detailed response was given in the Nelson Bay Frequently Asked Questions (FAQs) published with papers for the Council meeting, but in our view this still did not fully address the concerns.

The 2018 responses were in any case provided in the limited context of the Nelson Bay Strategy and the debate over building heights. Our submission at the time was deliberately addressed to the wider context of the Policy applying **to all development standards**, and **throughout Port Stephens**.

We therefore attach our 2018 submission, and request that Council takes the substantive content (from Legal Context sub-heading onward) as a new submission on the largely unchanged Policy currently on exhibition.

We request a more detailed assessment of and response to our concerns than we were given in 2018.

We note that since our 2018 submission, Council approved another high rise apartment building in Nelson Bay town centre (DA 2018-386 at 1 Yacaaba St) at double the then LEP height limit for the site. This provides a further stark reminder of how Clause 4.6 can be used to subvert the clear intention of development standards, when Council is intent on doing so, and therefore justifies our concerns about the Policy.

We have no objection to the publication in full and unredacted of this submission and attachment.

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Attachment : **Objection to draft policy on Exceptions to Development Standards** – file name **180404 Attachment 3 to TRRA submission on Nelson Bay Strategy.docx**