



12 Switches and powerpoints

Performance Statement

Light switches and powerpoints are located at heights that are easy to reach for all home occupants.



Silver Level

No requirements.

Gold Level

- a. Light switches should be positioned in a consistent location:
 - i. between 900mm – 1100mm above the finished floor level; and
 - ii. horizontally aligned with the door handle at the entrance to a room.
- b. Powerpoints should be installed not lower than 300mm above the finished floor level.

Platinum Level

As for gold level with the following feature:

- c. Light and powerpoint switches should be rocker action, toggle or push pad in design with a recommended width of 35mm.



13 Door and tap hardware

Performance Statement

Home occupants are able to easily and independently open and close doors and safely use tap hardware.



Silver Level

No requirements.

Gold Level

- a. Doorways should feature door hardware installed at between 900mm – 1100mm above the finished floor.

Platinum Level

As for gold level with the following features:

- b. Doorways should feature lever or D-pull style door hardware; and
- c. Basins, sinks and tubs should feature lever or capstan style tap hardware with a central spout.

For Gold and Platinum level, the handle clearances for D-pull style door hardware should be the same as AS1428.1, AS 1428.1 is the most relevant set of specifications aimed at providing the greatest access to the greatest number of people and as such is an appropriate standard to reference for this Element.



14 Family/living room space

Performance Statement

The family/living room features clear space to enable the home occupant to move in and around the room with ease.



Silver Level

No requirements.

Gold Level

No requirements.

Platinum Level

- a. The family/living room should accommodate a free space, minimum 2250mm in diameter; to enable ease of movement clear of furniture.



15 Window sills

Performance Statement

Windows sills are installed at a height that enables home occupants to view the outdoor space from either a seated or standing position.



Silver Level

No requirements.

Gold Level

No requirements.

Platinum Level

- a. Window sills on the ground (or entry) level in living areas and bedroom spaces should be positioned no higher than 1000mm above the finished floor level to enable enjoyment of the outlook.
- b. Window controls should be able to be easy to operate with one hand and located within easy reach from either a seated or standing position.

Note A concession from (a) is reasonable in kitchen, bathroom and utility spaces.



16 Flooring

Performance Statement

Floor coverings are slip resistant to reduce the likelihood of slips, trips and falls in the home.



Silver Level

No requirements.

Gold Level

No requirements.

Platinum Level

- a. All floor coverings should:
 - i. be firm and even, and
 - ii. feature a level transition between abutting surfaces (a maximum vertical tolerance of 5mm between abutting surfaces is allowable provided the lip is rounded or beveled).



APPENDIX E

BEST PRACTICE RECOMMENDATIONS



E1 FIRE EGRESS FOR PEOPLE WITH DISABILITIES

HREOC Advisory notes on access to premises, Item 5.21 states that, in an emergency, all users should be provided with a means of egress from a premises to a place of comparative safety. This ensures people with disabilities to be provided with the same level of protection as other premises users or building occupants.

Consider providing a refuge area within fire isolated stairs by incorporating a 800mm x 1300mm area at stair landings of every accessible floor. A 1000mm unobstructed egress width to the area should be provided.

We recommend that signage displaying the International Symbol of Access (ISA) be provided to identify any places of comparative safety provided. Signage should state that the area is safe in the event of an emergency. Evacuation procedures for the building should address the provision of places of comparative safety for people with limited mobility. Signage should comply with BCA D3.6 and BCA Specification 3.6 and have braille and tactile components.

We also recommend that as a part of the emergency evacuation plan for the building, egress for persons requiring assistance be addressed. The provision of places of comparative safety within fire isolated passages would be advantageous to persons with a disability. This consists of a waiting area large enough to accommodate a wheelchair where persons can wait for assistance from emergency services. The waiting area should be identified with appropriate signage that incorporates the International Symbol for Access.

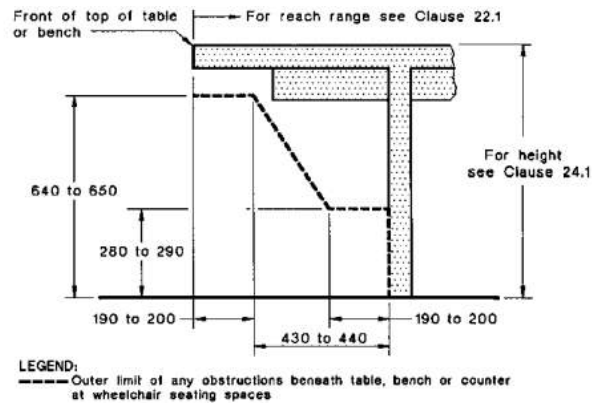
E2 RECEPTION COUNTERS

We recommend the provision of accessible reception counters designed in accordance with AS1428.2 (1992), Part 24.1.

- Provide a lower section of counter at a height between 830mm and 870mm above finished floor level.
- A counter required to be accessible must comprise a clear length of no less than 900mm.
- Where the counter requires a high level of interaction or worktop function: provide knee clearance of no less than 800mm in height for a minimum depth of 350mm; and foot clearance of not less than 300mm in height for a depth of 650mm.
- Where the counter requires brief or minimal interaction: provide knee clearance of no less than 750mm in height for a minimum depth of 350mm; and foot clearance of not less than 300mm in height for a depth of 400mm.
- Unobstructed circulation space must be provided in front of the lower height counter of 1540mm by 2070mm, with maximum grade of 1:40.
- Finished surfaces, including counter face and top, and the background to which each is viewed to be selected to ensure adequate definition for people with varying degrees of vision impairment, such as minimum 30% luminance contrast between counter top and counter face.
- Way-finding principles to be considered in the identification of the reception area, including provisions to aid detection of the accessible counter.



- Under the BCA an assistive listening is to be provided where the client is screened from the service provider. In order to satisfy the requirements of the DDA it is recommended that an assistive listening system, including Braille and tactile signage, be provided at any place where a service provider deals with a client or customer (reception desk) (AS 1428.2:1992 Clause 21.1).



NOTE: For width of seating spaces see Clause 24.1.3.

DIMENSIONS IN MILLIMETRES

FIGURE 25 KNEE AND FOOT CLEARANCE BENEATH A TABLE, BENCH OR COUNTER

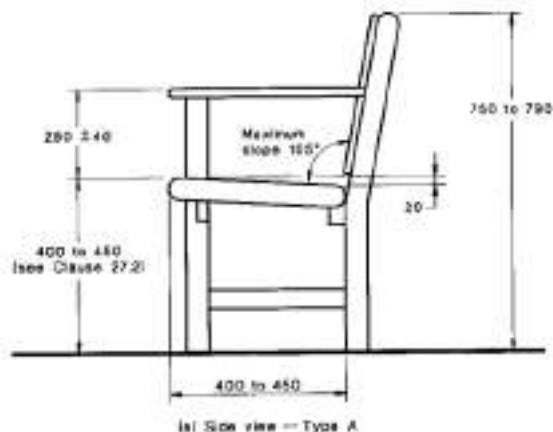
E3 SEATING TO PUBLIC AREAS

Where seating is located within public areas (for example to waiting area at Level 16), a proportion of accessible seating should be provided offering compliance with AS1428.2:1992 Clause 27.

Provide a seat height of 450mm; with side arms that extend a further 260mm +/- 40mm in height. Seating to have a back height of 750mm-790mm (AS 1428.2:1992 Clause 27.2). · Armrests must not extend beyond the perimeter of the base or legs of the seat to ensure stability of the chair when rising with use of only one armrest. · Heel space of at least 150mm with a minimum width of 350mm should be provided under seats to assist in rearward adjustments of feet when rising.

Seats located adjacent to pathways to set back at least 600mm to allow leg room without obstructing the adjacent path (AS 1428.2:1992 Clause 27.1(a)).

At casual seating spaces, waiting areas and the like, provide a minimum of 900mm space between seats or at either end to accommodate wheelchair users.



In addition, the provision wheelchair seating places within waiting areas is highly recommended. These spaces to allow a floor space of 800x1300mm.

E4 SIGNAGE AND WAYFINDING



Signs and symbols should be provided to inform all users. Provide a signage system which informs all users (HREOC Advisory notes on access to premises, Item 5.15). The use of pictograms is recommended as is the use of luminance contrast to ensure the message is clear and legible.

The height of letters in signs shall be not less than that show in the table below – AS1428.2(1992), Table 2.

HEIGHT OF LETTERS FOR VARYING VIEWING DISTANCES	
Required viewing distance m	Minimum height of letters* mm
2	6
4	12
6	20
8	25
12	40
15	50
25	80
35	100
40	130
50	150

* For further information on the heights of letters for different situations, reference should be made to [AS 1744](#).

NOTE: Helvetica Medium typeface is preferred.

The development of a way-finding strategy with consideration to landmarks and visual features of the development is recommended. This would include the use of varied finished surfaces to differentiate areas of each building.

Signs including symbols, numbering and lettering shall be located where they are clearly visible to people in both a seated and standing position. That is, they should be placed within a zone at a height not less than 1400 mm and not more than 1600 mm above the plane of the finished floor. Where space in this zone is used up, the zone for placement of signs may be extended downward to not less than 1000 mm from the plane of the finished floor. This height assists people to read from either a seated or a standing position, and also assists people with low vision to read the information on the sign. Letters and symbols in relief assist people with severe visual disabilities.

Where a sign can be temporarily obscured, e.g. in a crowd, the sign should be placed at a height of not less than 2000 mm above the plane of the finished floor.

Signs to assist way-finding should be provided at changes of direction and at sites where directional decisions are made, to enable the appropriate decisions to be made before a change of direction occurs.

Where the surface of the wall surrounding the sign provides insufficient contrast (e.g. patterned wallpapers), the background area to the sign may need to be increased in size.

The message that the sign carries should be unambiguous.

Tactile floor plans or maps and prerecorded auditory instructions at the main entrance and at other useful locations can be of assistance to people with visual impairment.



E5 STAFF WORKSTATIONS

Consideration should be given to the provision of accessible staff workstations within the building. Height adjustable workstations which can be adjusted by the user are highly recommended, with an adjustment capability between 610 and 760mm from the floor (AS 4442:1997 Clause 2.2.2 (b)).

Where provided, fixed height workstations to be provided at a height between 700 and 720mm (AS 4442:1997 Clause 2.2.4).

It is recommended that adjustable tables have a height adjustment capacity accommodating standing and seated users per AS4442 (1997).

Power and data outlets to be provided at desk top height at a distance not greater than 550mm from the front edge of the desktop (AS 1428.2:1992 Clause 22.; Figure 20 (b)).

The provision of a clear floor space of not less than 1370mm between the table edge and the opposing wall or fixtures will allow access by a person in a wheelchair to or past the table.

Ensure the layout of furniture and fittings allows for the provision of accessways in accordance with AS 1428.1 (2009), including:

- Minimum widths of paths of travel to be not less than 1000mm;
- Passing spaces with a minimum width of 1800mm and minimum length of 2000mm to be provided along paths of travel at maximum 20m intervals where a direct line of sight is not available; and
- Turning spaces of minimum 1540mm width and minimum 2070mm length to be provided within 2m of the end of paths of travel and at maximum 20m intervals.
Note: a passing space may serve as a turning space.
- Increased landings are required at changes of direction, including 1500mm X 1500mm turning spaces to facilitate a 60°-90° turn.

This may form part of a client management plan and associated operational procedures relating to individual facilitation of employees with temporary or permanent disabilities

E6 KITCHEN / KITCHENETTE FACILITIES

Consideration should be given to the provision of accessible kitchen /kitchenette facilities which are designed and constructed in accordance with AS 4299:1995 Clause 4 and AS 1428.2:1992 Clause 24.

This includes consideration to a bench height of 870mm in lieu of 900mm, appropriate knee and foot clearance to the underside of utility benches and appropriate circulation space within the room.

To provide access for people using wheelchairs, the sink should be located at a height between 850mm-870mm above the finished floor. The design of the sink must allow knee and foot clearance to the underside of the bowl for a clear width of no less than 900mm, in accordance with the following:

- Provision of knee clearance of no less than 680mm in height for a minimum depth of 300mm.
- Provision of foot clearance of not less than 290mm in height for a depth of 200mm (AS 1428.2:1992 Figure A2).
- Provide a section of clear bench space of no less than 900mm in length adjacent to the sink
- Provide a maximum depth to the sink of 150mm. This applies to the main bowl where a double sink is installed.



E7 LUMINANCE CONTRAST

Luminance contrast is the light reflected from one surface or component, compared to the light reflected from another surface or component. A luminance contrast of 30% between two surfaces is generally accepted as a minimum when considering it as a navigational / way-finding tool for people with Vision impairment.

In this regard, we recommend that the provision of a minimum 30% luminance contrast between surfaces be adopted in the following instances to assist people with Vision impairment negotiate the built environment:

- Provide luminance contrast between walls and doors.
- Generally, contrasting wall and floor surfaces should be provided. At a minimum, skirting boards which provide suitable contrast to the floor surface assist people with low vision in identifying perimeters of corridors and accessible spaces.
- For joinery, Counters or benches to achieve a minimum 30% luminance contrast with the counter / bench face to which it is viewed. Additionally, Counter / bench surfaces to have a matte or low sheen finish;
- For handrails and grabrails, provide a luminance contrast between the rail and the wall colour;
- For signage, provide luminance contrast so that message can be conveyed – luminance contrast required between the information in the sign and base sign colour.

Note: Statutory requirements for luminance contrast include tactile indicators, stair nosing strips, toilet seats and door / wall identification.

E8 CHANGING PLACES

Changing Places Australia is an initiative of the Association for Children with a Disability to provide safe and clean accessible toilets for use by people with severe disabilities. The goal is to have “changing places” incorporated within high use public buildings such as sporting venues, shopping centres and transport interchanges. A standard unisex accessible toilet offers a facility for independent use. Often being designed to minimum dimensions, they generally do not allow for assistance from a carer which is required by many people with severe disabilities. The lack of suitable changing places presents a barrier to inclusion within the community for many Australians.

Philip Chun Access is taking a pro-active role in ensuring that the provision of a changing place is at least considered within the design / redevelopment of major public buildings. The key design principles to be incorporated include a ceiling hoist, adequate circulation areas to allow for up to two assistants, and an adult change table which is fully adjustable.

Over 200,000 Australians are in need of facilities like this to be able to participate in their communities. The provision of changing places promotes inclusion and is expected to be adopted by many Councils’ planning policies in the near future.

E9 LOCKERS

The provision of lockers at a suitable height for people using a wheelchair is recommended. The height range for accessible lockers to be 230mm-1350mm AFFL based on the reach ranges prescribed in AS1428.2 (1992).



E10 FURNITURE HARDWARE

Generally, drawer and cupboard fronts that have recessed finger pull handles do not comply with AS 1428.1 (2009) Clause 13.5.2(b) and therefore are not recommended.

We recommend the use of D-type pull handles to furniture generally which provide a minimum 35mm clearance between the rear face of the handle and the face of the drawer.

E11 LIGHTING AND GLARE

Minimum interior lighting levels of maintenance illumination are to be in accordance with AS1680.1 (1990) and with consideration to AS1428.2 (1992) Clause 19. Consistent lighting levels should be provided throughout, without pools of light or dark areas.

Glare and excessively reflective surfaces should be avoided. This includes glare from windows.

AS1428.2 (1992) recommends the following minimum illumination levels:

- Entrances 150lx
- Passages and walkways 150lx
- Stairs 150lx
- Toilets and Locker rooms 200lx
- Counter tops 250lx
- Generally displays 200-300lx

At reception counters, appropriate lighting levels at the counter areas must be provided in accordance with AS 1680.2.2 (1994).

Generally, a task lighting of no less than 320lx must be provided with environmental lighting of no less than 160lx. That is:

(i) Where general lighting only is provided to provide both task and environmental lighting, the illuminance throughout the area shall be no less than 320lx; or

(ii) Where a system of local lighting is provided for tasks in combination with reduced environmental lighting, this may be provided as noted above (AS 1680.2.2:1994 Appendix F (b); AS1680.2.2:1994 Table F1).

E12

16 – CL4.6 STATEMENT

Central Coast
5 Pioneer Avenue
Tuggerah NSW 2259
Ph. 02 4305 4300
Fax. 02 4305 4399
coast@adwjohnson.com.au

Hunter Region
7/335 Hillsborough Road,
Warners Bay NSW 2282
Ph. 02 4978 5100
Fax. 02 4978 5199
hunter@adwjohnson.com.au

Clause 4.6 Exception to Development Standard for Height of Building

Proposed:
Mixed Use Development
112 Residential Apartments
1,514m² of Commercial Space
and Associated Works

Property:
482, 486 and 488 The Esplanade,
12 -16 King Street and 1 Howard Street, Warners Bay.
Lots 1 & 2 DP 1116535, Lots 3 & 4 DP 32518,
Lots 1, 2 & 3 DP 155951 and Lot 122 DP 578045

Applicant:
YPI Property Investments (Warners Bay Pty Ltd)

Date:
April 2017

Document Control Sheet

Issue No.	Amendment	Date	Prepared By	Checked By
A		20/04/2017	Brett Stein	Marion Lourens

Limitations Statement

This report has been prepared in accordance with and for the purposes outlined in the scope of services agreed between ADW Johnson Pty Ltd and the Client. It has been prepared based on the information supplied by the Client, as well as investigation undertaken by ADW Johnson and the sub-consultants engaged by the Client for the project.

Unless otherwise specified in this report, information and advice received from external parties during the course of this project was not independently verified. However, any such information was, in our opinion, deemed to be current and relevant prior to its use. Whilst all reasonable skill, diligence and care have been taken to provide accurate information and appropriate recommendations, it is not warranted or guaranteed and no responsibility or liability for any information, opinion or commentary contained herein or for any consequences of its use will be accepted by ADW Johnson or by any person involved in the preparation of this assessment and report.

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Table of Contents

1.0	INTRODUCTION	3
2.0	VARIATION TO DEVELOPMENT STANDARDS.....	4
2.1	METHODOLOGY	4
2.2	PREVIOUS CASELAW	5
3.0	VARIATION SOUGHT	6
4.0	RELEVANT PLANNING CONTEXT.....	8
4.1	ZONING.....	8
5.0	MATTERS FOR CONSIDERATION UNDER CLAUSE 4.6.....	9
5.1	DEVELOPMENT STANDARD	9
5.2	MATTERS FOR CONSIDERATION	9
6.0	CONCLUSION.....	14

LIST OF FIGURES

Figure 1: Image showing extent of height exceedance.

Figure 2: Lake Macquarie Height of Buildings Map.

Figure 3: Zoning Extract from LMLEP 2014.

Figure 4: The Esplanade Elevation.

Figure 5: King Street Elevation.

Figure 6: Howard Street Elevation.

Figure 7: Height of building encroachments.

Figure 8: Site viewed from Lake Macquarie

1.0 Introduction

This submission supports an application for mixed use development on land bounded by The Esplanade, King Street and Howard Street at Warners Bay. The subject site includes Lots 1 & 2 DP 1116535, Lots 3 & 4 DP 32518, lots 1, 2 & 3 DP 155951 and Lot 122 DP 578045 referred to as 482, 486 and 488 The Esplanade, 12 - 16 King Street and 1 Howard Street, Warners Bay (the site).

The site has an area of 5,093.9 m².

A maximum building height development standard of 22m applies across the site. The building has been designed so that it sits below the 22m height limit around the perimeter of the site, however, due to variances in levels across the site and the building design there are some marginal areas where the building nominally exceeds the height limit. The areas affected by this nominal height exceedance are indicated in white on the image below. The exceedance in height is confined to parts of the roof structure and part of the lift overruns.



Figure 1: Image showing extent of height exceedance.

As the current proposal does not satisfy the height limit for the whole of the site, a variation is required to the maximum building height development standard. This variation is permitted through the application of clause 4.6 Exception to Development Standard for Height of Building, set out within the Lake Macquarie Local Environmental plan (LMLEP 2014).

This report is submitted in support of the proposed variation and should be read in conjunction with the prepared Statement of Environmental Effects and development plans and associated reports.

2.0 Variation to Development Standards

2.1 METHODOLOGY

The mechanism that permits the determining authority to consider a variation to a Development Standard is Clause 4.6 of the LMLEP 2014.

Development Standard as defined in the Environmental Planning and Assessment Act means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,

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.*

The Land & Environment Court has over the years, developed a basis for the consideration of objections to development standards, initially in the context of SEPP 1 and then more recently with the introduction of Clause 4.6 in standard template LEPs.

2.2 PREVIOUS CASELAW

Wehbe v Pittwater Council (2007) NSWLEC 827 established a series of five tests for variation of a development under the former SEPP 1 provisions.

The Whebe tests for variation of a development standard are outlined and addressed as follows:

- i) The objectives of the standard are achieved notwithstanding the noncompliance with the standard.*

As demonstrated in this report the proposed development is consistent with the objectives of the standard.

- ii) The underlying purpose is not relevant in the circumstances.*

It is argued that as the proposed development is close to achieving the standard the purpose of the standard is generally met.

- iii) The purpose of the standard would be thwarted if compliance was required.*

The non – compliance with the standard is small and if compliance was required as less efficient design outcome would be achieved on the site.

- iv) The standard has been abandoned via previous approvals.*

Not argued.

- v) The zoning is unreasonable.*

Not argued.

More recently in Moskovich v Waverley Council [2016] NSWLEC 1015 it was found that the Whebe tests are still applicable for a Clause 4.6 variation with the qualification that previously it was required to determine achievement of the objectives of the standard, whereas under Clause 4.6 it should only be necessary to determine consistency with the objectives of the standard.

This report is structured to present the relevant planning background and context in the first instance and then addresses the relevant Clause 4.6 considerations.

3.0 Variation Sought

The standard to which exception is sought under Clause 4.6 of Lake Macquarie LEP 2014 is established by Clause 4.3 of the LMLEP 2014.

4.3 Height of Buildings

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure the height of buildings are appropriate for their location,*
 - (b) *to permit building heights that encourage high quality urban form.*
- (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](#).*

An extract from the Height of Buildings map is shown below. The maximum height of buildings for the subject site is 22 metres.



Figure 2: Lake Macquarie Height of Buildings Map.

It is relevant to note the following:

- The 22 metre height limit applies to land to the east of Howard Street and to land on the corner of King and John Street which have ground levels higher than the subject land.
- To the south of the site a height limit of 22 metres applies even though the existing building does not reach this limit and was constructed prior to the current height limits being adopted.
- The southern boundary of the site fronting Howard Street adjoins land with a 13 metres height limit.

The proposed development comprises two separate buildings elements linked by a shared podium and basement car parking. The two elements are referred to in this report as the Howard Street building (fronting King Street and Howard Street) and the lakefront building (fronting The Esplanade and King Street).

The Howard Street building is largely setback at a distance of 4.8m from the side boundary with the exception of the lift and stair core. It does not have any habitable rooms or balconies which face the side boundary.

There is a 3.6m separation between the lakefront building and the existing adjacent development for the first 12m. This separation is increased to 8.7 above 12m in height. Habitable rooms to the side boundary are only on level 6 and 7, above the height of the existing building.

4.0 Relevant Planning Context

4.1 ZONING

The subject site is zoned B2 Local Centre under the LMLEP2014 (see Figure 4). This is the same zoning as the main part of the Warners Bay Town Centre to the north and also to the east and south of the site.

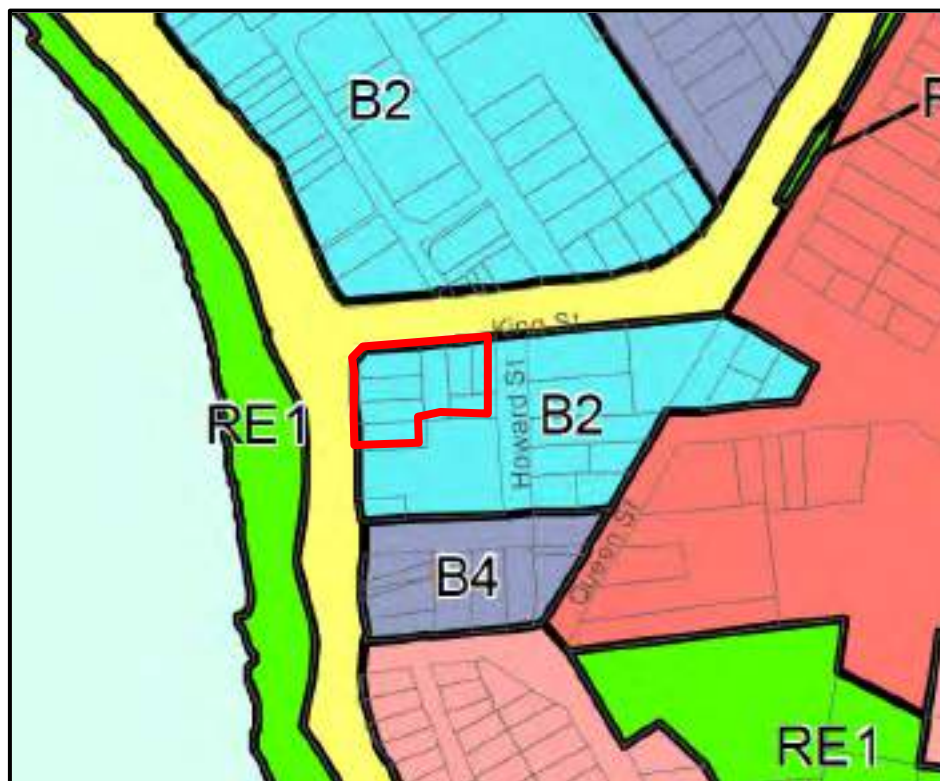


Figure 3: Zoning Extract from LMLEP 2014.

The Objectives of B2 Local Centre Zone are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To create spaces that are accessible and are a central focus for the community.
- To provide for housing as part of mixed use developments.

The proposal provides a high quality mixed use development incorporating business employment and housing and is consistent with the objectives of the zone.

Non-compliance with the development standard will not be inconsistent with the zone objectives.

5.0 Matters for Consideration under Clause 4.6

The relevant matters to be dealt with under Clause 4.6 of the LMLEP 2014 for the purpose of the variation are addressed below. The response seeks to justify the contravention of the development standard.

5.1 DEVELOPMENT STANDARD

The objective of the clause 4.3 Height of Buildings is to:

- (a) to ensure the height of buildings are appropriate for their location, and
- (b) to permit building heights that encourage high quality urban form.

Given that a building height of 22 metres was deemed as being satisfactory as part of the process undertaken in preparing the Warners Bay Area Plan, the height of the proposed building is considered as being appropriate for the location. The outer edges of the building comply with the height limit and the areas where the building exceeds the height limit are minor.

The proposed built form is consistent with the type of development envisaged for the site. The building design responds to the slope of the site which contributes to the marginal encroachment of the height.

It is not considered that the proposal compromises the objectives of the clause.

5.2 MATTERS FOR CONSIDERATION

Clause 4.6 of the LMLEP 2014 allows the consent authority to consider a contravention to a development standard providing the following can be demonstrated:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard,
- (c) 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,
- (d) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (e) the public benefit of maintaining the development standard.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (Clause 4.6(3))

The site is a relatively large in area with approximately 4 metres of fall from west to east. The reduced level of the height plane therefore varies across the site.

Compliance with the development standard in this instance is unnecessary because the extent of the exceedance of the standard is minor and will not have any significant impact particularly as the majority of the proposed building sits below the height limit.

The exceedance to the building height limit occurs at various locations toward the central part of the buildings, described as follows:

- Lift over runs
 - at its maximum, the height limit is exceeded by 900mm
 - other lift over runs exceed the height limit by 800mm, 600mm, 200mm and 100mm.
- Roof structure
 - Howard Street building - the part of the roof structure that exceeds the height limit is limited to a maximum of 300mm over approximately one third of the roof area.
 - Lakefront building – the part of the roof structure that exceeds the height limit is limited to a maximum of 200mm over approximately 10% of the roof area.

The development complies with the maximum building height limit around the perimeter of the site. The height exceedance of the Howard Street building element is towards the eastern part of the roof structure which is internalised within the development and results from the slope of the land.

The height exceedance for the lakefront building is confined to a very small part of the roof structure and lift over runs.

The lift over runs will not be visible from near views due to the height of the outer edge of building and setback of lifts from the edge of the building. Architectural roof features are not considered necessary.

The following extracts from the architectural plans show relevant building heights and envelopes for neighbouring development.

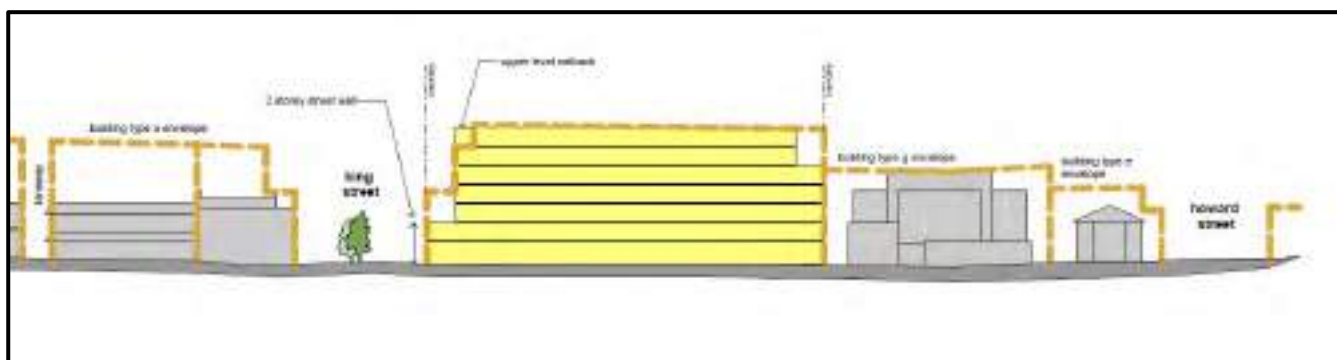


Figure 4: The Esplanade Elevation.



Is there sufficient environmental planning grounds to justify contravening the development standard?

The proposed development is a form that is consistent with the objectives of the zone and Part 10 Town Centre Area Plans – Warners Bay of Council's Development Control Plan.

The following images taken from the visual analysis and the street elevations show the building in context and it is clear that the negligible exceedance in building height proposed will not be discernible when viewed major view corridors. Further, the elements of the building, when viewed from close range cannot be seen as they are set back from the street frontages. Further, no additional overshadowing will occur to neighbouring properties as a result of the minor building exceedance.

The building design takes into consideration, the varied street levels at Howard Street and The Esplanade. The footpath in Howard Street is a low level footpath which needs to be raised to slope towards the street. This effectively reduces the available height envelope for the building.

Given the minor nature of the non-compliance, there are considered to be planning grounds to support the contravention of the development standard.



Figure 8: Site viewed from Lake Macquarie

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.

The proposed development delivers on the vision of the Warners Bay Area Plan adopted by Council in December 2016. A minor exceedance of the height limit for part of the building is considered justified having regard to the development outcome proposed. The height of the building is not higher than the roof of adjoining development to the east when viewed from the Lake and sits below the ridgeline that frames The Warners Bay Town Centre.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.

Contravention of the development standard does not raise any matter for State or regional planning. The proposal will achieve efficient delivery of additional housing in the area and achieves strategic goals for the town centre and satisfies zone objectives.

The public benefit of maintaining the development standard.

There is no significant public benefit in maintaining the development standard given the negligible impact of the minor extent of non-compliance. It is considered in the public interest to encourage development of the site as proposed.

6.0 Conclusion

The proposed development is appropriate for the zone. Given the limited impact of the minor non compliance with the development standard the contravention of the development standard is considered justified.

Council and the community can have confidence that the recently adopted controls for the Warners Bay Town Centre will be achieved through the proposed high quality mixed use development.