



Clause 4.6 – Exceptions to Development Standards Request to Vary Clause 4.3 Height of Buildings

Address: Wilberforce Avenue Car Park, Rose Bay

Proposal: New mixed use development incorporating multi-storey car park, community facilities and retail premises at 17 Dover Road, Rose Bay (also referred to as the Wilberforce Avenue Car Park site).

Date: 28 August 2023

1.0 Introduction

This is a written request to seek an exception to a development standard pursuant to Clause 4.6 – Exceptions to Development Standards of the Woollahra Local Environmental Plan (WLEP) 2014. The development standard for which the variation is sought is Clause 4.3 – Height of Buildings under WLEP 2014.

2.0 Description of the planning instrument, development standard and proposed variation

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

The Woollahra Local Environmental Plan (WLEP) 2014.

2.2 What is the zoning of the land?

The land is zoned E1 Local Centre (formerly B2 Local Centre) under the WLEP 2014.

2.3 What are the Objectives of the zone?

The objectives of the E1 Local Centre zone are:

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.
- To ensure development is of a height and scale that achieves the desired future character of the local centre.
- To encourage development that is compatible with the local centre's position in the centres hierarchy.
- To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.
- To maximise public transport patronage and encourage walking and cycling.

- *To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates.*

2.4 What is the development standard being varied?

The development standard being varied is the Height of Buildings development standard.

2.5 Is the development standard a performance based control?

No. The Height of Buildings development standard is a numeric control.

2.6 Under what Clause is the development standard listed in the environmental planning instrument?

The development standard is listed under Clause 4.3 of WLEP 2014.

2.7 What are the objectives of the development standard?

The objectives of clause 4.3 of WLEP 2014 are as follows:

- “(a) to establish building heights that are consistent with the desired future character of the neighbourhood,*
- (b) to establish a transition in scale between zones to protect local amenity,*
- (c) to minimise the loss of solar access to existing buildings and open space,*
- (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.”*

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

Clause 4.3 establishes a maximum building height of 17.2m as being applicable to the subject site. Refer to extract of the Height of Buildings Map included at Figure 1.



Woollahra Local Environmental Plan 2014

Height of Buildings Map
Sheet HOB_005

Maximum Building Height (m)

C	5	N4	14.5
E	6	N5	14.7
F	6.5	O1	15
G	7	O2	16.5
H	7.5	P1	17.2
I1	8	P2	17.5
I2	8.2	P3	18
J1	9	P4	18.1
J2	9.5	Q1	19
K	10.5	Q2	19.5
L1	11	Q3	20.5
L2	11.5	R1	21.5
M	12	R2	22.5
N1	13	S	23.5
N2	13.5	T	26
N3	14.1	U	34

- Refer to Clause 4.3A
- Refer to Clause 4.3B
- Refer to Clause 4.4C

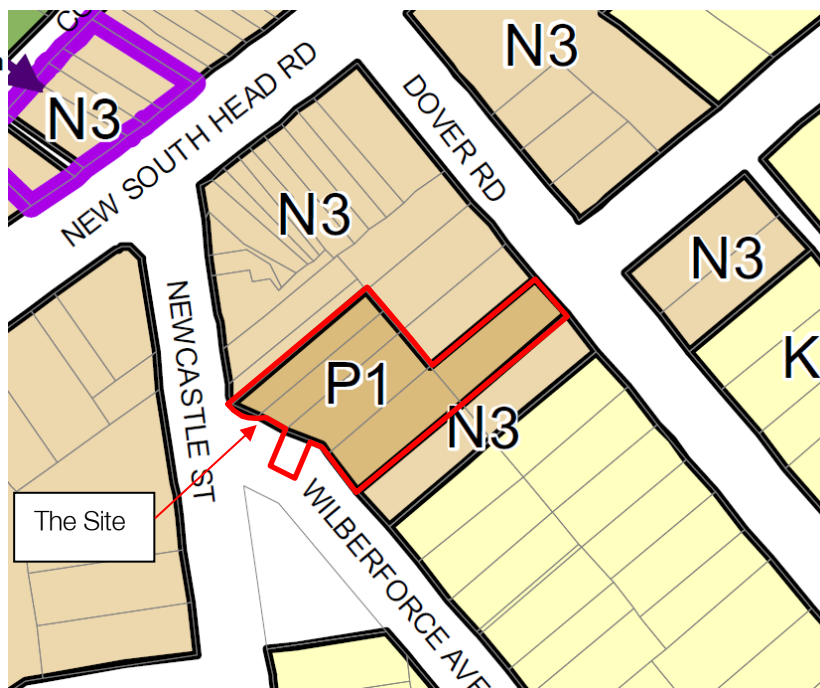


Figure 1: Extract of WLEP 2014 Height of Buildings Map

2.9 What is the proposed height in the development application and what is the percentage variation (between the proposal and the environmental planning instrument)?

The proposed maximum building height is 19.3m.

Table 1 below details the proposed numeric breaches and the percentage of variation to the development standards.

Control	Height location	Proposed height	Compliance	Variation	% Variation
17.2m	Lift overrun parapet (RL24.550)	18.9m	No	Approx. 1.7m	9.88%
17.2m	Central fire stair to roof (RL24.225)	19.3m	No	Approx. 2.1m	12.2%
17.2m	Parapet (RL22.80)	18.7m	No	Approx. 1m (note the Parapet breaches the height control to varying degrees but up to 1m – it is also noted that in places the parapet is compliant or under the height control)	5.8%

17.2m	Fire stair at north east boundary (RL23.695)	18.27m	No	Approx. 1.07m	6.22%
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Table 1: Description of the variations to the building height standard

The breaches in the height are visually represented in the following figures which are extracts from the Architectural Drawings submitted with the amended DA (i.e the Section and Elevation drawings).

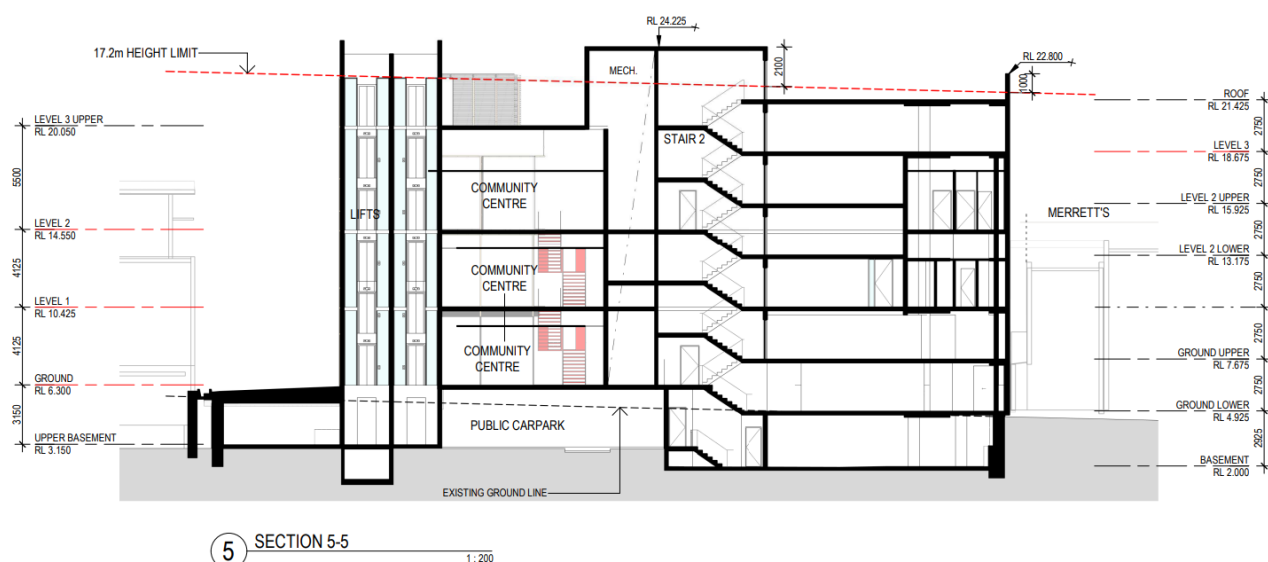


Figure 2: Extract from Section 5-5



Figure 3: Extract from Dover Road Elevation



Figure 4: South East Elevation

3.0 Assessment of the Proposed Variation

3.1 Overview

Clause 4.6 Exceptions to Development Standards establishes the framework for varying development standards applying under a local environmental plan.

Objectives to Clause 4.6 at 4.6(1) 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.”*

Clause 4.6(3)(a) and 4.6(3)(b) require that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating 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.”*

Clause 4.6(4)(a)(i) and (ii) require that development consent must not be granted to a 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.”*

Clause 4.6(4)(b) requires that the concurrence of the Secretary be obtained, and Clause 4.6(5) requires the Secretary in deciding whether to grant concurrence must consider:

- “(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning;
- (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.”

This application has been prepared in accordance with the NSW Department of Planning, Infrastructure and Environment (DPI&E) guideline *Varying Development Standards: A Guide*, August 2001, and has incorporated as relevant principles identified in the following judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (‘Four2Five No 1’);
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (‘Four2Five No 2’);
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 248 (‘Four2Five No 3’);
- *Micaul Holdings Pty Limited v Randwick City Council* (2015) NSWLEC 1386;
- *Randwick City Council v Micaul Holdings Pty Ltd* (2016) NSW LEC7;
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118;
- *RebelMH Neutral Bay v North Sydney Council* [2019] NSWCA 130;
- *Baron Corporation v The Council of the City of Sydney* [2019] NSWLEC 61; and
- *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245.

3.2 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

3.2.1 Is a development which complies with the standard unreasonable or unnecessary in the circumstances of the case?

- The proposed non-compliant elements of the building (being fires stairs, lift overrun and some of the parapet walls) do not contribute to a discernible increase in the overall bulk and scale of the proposed building above a compliant development.
- The parapet sections of the building which exceed the maximum building height standard are minimal and provide safety (in the form of balustrading), as well as enhancing the visual appearance from surrounding public and private places. The parapets are part of a highly articulated façade treatment and will screen/minimise views of the car park and the rooftop service elements of the building. For these reasons, the height of the parapets therefore also provide a clear benefit to the public and adjacent property owners. The non-compliant elements all increase the safe and efficient use of the proposed building. The parapet walls also contribute to the articulated façade treatment and help screen the public car parking and associated service/plant elements from public and private properties within the vicinity.
- The lift overrun, the non-compliant section of the parapet walls and the fire stairs (at the rooftop level) do not give rise to impacts associated with increased height, including overshadowing, view loss, loss of privacy or bulk and scale (visual massing).
- The development as proposed is consistent with the provisions of an orderly and economic development and Council’s strategic planning vision for the site.
- The proposal remains consistent with the objectives of the E1 Local Centre zone, despite the non-compliance with the height control – refer to detailed discussion in Table 3 (E1 Local Centre Zone Objectives) at 3.4.2 of this Statement.

- The proposal remains consistent with the objectives of the height standard, despite the non-compliance – refer to detailed discussion in Table 2 (Height of Buildings - Clause 4.3(1) Objectives) at 3.4.1 of this Statement.

The elements which exceed the maximum building height standard will enhance the safety and the use of the building by the public. These elements will clearly benefit and enhance the use of the (predominantly public building) by the public and will not result in adverse impacts for adjacent residential properties. For these reasons it is both unreasonable and unnecessary to require compliance with the development standard in the circumstances.

3.2.2 Would the underlying objective or purpose be defeated or thwarted if compliance was required?

Not contested. The underlying objective or purpose of the development standard would not be defeated or thwarted if compliance was required.

3.2.3 Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

Not contested. The variation request does not seek to identify that the standard has been abandoned by Council.

3.2.4 Is the zoning of the land unreasonable or inappropriate?

Not contested. The zoning of the land is appropriate for the site.

3.3 *Are there sufficient environmental planning grounds to justify contravening the development standard?*

It is considered that there are sufficient environmental planning grounds to justify contravening the development standard, being:

- The proposed development is the culmination of Council's strategic planning vision for the site. It is noted that the planning proposal which resulted in the amendment of the WLEP 2014 to facilitate the car park and community facility, anticipated that future development would likely include minor breaches of the maximum building height for the purpose of rooftop elements such as lift overruns, fire stairs and plant. Specifically, it was considered that rather than increase the overall maximum building height to accommodate these elements, it would be more prudent to set the building height to 17.2m and deal with any minor non-compliant rooftop elements as a variation to the building height standard as part of a future DA if or as required.
- The elements which exceed the maximum building height standard (as detailed in Table 1 of this Statement) will enhance the safety and the use of the building by the public, such that the elements primarily relate to fire stairs and a lift. These proposed elements will clearly benefit and enhance the use of the mixed use (predominantly public) building by the public.
- The parapet sections of the building which exceed the maximum building height standard are minimal and provide safety (in the form of balustrading), as well as enhancing the visual appearance from surrounding public and private places. The parapets are part of a highly articulated façade treatment and will screen/minimise views of the car park and the rooftop service elements of the building. For these reasons, the height of the parapets therefore will also result in a clear benefit to the public and adjacent property owners.
- The non-compliant elements do not result in additional gross floor area and as such the proposal remains compliant with the density development standard.
- The non-compliant elements do not result in adverse visual massing impacts. The rooftop fire stairs, parapet walls sections and the lift overrun (as set out in Table 1 of this Statement), do not result in a

development that is inconsistent with the scale of development that was envisaged for the site within the site specific planning proposal adopted by Council.

- The proposal as a whole will facilitate the delivery of a building which provides a quantum of car parking that will support the retail and commercial offerings of the Rose Bay Town Centre, whilst also contributing to the vibrancy of the centre through the provision of new active retail frontages and a multi-use community facility. In this regard the design of the car park and community is entirely consistent with the intended outcomes that were the basis of the approved planning proposal for the site and the desired future character for this location. The fire stairs, the lift overrun and the parapet walls are essential elements of the design of the proposed building. These elements are required to allow the building to function safely and are required in order to achieve compliance with relevant BCANCC requirements, Australia Standards and with accessibility requirements within the building.
- The proposed development will facilitate the delivery of long planned for public/community infrastructure at the site. The relatively minor breaches of the height control relate to the functional elements of the building (such as fire stairs providing safe egress for the site, lift overruns providing equitable access to the site, parapets and rooftop plant) are essential to the design and safer operation of the new facility and will not result in any increase in the GFA or density of the development or adverse impacts upon the public domain or adjacent residential properties.
- In addition to the above, there is a physical constraint of the water table in the location of the proposed development which prevents the feasibility of more than one basement level at the site. Therefore, in order to deliver the quantum of car parking envisaged for the new public car park, the number of levels of the building and overall height are in part a function of the specific physical site circumstances.
- For these reasons there are sufficient planning grounds to justify the contravention of the development standard in this instance.

3.4 Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development in the zone?

3.4.1 Objectives of the Height of Buildings Standard

The proposal remains consistent with the objectives of the Height of Buildings standard outlined in Subclause 4.3(1) despite the non-compliance, as demonstrated below:

Objective	Comment
<i>to establish building heights that are consistent with the desired future character of the neighbourhood,</i>	<p>The site is within the Rose Bay Town Centre and is an appropriate location for increased height.</p> <p>The proposal responds to the desired character of the precinct and substantially complies with the height standards.</p> <p>Specifically, the envisaged height and scale of development for the subject site is characterised within the site specific planning proposal adopted by Council and the proposed development remains consistent with that scale.</p> <p>The minor non-compliance with the building height standard for the purpose of a lift overrun, rooftop fire stairs and sections of the parapet walls will not alter the overall scale of the development or the overall general height of the building when discerned from adjacent sites and the public domain.</p>

to establish a transition in scale between zones to protect local amenity,

The proposal provides a transition in scale from surrounding development, having regard to a range of existing and proposed buildings at varying heights.

The lift overrun, the fire stairs and the sections of the parapet walls that breach the maximum height standard do not affect the effective transition of scale between the proposed building and adjacent development or adjacent zones.

The proposal remains consistent with the scale envisaged for the site.

to minimise the loss of solar access to existing buildings and open space,

The proposal will not significantly impact on the existing solar access received by the adjoining properties and public domain.

The shadow diagrams submitted with the application confirm that the proposed shadows will mainly fall across existing shadows and within Newcastle Street and Wilberforce Avenue.

In particular the lift overrun, the fire stairs and the sections of the parapet walls that breach the maximum height standard do not result in adverse impacts relating to solar access to existing buildings and open space.

to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,

The proposed envelope, its setbacks and corresponding heights have been managed to ensure impacts to adjoining sensitive uses, including residential dwellings, are minimised. This includes ensuring compliant setbacks are achieved in line with the design controls envisaged for the site, as well as designing the facades at these interfaces to prevent visual and acoustic impacts.

The proposal responds appropriately to the town centre location and development envisaged by Council on adjoining sites in accordance with the planning controls.

In particular, the lift overrun, the fire stairs and the sections of the parapet walls that breach the maximum height standard do not result in adverse impacts relating to solar access to adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion.

to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

The proposal will provide new and improved public domain areas, notably along Wilberforce Avenue and throughout the site. The proposed works will protect and improve the amenity of public domain areas along Wilberforce Avenue and Dover Road.

The incorporation of community facilities will allow for additional public spaces at elevated levels to take advantage of district and street views from the site. The lift overrun, the fire stairs and the sections of the parapet walls that breach the maximum height standard do not result in adverse to public views of the harbour and surrounding areas.

Table 2: Height of Buildings - Clause 4.3(1) Objectives

3.4.2 Objectives of the zone

The proposal remains consistent with the objectives of the E1 Local Centre zone, despite the non-compliance with the Height of Buildings standard as demonstrated in the assessment of the objectives below.

Objective	Comment
<i>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.</i>	<p>The proposal will provide a multi-use development including retail premises; community facilities and multi-storey car park to meet the needs of the local community and those visiting the Rose Bay Commercial Centre.</p> <p>The proposal reflects Council's adopted Community Facilities Study which identifies the need for a new integrated multi-purpose community facility in the Rose Bay.</p>
<i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i>	<p>The proposal will result in new direct and indirect employment opportunities at the site during the construction stage.</p> <p>In addition, all aspects of the operational phase of the proposed development will result in employment generation, direct and indirect. That is, the proposed new community centre and public amenities will include ongoing employment at the site to service the centre, as will the proposed new retail premises.</p> <p>Further, the proposal will support local businesses and the local economy in general through the delivery of new and improved public car parking at the site. The proposed parking will service the wider E1 Local Centre, making it easier for customers to visit and undertake business within the centre.</p> <p>The proposal will result in economic growth within the centre and satisfies the objective.</p>
<i>To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.</i>	<p>The proposal does not include residential development, however the proposed design mixed use development (i.e. retail and community facilities and public parking) will not diminish adjacent residential development, nor will it prevent the site from being development for residential development in the future.</p> <p>Where the site has an interface with adjacent residential development, the design responds appropriately to protect the amenity of the existing residential development. Further, the proposed mixed use development will contribute to the vibrancy of the locality and will help to activate the locality with improved and additional community facilities, community infrastructure and new retail spaces.</p>

To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

The inclusion of retail tenancies, a community centre and public car parking at ground floor will provide for a range employment opportunity across the site and serve the public with non-residential uses consistent with the objective.

To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area

The proposal is designed to establish street facades that are configured to transition to the existing scale and street wall heights along Newcastle Street and Dover Road.

This is reflected in a built form of 4 storeys at the Wilberforce Avenue façade that is configured to transition to the existing two storey scale along Newcastle Street and will provide a 'shadowline' articulation from the 17.2m height of the carpark site to the 14.1m height of the adjacent town centre.

This is also reflected in the proposal's ability to reinforce the distinctive place-based scale of retail shops on the corner of lan Street and Dover Road where it is proposed to extend this street frontage scale along lan Lane.

The proposal's scale accords with the design objectives established for the commercial centre, allowing for appropriate integration with and transition to the surrounding residential area.

To ensure development is of a height and scale that achieves the desired future character of the local centre

The proposal is designed to provide an appropriate built form in terms of alignments, scale, bulk and height to both the existing and the desired future character of the Rose Bay Commercial Centre as set out above in Council's design objectives and detailed controls within WDCP 2015.

In this regard it is noted that while the DCP controls envisage a shop-top housing solution for the site, the approved planning proposal for the site envisaged an alternative land use and built form outcome for the site. The planning proposal subsequently led to the amendment of the WLEP 2014.

The proposed development is consistent with the height and scale envisaged in the planning proposal and the also the general built form envisaged in the planning proposal.

The proposed development responds proportionally to the architectural concept envelopes prepared to support amendments to the maximum permissible building height across the site as part of planning proposal Ref: PP-2020-467.

The proposed variation to the height standard does not result in an additional storey or a scale above that which was envisaged for the site within the site specific planning proposal which was subsequently adopted by Council. Nor does the variation to the height standard result in any additional floor space above that which was envisaged for the site.

Instead the variation seeks to allow for several building elements that will provide for a safer and more equitable building. That is, the elements the subject of the height variation are for fire stairs, lift overrun and rooftop parapet (barriers) that do not result in an additional level or FSR. These proposed elements will benefit

	and enhance the use of the building by the public through the provision of safe egress in the event of a fire and equitable access to the various levels of the building.
<i>To encourage development that is compatible with the local centre's position in the centres hierarchy.</i>	The inclusion of new retail spaces and the proposed community facilities will assist in attracting new business and commercial opportunities to the Rose Bay Commercial Centre as well as reinforcing and increasing community activities within the local centre.
<i>To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.</i>	Proposed new retail floor space (of 316m ² including the integrated cafe) and a new community centre at ground floor will activate the development at street level. The proposed spaces will be contemporary in design, accessible and visually open to pedestrians within the two street frontages and the as well as the laneway, adding to the vibrancy of the local centre.
<i>To maximise public transport patronage and encourage walking and cycling.</i>	A secure bicycle parking cage for 14 bicycles is provided for retail employees and community to support low carbon transport choice and promote active transport options. End of trip (EOT) facilities are also provided to encourage both public and active transport options.
<i>To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates.</i>	The proposed development includes a comprehensive landscaping strategy prepared by Oculus, supported with detailed Landscaped Plans. The proposed landscaping supports the new development by integrating a diverse range of planting at ground level, providing a unique contribution to the Rose Bay Commercial Centre and providing a soft relief to the use of hard materials such as concrete and glass. The proposal involves a mixture of native and foreign species that responds to the prevailing historical site and ecological characteristics. The proposal also includes green walls which will sleeve some of the facades of the car park to obscure parked cars as well as provide significant sustainability benefits such as minimisation of urban heat island effect. The proposal satisfies the objective.

Table 3: E1 Local Centre Zone Objectives

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

The contravention is a local matter and does not raise any matter of state or regional significance. Council can assume the Secretary's concurrence under Planning Circular PS 18-003 issued on 21 February 2018.

3.6 Is there public benefit in maintaining the development standard?

Generally, there is public benefit in maintaining standards. However, there is also public benefit in maintaining a degree of flexibility in specific circumstances.

In this case, no public benefit would accrue in the circumstances of requiring strict numerical compliance with the Height of Buildings development standard when it has been demonstrated that, despite the numerical non-compliance, the proposed development will achieve consistency with the zone and development standard objectives.

3.7 Is the objection well founded?

Yes, the proposal is consistent with the objectives of the E1 Local Centre zone and the Height of Buildings development standard.

It is considered that the objection is well founded in this instance and that granting an exception to the development can be supported in the circumstances of the case.

4.0 Conclusion

The proposed variation is based on the reasons contained within this formal request for an exception to the Height of Buildings standard.

The proposal accords with the stated objectives for the E1 Local Centre zone and Clause 4.3 Height of Buildings development standard. The proposal will deliver long planned for community infrastructure at the site in a form that is generally consistent with Councils strategic planning vision for the site.

The proposed development will have a positive outcome for the urban aesthetic of the locality as well as significant public benefits through the provision of public car parking and a contemporary multi-purpose community facility. As such, it is considered that the proposal is consistent with the planning purposes for this location.

The site is subject to a physical constraint being the water table in the location of the proposed development which prevents the feasibility of more than one basement level at the site. In order to deliver the quantum of car parking that Council has envisaged for the new public car park, the number of levels of the building and overall height are in part a function of the specific physical site circumstances.

Further, the elements of the building that exceed the development standard are limited to relatively minor rooftop elements such as lift overruns, fire stairs, plant and some sections of the rooftop parapets. These elements are well integrated into the overall design of the building.

The minor rooftop elements that breach the building height standard do not result in a development that is of a greater scale to the scale that was envisaged within the site specific, Council adopted, planning proposal for the site.

The exceedance of the development standard does not increase the density of the site which is consistent with the density envisaged under the relevant planning controls for the site (i.e. floor space ratio).

Importantly, the elements which exceed the maximum building height standard will enhance the safety and the use of the building by the public, such that the elements primarily relate to fire stairs and a lift. These proposed elements will clearly benefit and enhance the use of the mixed use (predominantly public) building by the public through the provision of safe egress in the event of a fire and equitable access to the various levels of the building.

The parapet sections of the building which exceed the maximum building height standard are minimal and also provide safety for future (in the form of balustrading to the rooftop level), as well as enhancing the visual appearance of the building and screening the car park rooftop from surrounding public and private places. For these reasons, the height of the parapets will also result in a clear benefit to the public and adjacent property owners.

The proposed non-compliant elements are essential to the design and function of the proposed mixed use development. It has been demonstrated that the proposed development will result in positive social and economic impacts. The proposal will provide new and improved public domain areas, notably along Wilberforce Avenue and throughout the site. The proposed works will protect and improve the amenity of public domain areas along Wilberforce Avenue and Dover Road.

A development strictly complying with the numerical standard would not significantly improve the amenity of surrounding land uses, while inhibiting the provision of considerable new community infrastructure. In the context of the locality, it would be unreasonable for strict compliance to be enforced.

The non-compliance is not considered to result in any precedents for future development within the locality or broader LGA, given the site circumstances and surrounding pattern of development.

As demonstrated in this submission, it would be unreasonable for strict compliance with the Height of Buildings standard to be enforced. It is concluded that the variation to the Height of Buildings development standard is well founded as compliance with the standard is both unnecessary and unreasonable in the circumstances of this case.