

AMENDED CLAUSE 4.6 TO CLAUSE 4.3 OF BAYSIDE LEP 2021

EXCEPTIONS TO DEVELOPMENT STANDARDS – BUILDING HEIGHT VARIATION

*Retention of existing heritage façade of building at Nos. 83-85 Railway Street,
demolition of all other structures, construction of a 7-9-storey mixed-use development
comprising of ground floor commercial, 129 residential units, basement parking,
associated landscaping and VPA for public domain works*

*(Amended Plans prepared by Studio Johnston, **Revision 10, dated 10 January 2025**)*

75-85 Railway Street, Rockdale

PREPARED BY

ABC PLANNING PTY LTD

JANUARY 2025

BAYSIDE LEP 2021 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 variation request has been prepared to accompany the amended development application for the retention of the existing heritage façade of the building at Nos. 83-85 Railway Street, demolition of all other structures, construction of a 7-9-storey mixed-use development comprising of ground floor commercial, 129 residential units, basement parking, associated landscaping, and VPA for public domain works at No.s 75-85 Railway Street, Rockdale. (*Amended Plans prepared by Studio Johnston, Revision 10, dated 10 January 2025*).

Clause 4.6 of the Bayside LEP 2021 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement in *Initial Action Pty Ltd v Woollahra Council* [2017] NSWLEC 1734, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 140.

Clause 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 to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—

The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) *The consent authority must keep a record of its assessment carried out under subclause (3).*
- (5) *(Repealed)*
- (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 C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 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) (Repealed)
- (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,
 - (c) clause 5.4,
 - (caa) clause 5.5,
 - (ca) clause 6.16(3)(b)

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the Bayside LEP 2021 and the associated building height map below.



Figure 1: Height of Buildings Map

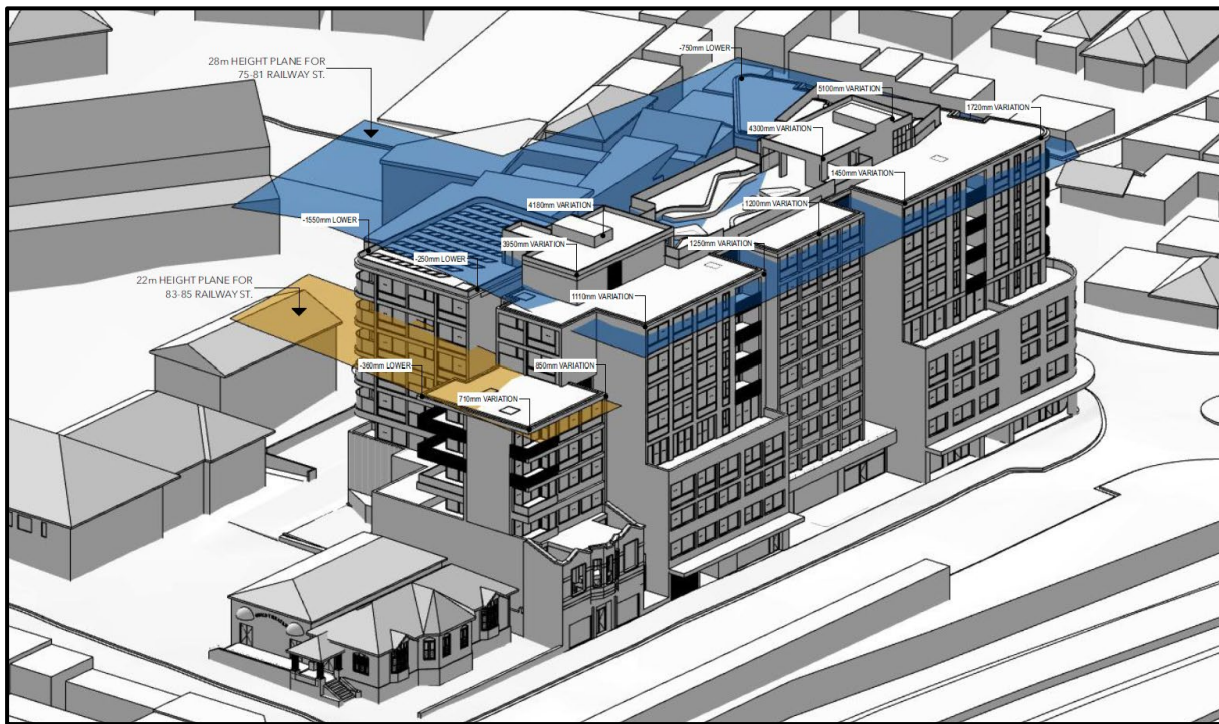


Figure 2: Extract of the height plane diagram demonstrating the location and extent of height variations

As shown above, in Figure 1, Clause 4.3 of Bayside LEP 2021 prescribes a maximum height limit of 28m for the northern part of the site (No.s 75-81 Railway Street) and 22m for the southern part of the site (No.s 83-85 Railway Street).

A site-specific Planning Proposal to amend the Rockdale LEP 2011 to increase the building height control of No.s 75-81 Railway Street from 22m to 28m was submitted to Council in 2015 and gazetted on 19 July 2020. No.s 83-85 Railway Street, Rockdale, was not included as part of the site-specific Planning Proposal. Subsequently, No.s 83-85 Railway Street is subject to different planning controls compared to No.s 75-81 Railway Street, including a building height control of 22m.

As shown in Figure 2, the proposed development has maximum building heights as follows:

- 33.1m (measured to the top of the northern lift overrun) on No.s 75-81 Railway Street, representing a 5.1m variation to the Height of Buildings Development Standard.
- 22.85m (measured to the top of the roof) on No.s 83-85 Railway Street, representing a 850mm variation to the Height of Buildings Development Standard for the southern part of the site.

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances

5-Part test

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the '5-Part Test' (from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The 5-Part Test is summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if the:

- 1. objectives of the development standard are achieved notwithstanding the non-compliance**
- 2. underlying objective or purpose is not relevant to the development*
- 3. underlying objective or purpose would be defeated or thwarted if compliance was required*
- 4. development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard*
- 5. zoning of the land on which the development is proposed was unreasonable or inappropriate.*

An applicant only needs to satisfy at least one part of the 5-Part Test, not all five parts.

Assessment: It is considered that strict compliance with the development standard for building height is unreasonable and unnecessary in the circumstances for the following reasons:

- Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk are of an appropriate form and scale and are compatible with the desired future character for the locality and the transitional nature of the area.

Consistency with desired future character

- The desired future character is considered to be informed by the LEP height standards of 22m and 28m, in association with the 9-storey height provision in the accompanying Bayside DCP 2022. The proposed height of 7 storeys on the site designated with a 22-metre height limit and 9-storeys for the component on the site designated as 28 metres is thereby consistent with the desired future character. The built form will present as compliant with the LEP height limits as the variations are minor and isolated components and in line with the intended

number of storeys for the site.

- The elements that are over the height standard are either indiscernible (being the upper level of the northern corner or part of the roof slab) or substantially recessed from the perimeter of the built form to ensure that such elements are not readily visible from nearby vantage points along Railway Street. Such vantage points are from in front (opposite) and from the adjacent intersections to the north and south. The additional height beyond the standard is also a minor element as viewed from Walz Street to the south. The built form thereby presents as consistent with the desired future character, as shown in the images below:



Figure 3: View from the north



Figure 4: View from Walz Street



Figure 5: View from Parker Street looking south

Sloping topography

- It is evident from the long section excerpt below that the height variation is associated with the sloping nature of the site from the west down to the east. It is evident from the section below that the western side of the built form is well below the height limit, which is also attributable to the sloping nature of the site. Such section confirms the retention of solar access to the plaza to the south to a greater extent than if built to the height standard.

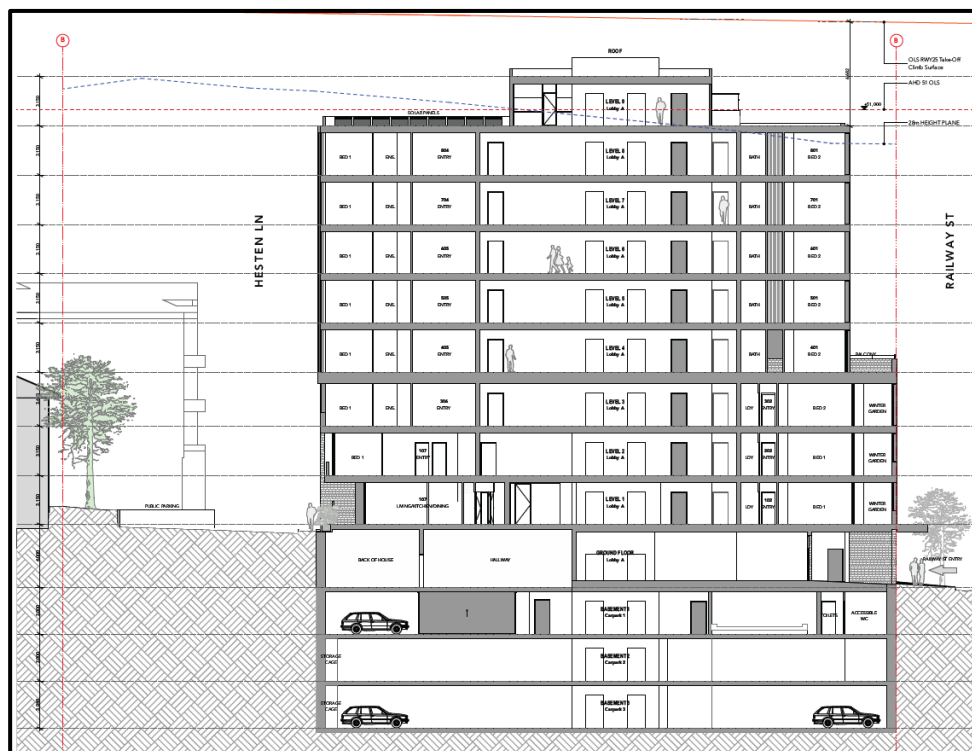


Figure 6: Excerpt of Section BB

Absence of streetscape impact

- The recessed nature of the upper levels minimises the perceived visual bulk and visual impact from the streetscape and surrounding properties. Furthermore, minor non-compliances to the upper levels of the units are imperceptible to the casual observer, thereby avoiding any adverse streetscape impacts. It is also reiterated that the height (in a number of storeys) is consistent with that contemplated by the LEP and DCP provisions whilst also having regard to the compliant floor-to-floor heights under the ADG.
- The external facades are articulated and indented to minimise the perceived bulk and scale of the building height non-compliance. The proposal incorporates various modulations, including a 4-podium-tower form, which is consistent with the provisions of the DCP built form. Providing an effective landscaped recess along Railway Street, in association with 4-metre-wide fragmentations, combined with contrasting colours, materials and finishes, achieves legible articulation, which breaks down the massing of the building.
- Despite the building height non-compliance, the proposal will sit comfortably in the character of the local area, as illustrated in the extract of the photomontage of the proposed development below.



Figure 7: Extract of the photomontage of the proposed development demonstrating the compatible nature of the built form with the surrounding development

Appropriate and reasonable distribution of height across the site

- The proposed development provides a substantial setback from the western

boundary to the main built form. The building could have been designed to extend further to the western boundary, noting that there is no FSR control for the site, offsetting the building's non-compliance. However, this large western setback provides a better planning outcome by providing communal open space in the western part of Level 1, solar access to the proposed units and communal open space, building articulation and increased privacy to the neighbouring mixed-use building at No.s 2-4 Parker Street.

- The height of the rear western portion is also now approximately 1.55 metres below the height limit, which reduces the visual impact of the proposal as viewed from the east-facing apartments addressed to 2-4 Parker Street. Furthermore, the modest height at the rear western portion reduces shadowing to the rear of 87 Railway Street to the south of the site as well as to the intended public plaza. The distribution of height and built form on the site thereby has a public benefit to the future plaza area.

Benefits of rooftop communal area

- The lift shafts/overruns, fire stair access, services, pergola and balustrading on the roof level, which are responsible for the greatest extent of height breach, contribute to the provision of a high level of amenity for the rooftop communal area. Providing the communal open space on the rooftop allows for an active communal space in an area isolated from neighbouring properties and the subject units within the development, thereby minimising potential visual and acoustic privacy impacts. The ground floor communal area contains passive communal spaces, which include access paths and seating areas. Such a ground-floor communal area is overlooked and is in close proximity to numerous units within and adjoining the subject site. Such a scenario demonstrates that the rooftop location of communal open space is preferable and represents a positive benefit for both the proposed and adjoining units nearby at 2-4 Parker Street.
- The rooftop communal location provides excellent amenity, including expansive views and abundant solar access. The rooftop area's landscaped setting and open aspect are preferable to ground-level communal open space.

Urban tree canopy

- The proposed extended communal area on the roof facilitates the outperformance of the communal space requirements while also allowing for a substantial tree canopy area on the rooftop. The accompanying landscape plan by Paddock Studio includes 19 canopy trees across the rooftop, which will provide an aesthetically pleasing outlook for users of the rooftop areas while also providing shading and reducing the urban heat island effect.

Absence of environmental impacts generated by the height variation

- Exceedance of the height control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity, and a reduction in this height would not create additional benefit for adjoining properties or the locality.
- As demonstrated in the shadow diagrams submitted with this application, the proposal will not result in unreasonable overshadowing of the surrounding properties. It is reiterated that the built form is now 1.55 metres below the height limit at the western end of the building, whilst the compact footprint associated with the reduced built form at the site's southern end also maximises solar access to existing and intended public areas. The 3D view from the sun diagrams demonstrates that the components over the height limit do not affect any surrounding living or private open space areas.
- The proposed development has been designed so as not to have an unreasonable impact on views from the public domain or surrounding properties.

Outperformance ADG floor-to-floor requirements generates a height breach

- The provision of a 4-metre floor-to-floor height for the ground level retail and 3.15m for the next eight floors generates a height of 29.6m excluding lift overrun, etc. It is noted that the floor-to-floor heights for the residential components are 3.15m, which is 50mm beyond that technically required by the Apartment Design Guide, with an extra 300mm on Level 4 for the thicker slab for the podium. Such additional height allows for construction methodology which can better achieve construction requirements and acoustic ratings. The satisfaction of compliant and outperforming ceiling heights for the retail and residential levels thereby results in a height variation. Such height increase was supported by the design excellence panel in its last review in December 2024. Such circumstances have been considered by the court as reasonable justification for variation to a height standard. This includes the recent decision which has been accepted by the Court and Council in the judgement of Vanis Holdings Pty Ltd v Bayside Council 2024.

High level of environmental performance of the proposed development

- The proposal provides a high level of internal amenity as demonstrated by compliance with the key amenity criteria within the ADG and DCP, including landscaping, setbacks, communal open space, cross ventilation, private open space, apartment and room sizes, storage and car parking. The excess building height, thereby, does not compromise the ability to meet or outperform the above criteria.

Precedent

- There are numerous instances whereby Council or the Land and Environment Court have approved height variations where they are primarily associated with lift shaft/overrun, rooftop pergolas and fire stairs, which is similar to the circumstances of this application. It is acknowledged that each DA must be assessed on its merits. However, it is apparent that the Council and the Court have permitted variations of a similar nature (in terms of the extent of variation and components that breach the height standard). On this basis, it is confirmed that the circumstances of this application are also reasonable and that a flexible application of the control is reasonable. Similar height variations have been previously approved by Bayside Council and the Land and Environment Court, with some examples listed below:
 - DA-2022/329: 15-37 Innesdale Road, Wolli Creek – Approved 18/07/2023 by Bayside Local Planning Panel *“Breach limited to 1.2m, not visible from street level, pertains to the lift overrun and pergola only, in the middle of the upper level”*
 - DA2017/194 (modified in 2024)- 295-301 Bay St, Brighton Le Sands- 2.42-metre variation to top of lift overrun/top of the uppermost storey
 - DA-2021/561: 1453 Botany Road, Botany – Approved 27/09/2022 by Bayside Council *“There are sufficient environmental planning grounds to support the variation. The height of the building is commensurate with recent approvals on immediately adjoining sites to the north. The height breach is mainly to the lift overrun and roof top pergola. The breach to a portion of the roof slab at the rear and the roof parapet are of a lesser percentage. There are no unreasonable impacts to neighbours and the proposal provides employment opportunities. The building is of a high quality.”*
 - DA2022/246-251-275 Bay St Brighton Le Sands- Vanis Holdings Pty Ltd v Bayside Council [2024] NSWLEC 1468 - 3.4m height variation to the lift shaft/overrun/fire stairs servicing the communal open space
 - DA2021/463- 30-34 High Street, Mascot - 3.375m variation associated with a recessed upper storey and parapet
 - DA2018/368- 1449 Botany Rd, Botany- 4.2m variation associated with a rooftop communal open space area, roof slab, stairs and lift overrun. The justification provided in the judgement is considered to be generally consistent with the factors provided in this Clause 4.6 variation, with an excerpt of the summary from the judgment provided below:

18	I am satisfied that the cl 4.6 written request demonstrates that compliance with the building height is unreasonable and unnecessary in the circumstances as required by cl 4.6(3)(a) as, despite the non-compliances, the development meets the objectives of the height development standard in the LEP.
19	The cl 4.6 requests also adequately establishes sufficient (and similar) environmental planning grounds that justify the height breach, as required by cl 4.6(3)(b).
20	In this regard, the following is a summary of the justification provided in the cl 4.6 written request for the height breach: <ul style="list-style-type: none"> (1) The lift and fire stair provide equitable access to the rooftop COS which is located in the centre of the site. The fall of the land in this location results in a consequential breach whereas the rear of the building is well below the permissible height. (2) The nature of the surrounding development and the east-west orientation of the surrounding sites would mean that ground level COS would not receive compliant levels of solar access during mid-winter. (3) The design of the development has adopted an approach consistent with the design character of the surrounding and adjoining approved development, including in the provision of rooftop COS and in the street wall height, setback and materiality. (4) The elements of the building which breach the height control are setback from the Botany Road frontage and occur in a reduced footprint above the central part of the building. This means that the additional height will have very little visual impact upon the streetscape, public domain and neighbouring properties. (5) The breaches do not give rise to any significant amenity impacts on neighbours in terms of solar access, privacy, views or bulk and scale. (6) All of the habitable floor space of the proposed development is fully compliant with the height control.
21	As the development meets the objectives of the B2 zone and of the height standard, I am satisfied that the development will be in the public interest.

Despite the non-compliance with the building height control, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Consistency with the objectives of the building height development standard in the LEP	
Objectives	Assessment
<i>a) to ensure that building height is consistent with the desired future character of an area,</i>	<p>Notwithstanding the height variation, the proposed building height and bulk are of an appropriate form and scale and are compatible with the desired future character for the locality and the transitional nature of the area.</p> <p>As outlined above, the proposed development remains compliant with the DCP building height in storeys control of 7 and 9 storeys. Furthermore, the elements above the height limit do not constitute a storey.</p> <p>The built form will thereby present the intended number of storeys by the LEP and DCP and is thereby consistent with the desired future character of the area despite the height variation.</p> <p>The recessed nature of the upper levels minimises the perceived visual bulk and visual impact from the streetscape and surrounding properties. Furthermore, minor variations would be indiscernible to the casual observer, resulting in no adverse streetscape impacts from the height variation.</p> <p>On this basis, the proposed built form will be consistent with the desired future character, notwithstanding the height variation.</p>
<i>b) to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,</i>	<p>As outlined above, there will be no adverse or discernible visual impacts of the proposed height variation due to minor elements incorporated into the built form or recessed so that such elements over the height limit are not readily perceptible.</p>

	<p>The external facades are highly articulated and indented with legible 4-metre fragmentations to minimise the perceived bulk and scale of the building height non-compliance. The proposal incorporates various modulations, including a podium-tower form, landscaped recesses along Railway Street to separate the building form and indentations on each residential level to separate the massing of the building.</p> <p>When viewed from the rear (including from 2-4 Parker Street residential flat building) and from the south, the westernmost portion of the built form is now 1.55-metres below the height limit. On this basis, the height variation will not generate any adverse visual impacts. The elements above the height limit are substantially recessed and separated from surrounding public vantage points, which confirms that the height variation will not generate any adverse visual impacts.</p> <p>Such analysis confirms that the height variation will not generate any adverse visual impacts.</p> <p>Exceedance of the height control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy and a reduction in this height would not create additional benefit for adjoining properties or the locality.</p> <ul style="list-style-type: none"> • <u>Overshadowing:</u> As demonstrated in the shadow diagrams submitted with this application, the proposal will not result in unreasonable overshadowing of the surrounding properties. Adjoining the site to the south is the heritage-listed Guild Theatre. <u>The 3D view from the sun diagrams demonstrates that the components over the height limit do not affect any surrounding living or private open space areas.</u> • <u>Views:</u> The proposed height variation has no view impacts on any private or public areas. • <u>Privacy:</u> The elements over the height limit will not generate any adverse privacy impacts as the components over the height limit are substantially separated from surrounding built forms and are setback further than the balconies and windows associated with the levels below. Landscaping on the communal roof area also assists in minimising any
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<p><i>c) to nominate heights that will provide an appropriate transition in built form and land use intensity.</i></p>	<p>perception of overlooking.</p> <p>The proposed building height and bulk are of an appropriate form and scale and are compatible with the desired future character for the locality and the transitional nature of the area.</p> <p>The built form drops from 9 down to 7 storeys towards the southern end of the site, which is consistent with the objective. The slight variation in the height standards for these built forms will not compromise the achievement of the objective.</p> <p>Despite the building height non-compliance, the proposal will sit comfortably in the character of the local area, as illustrated in the extract of the photomontage of the proposed development above.</p>
Consistency with the objectives of the E1 Local Centre zone	
<p>Objectives</p>	<p>Assessment</p>
<ul style="list-style-type: none"> <i>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.</i> <i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i> <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> <i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i> <i>To ensure development within the zone does not detract from the economic viability of commercial centres.</i> <i>To ensure the scale of development is compatible with the existing streetscape and does not adversely impact on residential amenity.</i> <i>To ensure built form and land uses are commensurate with the level of accessibility, to and from the centre, by public transport, walking and cycling.</i> <i>To create lively town centres with pedestrian focused public domain activated by adjacent building uses and landscape elements.</i> <i>To accommodate population growth in the Rockdale town centre through high density residential uses that complement retail, commercial and cultural premises</i> 	<p>The site is zoned E1 Local Centre under the provisions of Bayside LEP 2021.</p> <p>Schedule 1 – Additional permitted uses, Clause 22, permits residential flat buildings at No.s 75–81 Railway Street, Rockdale, if the ground floor of the building facing Princes Highway, Railway Street or Parker Street is used for commercial premises. The proposal includes the construction of a mixed-use development comprising ground floor commercial, 129 residential units, and basement parking at No.s 75-85 Railway Street, Rockdale, which is permissible per Clause 22 of Schedule 1 of the LEP.</p> <p>The proposed building height variation does not raise any inconsistency with the proposal's ability to achieve the objectives of the E1 Local Centre zone.</p> <p>The proposal is consistent with the objectives of the E1 zone as follows:</p> <ul style="list-style-type: none"> Despite the building height variation, the proposed development will contribute to the economic viability of the Rockdale Town Centre. Notwithstanding the building height variation, the development's residential component will contribute to the vibrant and active Rockdale Town Centre and is consistent with the Council's strategic planning for residential development in the area. The proposal and building height will contribute to population growth in the Rockdale Town Centre through a high-density residential use

<p><i>in the town centre.</i></p>	<p>that complements the retail, commercial and cultural premises in the town centre.</p> <ul style="list-style-type: none"> • The scale of the proposed development is compatible with the existing streetscape and surrounding area and will not adversely impact the residential amenity of the surrounding properties. <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the height variation.</p>
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Based on the above assessment, strict compliance with the LEP building height standard is considered unreasonable and unnecessary in this instance.

4.6(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard

Assessment: There are sufficient environmental planning grounds which demonstrate that the proposed building height can be achieved without adverse impacts for the following reasons:

- The reasons outlined above, including the absence of impact, consistency with the desired future character, promotion of accessibility and amenity for the communal area, facilitation of tree canopies at the roof level and absence of streetscape impacts, each constitute sufficient environmental grounds.
- The absence of additional shadow impact from the additional height constitutes sufficient environmental grounds.
- The provision of access to the roof terrace (lift and stair access) enhances the amenity of the building and constitutes sufficient environmental grounds.
- The communal area at the rooftop level provides a greater degree of amenity than if at ground or lower levels and promotes views and solar access to the rooftop areas (which are associated with the height variation). Such a factor constitutes sufficient environmental grounds.
- The lack of visual impact of the components that breach the height standard, as viewed from private and public vantage points, constitutes sufficient environmental grounds. The recessed nature of the rooftop elements ensures that the components that breach the height are not readily evident from the surrounding streets nor the intended public plaza to the south. Such a factor constitutes sufficient environmental grounds.
- Such height variation has been accepted by the Court and Council on numerous occasions, most recently in the judgement of *Vanis Holdings Pty Ltd v Bayside Council* 2024. Paragraphs 132 and 133 of the judgement are considered sufficient environmental planning grounds:

- 132 While not identified as an environment planning ground on pp 25-27 of the written request, the written request nevertheless states, at p 15, that the proposed floor-to-floor height of 4.3m at the ground floor retail, and 3.17m for levels above the ground floor are a function of amendments to the NCC. This dimension is greater than the floor-to-floor heights of the existing development at 251-269 Bay Street that was built to conform to an earlier version of the NCC.
- 133 The written request states the additional floor-to-floor heights contribute to the exceedance by approximately one metre, supported in my view by the misalignment of floor levels between the existing development and proposed new built form depicted on the northern elevation, drawing DA-201a, an excerpt of which is re-produced below.

- The proposal is consistent with the E1 Local Centre zone objectives and the building height objectives.
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).
- The sloping topography of the site is considered to constitute a sufficient environmental ground, noting that the height variation towards the front of the built form addressed to Railway Street is due to the sloping nature of the site. Such a factor is an established environmental planning ground with regard to height variations.

On the above basis, it is considered that there are sufficient environmental grounds to permit the building height variation in this instance.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at 75-85 Railway Street, Rockdale and is requested to be looked upon favourably by the consent authority.