

Attachment C

<p>Clause 4.6 Variation Request Building Height</p>
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Address: No. 29 Pymont Street, Pymont
Proposal: Hotel Accommodation
SEPTEMBER 2024

CLAUSE 4.6 VARIATION (BUILDING HEIGHT)

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PYRMONT STREET, PYRMONT

PROJECT INFORMATION

The Proposal: This Clause 4.6 variation (building height) accompanies a development application lodged with consent of the registered property owners. The proposal seeks approval for adaptive reuse of the existing heritage building, with alterations and additions to enable its use as hotel accommodation.

Site: Lot 1 Deposited Plan 745182
No. 29 Pyrmont Street
PYRMONT NSW 2009

Architect: **Lippmann**
No. 570 Crown Street
SURRY HILLS NSW 2010



CLAUSE 4.6 – VARIATION TO A DEVELOPEMNT STANDARD

What is the environmental planning instrument/s you are seeking to vary?

The proposal seeks to vary Clause 4.3(2) of the Sydney Local Environmental Plan 2012 which establishes a development standard for height of buildings.

What is the site's zoning?

E2 Commercial Centre.

The objectives of the zone are:

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To maximise public transport patronage and encourage walking and cycling.*

Identify the development standard to be varied and the type of development standard.

The development standard to be varied is Clause 4.3(2), which prescribes a standard for maximum building height. The height of building standard is a numeric standard.

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

- (a) to ensure the height of development is appropriate to the condition of the site and its context,*
- (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*
- (c) to promote the sharing of views outside Central Sydney,*
- (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,*
- (e) in respect of Green Square—*
 - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and*
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.*

What is the numeric value of the development standard?

Clause 4.3(2) prescribes a maximum building height of 6 metres for the subject site.

What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

Clause 4.3 prescribes a maximum building height of 6 metres for the site. The development proposed a building height of 8.950 metres which represents a 2.950 metre variation to the standard. This represents a 49% difference between the standard and proposal.



FIGURE 1

Building Height Plane Diagram

How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

There are 5 common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary (see a – e below as derived from *Wehbe v Pittwater Council* [2007] NSWLEC 827):

a) *Are the objectives of the development standard achieved notwithstanding the non-compliance?*

Comment: The objectives of Clause 4.3 are as follows:

(a) *to ensure the height of development is appropriate to the condition of the site and its context,*

- (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
- (c) to promote the sharing of views outside Central Sydney,
- (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,
- (e) in respect of Green Square—
 - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

Compliance with the standard is considered unreasonable and unnecessary in the circumstance as the objectives of Clause 4.3 are met in this circumstance, given the site context, established built form and topography of the site. The proposal is located within a locality with a significant change in elevation (approximately 5 metres between Pymont Street and Harris Street), and with significant variation in the height of established buildings – development within this precinct has been established over a 200 year timeframe (1 – 8 storey buildings are present within 100 metres of the site). A single storey elevation is however maintained to Pymont Street to recognise the site’s heritage context (see **Figure 2**), being consistent with the appearance of the renovated cottage and paired built form at No. 27 Pymont Street. A transitional 3 storey form is proposed at the rear of the site, consistent with the established scale of existing and proposed development on adjoining sites (see **Figures 3 – 5** over page).

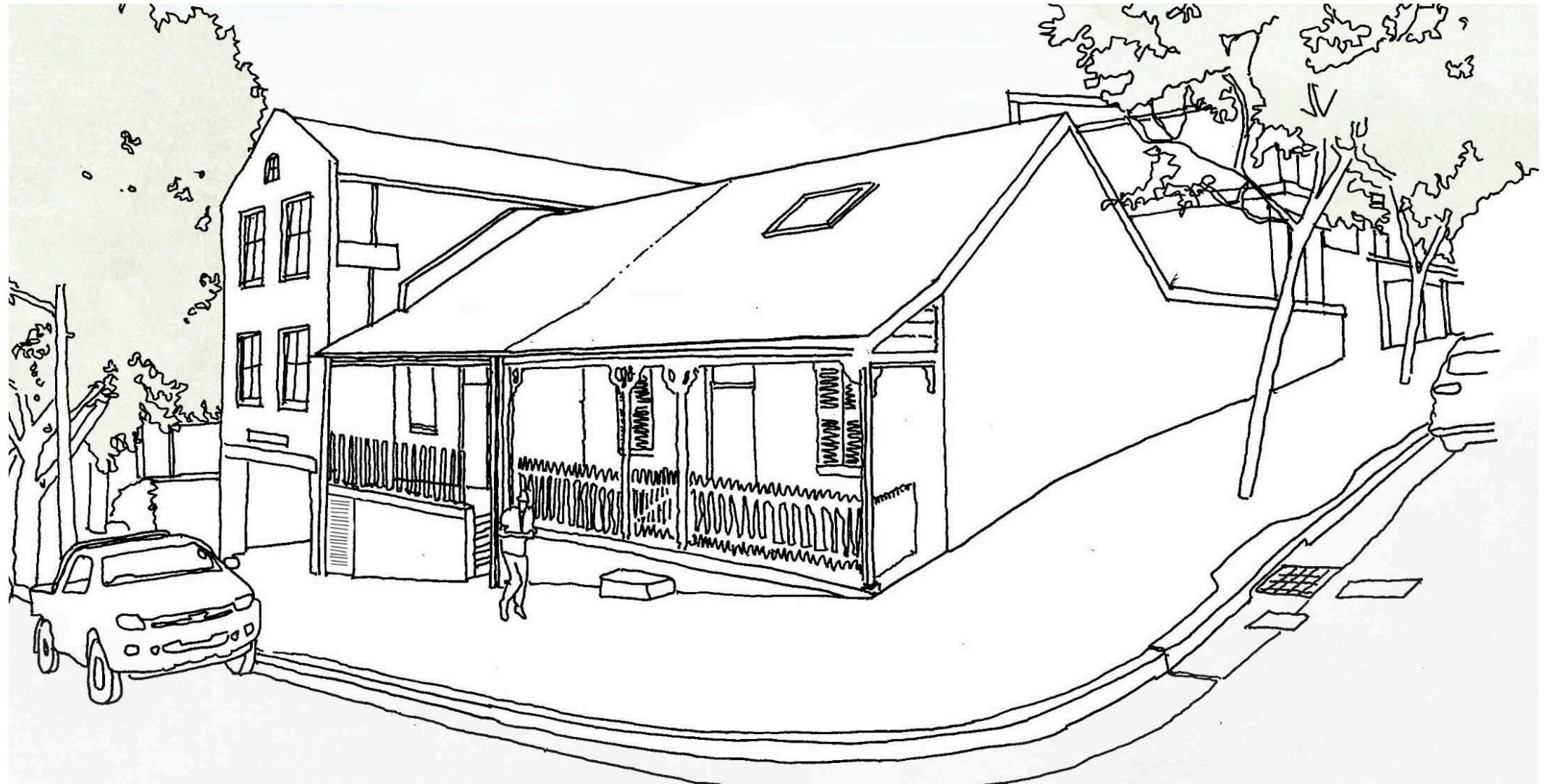
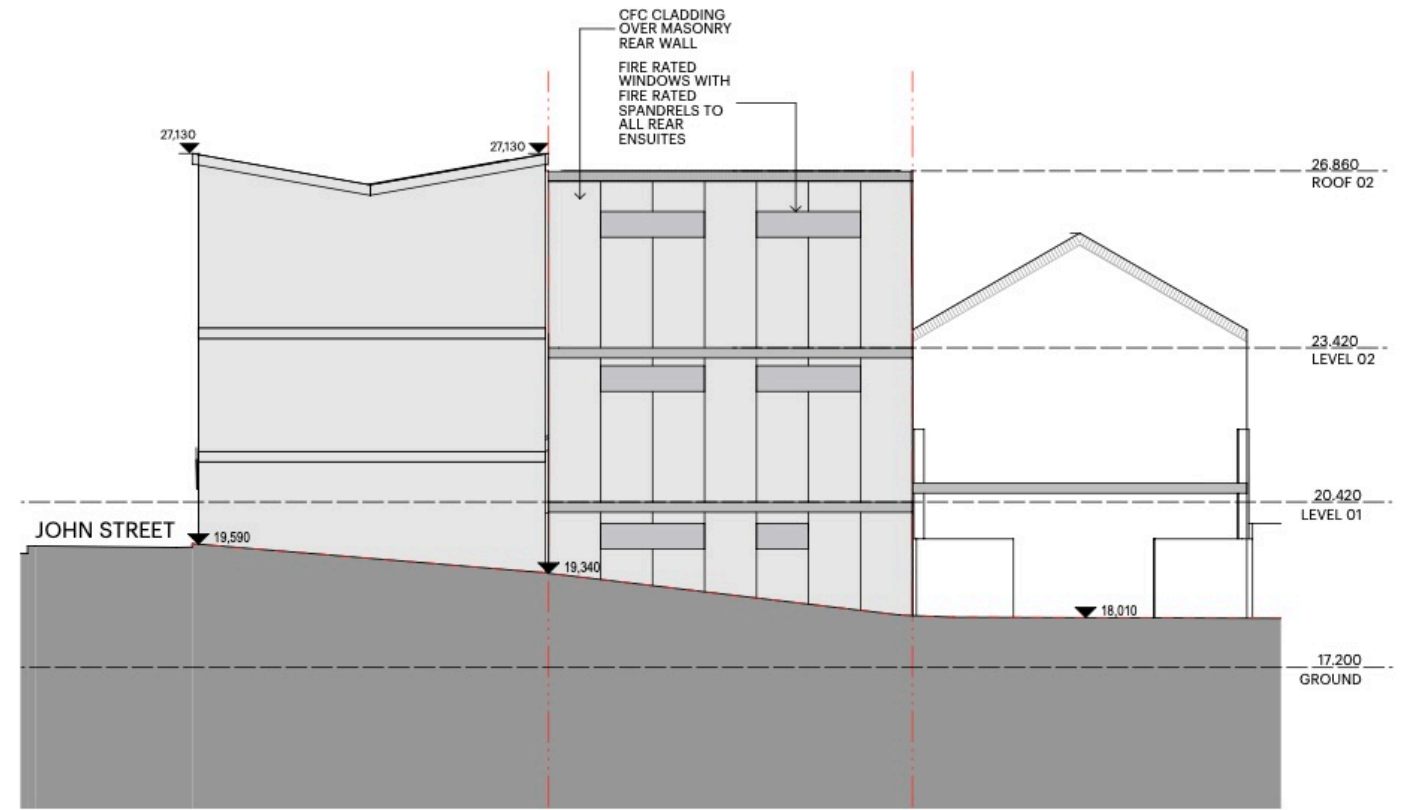


FIGURE 2
Proposed streetscape elevation prepared by Lippmann Architects.

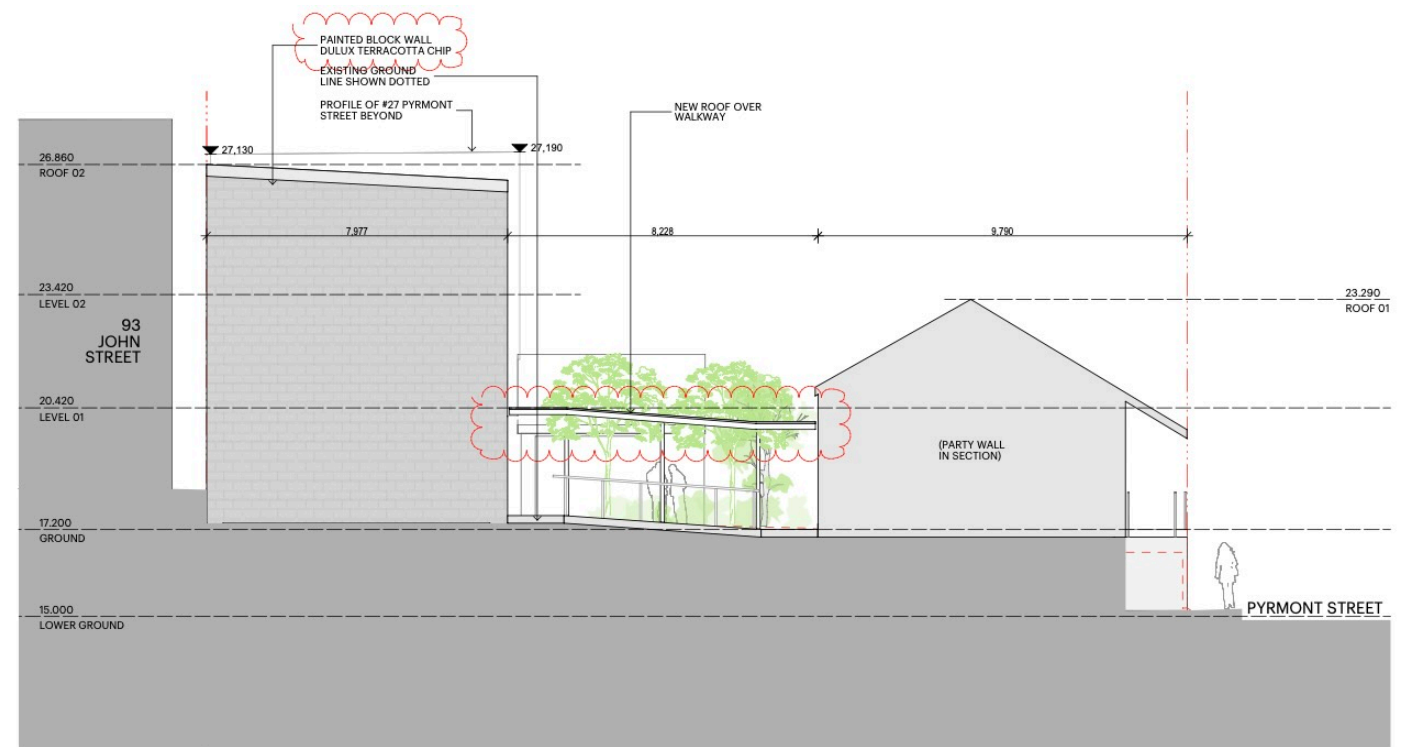
Contravention of the development standard by the proposal does not give rise to any adverse environmental impact and enables equitable access to be provided throughout the development. A degree of flexibility is however sought in the circumstances as the building height breach is limited to the existing roof form and proposed 3 storey building which is ensconced by adjacent built forms will not be readily visible from Pymont Street. The proposed built form is not visually intrusive, will not impact upon views from any adjoining property, and will not cause significant overshadowing to any adjoining property (noting properties to south are non-residential). The variation is a result of significant topographical differences between the street frontage at Pymont Street across the site to the rear.



WEST ELEVATION
1:100

FIGURES 3 & 4

Elevations of the proposed development demonstrating consistency with the height of established built form upon immediate adjoining sites.



SOUTH ELEVATION
1:100



STREE ELEVATION
1:200

FIGURES 5 & 6

Streetscape elevation (above) illustrating the proposed built form in context with neighbouring properties along Pyrmont Street, John Street and Harris Street within the street block, including the recently approved development at Nos. 86 – 92 Harris Street, and noting established 8 storey development to the west across John Street (right).



The proposed 3 storey rear addition is supported by the heritage architect, who reports the following:

The three storey rear additions, which include a glazed stairwell, are transparent when viewed from the rear courtyard and they are simple and display appropriate, sympathetic associations consistent with the simple working class character of the cottage. The new fenestration around the stairwell is discreet and vertically oriented with minimal visual impact, and therefore it does not generate adverse conservation impacts.

The rear addition is also a separate, free standing element, located in the back of the site and it does not affect the setting of the cottage pair and it is subservient to the much larger three storey rear addition that forms part of No. 27. Furthermore, the rear addition is not visible to the public domain and it will not affect the visual setting of the pair from either Pymont or John Streets.

Therefore, the items of the development that contravene the development standard are minimal and compliance with this standard is considered to be unreasonable and unnecessary in the circumstances, with a built form consistent with its context.

b) *Are the underlying objectives or purpose of the development standard not relevant to the development?*

Comment: The objectives are relevant.

c) *Would the underlying objective or purpose be defeated or thwarted if compliance was required?*

Comment: No, the development is demonstrated to be reasonable within its context and does not give rise to any adverse impacts.

d) *Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?*

Comment: No.

e) *Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?*

Comment: No.

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

Note: Environmental planning grounds are matters that relate to the subject matter, scope and purpose of the EP&A Act including the Act's objects. They must relate to the aspect of the proposed development that contravenes the development standard and not simply promote the benefits of the development as a whole.

Comment: The site is located near the north end of the Pymont peninsula, is densely developed and shows great diversity within a unique urban context of residential and maritime industrial mix. Pymont has lost its previous industrial character as the warehouses and factories have been converted or replaced by large scale residential and commercial buildings, recently built or under construction. Some of these blocks are blocks being redeveloped and resulting buildings are significant, dwarfing the surviving historical buildings. The locality is dominated by the massive Star City complex.

The subject site is located in a historic block with a context of low, one or two storey buildings backed by small stone cottages and bald-faced terraces with a network of narrow laneways. The rugged terrain of Pymont resulted in buildings built over deep cuts and terracing and the site exhibits the characteristically steep scale of enclosing retaining walls overlooked by buildings located on higher elevation.

Pymont Street is one of the earliest streets on the peninsula, parallel to Harris Street and it runs all the way back to Darling Harbour. Recent plantings of London Planes have transformed the character of the street from a bare wasteland to a verdant one. The streetscape of Pymont Street is heterogeneous with a wide variety of buildings.

To the north the subject building is flanked by a matching renovated cottage, with which the subject one forms a semi-detached pair. A three storey Post-war commercial building occupies the site to the south, where a third cottage was originally located. In a wider arc, there is an 8 storey contemporary residential flat building on the north side of John Street; a row of two storey contemporary terraces on the south side of John Street behind the site; the St Bede's Catholic Church group backed by a carpark further south in Pymont Street (see approved 5 storey redevelopment at **Figure 5**); and across Pymont Street a dilapidated Inter-war bond store stands flanked by two storey late Victorian terraces.

It is considered the proposed development is consistent with this eclectic character, the objectives of the development standard and E2 Commercial Centre zone objectives which seek to provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community. This part of Pymont is to function as a combined living and working precinct while protecting historic buildings and topography, whilst ensuring views of Central Sydney and surrounding suburbs from the public domain are maintained. Active ground floor uses such as shops and cafés and restaurants are encouraged.

The site is identified as a local heritage item. The development will respect the heritage of the site and existing building and has been designed such that it is sympathetic to the site constraints as well as the existing development within the immediate vicinity. Dwellings and commercial properties with the site surrounds will not be affected or impacted in terms of the existing access to privacy and amenity. The development will not impact upon any view corridors.

It is considered Lippmann Partnership have designed a unique building to read appropriately and respect the streetscape character. The topographical constraints of the site have resulted in a design outcome contributing to a 2.95 metre non-compliance with the maximum permitted height development standard, however, it is demonstrated that adequate environmental planning grounds support the proposal on merit.

Is there any other relevant information relating to justifying a variation of the development standard?

Comment: N/A

This written request has been prepared in relation to a proposed variation of 49% to the height of building development standard at Clause 4.3 of the Sydney Local Environmental Plan 2012. The proposal provides an appropriate built form that is compatible with the scale and massing of buildings evident within the locality. Furthermore, the proposed development will not have an adverse impact on the amenity of adjoining properties. It is unreasonable and unnecessary to require strict compliance with the height of building development standard, and the proposal demonstrates that there are sufficient site-specific environmental planning grounds to justify a variation in the circumstances of the case.

The height of development is appropriate to the condition of the site and its context, will ensure appropriate height transitions between new development and existing heritage items, and does not significantly impact upon the views of any adjacent property.