

Wollongong Local Planning Panel Assessment Report | 20 September 2022

WLPP No.	Item No.2
DA No.	DA-2021/425
Proposal	Adaptive re-use of listed former Denmark Hotel as three residential apartments with associated parking and site works including vehicular access via Miners Cottage site
Property	200 and 202 Princes Highway, Bulli Lot 1 DP 194397 and Lot 1 DP 986139
Applicant	ROI NSW Pty Ltd
Responsible Team	Development Assessment & Certification – City Wide Planning Team

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Wollongong Local Planning Panel - Determination

The proposal has been referred to the WLPP for **determination** pursuant to Part 1 of Schedule 2 of the Local Planning Panels Direction as Council is the owner of 200 Princes Highway, Bulli, Lot 1 DP 194397.

The proposal is also referred to the WLPP for determination pursuant to Part 3 of Schedule 2 of the Local Planning Panels Direction, as the Development contravenes development standards Clauses 4.3 Building Height and 7.14 minimum site width imposed by an environmental planning instrument by more than 10%.

Proposal

The proposal seeks consent for works to provide for the adaptive reuse of the Local Heritage Listed Denmark Hotel, for the purpose of Multi dwelling housing comprising 3 dwellings. The Denmark Hotel is located at 202 Princes Highway, Lot 1 DP 986139. The proposal is reliant on the establishment of vehicular access via the adjoining Bulli Miners Cottage site, 200 Princes Highway, Lot 1 DP 194397.

The proposal is Integrated Development pursuant to the Water Management Act 2000 as works are proposed within 40m of a natural watercourse.

Permissibility

Both 200 and 202 Princes Highway are zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan (WLEP) 2009. Multi dwelling housing is permissible in the R2 zone with development consent. Part of the Denmark Hotel is located within the road reserve area which is zoned SP2 Infrastructure. Consent for the works within the SP2 zoned area of the site is sought pursuant to Clause 5.10(10) Conservation Initiatives of the WLEP 2009.

Consultation

Details of the proposal were publicly exhibited in accordance with the Wollongong Community Participation Plan. Seven (7) submissions were received, two raising concerns regarding the development and five (5) indicating support for the proposal.

Internal

The proposal has been referred to Council's Development Engineering, Landscaping, Geotechnical, BCA, Heritage, Property and Environment Officers with satisfactory referral advice provided in each instance. See section 1.6.1 below.

External

The proposal was referred to the NSW Rural Fire Service, Transport for NSW, Heritage NSW and the Natural Resources Access Regulator. Correspondence has been received from each authority advising no objections to the subject proposal and providing either recommended conditions of consent or General Terms of Approval. See section 1.6.2 below.

Main Issues

The main issues arising from the assessment process are:-

- Heritage considerations
- BCA requirements
- Provision of adequate open space areas for each proposed unit
- Access via the Miners Cottage site.
- Height and minimum site width LEP non compliance
- WDCP 2009 minimum site width, front and side setback, landscape and private open space non compliance.

There is an urgent need to ensure the Denmark Hotel is reused and that urgent conservation works can be progressed. The proposed adaptive reuse of the hotel to support three residential units within the existing building footprint is therefore generally supported as a means to ensure the economic viability of the conservation of the site. It is noted and accepted by Council that the proposed change of use will necessitate some substantial internal changes.

RECOMMENDATION

Development Application DA-2021/425 be approved by way of deferred commencement subject to the conditions contained in Attachment 5.

The deferred commencement condition is required to ensure that the necessary easement to provide access to 202 Princes Highway (the Denmark Hotel Site) over 200 Princes Highway (the Council owned, Bulli Miners Cottage site) is registered prior to the issue of any operational consent.

1. APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Transport and Infrastructure) 2021
- SEPP (Biodiversity and Conservation) 2021

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2021

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the following:

- Construction works to provide and use of the Denmark Hotel building at 202 Princes Highway Bulli for the purpose of Multi dwelling housing, comprising 3 dwellings. The 3 dwellings are described in further detail below;
 - Unit 1 is proposed on the ground floor of the former Hotel building, on the northern side of the main corridor. The dwelling is proposed with the kitchen and living/dining area located at the front of the site, a semi enclosed private open space courtyard area in the centre of the unit and one bedroom and bathroom at the rear. A formal entry is proposed of the central corridor area from the rear of the site, but the unit is also able to be accessed off the Princes Highway, through the private open space to the north of the building or the verandah to the open space at the rear. The doorways to the front verandah area are noted to be fixed closed and acoustically treated. A linen cupboard area and laundry cupboard are proposed off the hallway area.
 - Unit 2 is proposed on the ground floor of the former Hotel. The dwelling is proposed with the main bedroom, ensuite and wardrobe areas at the front of the site. A lightwell is proposed to be located in between the main bedroom and bedroom 2. To the west of bedroom 2 is the main bathroom and to the far west, the kitchen and living area of the dwelling. Private Open Space is proposed to the north of the kitchen area and will be defined through fencing and landscaped areas.
 - Unit 3 is proposed on the upper floor of the Hotel. The kitchen, living, dining and family room areas are proposed at the front of the site. All doors on the front elevation are to be repaired or replaced as operable, but acoustically sealed. The main private open space area is proposed as an internal courtyard with a lightwell to the POS area of Unit 1 below and is accessible from the living/dining area and the laundry. The roof is to be removed above to maximise solar access. A lightwell is proposed between the family room and bedroom 3. Bedroom 2 is proposed to the west of Bed 3 and the master bedroom, ensuite, wardrobe and main bathroom within

the north western area of the upper floor. A small verandah is also restored on the western elevation and will be accessible from the master bedroom, Bed 2 and the central hall area.

The main access to the building is proposed to be via the car park at the rear of the site, with a ramp proposed to the deck area and central corridor. Adjoining Private Open Space areas are to be suitably fenced and landscaped to define the entrance to the building from these private areas. The entry door from the Princes Highway to the central corridor is to be repaired and reinstated as a secondary entrance to the building. The two doors to the north of the main corridor are to be repaired and fixed in a closed position, with acoustic treatment to minimise noise transmission into the adjoining units. The two windows on the ground floor of the front elevation are to be repaired or replaced to match the original with acoustic glazing. A timber balustrade is to be installed along the front ramp area.

Several external openings are proposed to be removed from the southern elevation to assist in achieving BCA requirements. Where windows are to be removed, a 15mm recess is proposed to assist in identifying the changes proposed as part of the subject proposal.

Disused fireplaces are to be retained and incorporated into the room designs.

Five resident and one visitor car parking spaces are proposed to be provided on an open crushed granite pad at the rear of the site. A motorcycle space, bin storage and bicycle storage are also proposed at the rear of the site. Stormwater from the site is proposed to be directed to a level spreader at the rear of the site which drains to the watercourse within the adjoining property to the west.

A perspective of the proposed development is provided at Figure 1.



Figure 1: Perspective from Princes Highway

Access to the site is proposed via the Miners cottage site to the immediate north. Works proposed to provide for this access include an upgrade and widening of the existing crossover to Princes Highway, the installation of new motorised gates within the site, passing bays and the extension and formalisation of the driveway area through the use of concrete edging and crushed granite. A condition is recommended with regard to the installation of a second motorised gate at the threshold

between 200 and 202 to ensure that the property boundaries remain clearly defined as a result of the development.

The site plan is provided at Figure 2 below.

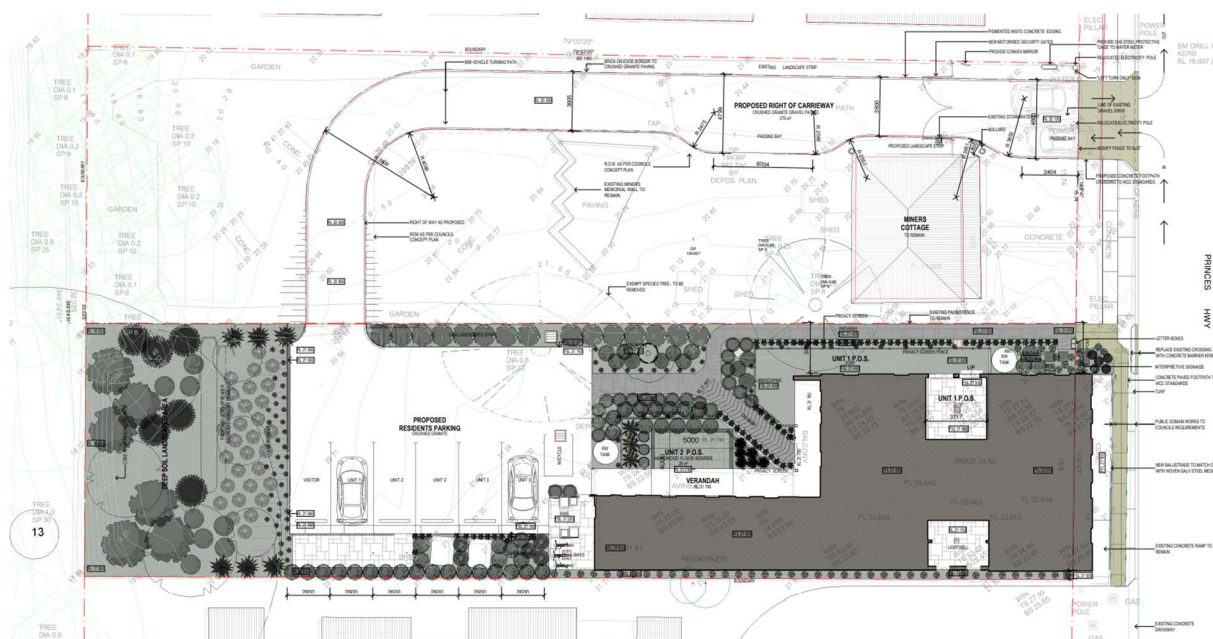


Figure 2: Proposed Site Plan

1.3 BACKGROUND

The development history of the site is as follows:

Table 1: Background

Application No	Description	Date	Decision
No. 202			
DA-2002/1714	Restoration Of The Old Denmark Hotel To Provide A Restaurant With Bar, Accommodation And Retail Outlet	16/10/2003	Approved
DA-2019/368	Building structural stabilisation works - new brick boundary walls & concrete footings	29/04/2019	Rejected
No. 200			
DA-1992/478	Miners Memorial Museum	12/10/1992	Approved
DA-1996/31	New Roof For Bulli Miners Cottage	1/04/1996	Approved
DA-2015/1086	Rectification works to dilapidated Bulli Miners Cottage	26/10/2015	Approved

Pre-lodgement meetings have been held on two occasions in relation to the adaptive reuse of the subject site. The application has generally addressed the matters raised and information requested during these meetings.

Customer service actions

There are no outstanding customer service requests of relevance to the development at the time of preparing this report.

1.4 SITE DESCRIPTION

The site is comprised of two properties, located at 200 and 202 Princes Highway Bulli and are known as Lot 1 DP 194397 and Lot 1 DP 986139 respectfully.

200 Princes Highway contains the Bulli Miners Cottage, a small, single storey timber structure located to the front of the site. A miners memorial exists at the rear of the Cottage. A gravel driveway exists along the northern property boundary and leads to a large, grassed area at the rear of the property. A picket fence exists along the sites frontage to Princes Highway.

202 Princes Highway contains the Denmark Hotel and outbuildings. The Hotel is visually significant, being masonry and two storeys with a lookout at the front of the site and with the building itself and the verandah areas overhanging the Princes Highway road reserve area. The rear single storey section of the hotel creates an 'L' shape built form. There have been significant works undertaken to the hotel over the last 5-10 years which has resulted in the loss of much of the internal fabric.

The location of the subject properties is demonstrated at Figure 3 below. Figure 4 has been extracted from the submitted Heritage Impact Assessment and provides a view of the Denmark Hotel in approximately 1902. The view of the sites from the Princes Highway today is demonstrated at Figure 5.

A concrete ramp was constructed at the front of the site to retain access to the doors on the ground floor of the Princes Highway elevation in conjunction with the widening, lowering and realignment of the Princes Highway.

202 Princes Highway has a total area of 919.7sqm and 200 has a total area of 982.7sqm. Both sites fall from the Princes Highway to the rear. A number of trees exist along the rear boundary.

At its meeting of 14 December 2015, Council resolved to provide in principle support for the establishment of a 'Right of Carriageway' over the Bulli Miners Cottage site to the Denmark Hotel site subject to conditions as follows:

- a. The owner of the Denmark Hotel building must obtain Development Consent;*
- b. The development consent must provide for adaptive reuse and long terms conservation of the Denmark Hotel Building;*
- c. The Right of Carriageway must ensure the ongoing viability of the Bulli Miners Cottage, for suitable reuse options (as may be identified through the 'Call for Proposals');*
- d. Any and all costs associated with the establishment of a right of way, or easement, are to be borne by the owner/developer of the Denmark Hotel; and*
- e. The final agreement should provide for a financial return, and/or works in kind, that will have benefit to the ongoing conservation of the Bulli Miners Cottage.*

The subject application seeks to satisfy parts a and b of the above resolution. A deferred commencement condition is recommended to ensure that the negotiations relating to the easement and other arrangements required by the Council resolution are satisfied, prior to the release of the operational consent and the progression of the works at the site.



Figure 3: Aerial Imagery – 202 Princes Highway outlined in red and 200 in yellow.



Figure 4: View of the Denmark Hotel, circa 1902 extracted from the Statement of Environmental Effects



Figure 5: Current front view of the subject sites

The Denmark Hotel was constructed and established in approximately 1896 and operated until 1907 when it was de-licenced. The rear, single storey timber structure predates the masonry two storey building at the front of the site, being established in approximately 1860. The site is identified as a local heritage item, 'Denmark Hotel and stables' item number 5927. The stables have been demolished and the site has been through a series of uses since ceasing operation as a hotel, including flats, a boarding house and a private residence. The Heritage Inventory Report available from Heritage NSW notes that the building fell into a state of disrepair in the late 1980's and is currently in a very poor condition. Council have been actively involved in works to enable the retention of the building in a structural state, including engaging a structural engineer and advising as to structural bracing works to the southern wall.

The Miners' Cottage appears to have been constructed between 1871 and 1874 and was rented out by miners working in the local collieries. The site went through a series of owners until the purchase of the site by Wollongong City Council in 1990. The cottage is significant in that it is a local and rare example of the modest miners' residences in the area. Council restored the cottage, and it was used as a museum until approximately 2018 when the museum use ceased to allow for structural conservation works to be undertaken. Council released a call for proposals for the use of the cottage in 2016, however are yet to enter into any formal agreement. The progression of the use of this site is related to the subject application, as noted within the Council resolution discussed above.

To the west of the site is the Bulli Showground. A watercourse runs within the Showground site, but parallel to the rear boundaries of the sites. To the immediate north and south of the site are multi dwelling housing developments. To the east of the site, on the eastern side of the Princes Highway is a mix of residential properties and two places of public worship being the Jehovahs Witness Hall at 181 Princes Highway and the Uniting Church on the corner of the Princes Highway and Point Street.

Property constraints

- Local Heritage items 5973 – Miners' cottage and 5927 – Denmark Hotel and stables
- Old Bulli Heritage Conservation Area

- Foreshore Building Line
- Bush Fire Hazard (200 Princes Highway)
- Riparian Corridor (adjoining lot – bank stability and water quality)
- Biodiversity

Neither site is affected by any restrictions on title.

1.5 SUBMISSIONS

The application was notified in accordance with the Wollongong Community Consultation Plan 2020. 7 submissions were received, 2 objecting to the development and 5 indicating support. The issues identified are discussed below.

Table 2: Submissions

Concern	Comment
<p><u>Miners Memorial</u></p> <p>The submission requests that the relocation of the miners memorial be done in consultation with interested parties and at the same time, be updated to include the names of all those killed in Illawarra Coal Mines. Interested parties are listed and contact details provided.</p>	<p>The amended plans provided during the assessment period do not require the relocation of the miners memorial. Should the memorial be relocated in the future, consultation would occur with Councils Heritage Officers.</p>
<p><u>Driveway materials</u></p> <p>The use of crushed granite for the driveway access to the site will be noisy and not in line with the aesthetic of the Bulli Heritage Conservation Area. A cobblestone finish should be selected to keep in line with the surrounding area and minimise noise impacts to adjoining units.</p>	<p>The existing miners cottage driveway consists of crushed granite. The proposal seeks to formalise this arrangement and extend it to provide access to and a car parking area for the proposed development. A brick edge border to the crushed granite is also proposed. Noise emanating from vehicles driving over crushed granite is also expected to be lower than that from vehicles traversing cobblestones. The proposal also relates to three dwellings only, and the potential noise impacts to adjoining dwellings is expected to be minimal. Crushed granite is also an appropriate material recommended by the applicants Heritage Consultant and supported by Councils Heritage Officers.</p>
<p><u>Footpath</u></p> <p>As part of the development, the front footpath should be made safe. It is currently very narrow due to the front verandah structure. Fencing should be installed if the structure cannot be removed.</p>	<p>Fencing/balustrading is proposed on the top of the existing ramp structure to provide safe access to the doors on the ground floor of the front elevation. Transport for NSW have reviewed the proposal and have raised no objection to the proposed development subject to relevant conditions of consent.</p>

Letters of support noted:

- Council should do what it can to aid the development to ensure that such an iconic building is repurposed.
- The proposal is a good use of a site which has been subject to years of neglect and vandalism.
- Any development of the site which retains its original integrity is welcome.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Council's Engineering, BCA, Heritage, SCAT, Environment and Property Officers have reviewed the application submission and provided satisfactory referral comments. Conditions have been recommended and are included at Attachment 5.

1.6.2 EXTERNAL CONSULTATION

Heritage NSW

Heritage NSW were referred the application for comment, due to the heritage significance and archaeological potential of the subject sites. Heritage NSW provided a response on 15 July 2021 advising that the conclusion of the Archaeological Assessment was supported, being that the archaeological significance of the site would be likely to meet the threshold for local significance in accordance with the NSW Heritage Criteria and the assessment of significance provided.

Heritage NSW advised that the proposal development was acceptable from a heritage perspective, primarily as the works are intended to retain the significance of the Denmark Hotel, subject to recommended conditions including conditions requirements for a permit under the Heritage Act 1977 to be obtained prior to any ground disturbance works commencing and correspondence from the Heritage Council confirming that any requirements under the Heritage Act 1977 have been satisfied prior to the issue of any Occupation Certificate. The recommended conditions form part of the draft conditions provided at Attachment 5 to this report.

Transport for NSW

The proposal was referred to Transport for NSW due to the existing structure encroaching on the Princes Highway road reserve area, a classified road and the proposal adjoining and seeking to formalise access off a classified road pursuant to the SEPP (Transport and Infrastructure) 2021. Despite works being proposed within the road reserve area, Transport for NSW have advised that the works do not constitute Integrated Development and can be dealt with through the Section 138 of the Roads Act 1993 and Road Occupancy Licence processes.

Transport for NSW provided a response on 24 May 2021 advising no objection to the proposed works, subject to conditions including the requirement for a section 138 consent to be obtained prior to the issue of a Construction Certificate and a Road Occupancy Licence prior to the commencement of any works within the road reserve area. The recommended conditions form part of the draft conditions provided at Attachment 5 to this report.

Natural Resources Access Regulator

The proposal was referred to the Natural Resources Access Regulator (NRAR) as works are proposed within 40m of a watercourse, in this case, Slacky Creek which is located within the adjoining Bulli Showground site and which runs along the rear boundary of the sites. NRAR provided General Terms

of Approval (GTAs) on 13 July 2021. The GTAs form part of the draft conditions provided at Attachment 5 to this report.

NSW Rural Fire Service

The proposal was referred to the NSW RFS for advice pursuant to clause 4.14 of the Environmental Planning and Assessment Act 1979 as the Miners' Cottage site is mapped as being affected by bush fire hazard. A response was received from the RFS on 22 July 2021 advising no objections to the development, subject to recommended conditions. The recommended conditions form part of the draft conditions provided at Attachment 5 to this report.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 Remediation of Land

4.6 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A desktop audit of the subject site indicates land uses which may have contributed to the contamination of the site. As such, a Detailed Site Investigation (DSI) was requested and provided as part of the application submission which identified areas of concern covering the entirety of 202 Princes Highway, the Denmark Hotel site, primarily due to uncontrolled filling of the land, soil disturbance and the storage of building materials from approximately 2010. Testing of the site has identified heavy metals including zinc and lead at levels which exceed the health level criteria. Coal Wash and other fill materials have also been found at the rear of the site.

A Remediation Action Plan (RAP) has also been provided and recommends remediation works to ensure that the site can be made suitable for the proposed residential use. The RAP outlines a number of methods for the remediation of the site, but recommends a staged approach including:

- Additional investigations to determine whether any hazardous building materials remain within the remaining built form and define the nature of the extent of contamination across the site;
- Identify and remove any hazardous building materials;
- Classification of contaminated soils in accordance with the EPA Waste Classification Guidelines;
- Excavation and offsite disposal of the contaminated soils; and
- Validation of the site.

Councils Environment Officer has reviewed the submitted DSI and RAP and agrees with the recommendations provided. Conditions have been recommended in line with the recommendations of the RAP, requiring that the site remediation works are undertaken and a validation report issued prior to the issue of any Construction Certificate and a Hazardous Materials Survey be undertaken

prior to the commencement of any works at the site. The recommended conditions are provided at Attachment 5 to this report.

Subject to the recommended conditions and the undertaking of the remediation works as recommended, Council is satisfied that the land will be remediated and suitable for the proposed residential land use, prior to works commencing and therefore, before the land is used for that purpose. The requirements of Chapter 4 of this SEPP are considered satisfied.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposal is BASIX affected development to which this policy applies. In accordance with the Environmental Planning and Assessment Regulation 2021, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets. The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Chapter 2 Infrastructure

Division 17 Roads and Traffic

2.119 Development with frontage to classified road (previous clause 101 of SEPP (Infrastructure) 2007)

- (1) *The objectives of this section are—*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
 - (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The subject sites have frontage to a classified road, being the Princes Highway. In this case, there is no alternative vehicular access to the site. Due to safety concerns for people entering and existing the existing driveway within the 202 Princes Highway Site, resulting from proximity to the Point Street intersection and traffic lights, visibility resulting from the raised ramp area and inability for a passing area at the entry to the site to be provided due to the location of the existing built form, the applicant has sought consent from Council to enable access via the Miners Cottage site to the immediate north.

This access has been designed to allow for passing within the subject site and compliant sightlines to the south. Councils Engineering Officers and Transport for NSW have reviewed this arrangement and raised no objections to the location of the access, subject to conditions. Conditions are recommended

with regard to the location and design of the fencing, construction of the crossover and passing area and signage. There is a solid concrete median which extends from the Point Street intersection to the south to the Hobart Street intersection to the north, and therefore access to the site is left in, left out only. Signage is required via conditions of consent in this regard. There are also several areas where people accessing the site from the north can turn around, including roundabouts on Point Street and where people exiting the site but seeking to travel south can turn around, including the roundabout on Hobart Street. Both alternatives allow for safe crossing of the Princes Highway at signalised intersections, and are located in close proximity to the subject site.

The proposal relates to a change of use of the Denmark Hotel to a residential land use. Appropriate measures have been included as part of the design of the works to ameliorate potential noise and emissions arising from the adjoining road. Conditions have been recommended with regard to compliance with the recommendations of the Acoustic Report.

Subject to the recommended conditions, this clause is considered satisfied.

2.120 Impact of road noise or vibration on non-road development

- (1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—*
 - (a) residential accommodation,*
 - (b) a place of public worship,*
 - (c) a hospital,*
 - (d) an educational establishment or centre-based child care facility.*
- (2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this section and published in the Gazette.*
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
 - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
- (3A) Subsection (3) does not apply to a building to which [State Environmental Planning Policy \(Housing\) 2021](#), Chapter 3, Part 7 applies.*
- (4) In this section, **freeway**, **tollway** and **transitway** have the same meanings as they have in the [Roads Act 1993](#).*

The proposal relates to residential accommodation and despite there being no recent recordings of traffic volumes on the Princes Highway in the vicinity of the subject site, this section of the Princes Highway is expected to have an annual average daily traffic volume of more than 20,000 vehicles. An acoustic report was provided as part of the application which includes recommendations to ensure that the LAeq levels noted at Part 3 of the clause above will not be exceeded. Councils Environment Officer has considered the report and raises no concerns with the recommendations, subject to draft conditions of consent which include the requirement for the recommendations of the report to be complied with and a compliance report to be provided prior to the issue of any Occupation Certificate. Subject to the recommended conditions, this clause is considered satisfied.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The SEPP applies to the Wollongong Local Government Area, identified as being in the South Coast koala management area.

4.10 Development assessment process—other land

Consent can be issued for development on the subject land if Council is satisfied that the land is not core koala habitat.

core koala habitat means—

- (a) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or
- (b) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.

The land has not been assessed by a suitably qualified and experience person as being highly suitable koala habitat, and Council has no record of the presence of koalas on the site currently or within the previous 18 years. The proposal does not include the removal of significant native vegetation or identified feed trees listed in Schedule 3. As such, the land is not considered to be core koala habitat and consent is able to be granted for the proposed development in this regard.

2.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 1 Preliminary

Clause 1.4 Definitions

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note: despite Unit 3 being located on the upper level of the development, access is provided to the Unit off the central access corridor at ground level. Therefore, the proposal satisfies the definition of multi dwelling housing.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned R2 Low Density Residential. The front of the Denmark Hotel overhangs the SP2 road reserve adjoining the site.



Figure 6: WLEP 2009 Land Use Zone Map extract

Clause 2.3 – Zone objectives and land use table

The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

The proposal is satisfactory with regard to the above objectives as the proposal will provide additional housing options for the community, in a low-density environment.

The land use table permits the following uses in the zone.

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Hospitals; Hostels; Information and education facilities; Jetties; **Multi dwelling housing**; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Veterinary hospitals*

Multi dwelling housing is permissible in the R2 zone with development consent.

The objectives of the SP2 zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To provide for key transport corridors.*

The proposed works to the Denmark Hotel within the SP2 zoned area of the site would not be considered to strictly satisfy the above objectives. The works are for the purpose of the adaptive reuse of the site for the purpose of multi dwelling housing. Multi dwelling housing is not a land use which is permitted in the SP2 zone within the land use table. The works to the Hotel within the SP2 zoned area of the site relate to the conservation of the local heritage item and are sought pursuant to Clause 5.10(10). See discussion below.

Clause 2.7 Demolition requires development consent

Demolition of parts of some remaining internal walls is sought to provide appropriate doorways to the units. The demolition works proposed form part of the subject proposal.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The existing belvedere (lookout) exceeds the maximum building height of 9m permitted for the site, being approximately 10.05m high. Despite the proposal not seeking to increase the height of this element of the building, a clause 4.6 exception request has been provided for completeness. This is further considered at clause 4.6 below.

Clause 4.4 Floor space ratio

Table 3: FSR calculations (Denmark Hotel site only)

Maximum FSR permitted for the zone:	0.5:1
Site area:	919.7sqm
GFA:	307sqm
FSR:	919.7/307 =0.33:1

Clause 4.6 Exceptions to development standards

Variations are requested to Clauses 4.3 Building Height and 7.14 minimum site width and therefore this clause applies. The applicant has provided variation requests (see Attachment 2) in accordance with Clause 4.6 of the WLEP 2009 as detailed and discussed in the tables below.

Table 4: Clause 4.6, WLEP 2009 development departure assessment – Building Height

Development departure	Building Height The building has a maximum height of 10.05m, exceeding the maximum building height of 9m permitted by clause 4.3.
Is the planning control in question a development standard?	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes. The applicant's request contains this justification. The applicant contends that compliance with the standard is unreasonable and unnecessary in the circumstances of the proposed development as the exceedance relates to an existing element of the building which is not sought to be increased in height or altered as part of the subject proposal. The request also demonstrates that the element which exceeds the 9m height is consistent with the objectives of clause 4.3 as it does not result in any additional floor area and allows for the retention of a significant element of the Denmark Hotel building. The element is existing and

	therefore would not result in any additional overshadowing or impacts to views.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification shown at attachment 2.
4.6 (4) (a) the Consent authority must be satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	The applicant has adequately addressed the matters required to be demonstrated by subclause (3). The applicant's submission contends that the following environmental planning grounds justify the departure: -
(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, and	<p>It is considered that strict compliance with the building height in the context of the proposal would not result in any public benefit in this specific instance due to the unique site circumstances and the element being an existing component of the heritage item.</p> <p>The applicant has demonstrated that the proposed development is consistent with the objectives of the building height standard, the objectives of the controls relating to building height within the Wollongong Development Control Plan and the objectives of the EP&A Act 1979.</p> <p>The proposal will allow for the adaptive re-use and conservation of a prominent building in the old Bulli conservation area. Strict compliance with the development standard would require significant alteration to the roof and the removal of a significant element of the structure which contributes to the significance of the local heritage item.</p> <p>The proposal is considered to be in the public interest.</p>
(b) the concurrence of the Secretary has been obtained.	The WLPP can assume the Secretary's concurrence as the consent authority.

Table 4: Clause 4.6, WLEP 2009 development departure assessment – Site Width

Development departure	<p>Site Width</p> <p>Minimum site width required for multi dwelling housing – 18m.</p> <p>The width of the Denmark Hotel site is 15.5m by survey.</p>
Is the planning control in question a development standard?	Yes
4.6 (3) Written request submitted by applicant contains a justification:	

<p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p>	<p>Yes. The applicant's request contains this justification.</p> <p>The applicant contends that compliance with the standard is unreasonable and unnecessary in the circumstances as the proposal relates to the adaptive reuse of a local heritage item and utilises the shell of the existing building only. The request also notes that site access has been resolved via the proposed easement and access over the adjoining Miners' Cottage site, and therefore the reduced width of the subject site should be considered appropriate as it is not required to provide for the crossover and vehicular access that would be expected by a standard multi dwelling housing proposal.</p> <p>The request also notes that offers to purchase the Miners' Cottage site have been made to Council but rejected, and the property to the immediate south has been developed for the purpose of multi dwelling housing in the past and strata titled, so the ability to consolidate the Denmark Hotel site with that property is unlikely to be achieved.</p> <p>The request also provides a summary of the consideration of alternate land uses which would not be subject to the same minimum site width control, however notes that the proposed use for the purpose of multi dwelling housing is considered to be the most suitable and economically feasible on balance and a use which would result in the least amount of further impact to the significance of the site moving forward.</p>
<p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>Yes, the applicant's request contains this justification shown at attachment 2.</p>
<p>4.6 (4) (a) the Consent authority must be satisfied that:</p>	
<p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p>The applicant has adequately addressed the matters required to be demonstrated by subclause (3).</p>
<p>(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, and</p>	<p>It is considered that strict compliance with the minimum site width requirement for multi dwelling housing the context of the proposal would not result in any public benefit in this specific instance due to the unique site circumstances and the proposal relating to the reuse of a significant heritage building, within the existing built form footprint and with access via an adjoining property.</p> <p>There are no objectives provided within clause 7.14 and as such, applicant has demonstrated that the proposed development is consistent with the objectives of the control relating to site width within the Wollongong</p>

	<p>Development Control Plan and the objectives of the EP&A Act 1979.</p> <p>The proposal will allow for the adaptive re-use and conservation of a prominent building in the old Bulli conservation area. Strict compliance with the development standard has the potential to inhibit the progression of the conservation works at the site and could result in the loss of the structure altogether.</p> <p>The proposal is considered to be in the public interest.</p>
(b) the concurrence of the Secretary has been obtained.	The WLPP can assume the Secretary's concurrence as the consent authority.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

(1) **Objectives**

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Wollongong,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The proposal is considered to be consistent with the objectives of the clause in that the proposed adaptive reuse will contribute to the conservation of the Denmark Hotel, and the development proposed would not unreasonably impact on the heritage significance of the site, or the setting and views of the site. The site is considered likely to contain archaeological potential, and recommended conditions have been provided by Heritage NSW in this regard. The site is not expected to contain any Aboriginal places of heritage significance.

(2) **Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) a heritage item,*
 - (ii) an Aboriginal object,*
 - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) disturbing or excavating an Aboriginal place of heritage significance,*
- (e) erecting a building on land:*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) subdividing land:*

- (i) on which a heritage item is located or that is within a heritage conservation area, or
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

The WLEP 2009 heritage mapping extends across the entirety of both sites, being local heritage items 5973 – Miners’ cottage and 5927 – Denmark Hotel and stables. The sites are also within the Old Bulli Heritage Conservation Area as demonstrated by Figure 7 below. The subject proposal includes works to provide vehicular access to the Denmark Hotel over the Miners Cottage Site and works to the Denmark Hotel to provide for the adaptive reuse of the buildings for the purpose of multi dwelling housing.

Development consent is required for the proposed works and is sought as part of the subject application.



Figure 7: WLEP 2009 Local Heritage Item and Conservation Area mapping

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

The effect of the proposed development on the heritage items and significance of the surrounding area is considered to be acceptable in this case. The proposal has been supported by a Heritage Impact Assessment Report. Councils Heritage Officer has considered the proposed works and raised no objections to the proposal, subject to recommended conditions.

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

A Heritage Assessment was provided as part of the application submission which assesses the extent to which the works will affect the significance of the items.

This report has been reviewed by Councils Heritage Officer and are considered generally satisfactory, subject to conditions. Draft conditions are provided at Attachment 5.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The proposed works to the Denmark Hotel which encroach within the overhang the road reserve are sought pursuant to this clause, which provides that the consent authority may grant consent to development for any purpose of a building that is a heritage item, even though development for that purpose would otherwise not be allowed by this Plan, subject to criteria a-e being satisfied.

The subject proposal seeks consent for the use of the part of Denmark Hotel which encroaches within the road reserve for the purpose of multi dwelling housing for the purposes of multi dwelling housing, which is not permissible in the SP2 zone.

In this regard, the ongoing conservation of the hotel will be facilitated by the granting of the subject consent. The proposed works will ensure the retention and required conservation works are undertaken to the building and are in accordance with the submitted heritage management document/assessment which will form part of the subject approval. The proposal incorporates all works recommended by the document and the proposal is not considered to unreasonably impact the heritage significance of the item or the setting of the surrounding area. The existing state of the building is such that if structural works to stabilise and re-use the property are not undertaken, it is unlikely that the building will be able to be retained in its existing form into the future. The works would not have an adverse impact on the amenity of the surrounding area and are likely to result in improvements to the amenity, given the current state of the building at the site.

Councils Heritage Officer has reviewed the submitted information and proposal and raised no objections to the proposed works. The Officer has also reinforced the need for works to be undertaken to ensure the structural integrity and long-term conservation of the Hotel building into the future. A suite of conditions relating to the heritage significance of the site and requiring the submission of further detail and information to Councils Heritage Officer are recommended.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The site is currently serviced by electricity, water and sewage services which are expected to be capable of augmentation to meet the needs of the proposed development.

Clause 7.4 Riparian lands

The subject site is located to the immediate east of a riparian corridor. The watercourse is located within the adjoining Bulli Raceway/showground site, however the rear of the subject site falls steeply towards the watercourse. A Vegetation Management Plan (VMP) was provided as part of the assessment process of the subject application and recommends works to rehabilitate the riparian vegetation and habitat. Councils Environment Officer has reviewed the VMP and provided recommended conditions of consent, which are provided within Attachment 5.

The proposal is also required to be considered as integrated development due to the proximity to the watercourse, and GTAs have been received from NRAR as discussed at section 1.6.2 above.

Clause 7.6 Earthworks

The proposal will involve some minor earthworks to provide the required car parking area at the rear of the site. The works are not expected to result in unreasonable impacts on environmental functions and processes, neighbouring properties or the features surrounding land. Conditions are recommended in this regard, as reflected at Attachment 5.

Clause 7.7 Foreshore building line

The rear of the subject site is mapped as being within the foreshore building line, extending approximately 15m from the centreline of the watercourse within the Bulli Raceway/showground site. No works are proposed within the mapped area. The development satisfies the provisions of this clause.

Clause 7.14 Minimum site width

The plan indicates a 15.5m frontage to the Princes Highway which is 2.5m less than the minimum required width of 18m required under the provisions of this Clause. The application has sought a departure in this regard and has submitted a variation request pursuant to Clause 4.6 of the LEP; which is detailed above.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER A1 – INTRODUCTION

The development has been assessed against the relevant chapters of WDCP2009 and found to be satisfactory. A full compliance table is provided at Attachment 4 to this report and variation requests are discussed below:

8 Variations to development controls in the DCP

Chapter B1: Residential Development

Part 5.1 Minimum Site Width

Part 5.1 of Chapter B1 of WDCP 2009 provides controls for supporting Clause 7.14 of the WLEP 2009 and requiring a minimum site width of 18m, measured perpendicular to the side property boundaries

for multi dwelling housing development. The width of the Denmark Hotel site is 15.5m, falling 2.5m short of the 18m requirement.

Table 5: CI 5.1 Chapter B1 variation consideration

Control	Comment
1. The variation statement must address the following points:	The variation to this control is addressed as part of the clause 4.6 exception request statement provided in relation to cl. 7.14 of the WLEP 2009. A copy of the exception request is provided at Attachment 3.
a) The control being varied; and	The variation request statement identifies the control being varied as clause 5.1 of Chapter B1 of WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	<p>The extent of the variation sought is the site is 2.5m short of the required site width permitted to enable multi dwelling housing at the site.</p> <p>The variation is requested on the basis that the minimum width set by both the LEP and DCP assumes that vehicular access would be required off the sites frontage. This is not required in this instance due to the access arrangement via the Miners' Cottage as discussed above.</p> <p>The proposal also relates to three units only, within the building footprint and existing built form shell of the local heritage listed Denmark Hotel.</p> <p>Despite this, the applicant's submission considers the amalgamation of the site with the adjoining properties unlikely given the land ownership and existing built form and is not required in this instance as the design is considered appropriate and a positive use for a currently disused heritage item in very poor condition.</p> <p>The variation statement notes that the owner of the subject site has approached Council as to acquiring the adjoining Miners' Cottage to allow for the consolidation of the sites and therefore achieving the minimum site width required, however this was not supported. Council have also resolved to support, in principle, the establishment of a Right of Carriageway over the Miners' Cottage site to allow for the development of the Denmark Hotel site, noting the concerns with access directly from the Denmark Hotel. The statement also notes that there would be limited potential to acquire the land to the immediate south as it has been developed for the purpose of multi dwelling housing and strata titled, and the built form on that site and within the Denmark Hotel site would not allow for a logical connection point through to the subject site.</p>
c) Demonstrate how the objectives are met with the proposed variations; and	<p>The objectives of the control are as follows:</p> <p><i>(a) To allow for development of sites which are of sufficient size to accommodate the required</i></p>

	<p><i>building envelope, car parking and landscaping requirements.</i></p> <p><i>(b) To encourage amalgamation of allotments to provide for improved design outcome</i></p> <p>The applicant has indicated that they consider the development consistent with the above objectives.</p> <p><u>Council comment:</u></p> <p>The development is not considered to be inconsistent with the above objectives as the proposal relates to the adaptive re-use of an existing local heritage item and provides for the required car parking and landscaping requirements, and the floor plan is contained to the existing building footprint. The site is also zoned R2 and is therefore not strictly required to demonstrate consistency with the isolated lot requirements.</p>
d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.	<p><u>Council comment:</u></p> <p>There development is not considered to result in adverse impacts as a result of the variation. Other variations as noted below result from the position of the existing built form and desire to retain the external walls of the heritage items, rather than being a result of the reduced lot width.</p>
<p>Comment:</p> <p>The requested variation is considered capable of support.</p>	

Part 5.3 Front Setbacks

Part 5.3 of Chapter B1 of WDCP 2009 provides controls for front setbacks. The control requires a 6m setback from the front property boundary to the front faced of the building. The Denmark Hotel built form is existing and encroaches within the road reserve by a maximum of 2.26m.

Table 6: CI 5.3 Chapter B1 variation consideration

Control	Comment
1. The variation statement must address the following points:	A copy of the variation request statement is provided at Attachment 3.
a) The control being varied; and	The variation request statement identifies the control being varied as clause 5.3 of Chapter B1 of the WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	The extent of the variation is that the development encroaches within the road reserve area at the front of the site by up to 2.26m, and therefore does not comply with the required minimum 6m front setback requirement of this clause. An extract from the submitted survey is provided at Figure 8 below.

	<p>The variation is requested on the basis that the proposal relates to the existing built form only. No works which would further encroach into the road reserve area are proposed.</p> <p>The submitted statement notes that the controls within the subject chapter of the WDCP 2009 would generally apply and have been constructed in a way which would be applicable to new development and therefore does not deal with the use of or alterations to heritage listed properties. The statement also notes that strict compliance with the control would be achieved only through the demolition of the heritage item.</p>
c) Demonstrate how the objectives are met with the proposed variations; and	<p>The objectives of clause 5.3 are:</p> <p>(a) <i>To reinforce the existing character of the street by acknowledging building setbacks.</i></p> <p>(b) <i>To promote compatibility in front setbacks to provide for unity in the building line.</i></p> <p>The applicant has indicated that they consider the development consistent with the above objectives.</p> <p><u>Council comment:</u></p> <p>The development is considered to be consistent with the existing character of the street, with the subject building being the most prominent built form in the immediate area. The proposal, through proposing the adaptive reuse of the heritage item would reinforce the existing character of the street. There is also little consistency in the front setbacks of the properties surrounding the site, with both the Miners' Cottage to the immediate north and the multi dwelling housing to the immediate south having existing setbacks of less than 6m.</p> <p>Transport for NSW have also provided satisfactory comments with regard to the proposed works within the road reserve, as noted at section 1.6.2 above.</p>
d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.	<p><u>Council comment:</u></p> <p>There development is not considered to result in adverse impacts as a result of the variation.</p>
<p><u>Comment:</u></p> <p>The requested variation is considered capable of support.</p>	

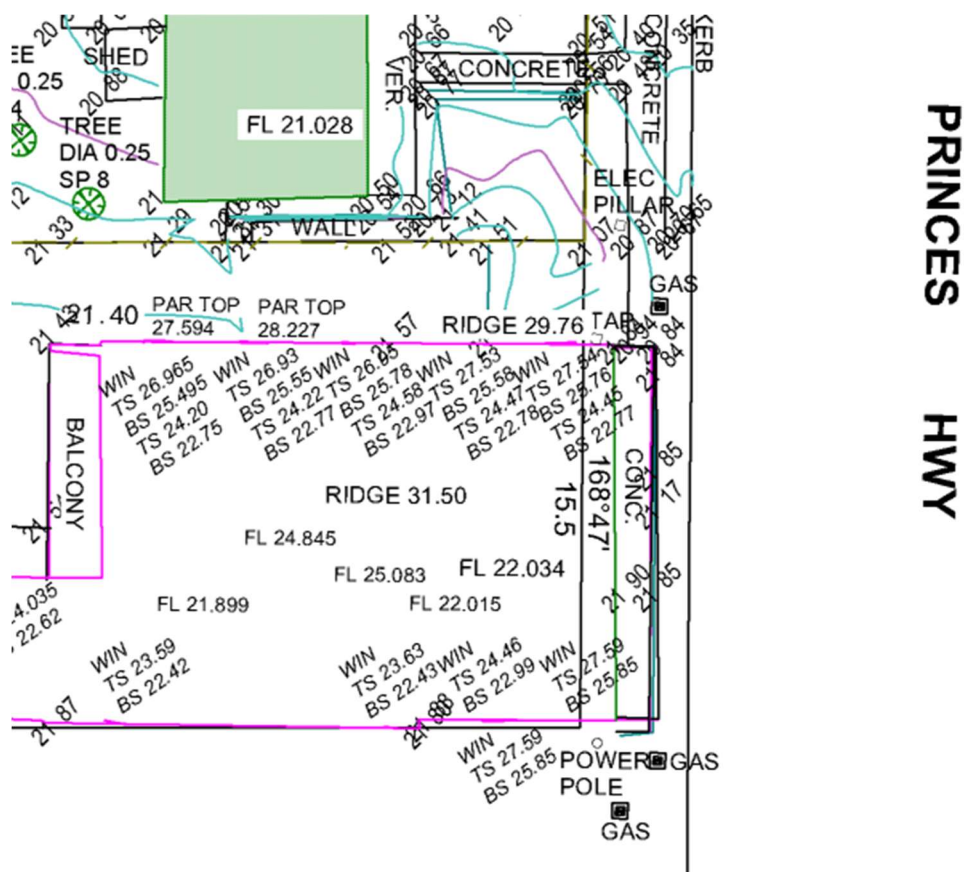


Figure 8: Extract from the submitted survey – Denmark Hotel outlined in pink, balcony in green and ramp in black

Part 5.4 Side and Rear Setbacks

Part 5.4 of Chapter B1 of WDCP 2009 provides controls relating to side and rear setbacks. The control requires a minimum side setback of 0.8m x the ceiling height. Ceiling height is defined within Appendix 4 of the WDCP 2009 as being the vertical distance from the ceiling level at the outside wall to natural ground level or finished ground level whichever is lower. In the case of the subject proposal, the following table provides the ceiling heights across the locations of interest at the subject site:

Table 7: CI 5.4 Chapter B1 variation assessment

Location	Ceiling Height	Side required	Setback	Proposed/existing setback	Variation
Northern elevation ground floor	3.335m	2.668m		3.055m	Complies
Northern elevation first floor	6.195m	4.956m		3.055m	1.901m
Southern elevation ground floor	2.7m	2.16m		Minimum of 350mm	1.81m
Southern elevation first floor	6.195m	4.956m		Minimum of 350mm	4.606m

Despite a balcony existing on the rear elevation and facing the rear boundary, the rear setback exceeds 25m and the proposal would therefore comply with any rear setback required via this clause.

Table 8: 5.4 Chapter B1 variation consideration

Control	Comment
1. The variation statement must address the following points:	A copy of the variation request statement is provided at Attachment 3.
a) The control being varied; and	The variation request statement identifies the control being varied as clause 5.4 of Chapter B1 of WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	<p>The extent of the variation sought is outlined within Table 7 above.</p> <p>The variation is requested on the basis that the proposal seeks the use of the existing built form. The submitted statement notes that the controls within the subject chapter of the WDCP 2009 would generally apply and have been constructed in a way which would be applicable to new development and therefore does not automatically deal with the use of or alterations to heritage listed properties. The statement also notes that strict compliance with the control would be achieved only through the demolition of the heritage item. The statement also notes that the proposal would not result in any additional impacts to adjoining properties in terms of increased bulk and scale or overshadowing, as the built form is existing.</p>
c) Demonstrate how the objectives are met with the proposed variations; and	<p>The objectives of the control are as follows:</p> <ul style="list-style-type: none"> <i>(a) To provide adequate setbacks from boundaries and adjoining dwellings to retain privacy levels, views, sunlight and daylight access and to minimise overlooking.</i> <i>(b) To provide appropriate separation between buildings to achieve the desired urban form.</i> <i>(c) To optimise the use of land at the rear of the property and surveillance of the street at the front of the property.</i> <i>(d) To minimise overshadowing of adjacent properties and private or shared open space.</i> <p>The applicant has indicated that they consider the development consistent with the above objectives.</p> <p><u>Council comment:</u></p> <p>The development is not considered to be inconsistent with the above objectives. The proposal seeks the use of an existing heritage building footprint and therefore would not result in any additional impacts in terms of privacy, views or solar access. The design of the Units which are located in the areas of non-compliance have given reasonable consideration of the position and layout of</p>

	adjoining properties and would not be expected to provide any additional overlooking potential. A number of the openings on the southern elevation are proposed to be closed in to achieve compliance with the BCA and minimise potential impacts to adjoining properties. A BCA report has been provided which confirms that despite the setbacks not complying with the control, satisfactory fire separation can be achieved. A number of conditions have been recommended by Councils BCA Officer in that regard.
d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.	<u>Council comment:</u> There development is not considered to result in adverse impacts as a result of the variation.
<p>Comment:</p> <p>The requested variation is considered capable of support.</p>	

Part 5.8 Landscaping

Part 5.8 of Chapter B1 of WDCP 2009 provides controls relating to landscaping. Part 4 of the control provides that a 1.5m wide landscaped bed is to be provided along the side and rear boundaries of the site. Due to the location of the Miners' Cottage and the need to provide compliant driveway widths, the 1.5m landscaped strip is not able to be provided along the northern boundary of the Miners' Cottage site.

Table 6: CI 5.8 Chapter B1 variation consideration

Control	Comment
1. The variation statement must address the following points:	A copy of the variation request statement is provided at Attachment 3.
a) The control being varied; and	The variation request statement identifies the control being varied as clause 5.8 of Chapter B1 of the WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	<p>The extent of the variation is that the driveway to be formalised on the Miners' Cottage site is provided with a 1m landscaped strip rather than a 1.5m landscaped strip, falling 0.5m short of the width required by the control.</p> <p>The variation is requested on the basis that the works are proposed in the context of a heritage item and the need to provide for compliant driveway access to the subject properties. The variation request also notes that the 1m proposed is also consistent with Councils plans for the development of the site. A 1m landscaped strip would also provide a reasonable area for planting. The request also notes that variation to this control has also been provided for the development of the property to the immediate south, and therefore varying the control in this instance would not be out of character with the surrounding area.</p>

c) Demonstrate how the objectives are met with the proposed variations; and	<p>The objectives of clause 5.8 are:</p> <p>(a) <i>To preserve and retain existing native trees and vegetation and encourage the planting of additional native vegetation.</i></p> <p>(b) <i>To enhance the appearance of housing through integrated landscape design.</i></p> <p>(c) <i>To improve the visual amenity by increasing the volume of substantial vegetation in urban areas.</i></p> <p>(d) <i>To reduce impervious areas on sites and increase soft landscape screening between side orientations of residential developments.</i></p> <p>The applicant has indicated that they consider the development consistent with the above objectives.</p> <p><u>Council comment:</u></p> <p>The development is considered to be consistent with the objectives of the control. All significant native vegetation is to be retained and the landscape design for the site more broadly is considered appropriate. The variation would not result in impacts on the visual amenity of the area, and the development provides more than the required 30% of landscaped area across the site. The proposal provides sufficient area for screen planting.</p>
d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.	<p><u>Council comment:</u></p> <p>There development is not considered to result in adverse impacts as a result of the variation.</p>
<p>Comment:</p> <p>The requested variation is considered capable of support.</p>	

Part 5.11 Private Open Space

Part 5.11 of Chapter B1 of WDCP 2009 provides controls relating to private open space. The control requires that private open space be provided for each dwelling in the form of a balcony, courtyard terrace or roof garden, with minimum dimensions of 4x5m when provided at the ground or podium level or 8sqm with a minimum width of 2m when provided in the form of a balcony. Unit 2 is proposed to be provided with a compliant POS area off the kitchen area. Variations are sought for Units 1 and 3.

Table 9: 5.11 Chapter B1 variation consideration

Control	Comment
1. The variation statement must address the following points:	A copy of the variation request statement is provided at Attachment 3.

a) The control being varied; and	The variation request statement identifies the control being varied as clause 5.11 of Chapter B1 of WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	<p>The extent of the variation sought is that the POS of Unit 1 on the ground floor is proposed with a minimum width of 3.683m, falling short of the 4m requirement and the POS of Unit 3 being proposed within the built form of the Hotel, with an area of 14sqm only and with a lightwell to the POS area of Unit 1.</p> <p>Unit 1: The POS area for Unit 1 is proposed to be comprised of an enclosed courtyard within the built form and an adjoining external garden area. An existing window and door opening are to be used and expanded to provide for access between the external garden area and internal POS courtyard, and allow light to penetrate the internal area. Solar access to this space is assisted by a lightwell provided from above. The area of the POS to be designated for Unit 1 is demonstrated at Figure 9 below. A 1.8m high timber screening fence is noted on the submitted landscape plans and is proposed to separate the POS area from the adjoining walkway from the car parking area to the Princes Highway, and to define the area of the rear verandah which forms part of the POS area. A 1m high gate is also proposed across the ramped area on the front elevation to define the use of the northern section of the front verandah area for Unit 1.</p>

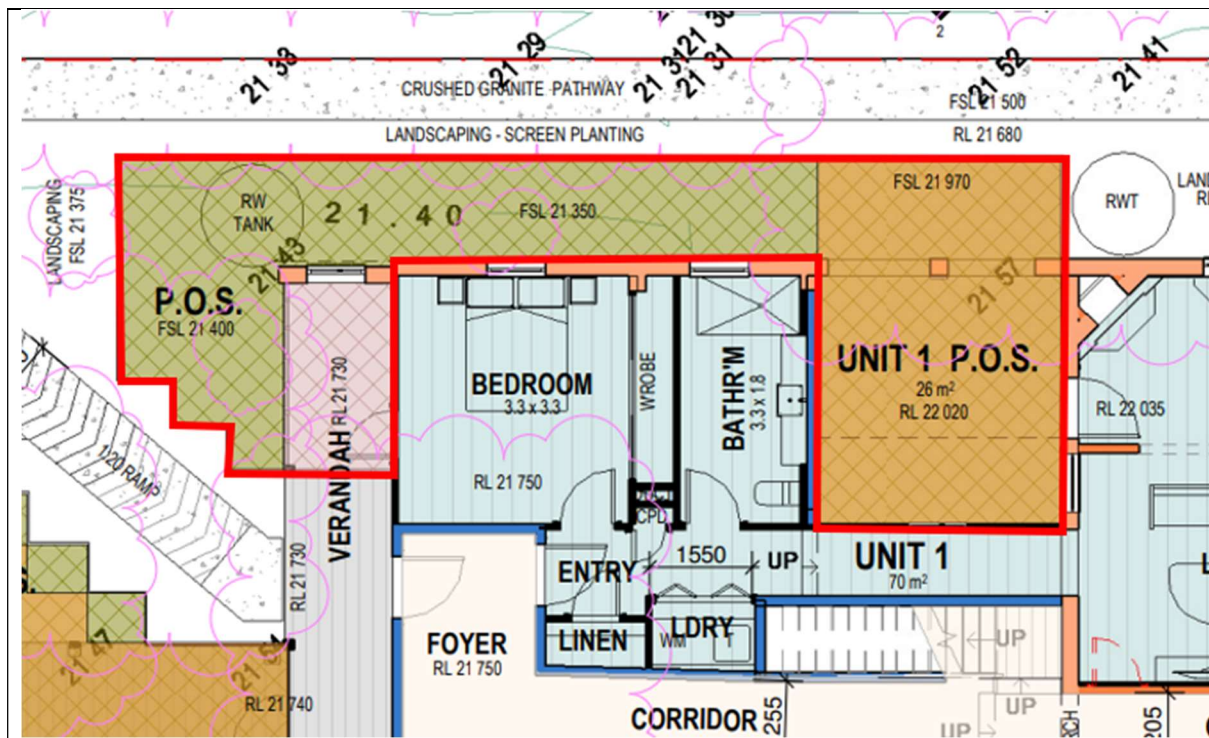


Figure 9: Unit 1 POS area – surrounded in red

Unit 3: The main POS area for Unit 3 is proposed within the built form, within the footprint of an existing room, to the west of the main kitchen/living/dining area. The location is 31demonstrated at Figure 10 below. The area is proposed with an area of 14sqm and adjoins a 1m lightwell which connects to the Unit 1 POS area below. 1.5m obscure glazing is proposed to provide adequate acoustic separation of the spaces, whilst allowing light to travel to the POS area below. On the northern elevation, the area of one of the original windows is to be left open to assist in the feel of openness and air flow through this area. The roof above this room is to be removed to allow this space to be open above.

This area of POS is supported by balcony areas on the eastern and western elevations, as demonstrated at Figure 10 below.

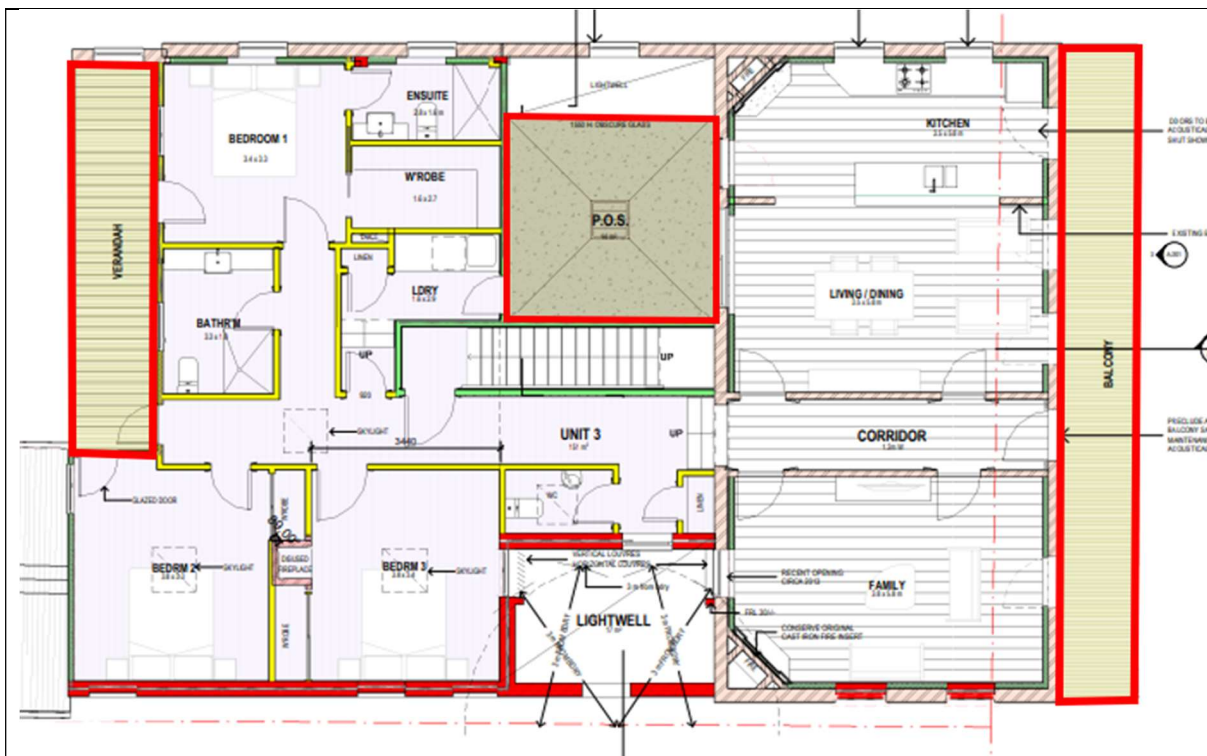


Figure 10: Unit 3 POS areas – surrounded in red

	<p>The submitted statement notes that despite the minimum width not being achieved for the POS area of Unit 1, sufficient area external to the built form is proposed. The same principle is noted for Unit 3, with the central POS area supplemented by the balcony areas on the eastern and western elevations. The design of the spaces also allows for the retention and recognition of the existing floor plan pattern within the heritage item and the identification of historic window and door openings. Parts of the POS areas of Units 1 and 3 have been demonstrated to receive in excess of 3 hours of direct solar access on June 21, would be naturally ventilated, and are of a sufficient size to accommodate a range of uses. There is also communal gardens proposed along the creek line and between the built form and the car parking area.</p>
<p>c) Demonstrate how the objectives are met with the proposed variations; and</p>	<p>The objectives of the clause are as follows:</p> <ul style="list-style-type: none"> (a) <i>To ensure that private open spaces are of sufficient size to accommodate a range of uses and are accessible and connected to indoor spaces where appropriate</i> (b) <i>To ensure functionality of private open space by reducing overlooking and overshadowing of such spaces</i> <p>The applicant has indicated that they consider the development consistent with the above objectives.</p>

	<p><u>Council comment:</u></p> <p>The development is not considered to be inconsistent with the above objectives. The POS areas are of a sufficient size to accommodate a range of uses and have been located to connect to the main living areas of the dwellings. The POS areas do not result in overlooking or overshadowing of adjoining properties. Overlooking and privacy between units has been dealt with through design solutions. A reasonable amenity will be provided to all units. In the context of the heritage significance of the site and the desire to retain elements of the built form which enable an understanding of the previous uses, the variation to the POS requirements is considered appropriate.</p>
d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.	<p><u>Council comment:</u></p> <p>There development is not considered to result in adverse impacts as a result of the variation.</p>
<p><u>Comment:</u></p> <p>The requested variation is considered capable of support.</p>	

2.3.2 WOLLONGONG CITY-WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2021

The Wollongong City-Wide Development Contributions Plan applies to the subject property. This Plan levies a contribution based on the estimated cost of development. The proposed cost of development exceeds \$100,000 and therefore a levy applies. A condition is recommended in this regard.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

6 Determination of BASIX development

BASIX applies to all dwellings within the development.

61 Additional matters that consent authority must consider

Conditions are recommended with regard to minor demolition works.

62 Consideration of fire safety

This clause applies to development where there is a change of building use and where there is no rebuilding or alteration of the building. The proposal seeks the alteration to the existing building and therefore clause 64 applies. See below.

The building is required to be upgraded. Conditions have been recommended by Councils BCA Officer with regard to fire safety upgrade requirements, as provided within Attachment 5.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

In regard to the matter of context, the planning principle in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The development will not result in any overshadowing of adjoining developments, given the isolation of the site and setbacks proposed.

In regard to the visual impact, the development is considered to be in harmony with the heritage character of the site. The scale of the development as viewed from the street is considered appropriate in the locality, with the works being proposed within the existing building footprint and therefore retaining the prominence of the item in the streetscape. The existing belvedere/lookout exceeds the maximum building height provided by the WLEP 2009. This element of the building adds to the significance of the item and is not proposed to be altered as part of the subject proposal. The Floor Space Ratio for development is significantly below the maximum permitted at the site. The proposed use is consistent with surrounding properties and the design is sympathetic with the existing character of the heritage item. No significant adverse impacts are expected to result from the proposed development.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible height and FSR for the land, and existing and future character of the area, and is considered to be compatible with the local area.

Access, Transport and Traffic:

Councils Engineering Officer and Transport for NSW have considered the development with regard to impacts on the wider traffic network, and raised no objections to the proposal. Access has been proposed and has been supported by Council in principle via the adjoining Miners' Cottage Site. A deferred commencement condition is recommended to ensure that the required Right of Carriageway is registered on the title of the land, prior to any progression of works at the subject site. A number of conditions have been recommended by both Council and TfNSW with regard to the works and site access arrangements. Recommended conditions are provided at Attachment 5.

Public Domain:

The development is considered to provide for a positive contribution to the public domain through the sympathetic adaptive reuse of a heritage item which has been in a dilapidated state for some time.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are expected to be capable of augmentation to service the proposal.

Heritage:

The subject sites are identified as a Local Heritage Item via the Wollongong Local Environmental Plan 2009 as discussed at section 2.1.5 of this report. The proposal is considered to have been designed to respect the context of the site, with the proposed works being largely confined to the existing built form. The application submission was accompanied by a Heritage Impact Assessment.

This report has been reviewed by Councils Heritage Officer and is considered generally satisfactory, subject to conditions. Conditions as recommended by Councils Heritage Officer are provided for within Attachment 5 to this report.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water, which can be readily extended to meet the requirements of the proposed development.

The proposal is not envisaged to have unreasonable water consumption.

Soils:

The site has been found to contain areas of contamination. The impact of the proposed development has been addressed as discussed throughout the report. A Remediation Action Plan has been provided. Conditions are recommended as provided at Attachment 5 to this report.

Air and Microclimate:

The proposal is not expected to result in negative impacts on air or microclimate.

Flora and Fauna:

There is no significant vegetation removal proposed or required. An arborists report has been provided which demonstrates that the works can be undertaken without unreasonably impacting on existing trees. Several exempt species exist in the site and are to be removed. Conditions are recommended with regard to the proposed landscaping works and compliance with the arborists recommendations.

Waste:

A condition is recommended requiring that an appropriate receptacle be in place for any waste generated during the construction. Waste collection is to be via on street collection. Waste bins are to be transferred to the Princes Highway Frontage on collection day, via the northern pathway proposed. There is sufficient area in front of the Miners' Cottage to allow for the placement of bins whilst not further restricting pedestrian access.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

The potential acoustic impacts of the adjoining road on the future residents has been addressed within the submitted acoustic report. The Report contains a number of recommendations to ensure that noise levels within the future dwellings are provided at reasonable levels. Conditions have also been recommended by Councils Environment Officer with regard to compliance with the recommendations of the submitted report and compliance monitoring.

A condition has also been recommended requiring that nuisance be minimised during any construction, demolition, or works.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

Safety, Security and Crime Prevention:

This application does not result in greater opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal would not be envisaged to result in negative social impacts.

Economic Impact:

The proposal is not expected to result in negative economic impacts.

Site Design and Internal Design:

The application does result in departures to both the WLEP 2009 and WDCP 2009 as discussed above. The majority of these exceptions and variations relate to the proposed use of the existing built form, with a number of these variations being related to the positioning of the existing building rather than the use. The requests have been considered and are considered capable of support in this instance, as discussed at sections 2.1.5 and 2.3.1 above.

Open space, adjoining residential amenity, heritage impacts, vehicular manoeuvring and pedestrian access have been accounted for in the design and site layout.

Construction:

Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia

Cumulative Impacts:

The proposal is not expected to result in negative cumulative impacts.

Ecologically Sustainable Development Considerations

The proposed development is not considered to be inconsistent with ESD principles as evidenced by the assessment commentary provided throughout the report.

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to result in negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

See section 1.5 above.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is not expected to result in unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of WLEP 2009 and WDCP 2009.

Multi dwelling housing is permissible in the R2 Low Density Zone. The use of the portion of the building which encroaches within the road reserve and the SP2 zone is proposed pursuant to clause 5.10(10) Conservation Initiatives of WLEP 2009.

It is considered that the applicant has provided adequate justification for the variations sought to WLEP 2009 with regard to building height and minimum site width, and the WDCP 2009 as relates to the minimum site width, front setback, side setback, landscaping and private open space. The variations have been considered and are capable of support.

All relevant internal and external referrals are conditionally satisfactory.

Some of the issues raised in submissions though technically unresolved are considered to be adequately addressed either through design or by way of conditions. Any remaining issues are not considered to warrant refusal of the application.

It is considered that the proposed development has been designed appropriately given the constraints and characteristics of the site, is not inconsistent with the existing and desired future character of the locality and is unlikely to result in significant adverse impacts on the amenity of the surrounding area, or the heritage significance of the site. The proposed development is required to ensure the ongoing conservation of the Denmark Hotel.

4 RECOMMENDATION

Development Application DA-2021/425 be approved by way of deferred commencement.

Attachments:

Attachment 1	Architectural and Landscape Plans
Attachment 2	WLEP 2009 exception requests

Attachment 3	WDCP 2009 variation requests
Attachment 4	WDCP 2009 compliance table
Attachment 5	Draft Conditions
Attachment 6	Site Photos

ADAPTIVE RE-USE OF FORMER DENMARK HOTEL AS MULTI-UNIT RESIDENTIAL

Attachment 1

DRAWING LIST		
SHEET NO.	SHEET NAME	REV.
A-000	COVERSHEET	E
A-001	SITE ANALYSIS	E
A-002	SURVEY	E
A-101	SITE PLAN	B
A-102	CIRCA 1877 - GROUND FLOOR PLAN	E
A-103	CIRCA 1877 - ROOF PLAN	E
A-104	CIRCA 1886 - GROUND FLOOR PLAN	E
A-105	CIRCA 1886 - FIRST FLOOR PLAN	E
A-106	MEASURED DRAWING	E
A-107	MEASURED DRAWING	E
A-108	SIGNIFICANT FABRIC - GROUND LEVEL	E
A-109	SIGNIFICANT FABRIC - LEVEL 1	E
A-110	AS PROPOSED - GROUND FLOOR PLAN	E
A-111	AS PROPOSED - FIRST FLOOR PLAN	E
A-112	ROOF PLAN - AS PROPOSED	E
A-113	PERSPECTIVE VIEWS	E
A-201	ELEVATIONS - EAST & SOUTH	E
A-202	ELEVATIONS - WEST & NORTH	E
A-301	CROSS SECTION	E
A-302	CROSS SECTION	E
A-501	MATERIALS & FINISHES	E



REVISION
A ORIG DES - 4 APTS
E AS PER WCC COMMENTS

GN
GN Date 1
15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
COVERSHEET

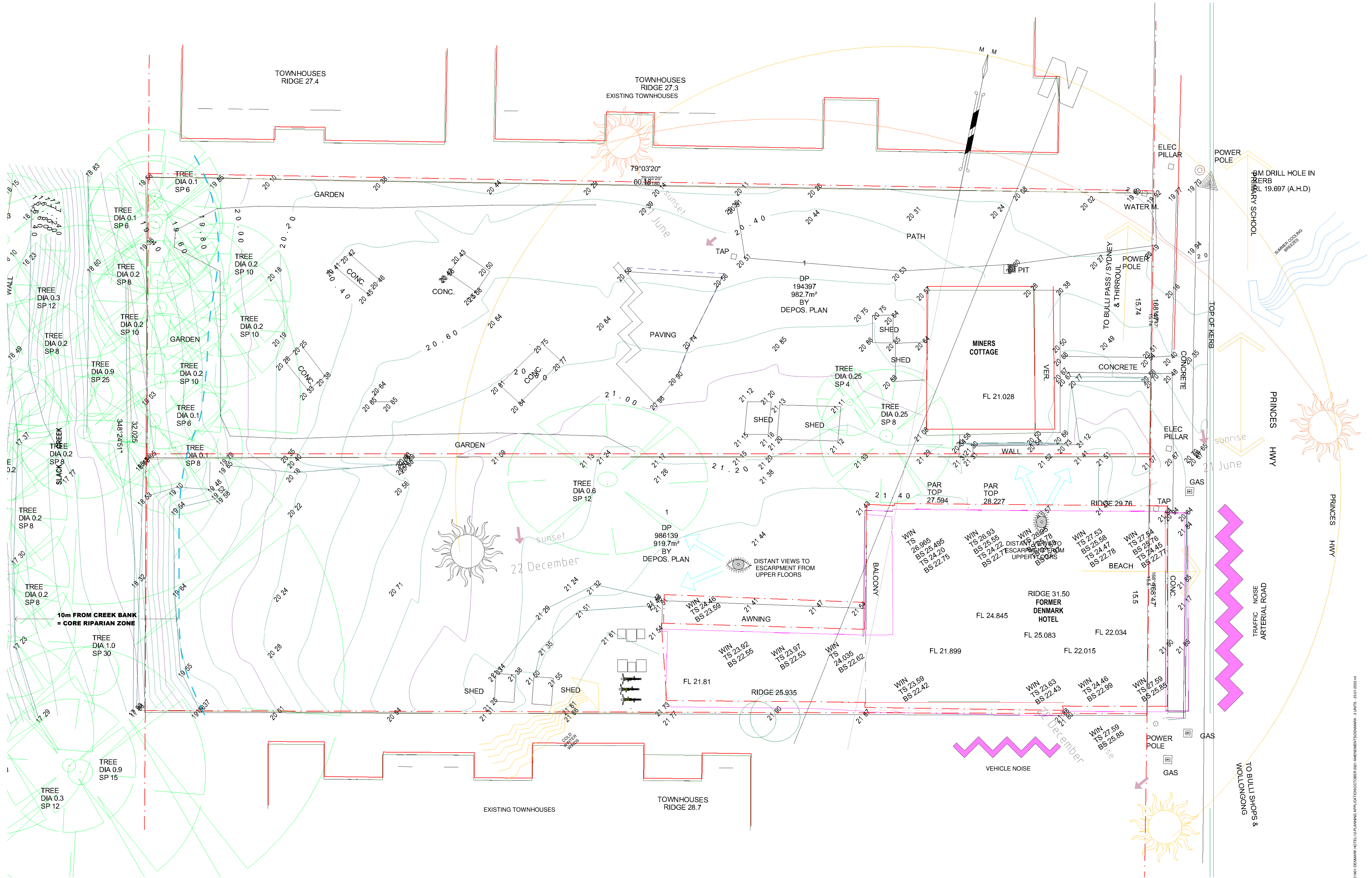
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0 M 3 M

DATE
23/01/22

DRAWING No.
A-000

Rev.
E



SITE ANALYSIS
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B	NEW DESIGN - 3 APTS AS PER WCC ADVICE
D	POS & PATH CHANGED AS PER WCC REQUEST
E	AS PER WCC COMMENTS

GN	Date 1
ML	02041958
GN	23-1-22
GN	15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
SITE ANALYSIS

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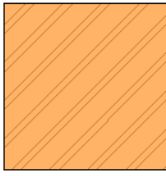
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DRAWING No.
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Rev.
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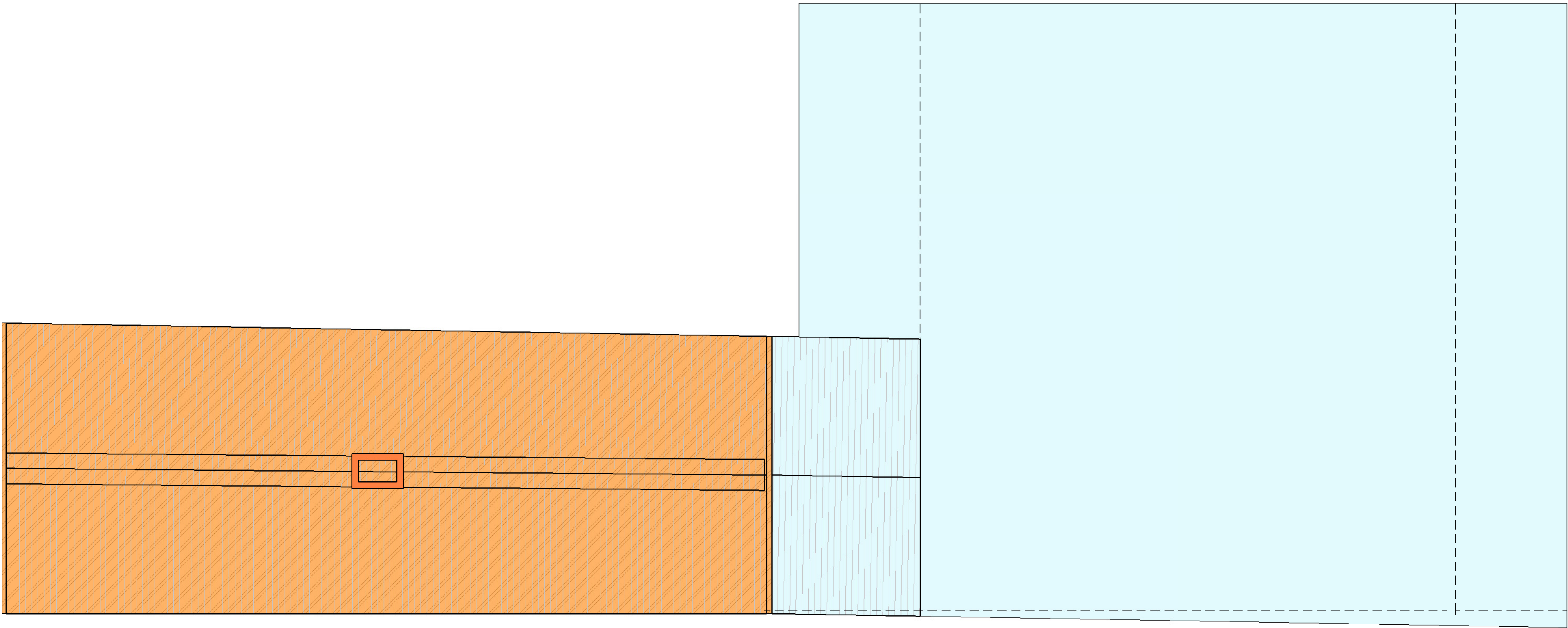
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CONJECTURAL - NON-EXTANT



EXTANT / SIGNIFICANT FABRIC



LEVEL 1 - 1877 PHASE

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REVISION

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E	AS PER WCC COMMENTS

GN
ML
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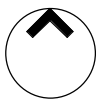
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15-04-22

PROJECT

ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE

CIRCA 1877 - ROOF PLAN



SCALE

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DATE

15/04/22

DRAWING No.

A-103

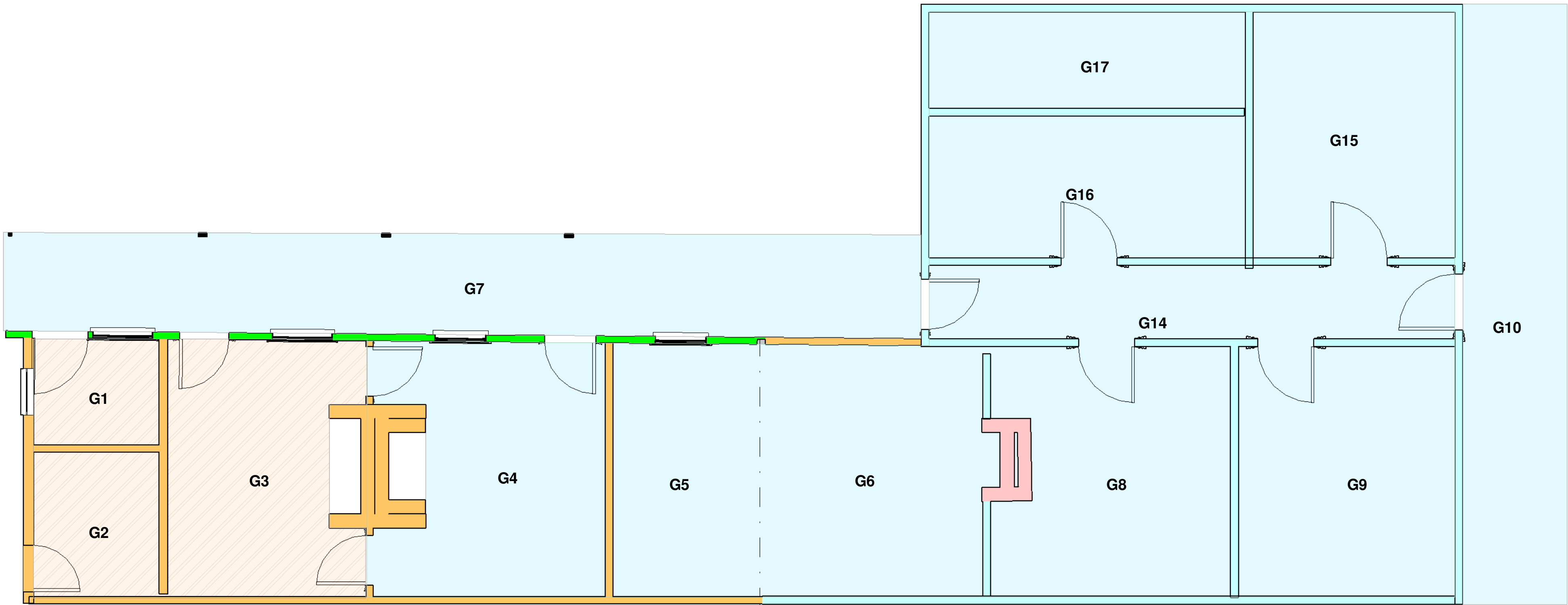
Rev.

E

PROVENANCE

CONJECTURAL - NO LONGER EXTANT

EXTANT / SIGNIFICANT FABRIC



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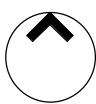
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E	AS PER WCC COMMENTS

GN	Date 1
ML	02/04/1958
GN	15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
CIRCA 1877 - GROUND FLOOR PLAN



SCALE
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DATE
15/04/22

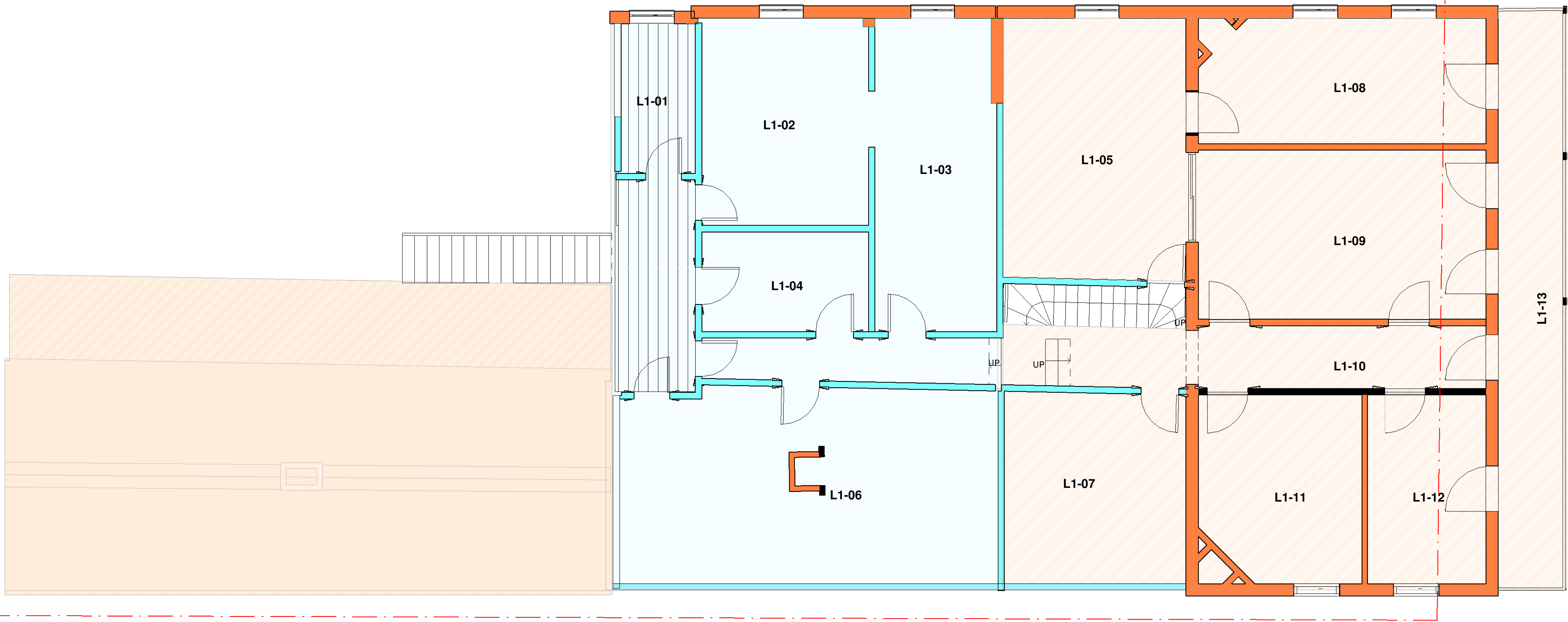
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A-102

Rev.
E

PROVENANCE

CONJECTURAL - NO LONGER EXTANT

EXTANT / SIGNIFICANT FABRIC



LEVEL 1 - 1886 PHASE

Scale 1 : 50

REVISION

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B	NEW DESIGN - 3 APTS AS PER WCC ADVICE
E	AS PER WCC COMMENTS

GN	Date 1
ML	02/04/1958
GN	15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
CIRCA 1886 - FIRST FLOOR PLAN



SCALE
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15/04/22

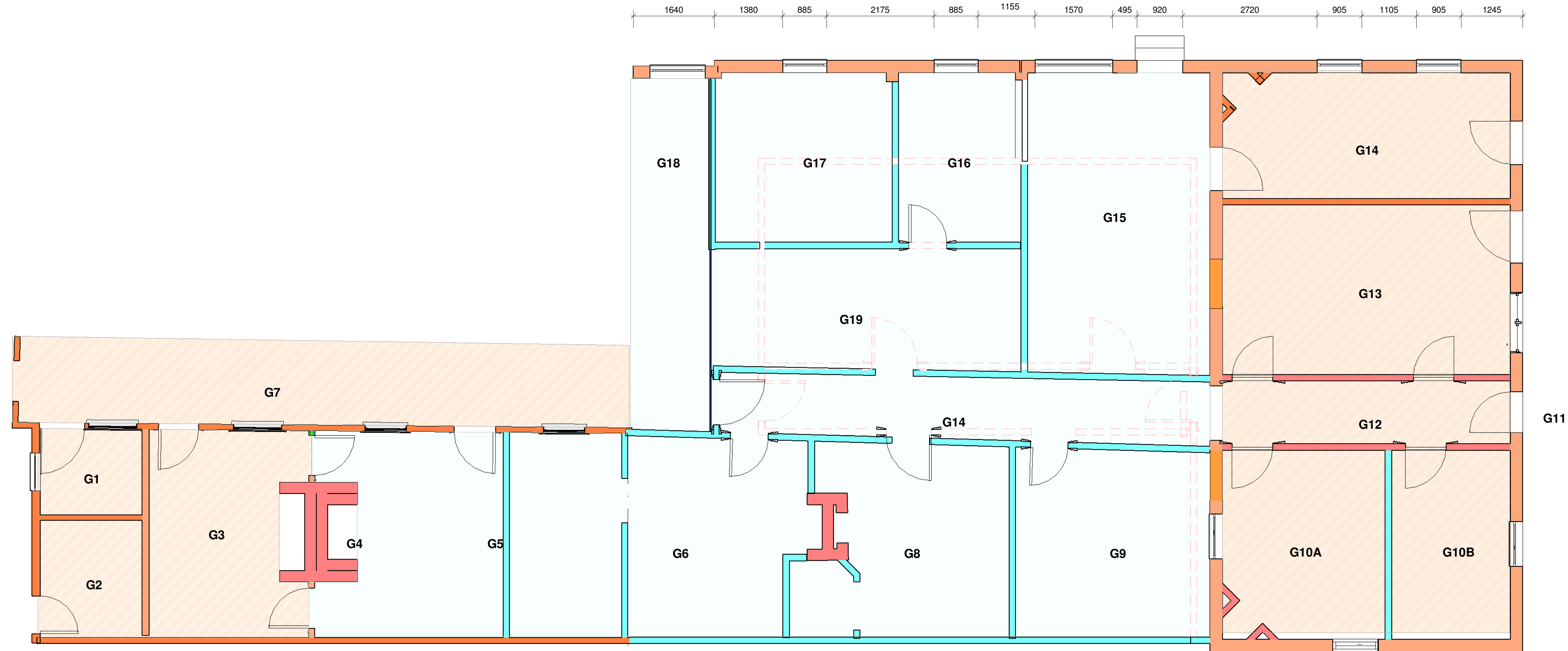
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Rev.
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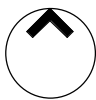
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E	AS PER WCC COMMENTS

GN	Date 1
ML	02/04/1958
GN	15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
CIRCA 1886 - GROUND FLOOR PLAN

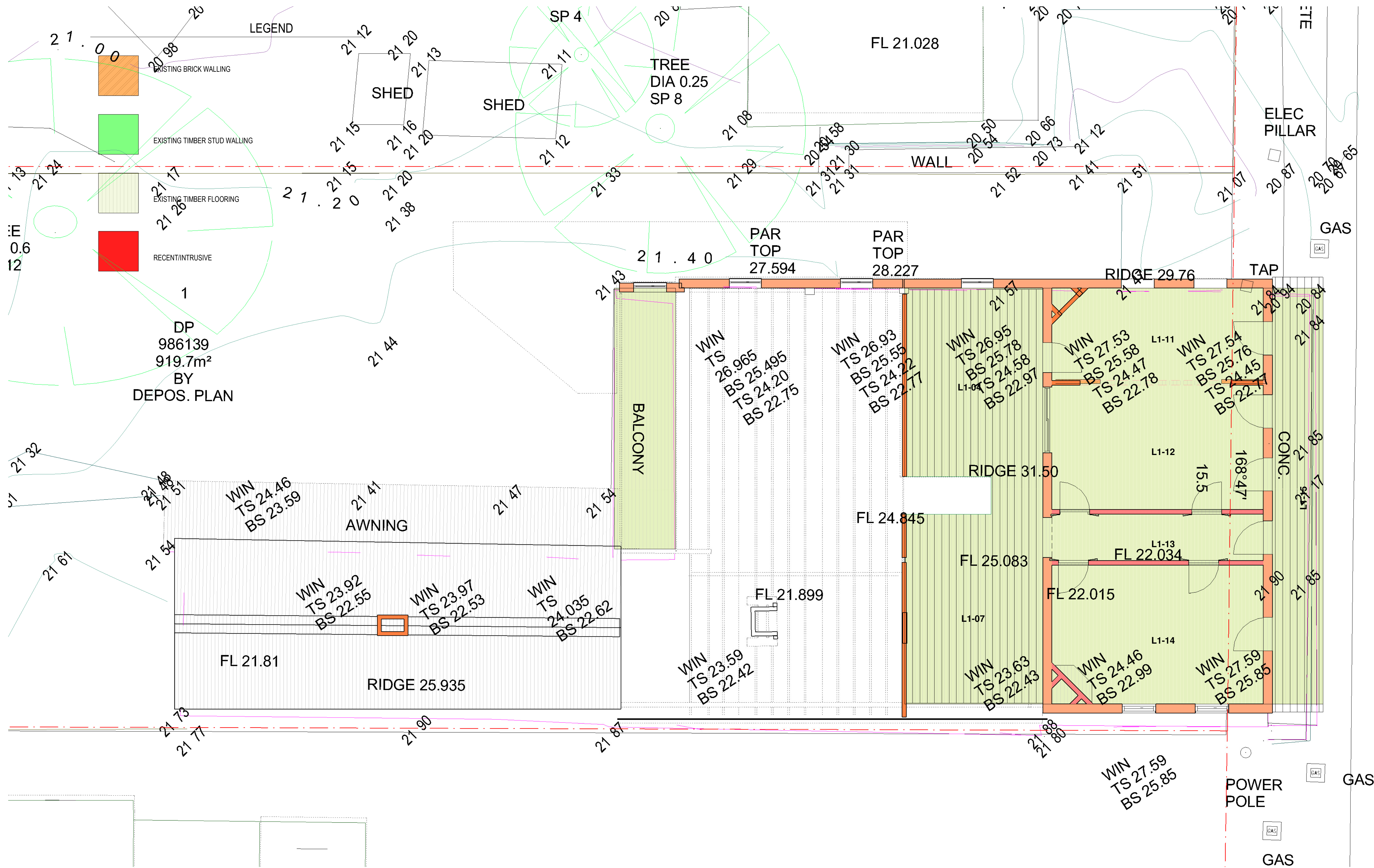


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DATE
15/04/22

DRAWING No.
A-104

Rev.
E



LEVEL 1 - 2018 MEASURED DRAWING

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REVISION

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B NEW DESIGN - 3 APTS AS PER WCC ADVICE
E AS PER WCC COMMENTS

GN
ML
GN

Date 1
02/04/1958
15-04-22

PROJECT

ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE

MEASURED DRAWING



SCALE

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0 M 3 M

DATE

15/04/22

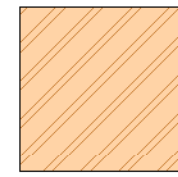
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A-107

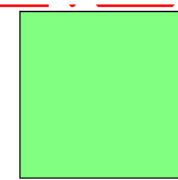
Rev.

E

LEGEND



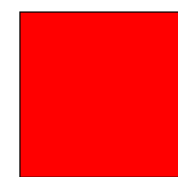
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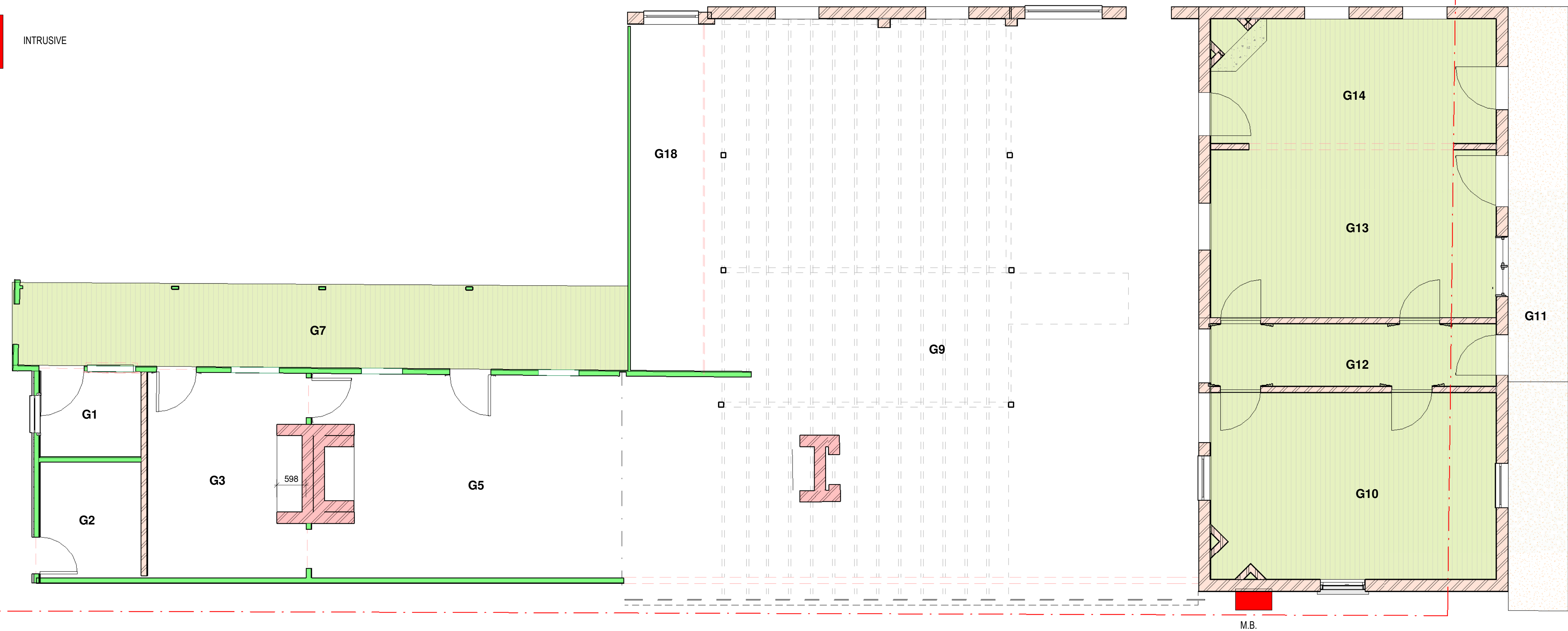
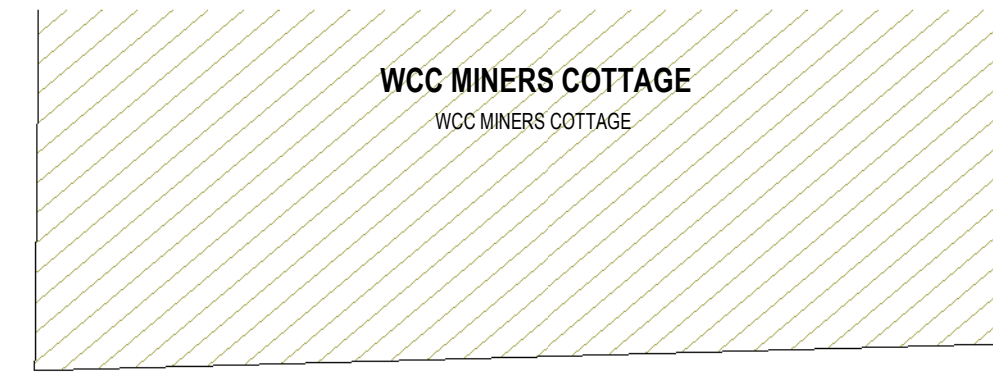
EXISTING TIMBER STUD WALLING



EXISTING TIMBER FLOORING



INTRUSIVE



PRINCES HIGHWAY

GROUND - 2018 MEASURED DRAWING

Scale 1 : 50

REVISION

A ORIG DES - 4 APTS
B NEW DESIGN - 3 APTS AS PER WCC ADVICE
E AS PER WCC COMMENTS

GN ML GN
Date 1
02/04/1958
15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
MEASURED DRAWING



SCALE
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0 M 3 M

DATE
15/04/22

DRAWING No.
A-106

Rev.
E

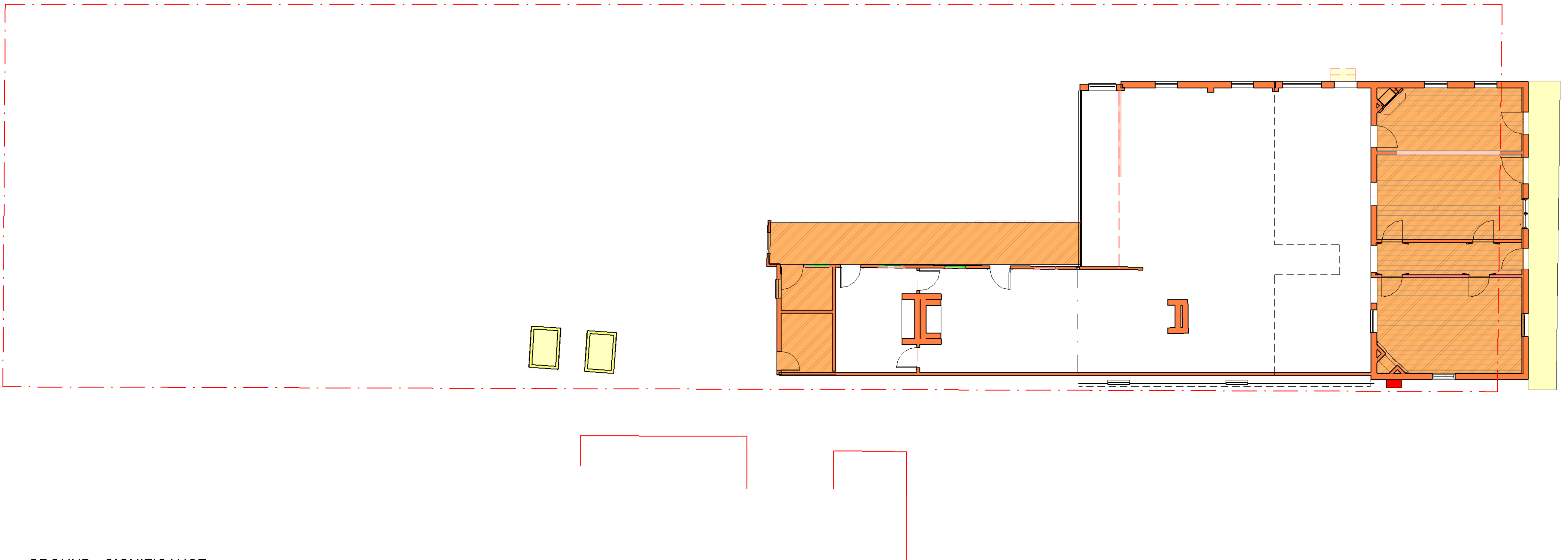
SIGNIFICANCE

HIGH

MODERATE

LOW

INTRUSIVE



GROUND - SIGNIFICANCE

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REVISION

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B	NEW DESIGN - 3 APTS AS PER WCC ADVICE
E	AS PER WCC COMMENTS

GN
ML
GN

Date 1
02/04/1958
15-04-22

PROJECT

ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE

SIGNIFICANT FABRIC - GROUND LEVEL



SCALE

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DATE

15/04/22

DRAWING No.

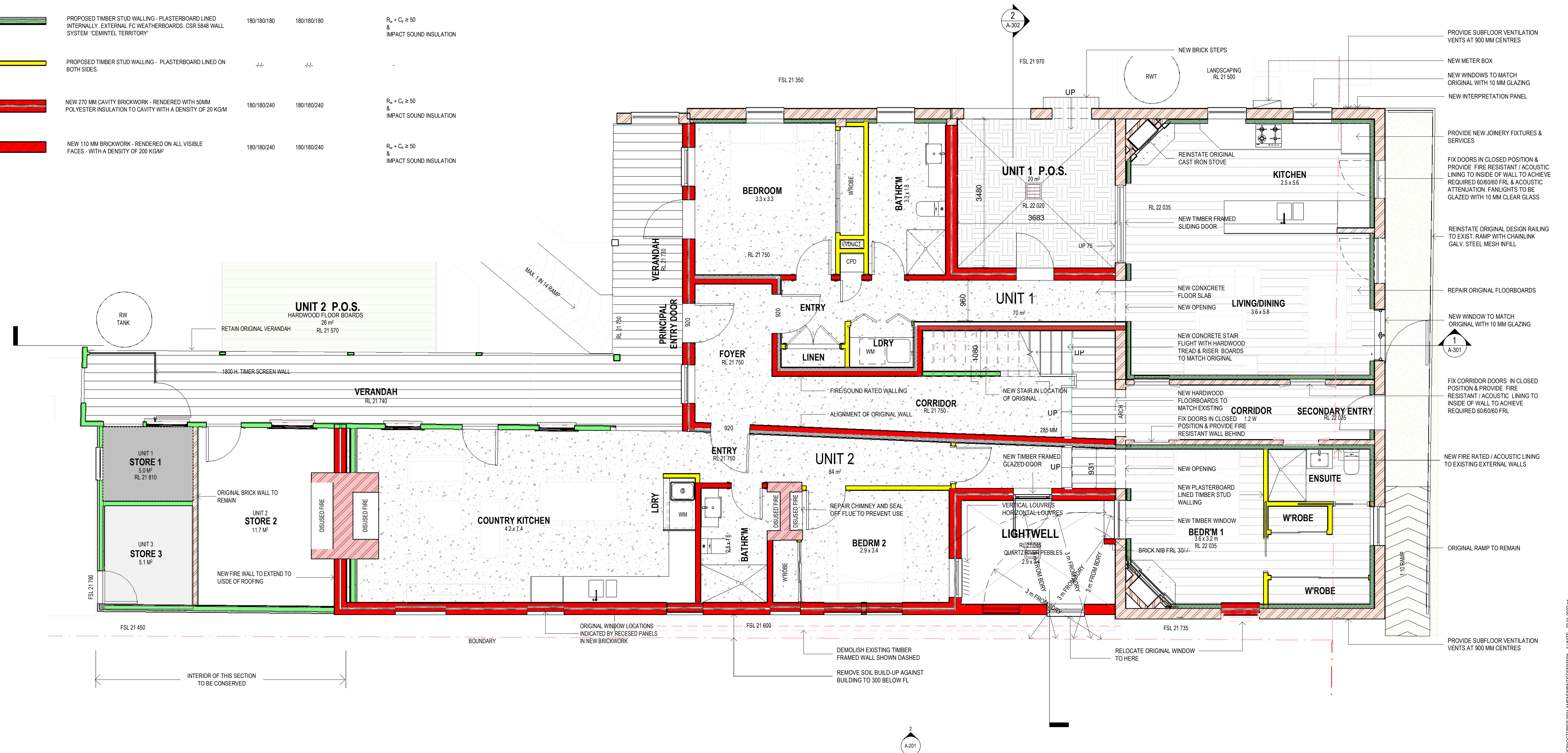
A-108

Rev.

E

WALL TYPES LEGEND

	CONSTRUCTION	FIRE RESISTANCE LEVEL (STRUCTURAL ADEQUACY/INTEGRITY/INSULATION)		ACOUSTIC (R _a)
		FROM INSIDE	FROM OUTSIDE	
	EXISTING 230 MM BRICK WALLING (MIN 170 KG/M ³ - RENDERED ON BOTH FACES	180/180/240	180/180/180	R _a ≥ 45
	EXISTING 250 MM BRICK WALLING (MIN 170 KG/M ³ & 20 CAVITY) - RENDERED ON BOTH FACES - 64 MM STEEL STUDS @ 600 CENTRES, SPACED 15 MM OFF WALL WITH 50mm THICK MINERAL INSULATION OR GLASS WOOL INSULATION WITH A DENSITY OF 11KG/M ³ POSITIONED BETWEEN STUDS & 16 MM FYRECHEK PLASTERBOARD	180/180/240	180/180/240	R _a + C _s ≥ 50 & IMPACT SOUND INSULATION
	EXISTING 110 MM BRICK WALLING - RENDERED ON BOTH FACES. BATTENED ON INTERIOR WITH INSULATION & 16 MM FYRECHEK PLASTERBOARD	120/90/90	120/90/90	R _a ≥ 45 & IMPACT SOUND INSULATION
	PROPOSED TIMBER STUD WALLING - PLASTERBOARD LINED ON BOTH SIDES. CSR 665 WALL SYSTEM.	90/90/90	90/90/900	R _a + C _s ≥ 50 & IMPACT SOUND INSULATION
	PROPOSED TIMBER STUD WALLING - PLASTERBOARD LINED INTERNALLY. EXTERNAL PC WEATHERBOARDS, CSR 5848 WALL SYSTEM "CEMINTEL TERRITORY"	180/180/180	180/180/180	R _a + C _s ≥ 50 & IMPACT SOUND INSULATION
	PROPOSED TIMBER STUD WALLING - PLASTERBOARD LINED ON BOTH SIDES.	-/-/-	-/-/-	-
	NEW 270 MM CAVITY BRICKWORK - RENDERED WITH 50MM POLYESTER INSULATION TO CAVITY WITH A DENSITY OF 20 KG/M ³	180/180/240	180/180/240	R _a + C _s ≥ 50 & IMPACT SOUND INSULATION
	NEW 110 MM BRICKWORK - RENDERED ON ALL VISIBLE FACES - WITH A DENSITY OF 200 KG/M ³	180/180/240	180/180/240	R _a + C _s ≥ 50 & IMPACT SOUND INSULATION



GROUND - AS PROPOSED

Scale 1 : 50

REVISION	
A	ORIG DES - 4 APTS
B	NEW DESIGN - 3 APTS AS PER WCC ADVICE
E	AS PER WCC COMMENTS

GN	Date 1
ML	02041958
GN	15-04-22

PROJECT

ADAPTIVE RE-USE OF THE DENMARK HOTEL AS MULTI-DWELLING HOUSING

DRAWING TITLE
AS PROPOSED - GROUND FLOOR PLAN




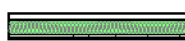



SCALE
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DATE
15/04/22

DRAWING No. **A-110** Rev. **E**

Rev.

WALL TYPES LEGEND

CONSTRUCTION	FIRE RESISTANCE LEVEL (STRUCTURAL ADEQUACY/INTEGRITY/INSULATION)		ACOUSTIC (R _w)	
	FROM INSIDE	FROM OUTSIDE		
	EXISTING 230 MM BRICK WALLING (MIN 170 KG/M ³ - RENDERED ON BOTH FACES	180/180/240	180/180/180	R _w ≥ 45
	EXISTING 250 MM BRICK WALLING (MIN 170 KG/M ³ & 20 CAVITY) - RENDERED ON BOTH FACES - 64 MM STEEL STUDS @ 600 CENTRES, SPACED 15 MM OFF WALL WITH 50mm THICK MINERAL INSULATION OR GLASS WOOL INSULATION WITH A DENSITY OF 11KG/M ³ POSITIONED BETWEEN STUDS & 16 MM FYRECHEK PLASTERBOARD	180/180/240	180/180/240	R _w + C _w ≥ 50 & IMPACT SOUND INSULATION
	EXISTING 110 MM BRICK WALLING - RENDERED ON BOTH FACES, BATTENED ON INTERIOR WITH INSULATION & 16 MM FYRECHEK PLASTERBOARD	120/90/90	120/90/90	R _w ≥ 45 & IMPACT SOUND INSULATION
	PROPOSED TIMBER STUD WALLING - PLASTERBOARD LINED ON BOTH SIDES. CSR 665 WALL SYSTEM.	90/90/90	90/90/900	R _w + C _w ≥ 50 & IMPACT SOUND INSULATION
	PROPOSED TIMBER STUD WALLING - PLASTERBOARD LINED INTERNALLY. EXTERNAL FC WEATHERBOARDS. CSR 5848 WALL SYSTEM "CEMINTEL TERRITORY"	180/180/180	180/180/180	R _w + C _w ≥ 50 & IMPACT SOUND INSULATION
	PROPOSED TIMBER STUD WALLING - PLASTERBOARD LINED ON BOTH SIDES.	-/-/-	-/-/-	-
	NEW 270 MM CAVITY BRICKWORK - UNRENDERED WITH 50MM POLYESTER INSULATION TO CAVITY WITH A DENSITY OF 20 KG/M ³	180/180/240	180/180/240	R _w + C _w ≥ 50 & IMPACT SOUND INSULATION
	NEW 230 MM BRICKWORK - RENDERED ON ALL VISIBLE SIDES - WITH A DENSITY OF 20 KG/M ³	180/180/240	180/180/240	R _w + C _w ≥ 50 & IMPACT SOUND INSULATION



LEVEL 1 - AS PROPOSED

Scale 1:50

REVISION

A	ORIG DES - 4 APTS
B	NEW DESIGN - 3 APTS AS PER WCC ADVICE
D	POS & PATH CHANGED AS PER WCC REQUEST
E	AS PER WCC COMMENTS

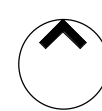
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ML	02/04/1958
GN	23-1-22
GN	15-04-22

PROJECT

ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE

AS PROPOSED - FIRST FLOOR PLAN



SCALE

1:50 @A1
0 M 3 M

DATE

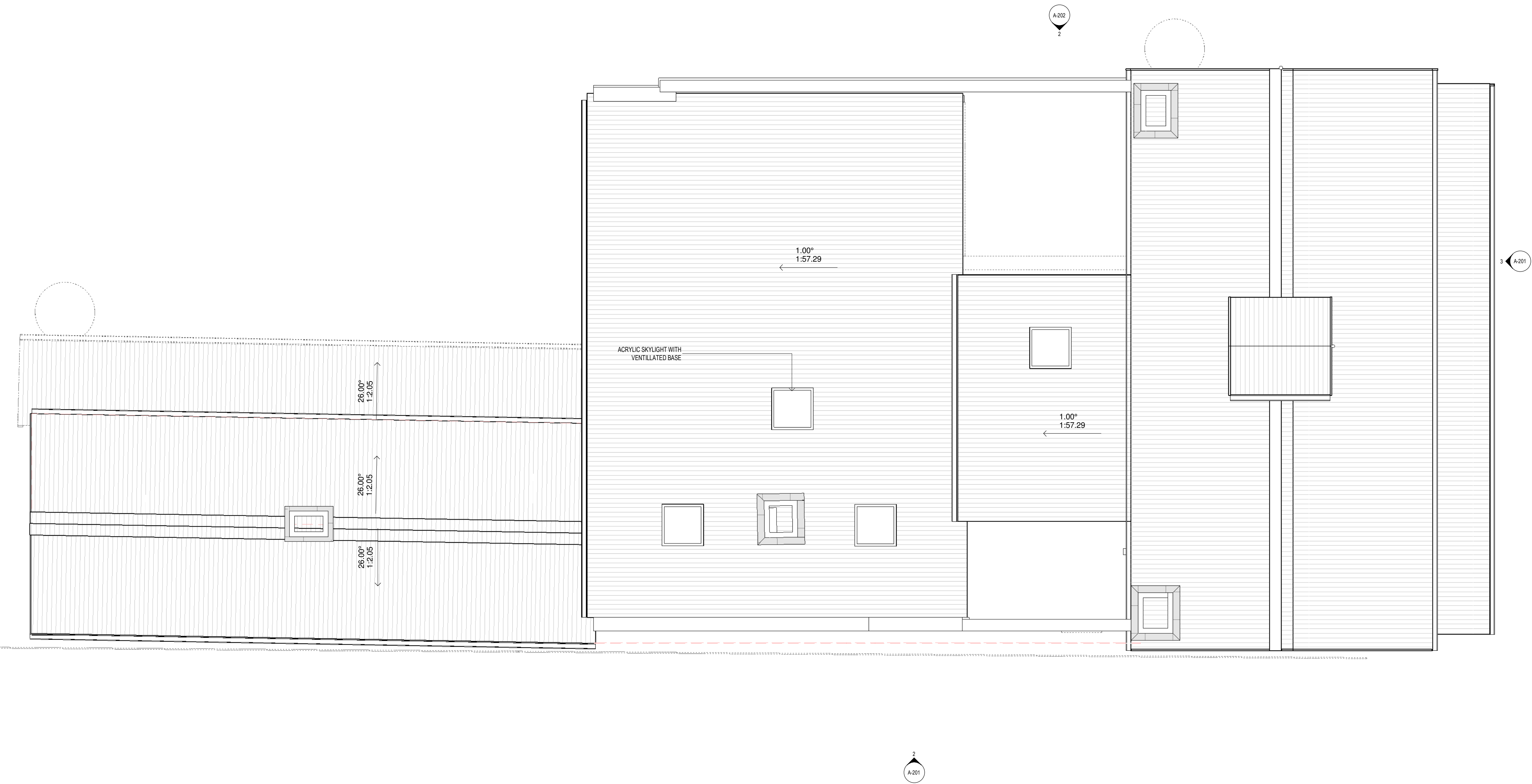
15/04/22

DRAWING No.

A-111

Rev.

E



ROOF
Scale 1:50

REVISION		
D	POS & PATH CHANGED AS PER WCC REQUEST	
E	AS PER WCC COMMENTS	

GN	23-1-22
GN	15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
ROOF PLAN - AS PROPOSED



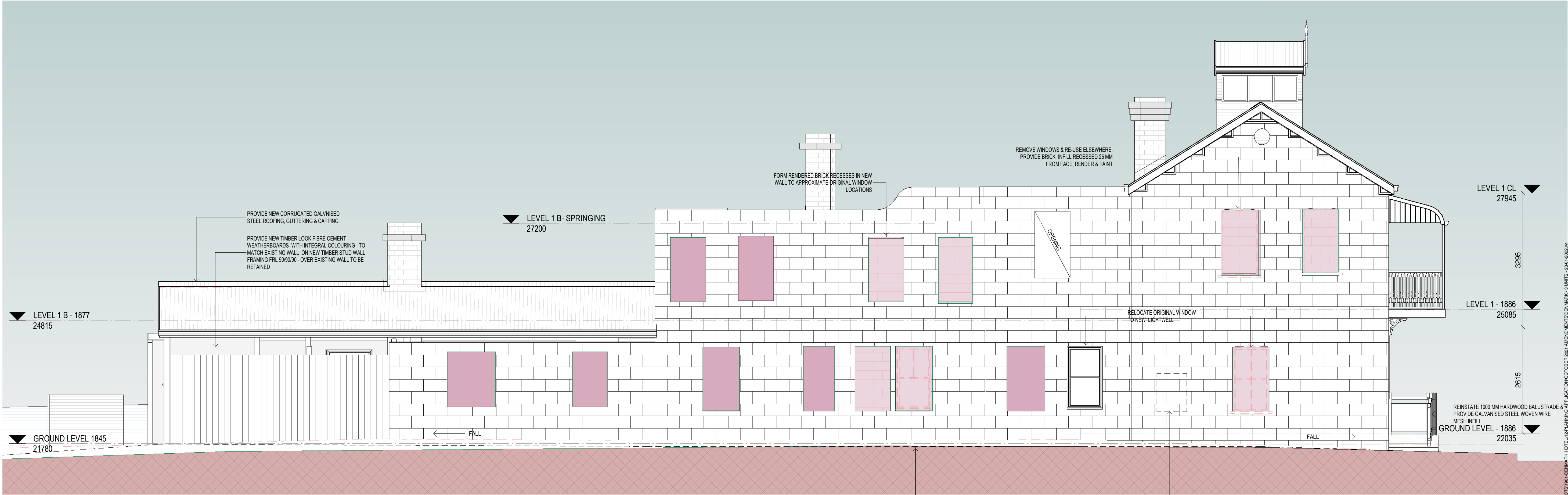
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DATE
15/04/22

DRAWING No.
A-112
Rev.
E



EAST ELEVATION
Scale 1 : 50



SOUTH ELEVATION.
Scale 1 : 50

REVISION	
A	ORIG DES - 4 APTS
B	NEW DESIGN - 3 APTS AS PER WCC ADVICE
E	AS PER WCC COMMENTS

GN	Date 1
ML	02/04/1958
GN	15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
ELEVATIONS - EAST & SOUTH

SCALE
1 : 50 @A1
0 M 3 M

DATE
15/04/22

DRAWING No.
A-201

Rev.
E



WEST ELEVATION

Scale 1 : 50



NORTH ELEVATION

Scale 1 : 50

REVISION

A	ORIG DES - 4 APTS
B	NEW DESIGN - 3 APTS AS PER WCC ADVICE
E	AS PER WCC COMMENTS

GN	Date 1
ML	02/04/1958
GN	15-04-22

PROJECT
ADAPTIVE RE-USE OF THE DENMARK HOTEL
AS MULTI-DWELLING HOUSING

DRAWING TITLE
ELEVATIONS - WEST & NORTH

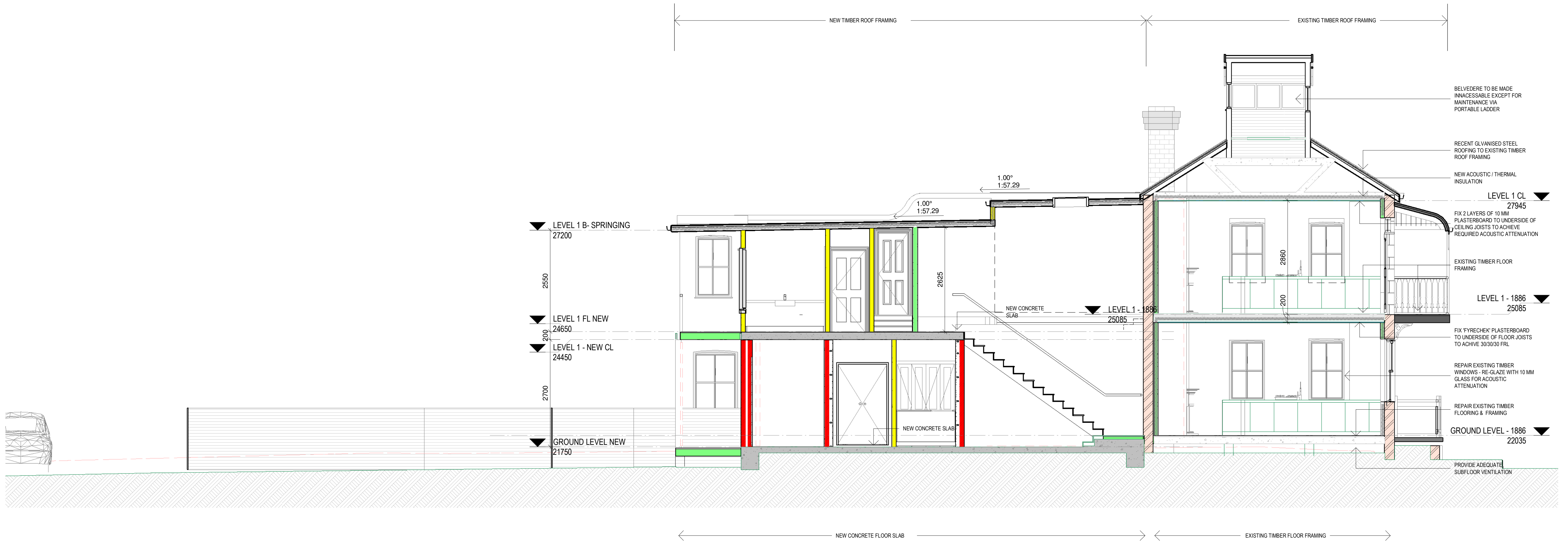


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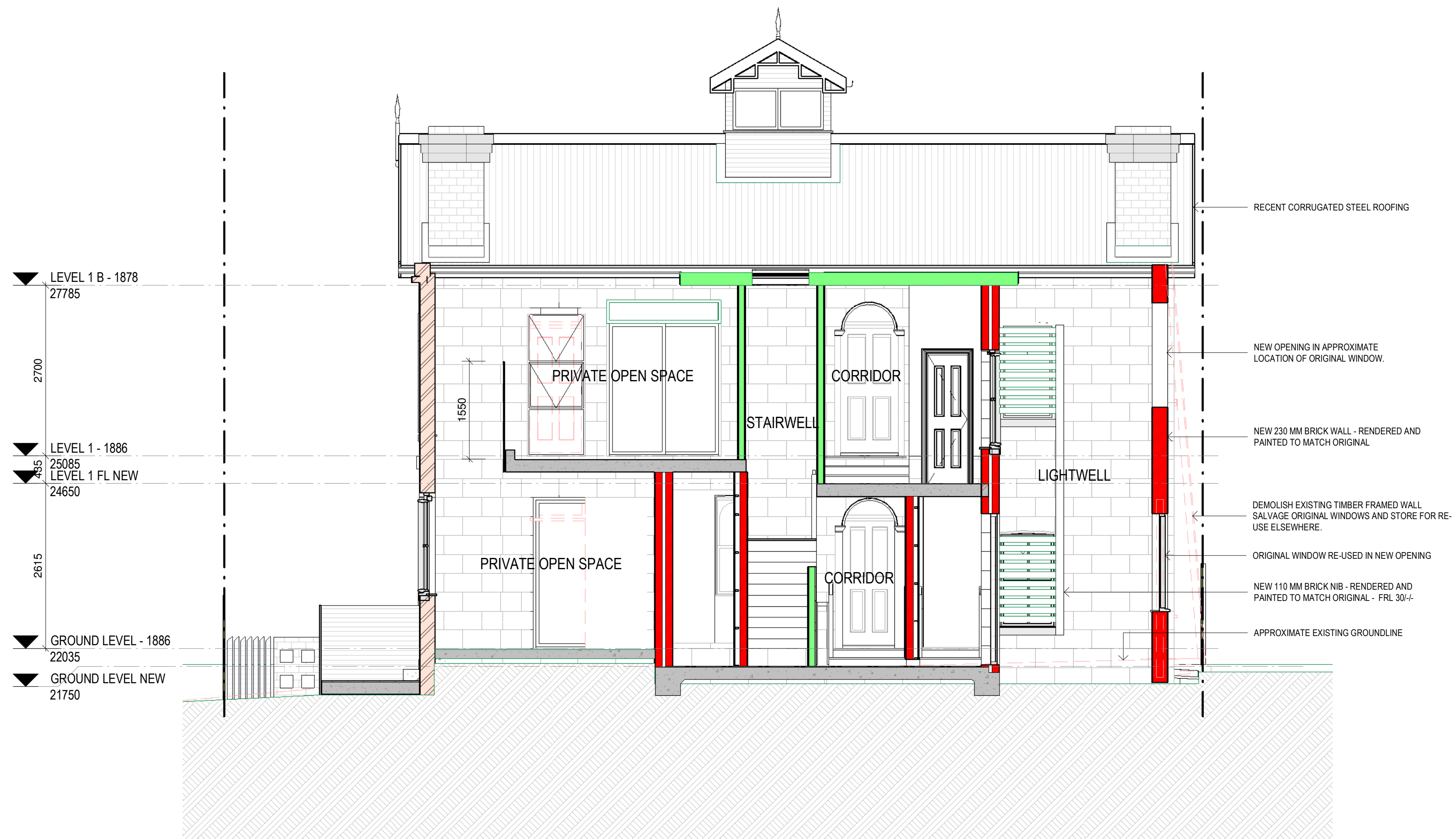
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15/04/22

DRAWING No.
A-202

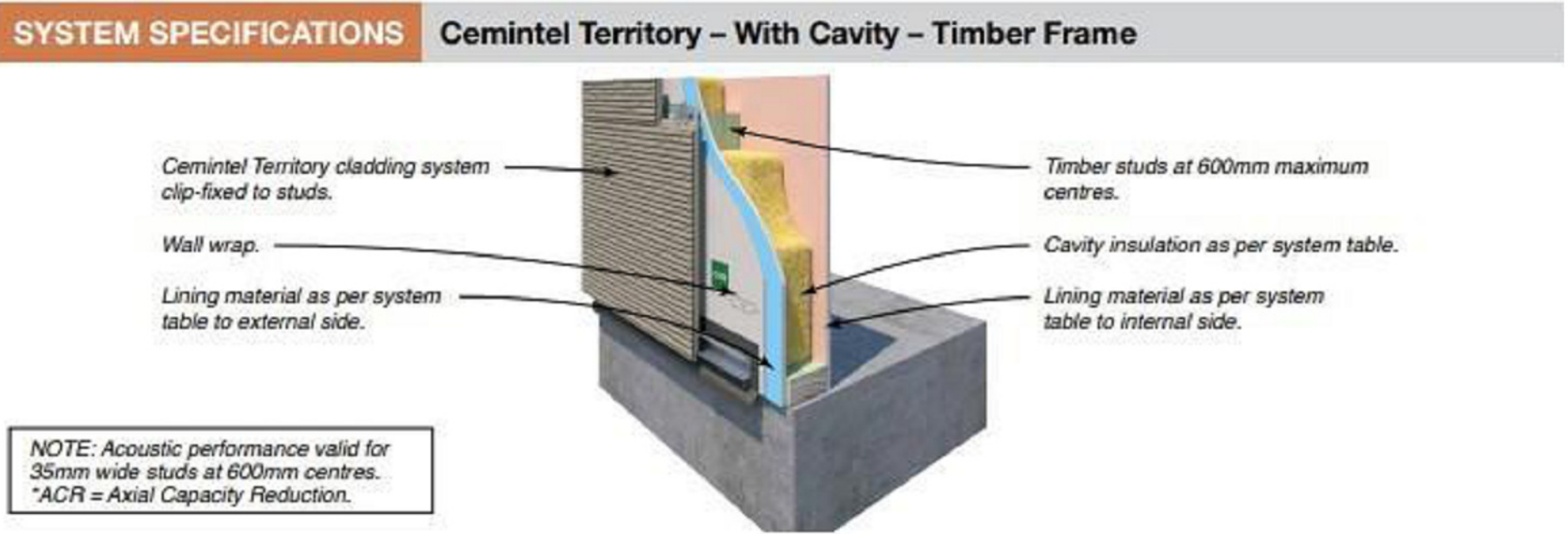
Rev.
E



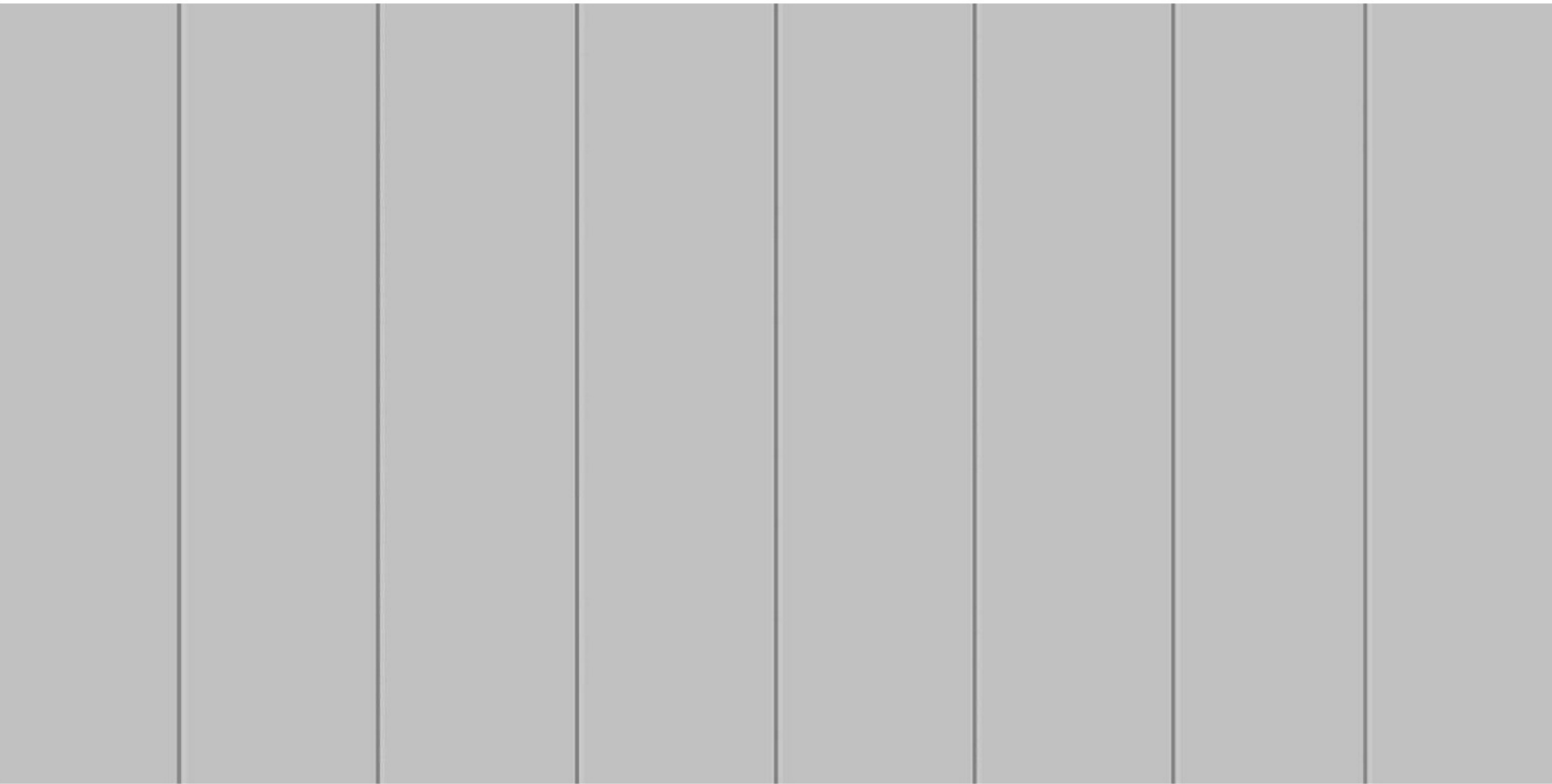
CROSS SECTION A-A
Scale 1 : 50



Section 2
Scale 1 : 50



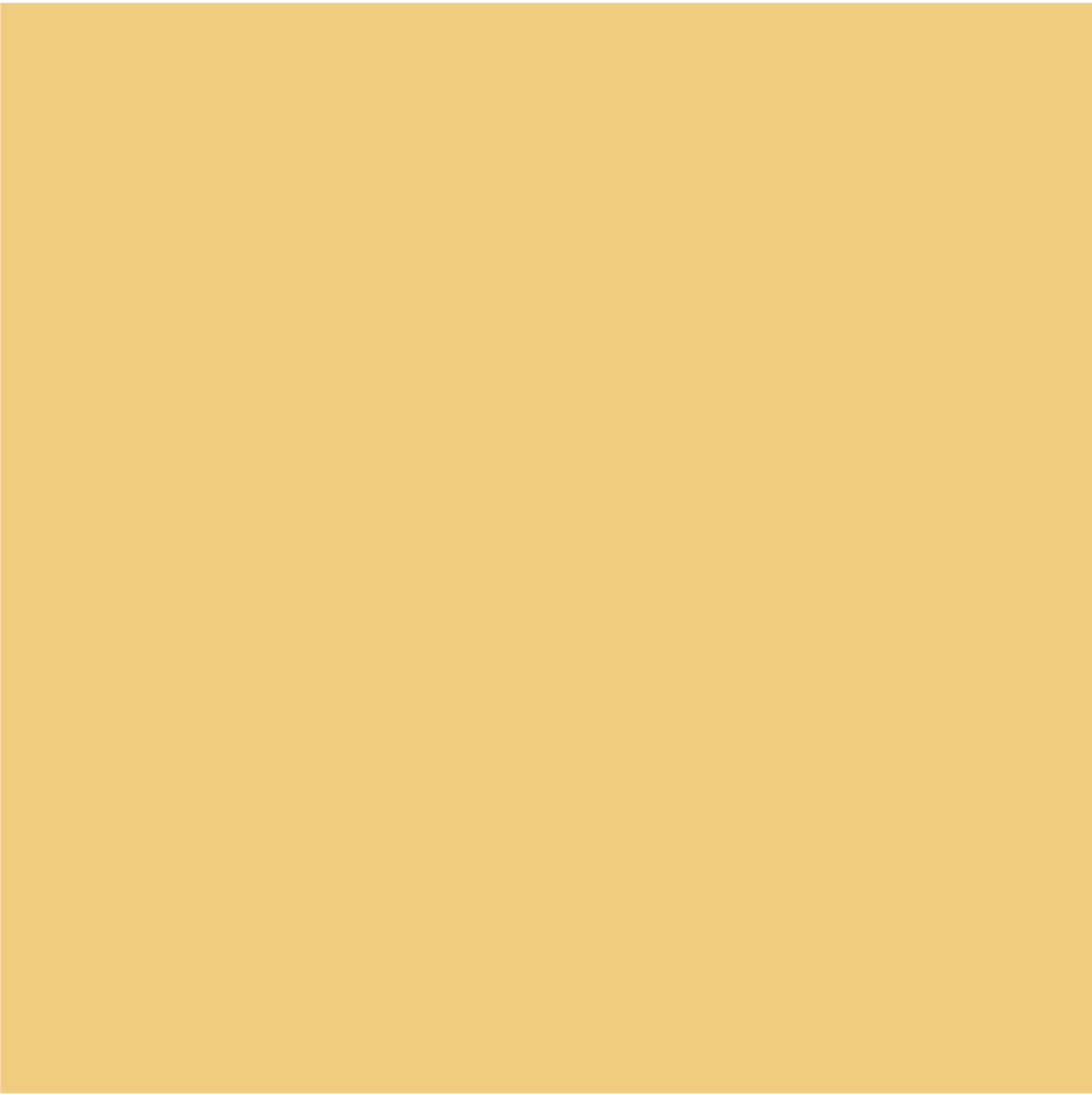
SYSTEM SPECIFICATION			ACOUSTIC OPINION: PKA-A119					
60/60/60 90/90/90* (from both sides) *ACR Group 3 FAR2303		CSR 5848	EXTERNAL WALL SIDE	(a) 75 Gold Batts R1.5	49/40	1.6/1.7	51/42	1.6/1.7
			• 1 x 16mm Gyprock Fyrchek MR Plasterboard.	(b) 90 Gold Batts R2.0	-	-	51/42	2.2/2.4
			• 1 x 6mm CeminSeal Wallboard. (against frame)	(c) 90 Gold Batts R2.5	-	-	52/43	2.6/2.9
			INTERNAL WALL SIDE	Wall Thickness mm		149	169	
			• 2 x 13mm Gyprock Fyrchek Plasterboard.					



CSR CEMINTEL 'TERRITORY' TIMBER FRAMED WALL SYSTEM TO REPLACE EXISTING TIMBER FRAMED PART OF SOUTHERN WALL FRL 90/90/90 (BOTH SIDES)



EXISTING VERTICAL BOARDING CLADDING TO TIMBER FRAMED PART OF SOUTHERN WALL



BRITISH PAINTS 'KARA SEA' TO EXTERNAL WALLS



BRITISH PAINTS 'KARA SEA' TO EXTERNAL TRIM



BRITISH PAINTS 'OSCAR GOLD' TO EXTERNAL TRIM



CORRUGATED GALVANISED STEEL ROOFING



SYSTEM DESCRIPTION

Brick Veneer: 110 clay brick, min 170kg/m²

Framing: Timber

Gap: 50mm

Insulation: Refer to table

Internal Lining: Refer to table.

BVT		ACOUSTIC RATINGS BASIS: RT&A TE405-05F12								
FIRE RESISTANCE LEVEL (refer to table)	SYSTEM	FIRE RESISTANCE LEVEL		INTERNAL LINING	WALL WIDTH mm	230 + LINING		250 + LINING		TOTAL R-VALUE m ² K/W
		FROM INSIDE	FROM OUTSIDE		STUD SIZE mm	70		90		
					INSULATION*	R _w	R _w +C _{tr}	R _w	R _w +C _{tr}	
SYSTEM DESCRIPTION Brick Veneer: 110 clay brick, min 170kg/m ² Framing: Timber Gap: 50mm Insulation: Refer to table Internal Lining: Refer to table.	BVT60.1A LOAD BEARING SYSTEM TYPE 1†	LB 60/60/60	MIN 60/60/60 BRICK VENEER FRL	1x16mm FIRESTOP	R2.5 GW Wall Batts	66	56	67	58	3.3
	BVT90.1A LOAD BEARING SYSTEM TYPE 1†	LB 90/90/90	MIN 90/90/90 BRICK VENEER FRL	2x13mm FIRESTOP	R2.5 GW Wall Batts	70	61	71	62	3.3

* R2.5 GW Wall Batts – R2.5 Pink Wall Batts* glasswool by Fletcher Insulation.
† Refer to Timber Stud Walls section Table D1 for maximum vertical loads on load bearing fire rated walls.

CSR FIRE RATED INTERNAL WALL SYSTEM FOR EXISTING BRICK WALLS FRL 60/60/60 OR 90/90/90 AS REQUIRED



Measure and/or system	Standards of Performance
Energy efficiency- Air Conditioning & Ventilation systems	BCA 2019 Part F4.5 and Part J5
Mechanical Ventilation, Air Conditioning, including Toilet Exhaust	AS 1668.1 – 2015 AS 1668.2 – 2012
Ductwork	AS4254- 2012
Electrical	AS3000- 2019

CEILING MOUNTED DUCTED FAN TO SUPPLY FRESH AIR SOURCED FROM RELATIVELY QUIET LOCATIONS - VIA UNDER EAVES MOUNTED GRILLES - ON WESTERN SIDES OF COURTYARD AND LIGHTWELL

ADAPTIVE RE-USE OF THE 'DENMARK HOTEL' AS
THREE RESIDENTIAL APARTMENTS

No 202 PRINCESS HIGHWAY BULLI NSW

CLIENT - ROI (NSW) Pty Ltd
PREPARED BY - CAPTIVATE LANDSCAPE DESIGN & ARCHITECTURE

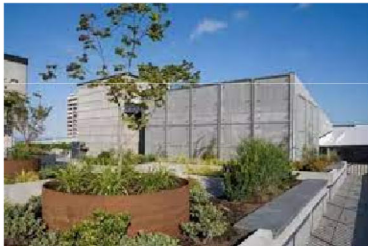
LEGEND

	PLAIN CONCRETE		TURF / GARDEN EDGE Metal Edge
	COMPACTED GRANITE		CONCRETE EDGE
	PAVING		1800mm TIMBER SCREEN FENCE
	SWALE		WASTE BINS / CLOTHES DRYING
	CORTEN TREE PLANTER 600mm High x 1200mm Diameter		WASTE BINS / CLOTHES DRYING
	VERTICAL SET SLEEPERS		

IMAGERY



Water Tanks



Corten Planter 1200mm D x 600mm H



POS Timber Vertical Screen Fencing



VERTICAL SLEEPER LANDSCAPE FEATURE / SCREEN



North Elevation
1:200

A 3.11.21 Additional Information

ISSUE DATE NOTE

THE BUILDER IS RESPONSIBLE FOR THE SETTING
OUT OF THE WORKS, THE CHECKING OF ALL
DIMENSIONS AND LEVELS ON SITE, AND THE
REPORTING OF ANY DISCREPANCIES TO THE
PROPRIETOR PRIOR TO COMMENCEMENT OF
WORK. DO NOT SCALE FROM DRAWINGS.

Client

ROI (NSW) Pty Ltd

Address

No 202 Princess Hwy Bulli
NSW

Project

Adaptive Re-use of former
Denmark Hotel

Drawing

Title Page



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Scale @A3
1:250

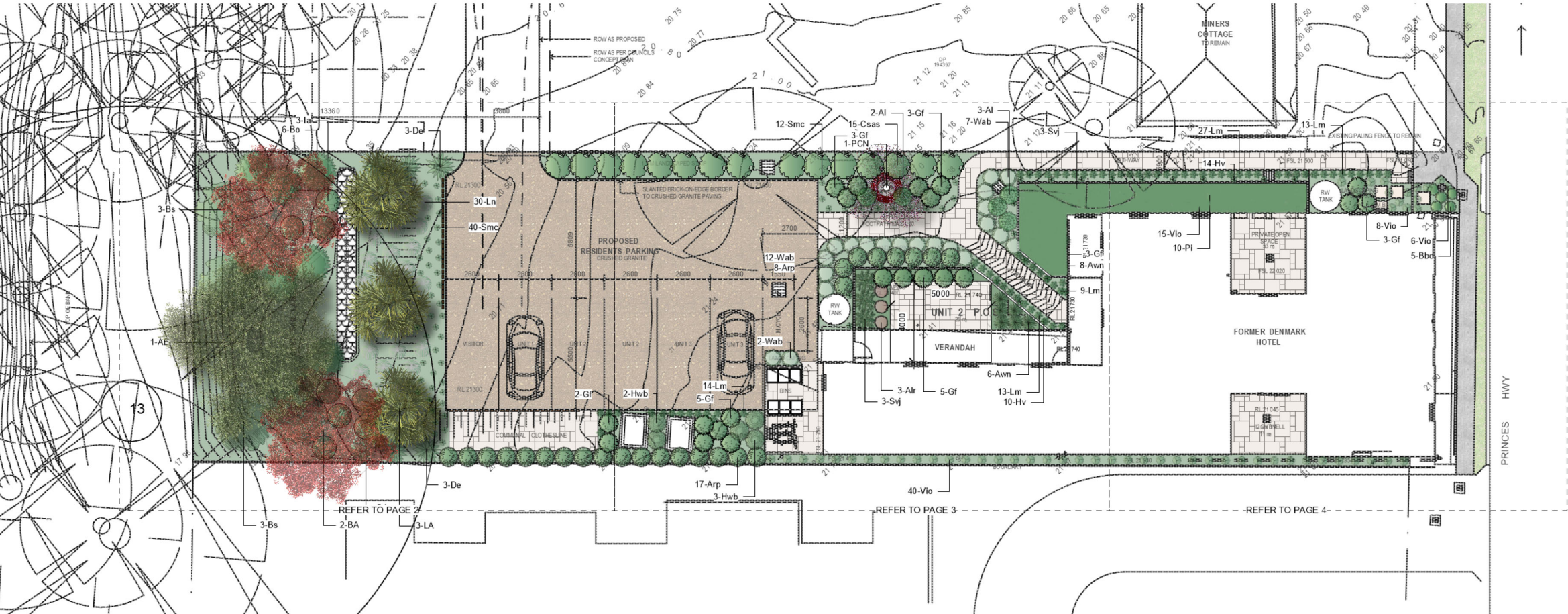
Job No.
DA-1778

Date
13.1.21

Page
1

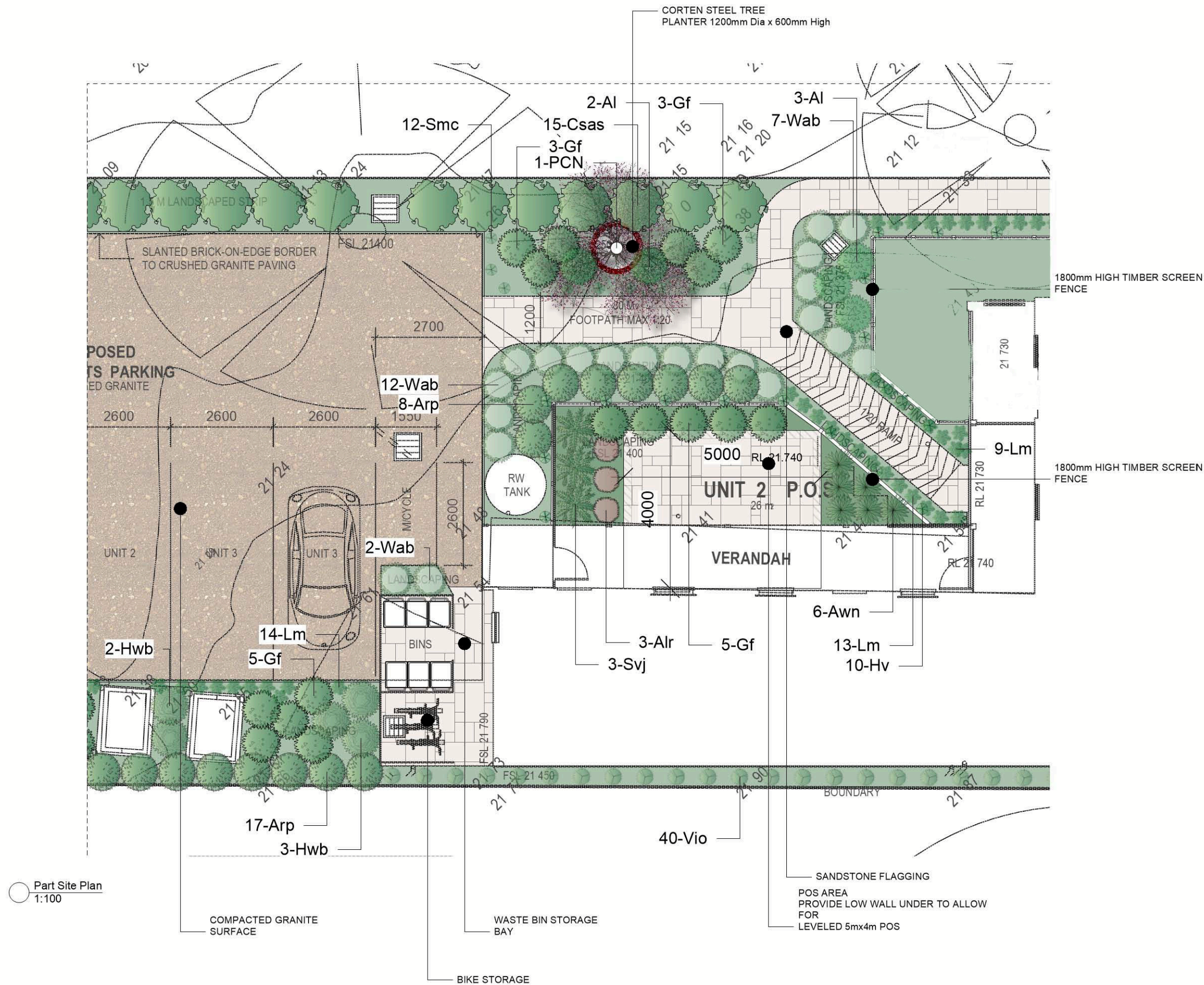
Status

DRAFT



Full Site Plan
1:250





A 3.11.21 Additional Information

ISSUE DATE NOTE
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Client
ROI (NSW) Pty Ltd

Address
No 202 Princess Hwy Bulli NSW

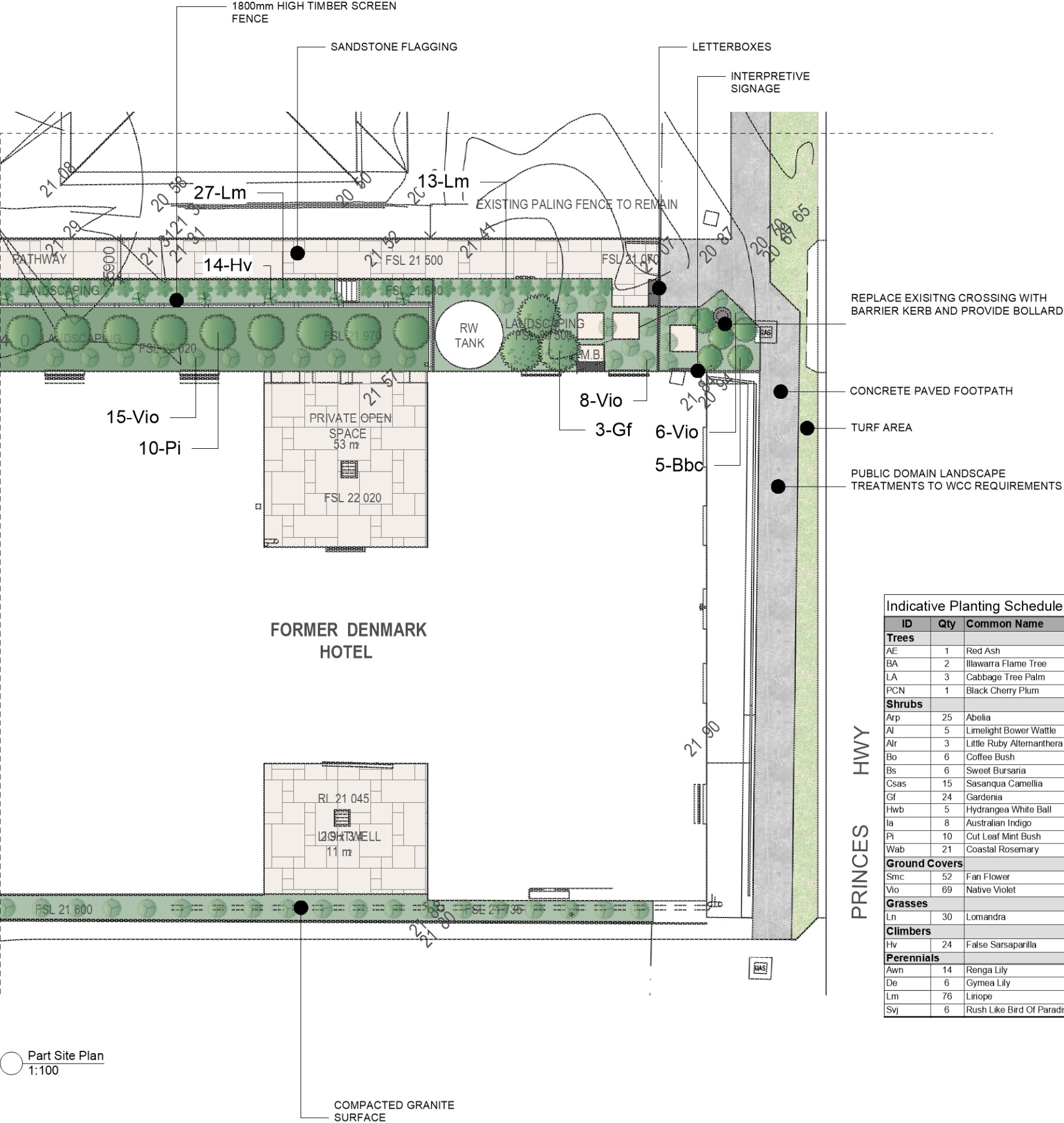
Project
Adaptive Re-use of former Denmark Hotel

Drawing
Part Landscape Plan 2



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Scale @A3 1:100	Job No. DA-1778
Date 13.1.21	Page 3
Status For Development Application Only	



Indicative Planting Schedule						
ID	Qty	Common Name	Botanical Name	Scheduled Size	Mature Height	Mature Spread
Trees						
AE	1	Red Ash	Alphitonia excelsa	75Lt	10m	8m
BA	2	Illawarra Flame Tree	Brachychiton acerifolius	150Lt	12m	6m
LA	3	Cabbage Tree Palm	Livistona australis	100Lt	15m	5m
PCN	1	Black Cherry Plum	Prunus cerasifera 'Nigra'	75Lt	5m	4m
Shrubs						
Arp	25	Abelia	Abelia x grandiflora 'Raspberry Profusion'	200mm	1m	1m
Al	5	Limelight Bower Wattle	Acacia 'Limelight'	200mm	1m	1m
Alr	3	Little Ruby Alternanthera	Alternanthera dentata 'Little Ruby'	200mm	0.3-0.4m	0.6-0.9m
Bo	6	Coffee Bush	Breynia oblongifolia	200mm	3m	2m
Bs	6	Sweet Bursaria	Bursaria spinosa	200mm	1.5-4m	1.5-4m
Csas	15	Sasanqua Camellia	Camellia x vernalis 'Star Above Star'	200mm	2m	1.5m
Gf	24	Gardenia	Gardenia florida	200mm	1m	1m
Hwb	5	Hydrangea White Ball	Hydrangea macrophylla 'White Ball'	200mm	1m	1m
Ia	8	Australian Indigo	Indigofera australis	200mm	1.5m	1.5m
Pi	10	Cut Leaf Mint Bush	Prostanthera incisa	200mm	1.5m	1.5m
Wab	21	Coastal Rosemary	Westringia fruticosa 'Aussie Box'	200mm	0.8m	0.8m
Ground Covers						
Smc	52	Fan Flower	Scaevola aemula 'Mauve Carpet'	150mm	0.15-0.3m	0.6-1m
Vio	69	Native Violet	Viola hederacea	150mm	0.1-0.2m	0.3-1m
Grasses						
Ln	30	Lomandra	Lomandra longifolia 'Nyalla'	150mm	0.9m	0.9m
Climbers						
Hv	24	False Sarsaparilla	Hardenbergia violacea	150mm	Height	Spread
Perennials						
Awn	14	Renga Lily	Arthropodium cirratum 'White Night'	150mm	1m	1m
De	6	Gynea Lily	Doryanthes excelsa	200mm	1.5m	1.5m
Lm	76	Liriope	Liriope muscari	150mm	0.45m	0.45m
Svj	6	Rush Like Bird Of Paradise	Strelitzia var junccea	200mm	1.5m	1.5m

A 3.11.21 Additional Information
ISSUE DATE NOTE
THE BUILDER IS RESPONSIBLE FOR THE SETTING OUT OF THE WORKS, THE CHECKING OF ALL DIMENSIONS AND LEVELS ON SITE, AND THE REPORTING OF ANY DISCREPANCIES TO THE PROPRIETOR PRIOR TO COMMENCEMENT OF WORK. DO NOT SCALE FROM DRAWINGS.
Client
ROI (NSW) Pty Ltd

Address
No 202 Princess Hwy Bulli NSW

Project
Adaptive Re-use of former Denmark Hotel

Drawing
Part Landscape Plan 3



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Scale @A3 1:100	Job No. DA-1778
Date 13.1.21	Page 4
Status For Development Application Only	

Clause 4.6 Exception to Development Standards - Written Request – ‘Building Height’

Applicant's name: ROI (NSW) Pty Limited

Prepared By: in2 architecture + heritage
Phone 0412 086 410

Site address: 202 Princes Highway Bulli (Lot 1, DP 986139) NSW
and includes;
200 Princes Highway (Lot 1 DP194397) for the purpose of vehicular access
to the public road via a proposed Right of Carriageway.

Proposal: Adaptive Re-Use of existing heritage building and construction of a new
multi dwelling housing containing three (3) units contained within the
confines of the existing external envelope.

File Reference: Cl. 4.6 Variation

Job Reference: 1901

Document History

Version	Date	Description of Revision	Prepared by	Reviewed by
1	14/12/2020		GN	ML
2	19/08/2021		GN	ML

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1. Introduction

This Clause 4.5 variation request has been prepared in support of a multi-dwelling housing development proposal at 202 Princes Highway, Bulli NSW 2516 and includes 200 Princes Highway, Bulli for vehicular access and the Bulli Showground for purposes of a drainage easement.

As the site contains a local heritage item, the applicant is able to rely on Clause 5.10 (10) of the WDCP 2009 to allow the development to be permissible.

The development proposes the following:

- The proposed development seeks to provide a practical and economic long term new use for this long time derelict heritage building by constructing three dwellings within the restored exterior.
- The creation of a shared right of carriageway in favour of No. 202 Princes Highway through No. 200 Princes Highway;
- The creation of an easement to drain water via Bulli Showground (Lot 33 DP 1182831) favour of No 202 Princes Highway.

Due to the proposals non-compliance with Clause 4.3 'Maximum Height of Buildings' requirement of WLEP 2009 and Clause 4.1 WDCP 2009 'Number of Storeys', a variation is being sought, this will include the following:

- Address of WLEP 2009 Clause 4.3 'Maximum Height of Buildings';
- Address of Clause 4.1 WDCP 2009 'Number of Storeys';
- Address of Clause 5.2 WDCP 2009 'Number of Storeys';
- The nature and extent of the non-compliance(s);
- Legal precedence emanating from the Land and Environment Court;
- A demonstration that there are sufficient environmental planning grounds to justify contravening the development standard.
- Concurrence with the relevant objectives of the Environmental Protection and Assessment Act 1979; and
- Recommendation to Council.

Strict numeric compliance is not achieved in accordance with the WLEP 2009 Maximum Building Height standard and WDCP 2009 Number of Stories standards, consequently the proposal is seeking to vary the standard pursuant to Clause 4.6 of the WLEP 2009. The following is a discussion as to the operation of Clause 4.6 as it relates to the subject proposal.

4.6(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.

WLEP 2009 Clause 4.3 'Maximum Height of Buildings' and WDCP 2009 Clause 4.1 and 5.2 'Number of Storeys', are not expressly excluded from the operation of this clause.

4.6(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.

Clause 4.6(4) states that the consent authority needs to be satisfied that:

(a)(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(a)(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, and

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

The departure from this development standard is within the delegated authority of the Wollongong Local Planning Panel as determined by Directions issued by the Minister for Planning in accordance with Section 9.1 of the EP&A Act 1979 on 23 February 2018 and effective from 1 March 2018.

This document comprises of a formal written request to vary the development control within Clause 4.6 Exceptions to development standards

Clause 4.6(3)(a) – This variation request outlines that the numeric control is both unreasonable and unnecessary in this circumstance.

Clause 4.6(3)(b) – sufficient environmental planning grounds have been demonstrated in this variation request.

Clause 4.6(4)(a)(i) – all matters contained in Subclause 3 have been addressed in this variation request.

Clause 4.6(4)(a)(ii) – the proposal is in the best interest of the public by providing a long term economic use for this locally significant heritage building, achieving a high level of amenity and increasing housing stock as well as diversity. The proposal is consistent with the objectives of the Building Height standard.

Clause 4.6(4)(b) – Subject to Wollongong City Council's (Council) decision.

Clause 4.6(5)(a) – Contravention of the development standard is not likely to raise any matters of state or regional significance.

Clause 4.6(5)(b) – The public benefit of maintaining the development standard has been extensively addressed in this variation request.

Clause 4.6(5)(c) – Other matters to be taken into consideration are discussed in this variation request.

2. Recent/Relevant Land and Environment Court Decisions

This Clause 4.6 variation also considers relevant principles identified in the following judgements which provide guidance on the interpretation and application of Clause 4.6 that are relevant to the minimum site width standard variation currently being sought.

Firstly, [Four2Five Pty Ltd v Ashfield Council \[2015\] NSWLEC](#) established that Clause 4.6(3)(b) requires the applicant to demonstrate that environmental planning grounds exist particular to the circumstances of the proposed development on the subject site, to justify contravening the development

The principles that stem from these judgements may be summarised as follows:

- a) *The relevant objectives are those stated in the controls not unidentified underlying objectives in Four2Five No.1;*
- b) *That the sufficient environmental planning grounds have to be particular to the circumstances of the proposed development to the site at in Four2Five No. 1;*

As a result of Four2Five, it is now necessary to demonstrate something more than achieving the objective of the standard. i.e. there are sufficient environmental planning grounds particular to the circumstances of the proposed development to the site.

Secondly, [Wehbe v Pittwater Council \[2007\] NSW LEC 827](#) establishes a number of ways in which the applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone. Whilst Webhe was a decision of the Court dealing with SEPP 1, it has been also found to be applicable in the consideration and assessment of Clause 4.6.

Thirdly, [Randwick City Council v Micaul Holdings Pty Ltd \[2016\] NSW LEC 7](#) established that the lack of adverse amenity impacts on adjoining properties is not a sufficient ground justifying the development contravening the development standard, when one way of demonstrating consistency with the objectives of a development standard was to show a lack of adverse amenity impacts

Fourthly, [Initial Action Pty Ltd v Woollahra Municipal Council \[2018\] NSWLEC 118](#) has further clarified the correct approach to the consideration of clause 4.6 requests. The requirement ... is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard. Further, Clause 4.6 written requests must be made with sufficient detail. Consent authorities will not simply accept requests if they fail to address the requisite tests set out in Initial Action.

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

Development standards identified in WLEP 2009 and WDCP 2009 apply to the proposal and Clause 4.6 of WLEP 2009 provides a degree of flexibility in the application of statutory numeric development standards.

4. What is the zoning of the land?

R2 - Low Density Residential

5. What are the objectives of the zone?

Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

6. What is a development standard?

‘Development standards’ 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: 6 See [Winten Property Group Ltd v North Sydney Council \[2001\] NSWLEC 46](#); (2001) 130 LGERA 79 at 8788 [19], 90 [29], 92 [44] 93 [45]; [Wehbe v Pittwater CI \[2007\] NSWLEC 827](#) at [36]. 7 See, eg, [Woollahra MC v Carr \(1985\) 62 LGRA 263](#); [Quinn O’Hanlon Architects Pty Ltd v Leichhardt MC \(1989\) 68 LGRA 114](#); [North Sydney MC v P D Mayoh Pty Ltd \(No. 2\) \(1990\) 71 LGRA 222](#). 3

- (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,
- (b) the proportion or percentage of the area of a site which a building or work may occupy, (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,

- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

7. What is the development standard being varied?

'Building Height' and 'Number of Storeys'

8. Under what clause is the development standard listed in the environmental planning instrument?

Wollongong Local Environmental Plan 2009

The number of the relevant clause therein:

Clause 4.3 – Height of buildings

Wollongong Development Control Plan 2009

The number of the relevant clause therein:

4.1 and 5.2 Number of Storeys

Note: As Clause 4.1 falls under 'General Residential Controls' Clause 5.2 prevails as it is under the more specific heading of 'Attached Dwellings and Multi Dwelling Housing'

9. What are the objectives of the development standard?

WLEP 2009

The relevant subclause states:

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

(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,

(b) to permit building heights that encourage high quality urban form,

(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.

(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

WDCP 2009

The relevant subclause states:

4.1.1 Objectives

- a) To encourage buildings which integrate within the streetscape and the natural setting whilst maintaining the visual amenity of the area.
- b) To minimise the potential for overlooking on adjacent dwellings and open space areas.
- c) To ensure that development is sympathetic to and addresses site constraints.
- d) To encourage split level stepped building solutions on steeply sloping sites.
- e) To encourage a built form of dwellings that does not have negative impact on the visual amenity of the adjoining residences.
- f) To ensure ancillary structures have appropriate scale and are not visually dominant compared to the dwelling.
- g) To ensure appropriate correlation between the height and setbacks of ancillary structures.
- h) To encourage positive solar access outcomes for dwellings and the associated private open spaces.

5.2.1 Objectives

- (a) To encourage buildings which integrate within the existing streetscape and the desired future character for the area.
- (b) To minimise the potential impacts of overshadowing and overlooking on adjacent dwellings and open space areas.

10. Is the development standard a performance based control?

The development standards include numerical controls.

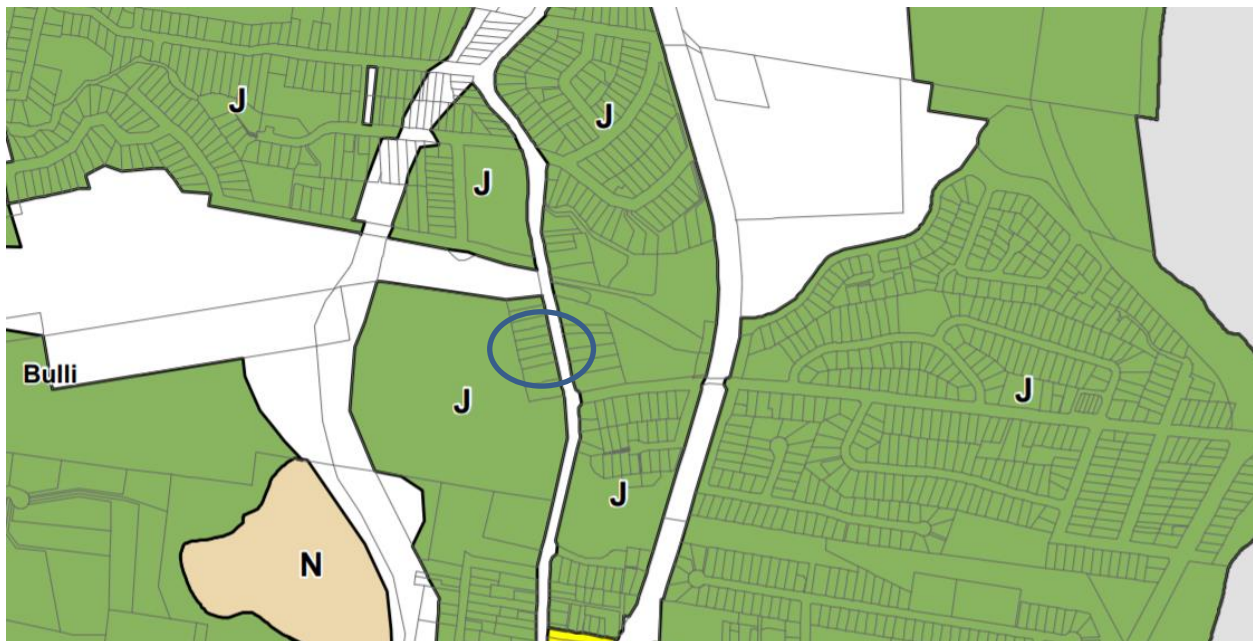


Figure 1 - WLEP 2009 Height of Buildings Map

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

Clause 4.3(2) WLEP 2009 prescribes that *a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map*. As indicated in the WLEP 2009 Height of Buildings Map extract above (Figure 1), the maximum building height shown for the subject site on the Height of Buildings Map is **9 m**.

WDCP 2009 4.1 Number of Storeys

4.1 Number of Storeys

The maximum building height is set by the Local Environmental Plans generally

- a) *R2 Low Density Residential Zones permit a maximum height of 9m – a maximum of 2 storeys.....*

Comment:

Storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include -

- (a) a space that contains only a lift shaft, stairway or meter room, or*
- (b) a mezzanine, or*
- (c) an attic.*

As there is no physical means of access to the Belvedere level this cannot be considered to be a storey.

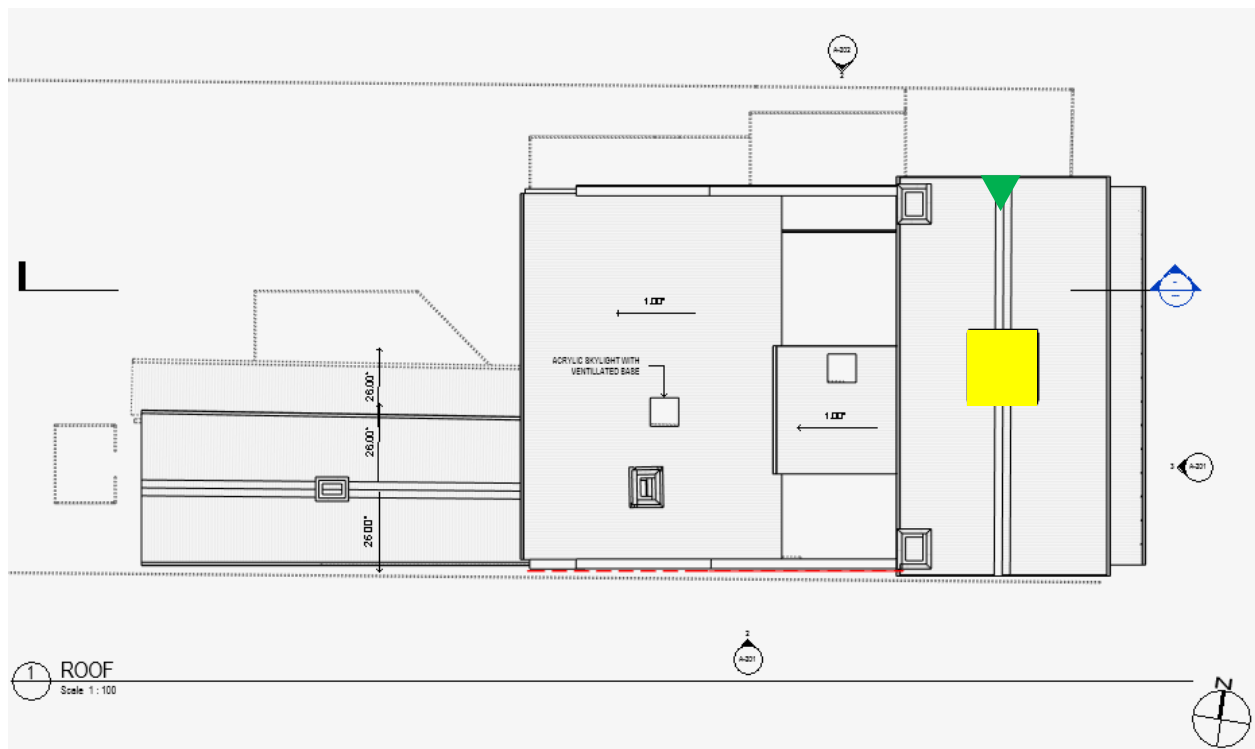


Figure 2 - Roof Plan – as proposed – the yellow shaded area exceeds the LEP height limit by a maximum of approximately 1 055 mm and the greenshaded area by some 150 mm.

12. What is proposed numeric value of the development standard in your development application?

(Being contained within the existing external envelope of the heritage building) **The proposed development, has a maximum building height of 10.05 m** (i.e. that of the existing heritage building) The maximum building height exceedance is located at the Belvedere level that covers a small proportion of the overall building footprint (ie approx. 2.3 m²) and is setback significantly from site boundaries and adjoining properties. It is noted the remaining parts of the building exceed the 9.0 m height limit at one point, being the northern gable, by a maximum of approximately 150 mm.

13. What is the percentage variation (between the proposal and the environmental planning instrument)?

A maximum 11% variation to the development standard occurs at the Belvedere level. Also, at the northern end of the two storey northern gable, a maximum of 2% variation to the development standard occurs.

14. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The objectives of WLEP 2009 particular to the proposed development are;

4.3(1)

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.

Discussion

The above objectives envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development standards concerning building height are both unnecessary and unreasonable.

Objective 4.3(1)(a)

This states that the WLEP 2009 *maximum height is the limit in which buildings can be designed and floor space can be achieved.*

Response

The proposed development achieves its floor space within the LEP height limit and the areas of exceedance aren't 'designed' rather they are an existing situation.

Objective 4.3(1)(b)

The achievement of a high quality urban form encompasses the requirement/proponents desire to conserve and restore the extant shell of this heritage building to its circa 1900 appearance.

The conservation of this locally significant heritage item has been a primary consideration in the design response. The interior of this heritage item has been mostly 'gutted'. It is proposed to construct within the shell of the extant remains three residential apartments. This would conserve

the form and external appearance of the Denmark including the location of original window and door openings.

Objective 4.3(1)(c)

Building within the confines of the existing buildings external envelope would ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.

WDCP 2009

Clause 4.11 Number of storeys

4.1.1 Objectives

- a) To encourage buildings which integrate within the streetscape and the natural setting whilst maintaining the visual amenity of the area.*
- b) To minimise the potential for overlooking on adjacent dwellings and open space areas.*
- c) To ensure that development is sympathetic to and addresses site constraints.*
- d) To encourage split level stepped building solutions on steeply sloping sites.*
- e) To encourage a built form of dwellings that does not have negative impact on the visual amenity of the adjoining residences.*
- f) To ensure ancillary structures have appropriate scale and are not visually dominant compared to the dwelling.*
- g) To ensure appropriate correlation between the height and setbacks of ancillary structures.*
- h) To encourage positive solar access outcomes for dwellings and the associated private open spaces.*

Discussion

Clause 4.1.1 a) By conserving the extant fabric of this heritage building the proposed development will integrate within the streetscape and the natural setting whilst maintaining the visual amenity of the area.

4.1.1 b) Existing openings facing and within close proximity to the boundary will be closed off under this proposal thereby minimising the potential for overlooking on adjacent dwellings and open space areas.

4.1.1 c) The proposed development has been carefully planned to be sympathetic to and addresses site constraints.

4.1.1 d) This clause does not apply as this is not a split level stepped building solutions on a steeply sloping site.

4.1.1 e) By constructing new work within the confines of the existing heritage buildings external envelope the proposed development would not have an additional negative impact on the visual amenity of the adjoining residences.

4.1.1 f) Only minor ancillary structures are proposed such as fencing, privacy screens and rainwater tanks. These would have appropriate scale and are not visually dominant compared to the dwelling.

4.1.1 h) By constructing new work within the confines of the existing heritage buildings external envelope the proposed development would not have a negative impact in regard to solar access outcomes for dwellings and the associated private open spaces beyond that which now exists.

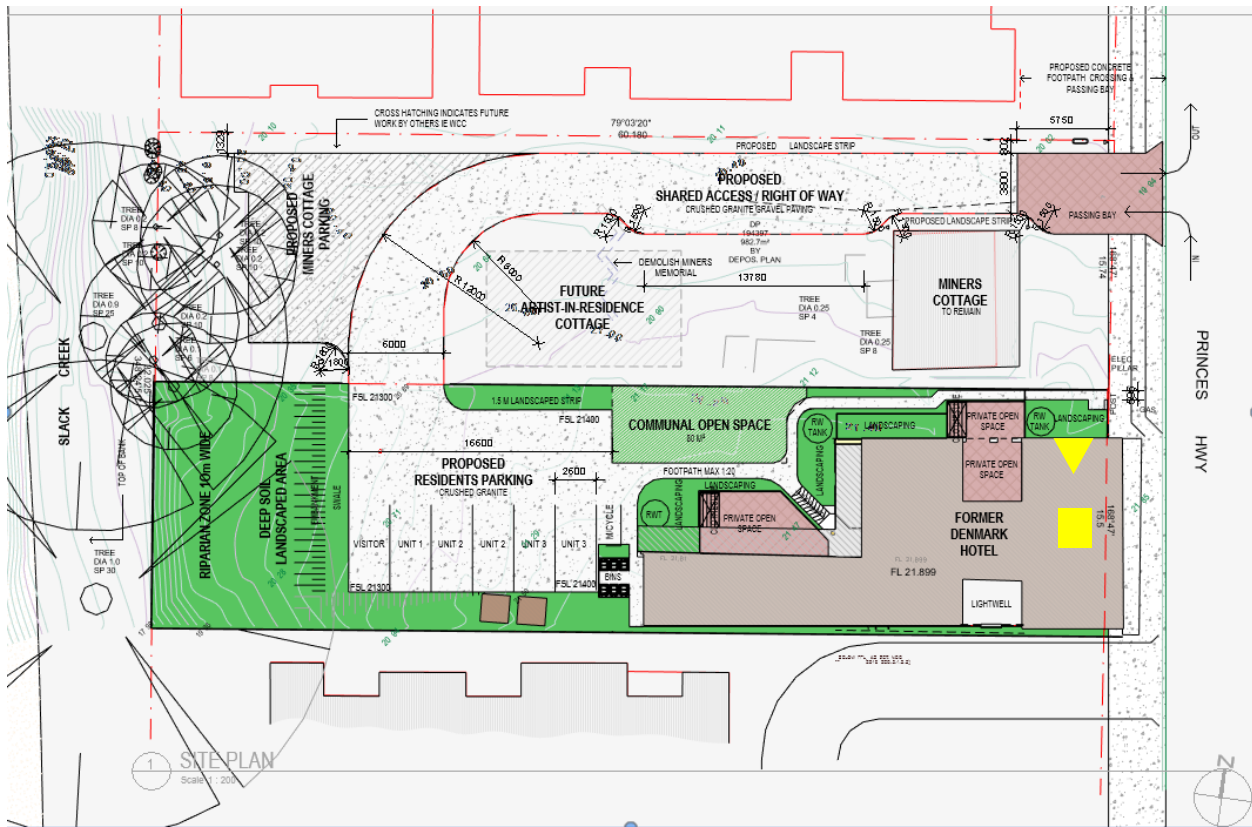


Figure 3 - Site Plan - as proposed. The area of height exceedance (in yellow) is well removed from side property boundaries.

15. Would strict compliance hinder the attainment of the objectives under Section 1.3 (a) and 1.3 (c) of the EP & A Act, 1979 ?

Strict compliance with the development standard in this instance is considered unnecessary to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources and to promote the orderly and economic use and development of the subject site in accordance with the objectives of the Act.

The objectives of the EP&A Act, where applicable, can advance the statutory merit of the variation. Relevant objectives and an assessment of these in relation to the proposal are included in Table 4-1 below.

Table 4-1 Relevant Objectives of the EP&A Act

Object of the Act	Commentary
1.3 (a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.	<p>The social and economic welfare of the community is promoted in the proposal's capacity to create greater housing density, diversity and affordability through an increase in housing stock in a central location well served by necessary infrastructure.</p> <p>The embodied energy associated with the existing brickwork will be retained and re-use of most existing timber framing helps conserve a scarce resource ie old growth hardwood forests. There is provision for appropriate landscaping works that will encourage and sustain ecological communities.</p> <p>The proposals close proximity to Slack Creek and densely vegetated riparian corridor will not be adversely impacted during the construction and operation of this multi-dwelling development.</p>
1.3 (c) To promote the orderly and economic use and development of land.	<p>The proposal sustains a dynamic equilibrium between development and the preservation of heritage, environmental and social assets.</p> <p>Environmental planning should strive inclusive urban design, that is surrounded by suitable services and facilities that are accessible to the local community.</p>
1.3 (e) To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.	<p>The subject site has laid unutilized for over a decade, has not been maintained and has become a focus for vandalism and is considered an eyesore by locals. The economic use of the land will be realized in the development of the proposed multi- dwelling residential premises. The departure from the Landscaping planning control is considered necessary in achieving optimal economic use of the land and retention of the heritage item.</p>
1.3 (b) To facilitate ecologically sustainable development by integrating relevant economic,	<p>There are numerous good design outcomes that have been integrated into the proposed redevelopment. Those specific to the landscaping limitations include:</p> <ul style="list-style-type: none"> • Conservation of a locally significant item of heritage significance located in a prominent

Object of the Act	Commentary
environmental and social considerations in decision-making about environmental planning and assessment.	<p>position within 'old Bulli';</p> <ul style="list-style-type: none"> The shell of the existing heritage building is large enough to accommodate three units, as well as private open space, landscaping and deep soil zones; The streetscape presentation of the completed development would not be dissimilar to that of the Denmark Hotel around the turn of the century; The proposed right-of-carriageway through the Bulli Miners Cottage site allows adequate vehicle access and on site maneuvering; and Use of crushed granite paving – in lieu of concrete – will improve stormwater infiltration and minimize visual impact on the heritage setting.

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

Yes as outlined under 13 above and;

- The principal environmental planning ground to justify contravening the development standard is Wollongong Development Control Plan 2009 Part E – General Controls – Environmental Controls Chapter E11: Heritage Conservation, Objectives The *raison d'être* behind this project is conservation of this prominent item of environmental heritage.
- Whilst achieving the zone objectives, the proposed works/activity would see the underlying object or purpose of WDCP Clauses 4.5 and 5.8 satisfied.
- Specifically strict compliance with the WLEP 2009 development standards would necessitate demolition of the heritage item and limit the range of uses that development consent could be granted given site constraints.

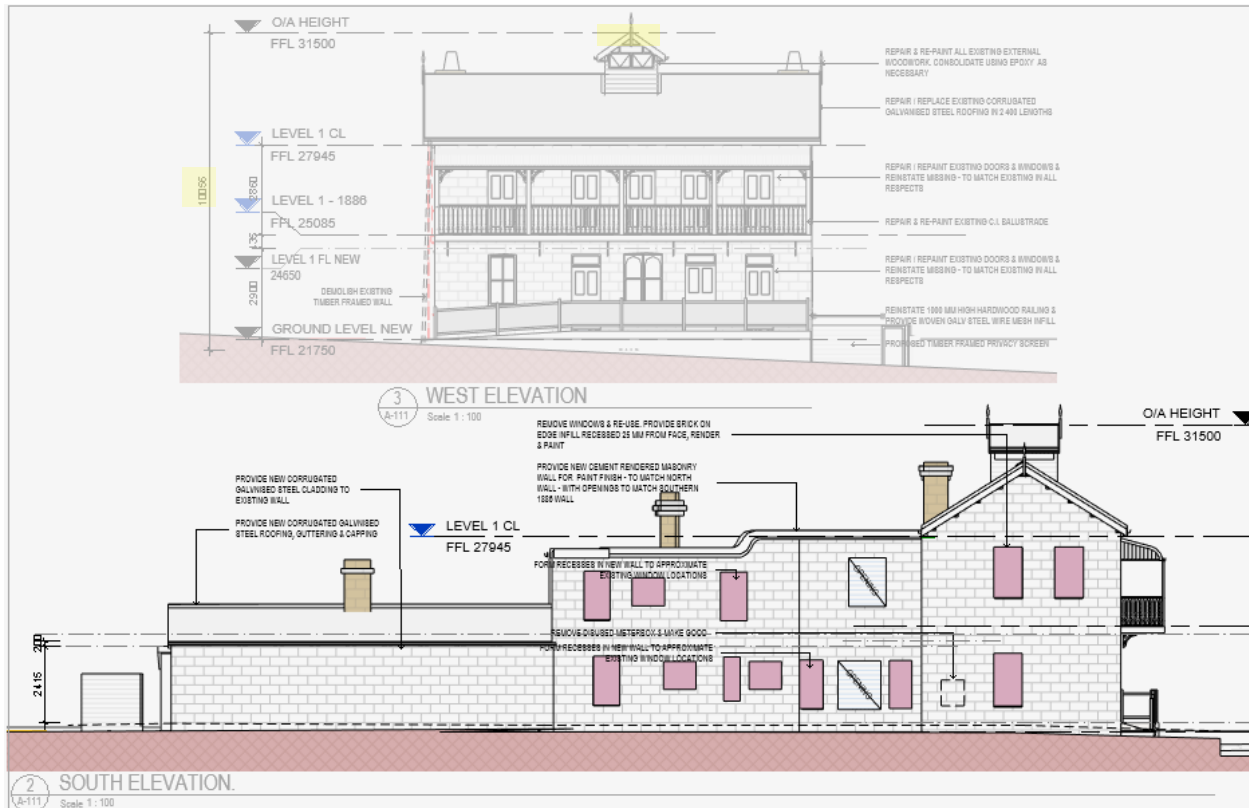


Figure 4 - Elevations - as proposed

17. Impact of Non – compliance

The proposal is non-compliant with the maximum height control in WLEP 2009. Clause 4.3 (1, 2) 'Maximum Building Height' and 4.1 and 5.2 'No of Storeys'.

The non-compliance is a result of the proponent's aim of conserving the existing heritage buildings external envelope. This aligns directly with WLEP 2009 and WDCP 2009 stated objectives in relation to Items of Environmental Heritage. In respect of Environmental Heritage the proposed development has a positive environmental impact.

Given that no additional height or enlargement of the existing buildings footprint is proposed there would be no additional negative impacts in respect of the WLEP 2009 stated objectives being:

4.3(1)(a) *to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*

4.3(1)(b) *to permit building heights that encourage high quality urban form,*

4.3(1)(c) *to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.*

Would the proposed development be comprised of entirely new construction there may be considered to be significant impacts in terms of urban form, exposure to the sky and sunlight. However, as the proposal is for retention of a locally significant item of built environmental significance, and no additional height or increase in extent of building outline is proposed then Objectives 4.3(1)(a) 4.3(1)(b) and 4.3(1)(c) are met.

As for WDCP 2009 objectives, given that no additional height or enlargement of the existing buildings footprint is proposed, there would be no additional negative impacts in respect of the WDCP 2009 stated objectives being:

4.1.1 (a) *To encourage buildings which integrate within the streetscape and the natural setting whilst maintaining the visual amenity of the area.*

4.1.1 (b) *To minimise the potential for overlooking on adjacent dwellings and open space areas.*

4.1.1 (c) *To ensure that development is sympathetic to and addresses site constraints.*

4.1.1 (d) *To encourage split level stepped building solutions on steeply sloping sites.*

4.1.1 (e) *To encourage a built form of dwellings that does not have negative impact on the visual amenity of the adjoining residences.*

4.1.1 (f) *To ensure ancillary structures have appropriate scale and are not visually dominant compared to the dwelling.*

4.1.1 (g) *To ensure appropriate correlation between the height and setbacks of ancillary structures.*

4.1.1 (h) *To encourage positive solar access outcomes for dwellings and the associated private open spaces.*

And

5.2.1 (a) *To encourage buildings which integrate within the existing streetscape and the desired future character for the area. and*

5.2.1 (b) *To minimise the potential impacts of overshadowing and overlooking on adjacent dwellings and open space areas.*

18. Is compliance with the standard unreasonable or unnecessary in the circumstance of the case?

Having regard to the specific objective for the height of buildings development standard provided in Clause 4.3 of the WLEP 2009 and Clauses 4.1 and 5.2 of WDCP 2009, it is considered that strict compliance with this standard is unnecessary and unreasonable in this case for the following reasons:

- Strict compliance could only be achieved by altering the existing building's roofline and removing the Belvedere thereby adversely impacting the heritage value of this building;
- Whilst the existing building has a greater building height than the surrounding developments:
 - This is an existing situation;
 - the difference in building height between the Belvedere level and the allowable height of adjacent land is not considered to be significant;
 - the Belvedere level is confined to a minor portion of the overall building footprint; and,
 - this small upper level is setback significantly from site boundaries and adjoining properties and access is limited to maintenance personnel only. As such, the Belvedere level under this proposal would present no additional environmental impacts.

- As the building outline and height are maintained there would be no additional shadow impact or loss of view.
- The proposal improves visual privacy and amenity to the adjoining properties.
- The proposed development will see the provision of a high quality residential development accommodating contemporary lifestyle requirements that will complement existing surrounding buildings, revitalises an unutilised site and will result in the long term conservation of this locally significant heritage building.

19. The Public Interest

The proposed development will be in the public interest because;

- it is consistent with the objectives of the development standard and the objectives for development of the relevant zone.
- it will see the provision of a high quality residential development accommodating contemporary lifestyle requirements that will complement existing surrounding heritage buildings in the “old Bulli” heritage precinct, and
- The proposed development would see the revitalisation of an unutilised site and will result in the long term conservation of this locally significant heritage building.

20. Discussions with City of Wollongong Council at Pre-Lodgement Meeting – 28 February 2020

Further to the above Clause 4.6 Exception to Development Standards (Compulsory), a Pre lodgement application meeting was held with City of Sydney Council on 28.02.2020 which included discussions regarding the proposed building height and number of storeys. During the above mentioned meeting, Council indicated that retention of the existing building whose height exceeds the maximum allowable could potentially be supported.

As such, it is requested that due consideration be given to advice received at pre-lodgement by City of Sydney Council and that the building height non-compliance be supported given Council’s advice and the improved heritage outcome provided.

21. Recommendation to Council

The above discussion has sought to demonstrate that; the proposal will not significantly detract from the existing or proposed development, amenity of nearby residents and the requested departure from the development standard will not hinder the attainment of the objectives specified in Section 1.3(a), 1.3 (c) and 1.3(f) of the EP&A Act and the identified underlying objective or purpose of the standard is/are not relevant to the development and therefore compliance is unnecessary.

The statement has also sought to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds specific to the site to justify contravening the development standard. It is considered that in the particular circumstances of the proposal site non-compliance with the Side Setbacks development standards would result in a significant public benefit. Also,



In²

A r c h i t e c t u r e + H e r i t a g e

Clause 4.6 Variation
202 Princes Highway, BULLI NSW 2516 and 200 Princes Highway, BULLI

given the overarching heritage aspect of this site it is unlikely to be seen as a precedent for the development of other sites given the proponent is able to rely on Clause 5.10 (10) of the WDCP 2009 to allow the development to be permissible.

We trust that the information provided in this variation statement is appropriate to facilitate Council's concurrence with this variation request and subsequent approval of the development application.



in²

Architecture + Heritage

Clause 4.6 Variation
202 Princes Highway, BULLI NSW 2516 and 200 Princes Highway, BULLI

Clause 4.6 Exception to Development Standards - Written Request – Site Width

Applicant's name: ROI (NSW) Pty Limited

Prepared By: in2 architecture + heritage
Phone 0412 086 410

Site address: 202 Princes Highway Bulli (Lot 1, DP 986139) NSW
and includes;
200 Princes Highway (Lot 1 DP194397) for vehicular access to the
public road via a proposed Right of Carriageway.

Proposal: Adaptive Re-Use of existing heritage building and construction of a
new multi dwelling housing containing three (3) units contained within
the confines of the existing external envelope.

File Reference: Cl. 4.6 Variation

Job Reference: 1901

Document History

Version	Date	Description of Revision	Prepared by	Reviewed by
1	14/12/2020		GN	ML
2	18/08/2021		GN	ML

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1. Introduction

This Clause 4.6 variation request has been prepared in support of a multi-dwelling housing development proposal at 202 Princes Highway, Bulli NSW 2516 and includes 200 Princes Highway, Bulli for vehicular access and the Bulli Showground for purposes of a drainage easement.

As the site contains a local heritage item, the applicant is able to rely on Clause 5.10 (10) of the WLEP 2009 to allow the development to be permissible.

The proposed development is non-compliant with;
Clause 7.14 'Minimum Site Width' of the Wollongong Local Environmental Plan 2009 and
Clause 5.1 'Minimum Site Width Requirement' of the Wollongong Development Control Plan 2009.

The development proposes the following:

- The proposed development seeks to provide a practical and economic long term new use for this long time derelict heritage building by constructing three dwellings within the restored exterior.
- The creation of a shared right of carriageway in favour of No. 202 Princes Highway through No. 200 Princes Highway;
- The creation of an easement to drain water via Bulli Showground (Lot 33 DP 1182831) favour of No 202 Princes Highway.

Due to the proposals non-compliance with Clause 7.14 'Minimum Site Width' requirement of WLEP 2009 and Clause 5.1 WDCP 2009 'Minimum Site Width', a variation is being sought, this will include the following:

- Address of WLEP 2009 Clause 7.14 'Minimum Site Width';
- Address of Clause 5.1 WDCP 2009 'Minimum Site Width Requirement';
- The nature and extent of the non-compliance(s);
- Legal precedence emanating from the Land and Environment Court;
- A demonstration that there are sufficient environmental planning grounds to justify contravening the development standard.
- Concurrence with the relevant objectives of the Environmental Protection and Assessment Act 1979; and
- Recommendation to Council.

Strict numeric compliance is not achieved in accordance with the WLEP 2009 Minimum Site Width Standard and WDCP 2009 Minimum Site Width Requirement standard, consequently the proposal is seeking to vary the standard pursuant to Clause 4.6 of the WLEP 2009. The following is a discussion as to the operation of Clause 4.6 as it relates to the subject proposal.

4.6(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.

Clause 4.6(2) is not expressly excluded from the operation of this clause.

4.6(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.*

Clause 4.6(4) states that the consent authority needs to be satisfied that:

(a)(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(a)(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, and

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

The departure from this development standard is within the delegated authority of the Wollongong Local Planning Panel as determined by Directions issued by the Minister for Planning in accordance with Section 9.1 of the EP&A Act 1979 on 23 February 2018 and effective from 1 March 2018.

This document comprises of a formal written request to vary the development control within Clause 7.14 (1)

Clause 4.6(3)(a) – Section 4 of this variation outlines that the numeric control is both unreasonable and unnecessary in this circumstance.

Clause 4.6(3)(b) – sufficient environmental planning grounds have been demonstrated in section 4 of this variation request.

Clause 4.6(4)(a)(i) – all matters contained in Subclause 3 have been addressed in Section 4

Clause 4.6(4)(a)(ii) – the proposal is in the best interest of the public by providing a long term economic use for this locally significant heritage building, achieving a high level of amenity and increasing housing stock as well as diversity. The proposal is consistent with the objectives of the building Width standard. This is further demonstrated in Section 4

Clause 4.6(4)(b) – Subject to Wollongong City Council's (Council) decision.

Clause 4.6(5)(a) – Contravention of the development standard is not likely to raise any matters of state or regional significance.

Clause 4.6(5)(b) – The public benefit of maintaining the development standard has been extensively addressed in Section 4

Clause 4.6(5)(c) – Other matters to be taken into consideration are discussed in Section 4.

2. Recent / Relevant Land and Environment Court Decisions

This Clause 4.6 variation also considers relevant principles identified in the following judgements which provide guidance on the interpretation and application of Clause 4.6 that are relevant to the minimum site width standard variation currently being sought.

Firstly, **Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC** established that Clause 4.6(3)(b) requires the applicant to demonstrate that environmental planning grounds exist particular to the circumstances of the proposed development on the subject site, to justify contravening the development

The principles that stem from these judgements may be summarised as follows:

- a) The relevant objectives are those stated in the controls not unidentified underlying objectives in Four2Five No.1;*
- b) That the sufficient environmental planning grounds have to be particular to the circumstances of the proposed development to the site at in Four2Five No. 1;*

As a result of Four2Five, it is now necessary to demonstrate something more than achieving the objective of the standard. i.e. there are sufficient environmental planning grounds particular to the circumstances of the proposed development to the site.

Secondly, **Wehbe v Pittwater Council [2007] NSW LEC 827** establishes a number of ways in which the applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone. Whilst Webhe was a decision of the Court dealing with SEPP 1, it has been also found to be applicable in the consideration and assessment of Clause 4.6.

Thirdly, **Randwick City Council v Micaul Holdings Pty Ltd [2016] NSW LEC 7** established that the lack of adverse amenity impacts on adjoining properties is not a sufficient ground justifying the development contravening the development standard, when one way of demonstrating consistency with the objectives of a development standard was to show a lack of adverse amenity impacts

Fourthly, **Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118** has further clarified the correct approach to the consideration of clause 4.6 requests. The requirement ... is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard. Further, Clause 4.6 written requests must be made with sufficient detail. Consent authorities will not simply accept requests if they fail to address the requisite tests set out in Initial Action.

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

Development standards identified in WLEP 2009 and WDCP 2009 apply to the proposal and Clause 4.6 of WLEP 2009 provides a degree of flexibility in the application of statutory numeric development standards.

4. What is the zoning of the land?

R2 - Low Density Residential

5. What are the objectives of the zone?

Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

6. What is a development standard?

'Development standards' 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: 6 See *Winten Property Group Ltd v North Sydney Council* [2001] NSWLEC 46; (2001) 130 LGERA 79 at 8788 [19], 90 [29], 92 [44]93 [45]; *Wehbe v Pittwater CI* [2007] NSWLEC 827 at [36]. 7 See, eg, *Woollahra MC v Carr* (1985) 62 LGRA 263; *Quinn O'Hanlon Architects Pty Ltd v Leichhardt MC* (1989) 68 LGRA 114; *North Sydney MC v P D Mayoh Pty Ltd (No. 2)* (1990) 71 LGRA 222. 3

(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,

- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

7. What is the development standard being varied?

Site Width

8. Under what clause is the development standard listed in the environmental planning instrument?

Wollongong Local Environmental Plan 2009

The number of the relevant clause therein:

7.14 Minimum site width

Wollongong Development Control Plan 2009

The number of the relevant clause therein:

5.1 Minimum Site Width Requirement

9. What are the objectives of the development standard?

Wollongong Local Environmental Plan 2009

The relevant subclause states:

The objectives of this clause are as follows—

- (1) *Development consent must not be granted for development for the purposes of multi dwelling housing unless the site area on which the development is to be carried out has a dimension of at least 18 metres.*

Wollongong Development Control Plan 2009

The relevant subclause states:

5.1.1 Objectives

- (a) To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.
- (b) To encourage amalgamation of allotments to provide for improved design outcomes.

10. Is the development standard a performance based control?

No.

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

Clause 7.14 of the Wollongong Local Environmental Plan 2009 (WLEP 2009) prescribes that Development consent must not be granted for development for the purposes of multi dwelling housing unless the site area on which the development is to be carried out has a dimension of at least **18 metres**.

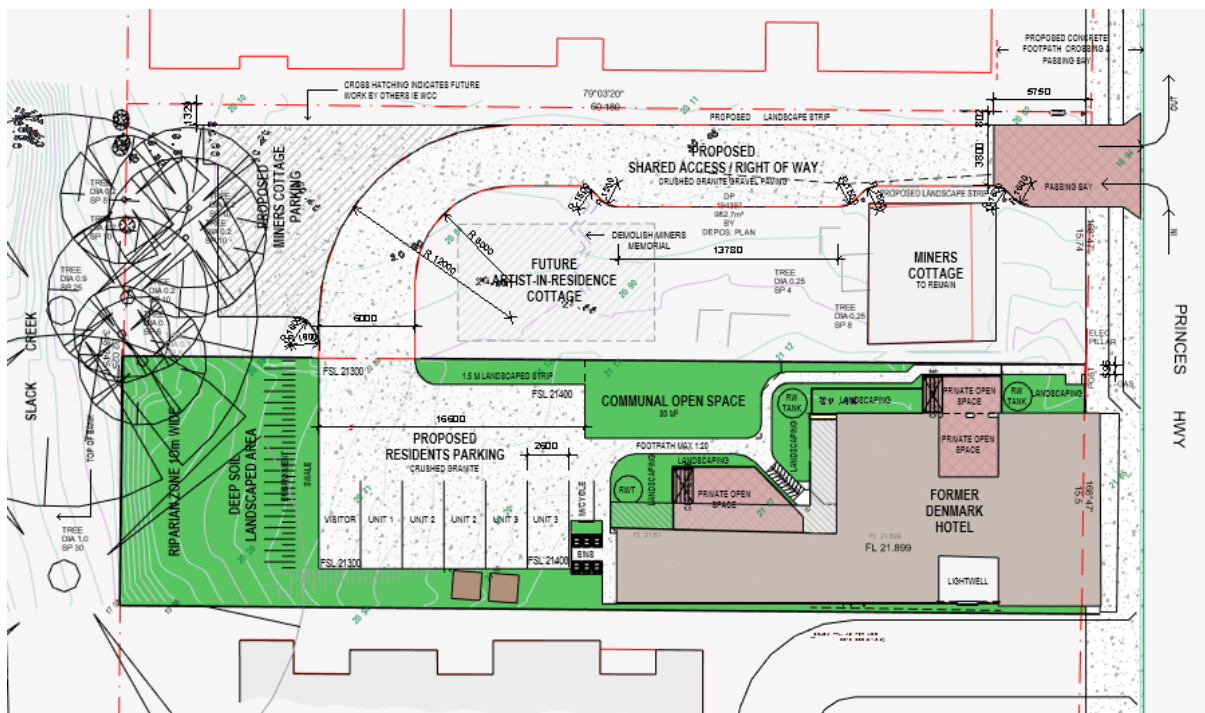


Figure 1 – Site Plan

The Minimum Site Width is set by the Local Environmental Plans generally however, WDCP 2009 Clause 5.1 'Minimum Site Width' lists objectives relevant to the minimum site width dimension established in the WLEP 2009.

5.1 'Minimum Site Width Requirement'

- (a) To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.
- (b) To encourage amalgamation of allotments to provide for improved design outcomes.

12. What is proposed numeric value of the development standard in the subject development application?

The proposed development, has a Minimum Site Width of **16.165 m.** (by survey)

13. What is the percentage variation between your proposal and the environmental planning instrument?

An **89.9%** variation to the development standard on the subject site.

14. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The objectives of WLEP 2009 particular to the proposed development are;

7.14 Minimum site width

(1) Development consent must not be granted for development for the purposes of multi dwelling housing unless the site area on which the development is to be carried out has a dimension of at least 18 metres.

Discussion

The above objectives envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development standards concerning Minimum Site Width are both unnecessary and unreasonable.

The objectives of WDCP 2009 particular to the proposed development are;

Clause 5.1 'Minimum Site Width Requirement'

5.1.1 Objectives

(a) To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.

(b) To encourage amalgamation of allotments to provide for improved design outcomes.

Discussion:

5.1.1(a) A primary concern related to site width is car parking and manoeuvring. In this instance it is proposed to achieve vehicular access via establishment of a Right of Carriageway through the Bulli Miners Cottage site. There would then be ample space for vehicles to enter and exit in a forward movement as is the normal requirement.

Other potential impacts arising from reduced site width relate to the amenity of neighbouring properties as well as provision of landscaping. The former is seen to be a positive impact overall as the existing building is an eyesore that attracts vandals and homeless people and (behind the temporary corrugate steel sheeting) were windows facing directly to the

neighbouring property to the south. Being some 350 mm off the boundary these windows would have significant visual and acoustic privacy impacts. Construction of the proposed design would see the existing south facing windows blanked off with new windows facing at 90 degrees onto lightwells, thus minimising privacy impacts. As for the north elevation no additional windows are proposed and those existing face onto the Council owned Miners' Cottage house museum which is not inhabited. With no residential land to the west there would be no adverse impact in that direction.

As for Landscaping the normal landscape requirements would be inappropriate to a heritage context such as this and this aspect is addressed in a separate Clause 4.6 Variation.

5.1.1 (b) The current property owner has approached the owner of the 'Bulli Miners Cottage', Wollongong Council, with a view to purchasing and amalgamating two sites but this was rejected out of hand. As for the site to the south, this has recently been redeveloped and strata titled, so purchase would be economically unfeasible and unlikely to be achieved in the short term. Theoretically a right of way could be purchased over the driveway of the property to the south however access to that drive would necessitate demolition of much of the single storey wing of the hotel.

15. Would strict compliance hinder the attainment of the objectives under Section 1.3 (a) and 1.3 (c) of the E P & A Act, 1979 ?

Strict compliance with the development standard in this instance is considered unnecessary to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources and to promote the orderly and economic use and development of the subject site in accordance with the objectives of the Act.

Specifically strict compliance with the WLEP 2009 objective would limit the range of uses that development consent could be granted. Given the circuitous access, the cost of establishing this access and the expense of conserving a large heritage building such as the Denmark these alternative uses are likely economically unfeasible and impractical. The result may well be that the site lays dormant for another decade.

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

Yes. This being to do with conserving this prominent item of environmental heritage.

17. Impact of Non – compliance

Given that;

- no additional width or enlargement of the existing buildings footprint is proposed,

- that no landscaping currently exists along the southern boundary of this or the recent development on 204 princes Highway,
- that vehicular access and manoeuvring requirements would be met by establishment of the proposed Right of Carriageway through the Bulli Miners Cottage site

there would be no additional negative impacts in respect of the WDCP 2009 relevant objective being:

- (a) *To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.*

Would the proposed development be comprised of entirely new construction there may be considered to be significant impacts in terms of the visual environment, urban form and lack of landscaping. However, as the proposal is for retention of a locally significant item of built environmental significance, normal parking requirements are achievable and this derelict building would be restored then **the environmental impact would mostly be positive.**

18. Is compliance with the standard unreasonable or unnecessary in the circumstance of the case?

Having regard to the specific objective for the Minimum Site Width development standard provided in Clause 7.14(1) of the Wollongong Local Environmental Plan 2009, it is considered that strict compliance with this standard and the objectives contained under WDCP 2009 5.1(a) is unnecessary and unreasonable in this case for the following reasons:

- Strict compliance could only be achieved by amalgamating adjoining sites, which is not possible;
- Adequate separation between buildings to maintain reasonable levels of solar access, privacy and amenity to neighbouring dwellings currently exists and would not change under this proposal;
- Adequate landscaping screening of the development to maintain the amenity of adjoining dwellings is not possible given the location of the existing building and not appropriate given its heritage setting. Further, it should be noted that the recent development to the south does not feature the 1.5 m wide landscape strip required under WDCP 2009 alongside its driveway;
- The proposal would maintain the streetscape amenity of the locality.
- The proposed use must be compatible with the fenestration of the existing heritage building less its character be compromised. The proposal utilises existing door and window openings;
- The alternative of a single or dual occupancy development is allowable on an allotment less than 18m however significant costs would be incurred in purchasing and establishing the right of way, dealing with acoustic issues and restoring the heritage building which is severely dilapidated. Given this it would be unlikely that use as a single residence or dual occupancy would be financially feasible;

- Other permitted uses of this site such as Bed and Breakfast; Boarding houses; Centre-based child care facilities; Group homes; Health consulting rooms; Hospitals; Hostels; Neighbourhood shops; Places of public worship; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Seniors housing; Shop top housing; Veterinary hospitals are not economically feasible for similar reasons to the above and may be hampered by the site location outside of the Bulli Commercial Centre, lack of on-street parking, the small site area whilst the existing fenestration of the heritage building may not be suitable to these purposes;
- As the buildings outline and width are maintained there would be no additional shadow impact or loss of view;
- Given the Denmark has sat unused, in an extremely dilapidated state, for over a decade the proposal would improve visual amenity to the adjoining properties;
- The proposal improves visual privacy to the adjoining properties by blocking off windows facing nearby residents to the south; and
- The proposed development is in the public interest **because** it will see the provision of a high quality residential development accommodating contemporary lifestyle requirements that will complement existing surrounding heritage buildings, revitalises an unutilised site and will result in the long term conservation of this locally significant heritage building.

19. The Public Interest

The proposed development will be in the public interest **because** it is consistent with; the objectives of the development standard. The objectives of the Heritage Conservation objectives contained in WLEP 2009 and the objectives for development of the relevant zone.

20. Discussions with City of Wollongong Council at Pre-Lodgement Meeting – 28 February 2020

Further to the above Clause 4.6 Exception to Development Standards (Compulsory), a Pre lodgement application meeting was held with City of Wollongong Council on 06.05.2019 and 28.02.2020 which included discussions regarding the proposed 'Minimum Site Width'. During the initial meeting, Council indicated that adaptive re-use of the former Denmark Hotel as three unit multi-dwelling housing could be supported.

Relevant parts include;

☐ As the site contains a local heritage item, the applicant will be able to rely on Clause 5.10 (10) of the WLEP 2009 (see below) to allow the development to be permissible.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would

otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

As such, the proposal is able to be carried out despite not being allowed by another part of this plan- provided that a heritage management document/conservation management plan is prepared and approved by Council and the works are considered appropriate for the site and will not affect the heritage significance of the time or the amenity of the surrounding area. The proposal will be relying on this clause to permit the use of the site for the purposes of a multidwelling housing despite not meeting the minimum lot width control outlined within Cl. 7.14 of the WLEP (Multi dwelling housing requires a minimum 18m site width; site is 15.5m wide by survey), and works for the purpose of multidwelling housing within the SP2 zone.

As such, it is requested that due consideration be given to advice received at pre-lodgement by City of Wollongong Council and that the Site Width non-compliance be supported given Council's advice and the improved heritage outcomes for this site.

21. Recommendation to Council

The above discussion has sought to demonstrate that; the proposal will not significantly detract from the existing or proposed development, amenity of nearby residents and the requested departure from the development standard will not hinder the attainment of the objectives specified in section 1.3(a) and 1.3(c) of the EP&A Act and the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

The statement has also sought to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds specific to the site to justify contravening the development standard. It is considered that in the particular circumstances of the proposal site non-compliance with the Minimum Site Width development standards would result in a significant public benefit. Also, given the overarching heritage aspect of this site it is unlikely to be seen as a precedent for the development of other sites given the proponent is able to rely on Clause 5.10 (10) of the WLEP 2009 to allow the development to be permissible.

We trust that the information provided in this variation statement is appropriate to facilitate Council's concurrence with this variation request and subsequent approval of the development application.



VARIATION STATEMENT

CHAPTER B1: RESIDENTIAL DEVELOPMENT- CLAUSE 5.3

FRONT SETBACK

Applicant's name: ROI (NSW) Pty Limited

Prepared By: in2 architecture + heritage
Phone: 0412 086 410

Site address: 202 Princes Highway Bulli (Lot 1, DP 986139) NSW
and includes;
200 Princes Highway (Lot 1 DP194397) for vehicular access to the public road via a proposed Right of Carriageway.

Proposal: Adaptive re-use of the existing former Denmark Hotel as a multi -dwelling housing development comprising three (3) dwellings contained within the confines of the heritage buildings existing external envelope.

File Reference: DCP Variation

Job Reference: 1901

Document History

Version	Date	Description of Revision	Prepared by	Reviewed by
1	14/1/2021		GN	ML
2	02/11/2021		GN	ML

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1. INTRODUCTION

This variation statement has been prepared in accordance with Clause 8 of Chapter A1 of Wollongong Development Control Plan 2009 (DCP2009). Clause 8 states that DCP2009 aims to allow flexibility in the application of such development controls to promote innovation and design excellence.

Council may consider variations to the requirements of the DCP2009 in certain circumstances. The variation statement must address the following points:

- (a) The control being varied;*
- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;*

- (c) *Demonstrate how the objectives are met with the proposed variations; and*
(d) *Demonstrate that the development will not have additional adverse impacts as a result of the variation.....*

2. VARIATION PARTICULARS

This variation statement is provided as justification for balcony, ground and first level encroachments into the front boundary setback distance and encroachment into the road reserve as detailed in the submitted architectural plans for development application DA-2021/425.

3. RELEVANT DEVELOPMENT CONTROLS

Development controls identified in Clause 5.3 of WDCP 2009 apply to the proposal, whilst The Roads Act 1993 outlines requirements for the SP2 zoned land being the road reserve. As the site contains a local heritage item, the applicant will be able to rely on Clause 5.10 (10) of the WLEP 2009 (see below) to allow the development to be permissible.

1.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009 (DCP 2009)

The Development Control states inter-alia that:

1. *A 6m setback requirements applies from the front property boundary to the front façade of the building.*
3. *Balconies, front courtyard fences and other building extrusions may be set back up to 900mm closer than the required front or secondary setback.*

1.2 The Roads Act 1993

Inter- alia the Roads Act stipulates;

Division 3 Other works and structures

138 Works and structures

(1) *A person must not—*

(a) *erect a structure or carry out a work in, on or over a public road,.....otherwise than with the consent of the appropriate roads authority.*

(2) *A consent may not be given with respect to a classified road except with the concurrence of RMS.....*

(4) *This section applies to a roads authority and to any employee of a roads authority in the same way as it applies to any other person.....*

139 Nature of consent

(1) *A consent under this Division—*

(a) *may be granted on the roads authority's initiative or on the application of any person, and*

(b) *may be granted generally or for a particular case, and*

(c) *may relate to a specific structure, work or tree or to structures, works or trees of a specified class, and*

(c1) *in relation to integrated development within the meaning of section 91 of the [Environmental Planning and Assessment Act 1979](#), is subject to Division 5 of Part 4 of that Act, and*

(d) *may be granted on such conditions as the appropriate roads authority thinks fit.*

(2) *In particular, a consent under this Division with respect to the construction of a utility service in, on or over a public road may require the service to be located—*

(a) *in such position as may be indicated in that regard in a plan of subdivision or other plan registered in the office of the Registrar-General with respect to the road, or*

(b) *in such other position as the roads authority may direct.*

(3) *In particular, a consent under this Division with respect to the erection of a structure may be granted subject to a condition that permits or prohibits the use of the structure for a specified purpose or purposes.*

139B Application of *Environmental Planning and Assessment Act 1979*

*The granting of a consent under this Division that is subject to a condition of a kind referred to in section 139 (3) or 139A concerning the use of a structure does not affect the application (if any) of the *Environmental Planning and Assessment Act 1979*.*

139E Fresh consents

(1) *A roads authority may grant a fresh street vending consent or other consent under this Division in respect of a structure if the previous consent is revoked, expires or otherwise lapses.*

(2) *The consent granted may be granted on the roads authority's initiative or on the application of any person.*

(3) *The consent granted may be a street vending consent or other consent even though the previous consent was of a different kind.*

140 Revocation of consents

A roads authority may at any time and for any reason revoke a consent under this Division (other than a street vending consent) by notice in writing served on the holder of the consent.

141 Effect of consent

While a consent under this Division is in force, the taking of action in accordance with the consent is taken not to constitute a public nuisance and does not give rise to an offence against this or any other Act.

142 Maintenance of works and structures

(1) *A person who has a right to the control, use or benefit of a structure or work in, on or over a public road—*

(a) *must maintain the structure or work in a satisfactory state of repair, and*

(b) *in the case of a structure (such as a grating or inspection cover) located on the surface of the road, must ensure that the structure is kept flush with the surrounding road surface and that the structure and surrounding road surface are so maintained as to facilitate the smooth passage of traffic along the road, and the person is, by this section, empowered to do so accordingly.*

Maximum penalty—30 penalty units.....

(2) *Subsection (1) applies to all structures and works in, on or over a public road, including structures and works for which there is no consent in force under this Division.....*

4. THE EXTENT OF THE PROPOSED VARIATION

The existing building intrudes a maximum of 2.23 m forward of the front property boundary (i.e. the Princes Highway frontage.) This is measured at the access ramp. The front wall lies a maximum of 1.16 m to the east of the front boundary (i.e. into the SP2 zone). The proposed development is proposed to be wholly contained within the confines of the existing building envelope.

See over for survey information.

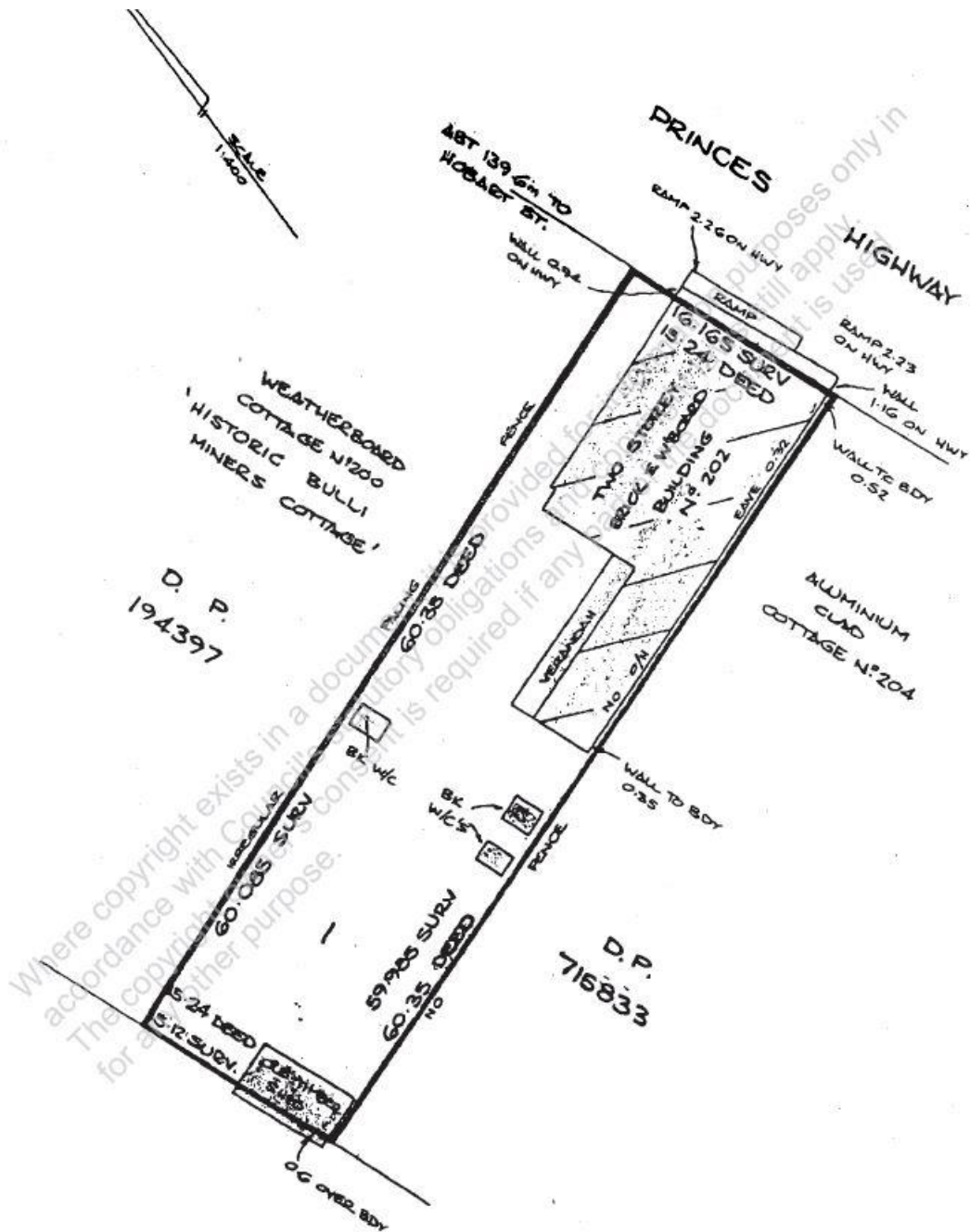


Figure 1-Identification Survey showing the location of the existing building on the site.



Figure 2 – Site Plan

5. THE UNIQUE CIRCUMSTANCES AS TO WHY THE VARIATION IS REQUESTED

The above development control(s) envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development controls concerning front setback are both unnecessary and unreasonable in the circumstances.

6. DEMONSTRATE HOW THE OBJECTIVES ARE MET WITH THE PROPOSED VARIATIONS

5.3.1 Objectives

(a) To reinforce the existing character of the street by acknowledging building setbacks.

Considerations:

The existing character of the street would be maintained should the proposed development proceed. Further it would be enhanced by the restoration of the Denmark's former presentation to the street.

(b) To promote compatibility in front setbacks to provide for unity in the building line.

Considerations:

The recent townhouse style development to the south is generally set well back from its front boundary as is the Bulli Miners Cottage to the north. The setback of the Denmark, now an aberration, once accorded with the setback line of many original properties in Old Bulli.

Under this proposal the new construction will occur within the existing external envelope of the former Denmark Hotel building. Should the proposed development proceed it would be fully compatible with the existing setback situation. As such no additional impacts would occur.

7. DEMONSTRATE THAT THE DEVELOPMENT WILL NOT HAVE ADDITIONAL ADVERSE IMPACTS AS A RESULT OF THE VARIATION.

Should the proposed development be constructed it would replicate the existing situation in terms of the building envelope on this site, albeit of a more presentable appearance.

Currently the building presents as a major eyesore in the streetscape of 'Old Bulli'. The restoration of this building's former appearance would make a positive contribution to the appearance of the area.

Specifically strict compliance with the WCP 2009 development controls would necessitate demolition of the heritage item and limit the range of uses that development consent could be granted given site constraints.

8. Impact of Non – compliance

Having regard to the specific objectives for the Front Setback development controls provided in Clause 5.3 of the Wollongong Development Control Plan 2009, it is considered that strict compliance with this control is unnecessary and unreasonable in this case for the following reasons:

- Strict compliance could only be achieved by demolishing the heritage item,
- Adequate landscaping to the front of the development is not possible given the location of the existing building and not appropriate given its heritage setting.
- The proposal would maintain the streetscape amenity of the locality.
- As the buildings outline and height are maintained there would be no additional shadow impact or loss of view;
- Given the Denmark has sat unused, in an extremely dilapidated state, for over a decade the proposal would improve visual amenity to the adjoining properties; and
- The proposal improves visual privacy to the adjoining properties by blocking off windows facing nearby residents to the south.

9. CONCLUSION

The above discussion has sought to demonstrate that; the proposal will not significantly detract from the character of the existing or proposed development, amenity of nearby residents and the requested departure from the development controls will not hinder the attainment of the objectives specified in Clause 5.3.1 of the WDCP2009.

The statement has also sought to demonstrate that compliance with the development controls is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds specific to the site to justify contravening the development control. It is considered that in the particular circumstances restoration of the existing building outside of the normal front setback and within the road reserve would result in a significant public benefit.



Also, given the overarching heritage aspect of this site this variation is unique and it is unlikely to be seen as a precedent for the development of other sites given the proponent is able to rely on Clause 5.10 (10) of WDCP 2009 to allow the development to be permissible.

Therefore, it is requested that Council considers the variation statement in accordance with Section 4.15 (3A) (b) of the Environmental Planning and Assessment Act 1979 and determines that the requested variation, in this instance, is worthy of support. We trust that the information provided in this variation statement is appropriate to facilitate Council's concurrence with this variation statement and subsequent approval of the development application.



VARIATION STATEMENT

CHAPTER B1: RESIDENTIAL DEVELOPMENT- CLAUSE 5.8

LANDSCAPING REQUIREMENTS

Applicant's name: ROI (NSW) Pty Limited

Prepared By: in2 architecture + heritage
Phone: 0412 086 410

Site address: 202 Princes Highway Bulli (Lot 1, DP 986139) NSW
and includes;
200 Princes Highway (Lot 1 DP194397) for vehicular access to the
public road via a proposed Right of Carriageway.

Proposal: Adaptive re-use of the existing former Denmark Hotel as a multi -
dwelling housing development comprising three (3) dwellings
contained within the confines of the heritage buildings existing
external envelope.

File Reference: DCP Variation

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1 INTRODUCTION

This variation statement has been prepared in accordance with Clause 8 of Chapter A1 of Wollongong Development Control Plan 2009 (DCP2009). Clause 8 states that DCP2009 aims to allow flexibility in the application of such development controls to promote innovation and design excellence.

Council may consider variations to the requirements of the DCP2009 in certain circumstances.

The variation statement must address the following points:

- (a) The control being varied;*
- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;*
- (c) Demonstrate how the objectives are met with the proposed variations; and*
- (d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.....*

2 VARIATION PARTICULARS

This variation statement is provided as justification for departures from normal landscaping requirements as detailed in the submitted architectural plans for development application DA-2021/425.

3 RELEVANT DEVELOPMENT CONTROLS

Development controls identified in Clause 5.8 of WDCP 2009 apply to the proposal.

The Development Control states inter-alia that:

- 4. The required landscaped area must include a minimum 1.5 metre wide landscaping bed, which is provided along the side and rear boundaries of the site.
- 5. The following matters must be addressed within the submitted landscape plan:
 - (f) Where driveways are located parallel to a property boundary, a minimum 1.5m landscape strip is required adjacent to the driveway.
- 6. Street trees are required to be planted in accordance with the requirements contained in the Landscaping Chapter in Part E of this DCP.

4 THE EXTENT OF THE PROPOSED VARIATION

No landscape strip is possible along the north side of the Denmark building due to the need to maximise the Private Open Space and provide pedestrian access to the street.

Along the southern side the width is too narrow and there is no access for establishment or maintenance.

As for the Miner's Cottage site, there is insufficient width between the proposed right of carriageway and the northern boundary thus only a 1 m wide landscape strip is possible.

Due to the existing building encroaching by some 2.23 m onto the road reserve, it is not possible to plant any street trees.



Figure 1 – Landscape Concept Plan
Source: Captivate Landscape Architects

5 THE UNIQUE CIRCUMSTANCES AS TO WHY THE VARIATION IS REQUESTED

The above objectives and controls envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development controls concerning front setback are both unnecessary and unreasonable in the circumstances.

6 DEMONSTRATE HOW THE OBJECTIVES ARE MET WITH THE PROPOSED VARIATIONS

Wollongong Development Control Plan 2009
The relevant subclause states:

5.8.1 Objectives

(a) To preserve and retain existing mature native vegetation and encourage the planting of additional native vegetation.

Response:

Existing mature native vegetation (all off-site) would not be adversely impacted by the development as identified in the accompanying Arborists Report. It is proposed to plant additional native vegetation on-site.

(b) To enhance the appearance of housing through integrated landscape design.

Response:

In the writer's opinion, with this being a heritage site, the normal landscape design requirements should not apply. Rather, a landscape treatment reflecting the time of construction and original use should be implemented. Given that Council does not accept this position we have instructed our Landscape Architect to comply with the WDCP2009 controls.

(b) To improve the visual amenity by increasing the volume of substantial vegetation in urban areas.

Response:

As above.

(c) To reduce impervious areas on sites and increase soft landscape screening between side orientations of residential developments.

Response:

Permeable areas have been maximised with the carparking area being gravel paved over a geotextile underlay to facilitate stormwater infiltration and the proosed landscapes area is 123% of the minimum requirement.

7 DEMONSTRATE THAT THE DEVELOPMENT WILL NOT HAVE ADDITIONAL ADVERSE IMPACTS AS A RESULT OF THE VARIATION.

The proposed development retains the existing situation in respect of width of landscape beds (strips) along the sides therefore there can be no additional adverse impact.

The proposed development has 334 m² or 37% of landscaped area which is 123% of the development control on the subject 202 Princes Highway site which may compensate for other deficiencies.

The building to the north is a house museum which has been uninhabited since its purchase by council therefore there is no need for landscape to achieve privacy. In fact the opposite applies. By not screening the two properties the future residents of the Denmark site will undertake passive surveillance of the Miners Cottage site.

Currently the building presents as a major eyesore in the streetscape of 'Old Bulli' The restoration of this building's former appearance would make a positive contribution to the appearance of the area.

Specifically strict compliance with the WCP 2009 development controls would necessitate demolition of the heritage item.

8 IMPACT OF NON – COMPLIANCE

Having regard to the specific objectives for the Landscape development control provided in Clause 5.8 of the Wollongong Development Control Plan 2009, it is considered that strict compliance with this control is unnecessary and unreasonable in this case and would have the following impacts:

- Strict compliance could only be achieved by demolition of the heritage item, therefore the identified non-compliance(s) which enable retention of the heritage item are seen as having a positive impact.

9 CONCLUSION

The above discussion has sought to demonstrate that; the proposal will not significantly detract from the character of the existing development, amenity of nearby residents and the requested departure from the development control will not hinder the attainment of the objectives specified in Clause 5.8 of the WDCP2009.

The statement has also sought to demonstrate that compliance with the development control is unreasonable or unnecessary in the circumstances of the case, being retention of a heritage building, and that there are sufficient environmental planning grounds specific to the site to justify contravening the development control. It is considered that, in the particular circumstances, restoration of the existing building, in its present location, would result in a significant public benefit.

Also, given the overarching heritage aspect of this site this variation is unique and it is unlikely to be seen as a precedent for the development of other sites given the proponent is able to rely on Clause 5.10 (10) of WDCP 2009 to allow the development to be permissible.

Therefore, it is requested that Council considers the variation statement in accordance with Section 4.15 (3A) (b) of the Environmental Planning and Assessment Act 1979 and determines that the requested variation, in this instance, is worthy of support.

We trust that the information provided in this variation statement is appropriate to facilitate Council's concurrence with this variation statement and subsequent approval of the development application.



VARIATION STATEMENT

CHAPTER B1: RESIDENTIAL DEVELOPMENT- CLAUSE 5.11

PRIVATE OPEN SPACE

Applicant's name: ROI (NSW) Pty Limited

Prepared By: in2 architecture + heritage
Phone: 0412 086 410

Site address: 202 Princes Highway Bulli (Lot 1, DP 986139) NSW
and includes;
200 Princes Highway (Lot 1 DP194397) for vehicular access to the
public road via a proposed Right of Carriageway.

Proposal: Adaptive re-use of the existing former Denmark Hotel as a multi -
dwelling housing development comprising three (3) dwellings
contained within the confines of the heritage buildings existing
external envelope.

File Reference: DCP Variation

Job Reference: 1901

Document History

Version	Date	Description of Revision	Prepared by	Reviewed by
1	14/1/2021		GN	ML
2	02/11/2021		GN	ML

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1. Introduction

This variation statement has been prepared in accordance with Clause 8 of Chapter A1 of Wollongong Development Control Plan 2009 (DCP2009). Clause 8 states that DCP2009 aims to allow flexibility in the application of such development controls to promote innovation and design excellence.

Council may consider variations to the requirements of the DCP2009 in certain circumstances.

The variation statement must address the following points:

- (a) The control being varied;*
- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;*
- (c) Demonstrate how the objectives are met with the proposed variations; and*
- (d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.....*

2. VARIATION PARTICULARS

This variation statement is provided as justification for:

- a/. The dimensions of the private open space of Unit 1 being marginally less than the minimum 5 m x 4m prescribed (being 3.77 m x 5.5 m as detailed in the submitted architectural plans for development application DA-2021/425) but compliant with the 20 m² area required.
- b/. The POS of Unit 3, being a balcony, facing the side boundary and
- c/. The POS of unit 2 being split into 2 parts doesn't achieve the minimum 3 m depth required in one part being 1.65 m i.e. the width of the original verandah (circa 1845) ie adjacent the living areas served. Note: We believe that this situation has since been resolved with recent design changes.

3. RELEVANT DEVELOPMENT CONTROLS

Development standards identified in Clause 5.1 of WDCP 2009 apply to the proposal. As the site contains a local heritage item, the applicant will be able to rely on Clause 5.10 (10) of the WLEP 2009 to allow the development to be permissible.

Wollongong Development Control Plan 2009

Applicable parts of the relevant subclause under 5.11.2 states:

2(a) Private open space must be provided at the ground level or podium level. The courtyard or terrace must have a minimum dimension of 4 metres x 5 metres. This area must be separated from boundaries by at least 1.5 metres with a vegetated landscaping bed and must not encroach upon deep soil zone landscaping areas. Where a level courtyard is not possible, a deck or split level courtyard must have a minimum depth of 3 metres.

and

3. Where part of the private open space is also provided in the form of a balcony, the following requirements must also be met:

- (a) The primary balconies must not address side setbacks.*

4. THE EXTENT OF THE PROPOSED VARIATION

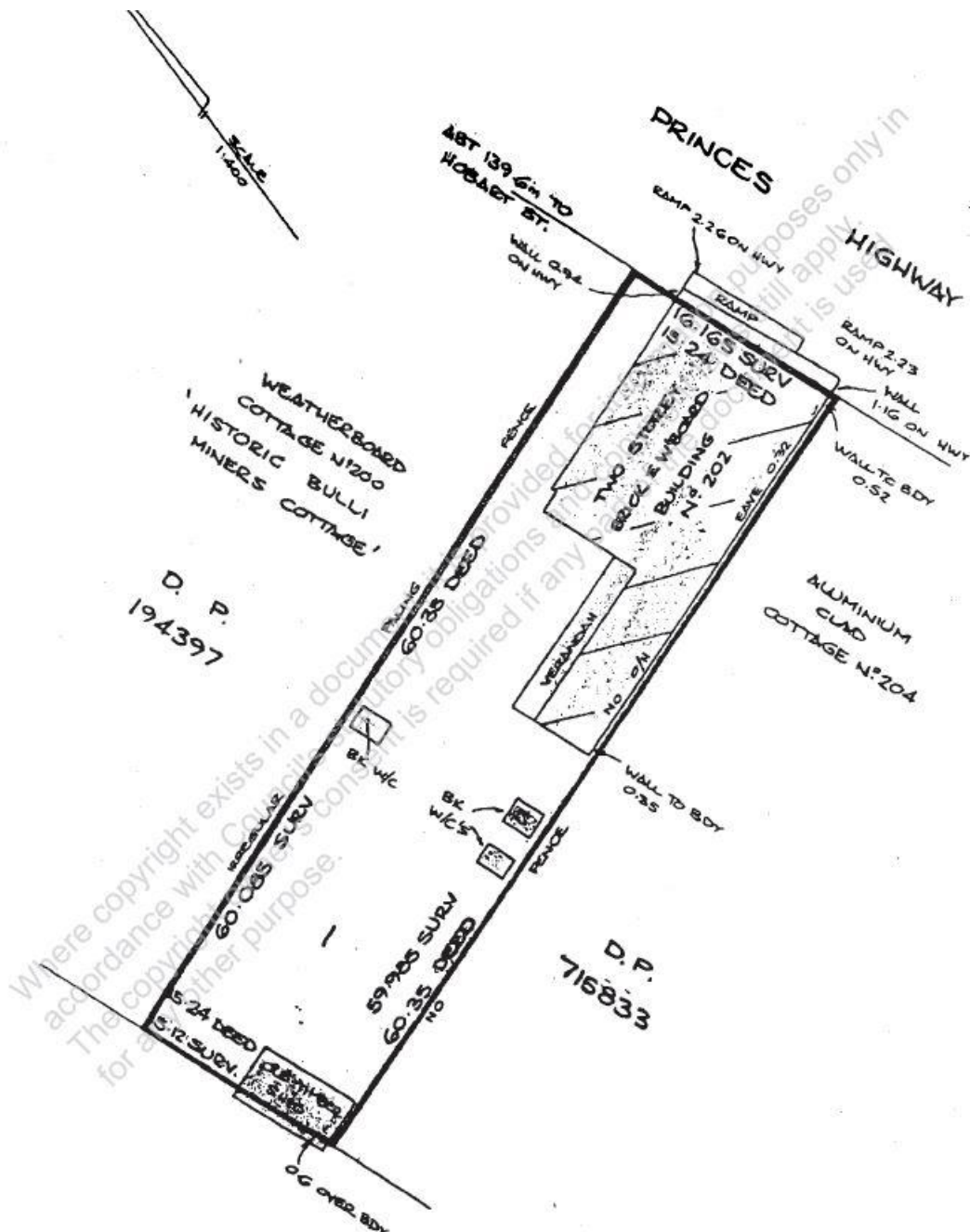


Figure 1-Identification Survey showing the location of the existing building on the site.

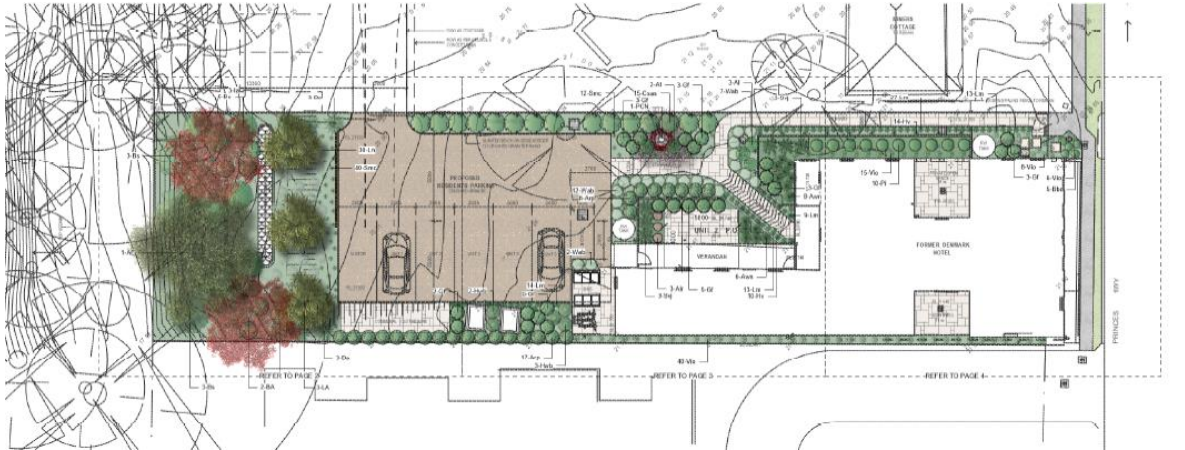
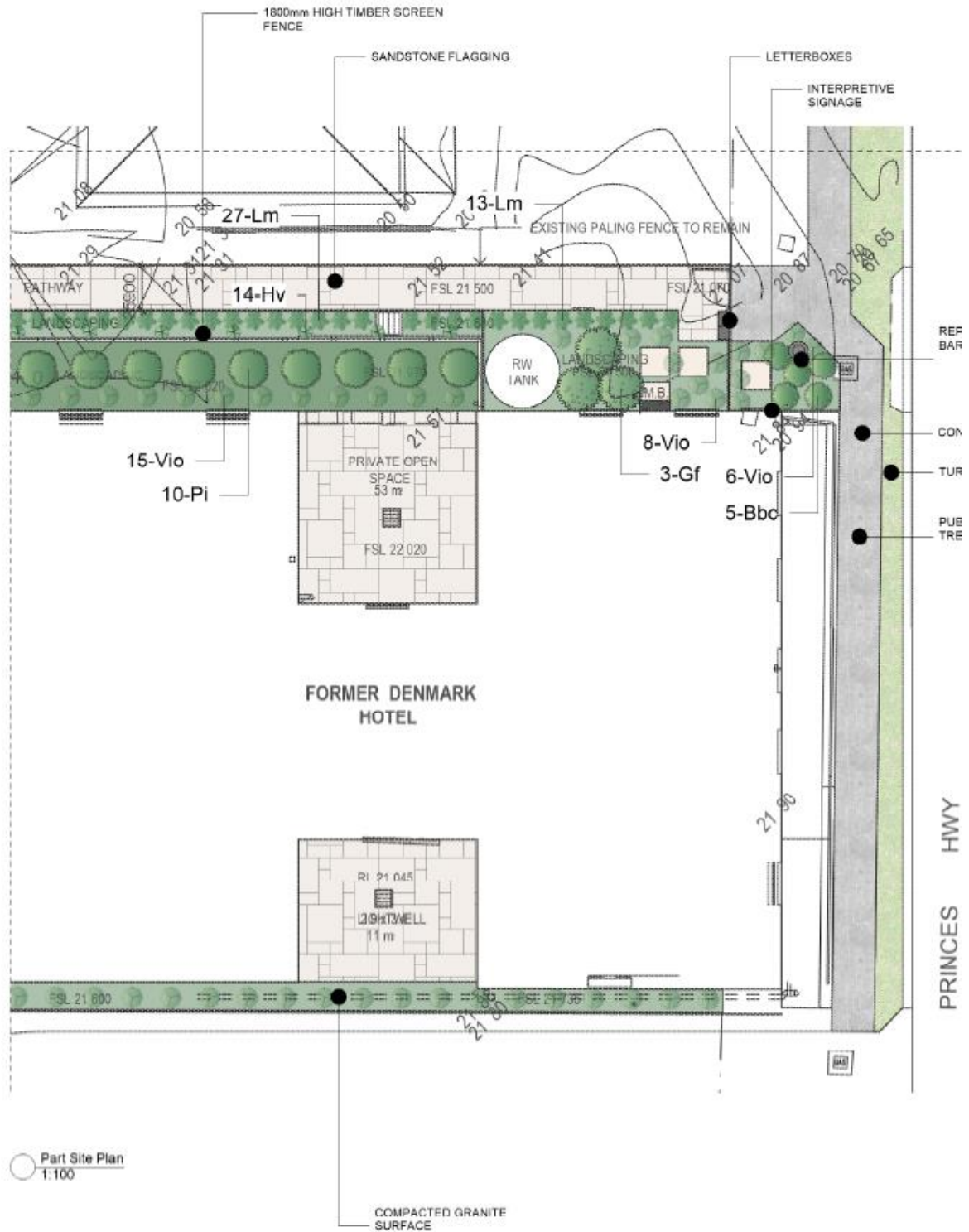


Figure 2 – Site Plan

a/. The dimensions of the private open space of Unit 1 being marginally less than the minimum 5 m x 4m prescribed.

Response:

Being 3.77 m x 5.5 m the POS achieves the required 20 m² area and is only marginally smaller i.e. its width is 93% of that required but its length is 110% of the requirement.



b/. The POS of Unit 3, being a balcony, faces the side boundary.

Response:

The edge of the Unit 3 balcony is some 4.45 m from the side boundary. Along this edge is a 1.5m high frosted glass balustrade which would limit the downward view to the neighbouring Miners Cottage property. Being a house museum this is uninhabited therefore there can be no impact in terms of resident's privacy.

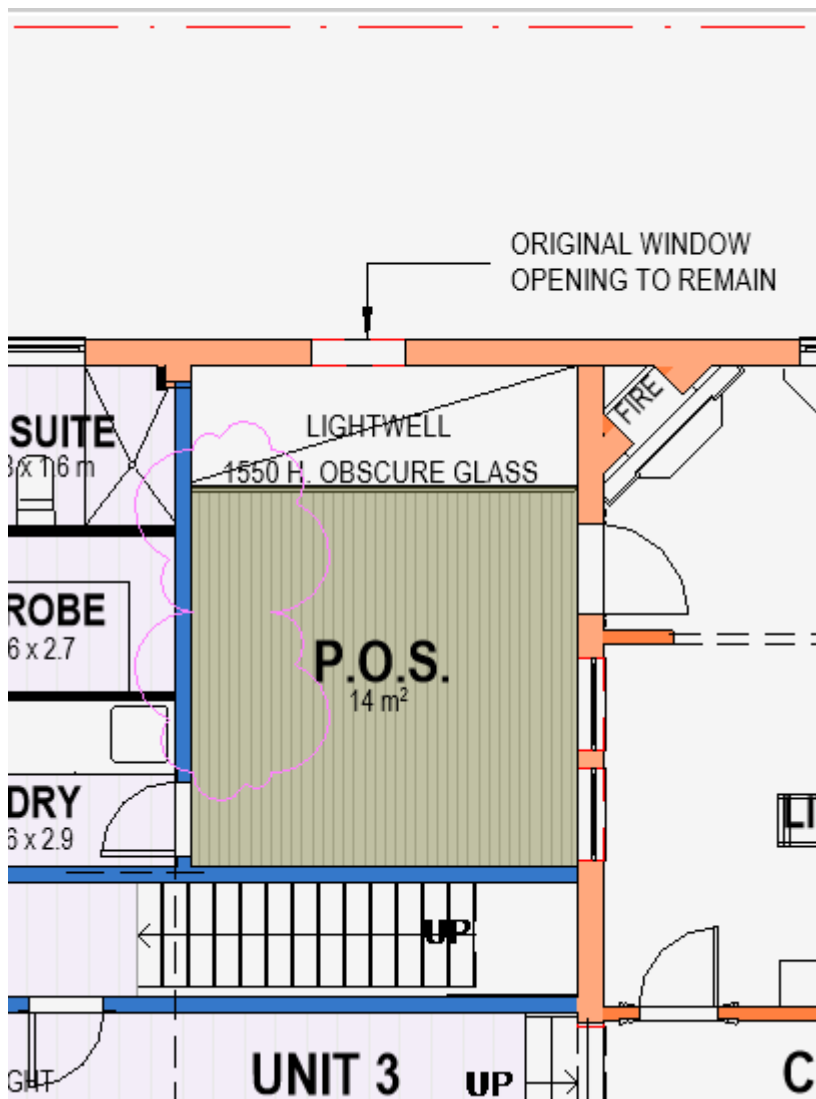


Figure 4 – Unit 3 POS

c/. The POS of unit 2 being split into 2 parts doesn't achieve the minimum 3 m depth required

Response:

The area immediately adjacent the living area is the original verandah, circa 1845. This is some 1.65 m in width. Beyond this is a level area of POS which is 3m wide. Both are now proposed to be at the same level ie RL 21 740 AHD resulting in the required 5 m x 4 m area therefore we believe that the design is now compliant.

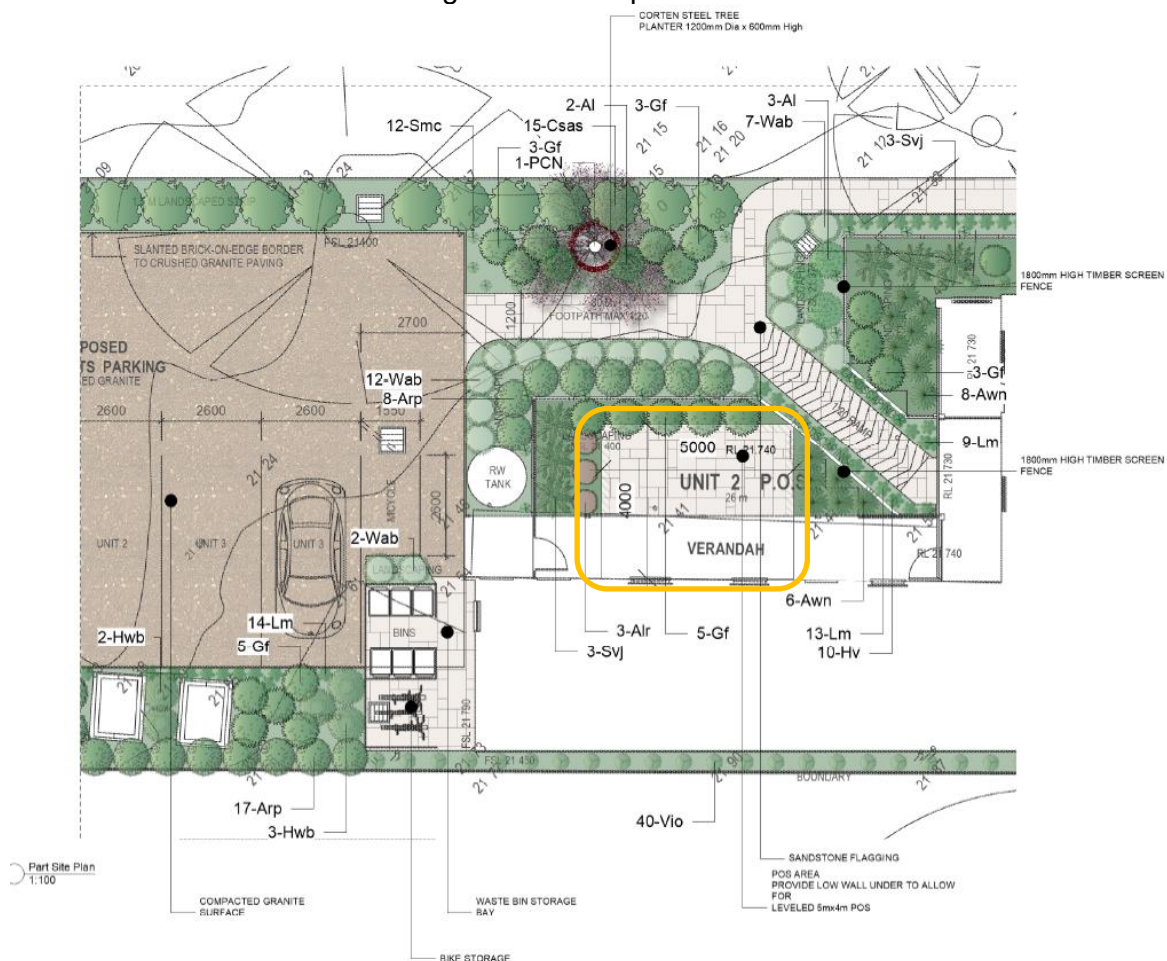


Figure 5 - POS to Unit 2

5. THE UNIQUE CIRCUMSTANCES AS TO WHY THE VARIATION IS REQUESTED

The above objectives and controls envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development standards concerning front setback are both unnecessary and unreasonable in the circumstances.

6. DEMONSTRATE HOW THE OBJECTIVES ARE MET WITH THE PROPOSED VARIATIONS

The objectives of WDCP 2009 particular to the proposed development are;

(a) To ensure that private open spaces are of sufficient size to accommodate a range of uses and are accessible and connected to indoor spaces where appropriate.

Response:

Each proposed POS is essentially an outdoor room of comparable dimensions to a typical Dining or Living room. Each is directly accessed from main internal living areas and north facing for solar access.

(b) To ensure functionality of private open space by reducing overlooking and overshadowing of such spaces

Response:

Overlooking from the Unit 3 balcony onto the Unit 1 Terrace below is prevented by a 1.55 m high frosted glass balustrade which would limit the downward view to the Unit 1 Terrace below.

Proposed POS is located on the northern (sunny) side of the building.

7. DEMONSTRATE THAT THE DEVELOPMENT WILL NOT HAVE ADDITIONAL ADVERSE IMPACTS AS A RESULT OF THE VARIATION.

Response:

Amenity impacts to neighbours are minimised through locating POS on the opposite side to existing residential development. In terms of residents amenity POS are located on the opposite side to existing residential development. Of critical importance on this site POS is located to be shielded from traffic noise generated by the Princes Highway.

8. IMPACT OF NON – COMPLIANCE

Having regard to the specific objectives for the Private Open Space development standard provided in Clause 5.11 of the Wollongong Development Control Plan 2009, it is considered that non-compliance with this standard is unnecessary and unreasonable in this case and would only have the following negative impacts:

- Strict compliance could only be achieved by demolishing the heritage item. The identified non-compliances enable a financially viable adaptive re-use of the heritage item so therefor are seen to have a positive impact.

Note: The above objectives envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development standards concerning 'Private Open Space' are both unnecessary and unreasonable.

9. CONCLUSION

The above discussion has sought to demonstrate that; the proposal will not significantly detract from the character of the existing development, amenity of nearby residents and the requested departure from the development standard will not hinder the attainment of the objectives specified in Clause 5.11 of the WDCP2009.

The statement has also sought to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, being retention of a heritage building, and that there are sufficient environmental planning grounds specific to the site to justify contravening the development control. It is considered that in the particular circumstances restoration of the existing building outside of the normal front setback and within the road reserve would result in a significant public benefit.

Also, given the overarching heritage aspect of this site this variation is unique and it is unlikely to be seen as a precedent for the development of other sites given the proponent is able to rely on Clause 5.10 (10) of WDCP 2009 to allow the development to be permissible.

Therefore, it is requested that Council considers the variation statement in accordance with Section 4.15 (3A) (b) of the Environmental Planning and Assessment Act 1979 and determines that the requested variation, in this instance, is worthy of support.

We trust that the information provided in this variation statement is appropriate to facilitate Council's concurrence with this variation statement and subsequent approval of the development application.



VARIATION STATEMENT

CHAPTER B1: RESIDENTIAL DEVELOPMENT- CLAUSE 5.4

SIDE SETBACKS

Applicant's name: ROI (NSW) Pty Limited

Prepared By: in2 architecture + heritage
Phone: 0412 086 410

Site address: 202 Princes Highway Bulli (Lot 1, DP 986139) NSW
and includes;
200 Princes Highway (Lot 1 DP194397) for vehicular access to the
public road via a proposed Right of Carriageway.

Proposal: Adaptive re-use of the existing former Denmark Hotel as a multi -
dwelling housing development comprising three (3) dwellings
contained within the confines of the heritage buildings existing
external envelope.

File Reference: DCP Variation

Job Reference: 1901

Document History

Version	Date	Description of Revision	Prepared by	Reviewed by
1	14/1/2021		GN	ML
2	02/11/2021		GN	ML

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1. Introduction

This variation statement has been prepared in accordance with Clause 8 of Chapter A1 of Wollongong Development Control Plan 2009 (DCP2009). Clause 8 states that DCP2009 aims to allow flexibility in the application of such development controls to promote innovation and design excellence.

Council may consider variations to the requirements of the DCP2009 in certain circumstances.

The variation statement must address the following points:

- (a) The control being varied;*
- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;*
- (c) Demonstrate how the objectives are met with the proposed variations; and*
- (d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.....*

2. VARIATION PARTICULARS

This variation statement is provided as justification for the dimensions of the side setback being less than the required 6 m.

3. RELEVANT DEVELOPMENT CONTROLS

Development controls identified in Clause 5.4 of WDCP 2009 apply to the proposal. As the site contains a local heritage item, the applicant will be able to rely on Clause 5.10 (10) of the WLEP 2009 to allow the development to be permissible.

4. THE EXTENT OF THE PROPOSED VARIATION

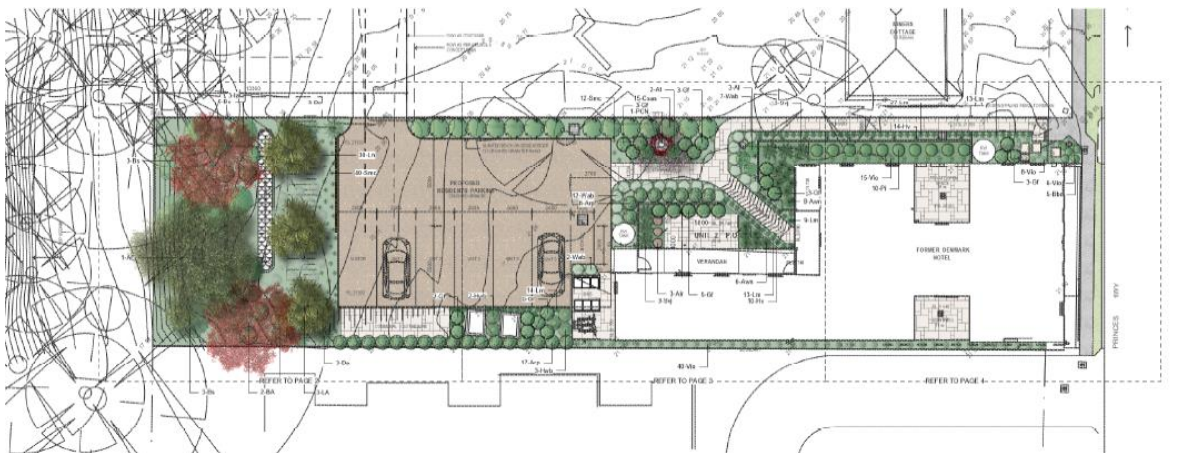


Figure 1 – Site Plan

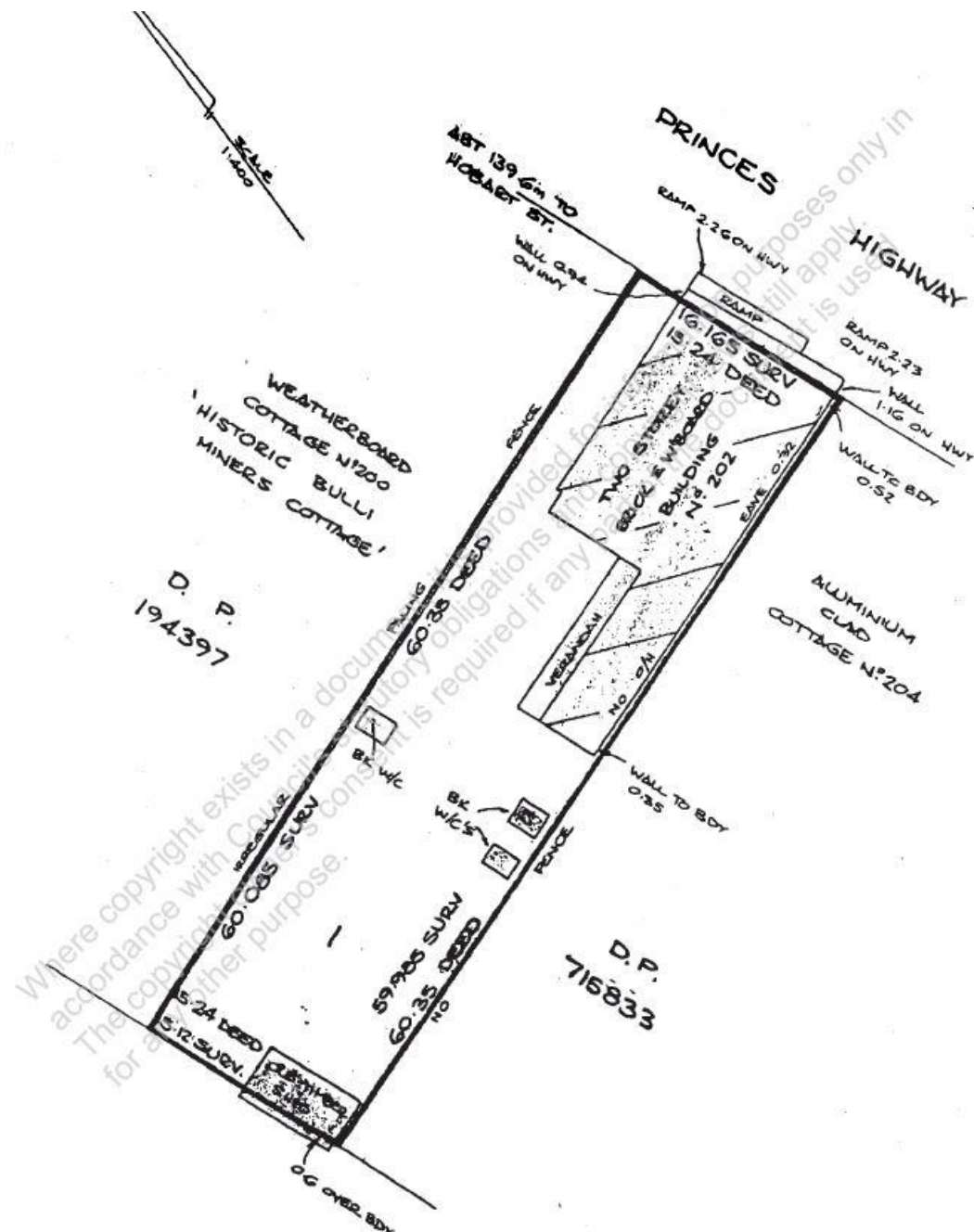


Figure 2 - Identification survey showing the location of the existing building on the site.

Along the southern side of the existing building the side setback varies from 0.52 m (at the eastern Princes Highway end) to 0.35 m (at the western end). The northern wall is setback some 3.05m from the northern property boundary.

5. THE UNIQUE CIRCUMSTANCES AS TO WHY THE VARIATION IS REQUESTED

The above development control(s) envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development controls concerning front setback are both unnecessary and unreasonable in the circumstances and could only be achieved by partial demolition of the significant fabric.

6. DEMONSTRATE HOW THE OBJECTIVES ARE MET WITH THE PROPOSED VARIATIONS

The objectives of WDCP 2009 related to side setbacks and particular to the proposed development are;

(a) To provide adequate setbacks from boundaries and adjoining dwellings to retain privacy levels, views, sunlight and daylight access and to minimise overlooking.

Response:

The proposed setback is that of the existing building. As such the retention of the existing building envelope cannot have any additional adverse impacts.

(b) To provide appropriate separation between buildings to achieve the desired urban form.

Response:

The proposed setback is that of the existing building. As such the retention of the existing building envelope cannot have any additional adverse impacts.

(c) To optimise the use of land at the rear of the property and surveillance of the street at the front of the property.

Response:

As the rear setback is compliant with the development control no discussion of rear setback is necessary here. As for surveillance of the street the proposed setback is that of the existing building. Being located where it is it provided excellent surveillance of the street.

(d) To minimise overshadowing of adjacent properties and private or shared open space.

Response:

The proposed setback is that of the existing building. As such the retention of the existing building envelope cannot have any additional adverse impacts.

7. DEMONSTRATE THAT THE DEVELOPMENT WILL NOT HAVE ADDITIONAL ADVERSE IMPACTS AS A RESULT OF THE VARIATION.

Response:

The proposed setback is that of the existing building. As such the retention of the existing building envelope cannot have any additional adverse impacts.

8. IMPACT OF NON – COMPLIANCE

Having regard to the specific objectives for the side setbacks development controls provided in Clause 5.4 of the Wollongong Development Control Plan 2009, it is considered that non-compliance with this control is unnecessary and unreasonable in this case and would only have the following negative impacts:

Strict compliance could only be achieved by demolition of the heritage item. The identified non-compliances enable financially viable adaptive re-use of the heritage item so therefore are seen to have a positive impact.

Note: The above objectives envisage new construction or alterations to non-heritage listed properties. As the proposed development comprises the insertion of three residential apartments within the extant shell of a heritage building, listed as being of local significance, strict compliance with the development controls concerning side setbacks are both unnecessary and unreasonable.

9. CONCLUSION

The above discussion has sought to demonstrate that; the proposal will not significantly detract from the character of the nearby existing development, amenity of nearby residents and the requested departure from the development control will not hinder the attainment of the objectives specified in Clause 5.4 of the WDCP2009.

The statement has also sought to demonstrate that compliance with the development control is unreasonable or unnecessary in the circumstances of the case, being retention of a heritage building, and that there are sufficient environmental planning grounds specific to the site to justify contravening the development control. It is considered that in the particular circumstances restoration of the existing building in its existing form and outline would result in a significant public benefit.

Also, given the overarching heritage aspect of this site this variation is unique and it is unlikely to be seen as a precedent for the development of other sites given the proponent is able to rely on Clause 5.10 (10) of WDCP 2009 to allow the development to be permissible.

Therefore, it is requested that Council considers the variation statement in accordance with Section 4.15 (3A) (b) of the Environmental Planning and Assessment Act 1979 and determines that the requested variation, in this instance, is worthy of support. We trust that the information provided in this variation statement is appropriate to facilitate Council's concurrence with this variation statement and subsequent approval of the development application.

Attachment 4

WDCP 2009 compliance table

CHAPTER A2: ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP.

Generally speaking, the proposal could be considered to be consistent with the principles of Ecologically Sustainable Development.

CHAPTER B1: RESIDENTIAL DEVELOPMENT

This Chapter applies to all residentially zoned land in the LGA. Section 4 provides general residential controls which apply to all dwelling houses, dual occupancies, secondary dwellings, ancillary structures and semi-detached dwellings. Section 5 provides controls that must also be taken into consideration for development for the purposes of Multi-Dwelling Housing.

4. General Residential controls

Controls/objectives	Comment	Compliance
<u>4.11 Storage Facilities</u> <ul style="list-style-type: none">3 bedroom- 10m³ storage volume to 5m² storage area	The proposed development will provide adequate storage with each proposed dwelling.	Yes
<u>4.12 Site Facilities</u> <ul style="list-style-type: none">letterboxes in an accessible locationair-con, satellite dishes and other ancillary structures to be located away from street frontage, not in a place where they are a skyline feature and adequately setback	The necessary site facilities have been provided and are acceptable in this circumstance.	Yes
<u>4.13 Fire Brigade Servicing</u> <ul style="list-style-type: none">All dwellings located within 60m of a fire hydrant	A hydrant is located in front of 183 Princes Highway on the eastern side of the road, approximately 30m from the subject site. A condition has been recommended to ensure that all works will be within the required distance of a hydrant, as provided at Attachment 5.	Yes
<u>4.14 Services</u> <ul style="list-style-type: none">Encourage early consideration of servicing requirements	The site has access to existing utility services. Draft conditions are recommended with regard to services.	Yes
<u>4.15 View sharing</u>	The proposal would not be envisaged to result in any significant impact on existing view corridors, given the context of the site and surrounding area and the proposal to utilise the existing built form.	N/A
<u>4.16 Retaining walls</u>	No retaining walls are proposed.	N/A

5 Attached dwellings and multi - dwelling housing

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.1 Minimum Site Width Requirement</u> 18m for multi dwelling	The proposal seeks consent for multi dwelling housing and the site has a width of 15.5m, falling 2.5m short of the 18m required by this clause. A variation has been sought and is discussed at section 2.3.1 of the report.	No – see 2.3.1 of report.
<u>5.2 Number of Storeys</u> Maximum 2 Storeys for Zone R2 Low Density Residential	The development is a maximum of (2) storeys.	Yes
<u>5.3 Front Setbacks</u> 6m minimum	The existing hotel building encroaches forward of the front property boundary as discussed within the report. A variation has been sought and is discussed at section 2.3.1 of the report.	No – see 2.3.1 of report.
<u>5.4 Side and Rear Setbacks</u> <ul style="list-style-type: none"> 0.8 x ceiling height min 	The existing hotel building is located a minimum of 350mm to the southern side property boundary and 3.055m to the northern side property boundary. Variations have been sought to the southern ground and first floor and northern first floor side setbacks, as discussed at section 2.3.1 of the report. The northern ground floor setback and rear setback comply with the requirements of this clause.	No – see 2.3.1 of report.
<u>5.5 Building Character and Form</u> <ul style="list-style-type: none"> To design residential development to respond to the streetscape character. The Site and Context Analysis must inform the development proposal. To complement and enhance the visual character of the street and neighbourhood through appropriate building scale, form and detail. 	It is considered the design, height and siting of the proposal responds to the site context. The proposal seeks to utilise the existing building footprint and therefore retains and responds to the existing streetscape character.	Yes
<u>5.6 Access / Driveway Requirements</u> <ul style="list-style-type: none"> A multi dwelling development must provide vehicular 	The proposal seeks to gain vehicular access via the adjoining Miners' Cottage site as discussed	Yes

<p>manoeuvring areas to all parking spaces so vehicles do not need to make more than a single point turn to leave the site in a forward direction.</p> <ul style="list-style-type: none"> • Driveway grades, vehicular ramp width/grades and passing bays must be in accordance with the relevant Australian Standard, being AS 2890.1. • Crossover width: 4 – 6m combined to within 6m internally of the front property boundary • Minimum driveway width - 3m 	<p>throughout the report. Car parking for residents and visitors is proposed to the rear of the existing building on a crushed granite surface. Diagrams have been provided which demonstrate that manoeuvring to and from all car parking spaces is able to be undertaken with a single point turn. All vehicles will be able to leave the site in a forward direction.</p> <p>The proposed development satisfies the objectives of Council's Access/Driveway Requirements controls and policies. Conditions are recommended requiring compliance with AS2890.1.</p> <p>A 4.8m crossover is proposed which is sufficient to allow vehicles to simultaneously enter and exit the site. A second passing bay is proposed behind the Miners' Cottage and the driveway has a minimum width of 3m. A motorised fence is proposed within the Miners' Cottage site to control access. The gate is set into the site to allow a vehicle to stop within the site and wait for the gates to open, whilst not obstructing traffic flow.</p> <p>Council's Engineering Officer has reviewed the application submission and identified no objections to the proposed access arrangements. A range of conditions are recommended with regard to access arrangements and fencing.</p>	
<p><u>5.7 Car Parking Requirements</u></p> <ul style="list-style-type: none"> • On site car parking must be positioned to minimise impacts on the streetscape. Car parking must be located behind the building setback and be screened from view with well-designed structures and vegetation. 	<p>Car parking is proposed on a crushed granite surface, behind the building line.</p> <p>Council's Traffic Officer has raised no objections to the proposed car parking.</p> <p>The proposed development satisfies the objectives of Council's Car Parking Requirements controls and policies.</p>	<p>Yes</p>
<p><u>5.8 Landscaping Requirements</u></p> <ul style="list-style-type: none"> • A minimum of 30% of the total site area must be provided as landscaped area. • The required landscaped area must include a minimum 1.5 metre wide landscaping bed, which is provided along the side and rear boundaries of the site 	<p>More than 30% of the site is to be retained as landscaped area as a result of the proposal.</p> <p>A minimum 1.5m landscaped strip is not able to be provided along the full extent of the Miners' Cottage site due to the location of the existing cottage and need to provide compliant driveway widths. A variation has been provided and is discussed at section 2.3.1 of the report.</p>	<p>Yes</p>

	<p>The proposed development satisfies the objectives of Council's landscaped area controls and policies.</p> <p>Council's Landscape Officer has raised no objections to the proposed landscaping.</p> <p>See further discussion at Chapter E6 below.</p>	
<p><u>5.9 Deep Soil Planting</u></p> <ul style="list-style-type: none"> The deep soil may extend along the full length of the rear of the site, with a minimum width of 6m. No structures, basement carparks, driveways, hard paving, decks, balconies or drying areas are permitted within the deep soil zone. The deep soil zone shall be densely planted with trees and shrubs. 	<p>The proposal provides for 130m² of deep soil zone comprising planting along the full length of the rear boundary.</p> <p>Dense planting is indicated and consists of the retention of several trees in this area.</p> <p>No structures, basement, driveways or other hard surfaces encroach on the deep soil zone area. A transpiration pit is proposed to the immediate west of the car parking area and will retain existing water flows from the site to the watercourse. The area of deep soil does not include the area of the transpiration pit.</p> <p>The proposed development satisfies the objectives of Council's Deep Soil Planting controls and policies.</p>	Yes
<p><u>5.10 Communal Open Space</u></p> <ul style="list-style-type: none"> Required for greater than ten (10) dwellings 	<p>The proposal is for a 3 dwelling multi dwelling housing development and as such communal open space is not required.</p>	N/A
<p><u>5.11 Private Open Space</u></p> <ul style="list-style-type: none"> Minimum dimension of 4 metres x 5 metres Separated from boundaries by at least 1.5 metres with a vegetated landscaping bed The primary private open area of at least 70% of the dwellings within a multi dwelling housing development must receive a minimum of three hours of direct sunlight between 9.00am and 3.00pm on June 21. Private open space areas (courtyards) must not extend 	<p>A variation is sought to the POS requirements for Units 1 and 3. See discussion at 2.3.1 of the report.</p> <p>Shadow diagrams have been submitted which demonstrate that all three POS areas proposed with receive in excess of 3 hours of direct sunlight between 9am and 3pm on June 21.</p> <p>1.8m timber fencing and landscaping is proposed to provide separation between circulation areas and POS areas.</p> <p>The location of the POS areas proposed are considered generally satisfactory, being at ground level and accessed directly from living areas, and separated from property boundaries with landscaped areas.</p>	<p>No - see 2.3.1 of report</p> <p>Yes</p>

<p>forward of the front building setback by greater than 900mm</p> <ul style="list-style-type: none"> • Private open space should be sited in a location, which provides privacy, solar access, and pleasing outlook and has a limited impact upon adjoining neighbours. • Design private open spaces so that they act as direct extensions of the living areas of the dwellings they serve 		
<p><u>5.12 Solar Access Requirements</u></p> <ul style="list-style-type: none"> • Windows to living rooms of adjoining dwellings must receive 3 hours of sunlight between 9.00am and 3.00pm on 21 June • At least 50% of the private open areas of adjoining residential properties must receive at least 3 hours of sunlight between 9.00am and 3.00pm on June 21. • The primary balcony of at least 70% of the dwellings within a multi dwelling housing development shall receive a minimum of three hours of direct sunlight between 9.00am and 3.00pm on June 21. • At least 50% of the private open space area for each of the subject dwellings in the development must receive at least 3 hours of sunlight between 9.00am and 3.00pm on 21 June. 	<p>The application submission included shadow diagrams which demonstrate that the proposal would not result any change to the existing overshadowing impacts on any adjoining properties. At least half of the main POS areas of the units proposed will receive in excess of 3 hours of direct sunlight. For Unit 1, this would comprise solar access coming through the two openings on the northern elevation and solar access to the garden area. For Unit 3, this would be from light coming through the opening on the northern elevation and roof. Unit 2 would receive solar access the majority of the POS area from 11am.</p>	<p>Yes</p>
<p><u>5.13 Additional Control for Multi Dwelling Housing - Dwelling Mix and Layout</u></p> <ul style="list-style-type: none"> • Required for greater than ten (10) dwellings. 	<p>The proposal is for a 3 dwelling multi dwelling housing development. Therefore, this clause does not apply.</p>	<p>N/A</p>

<p><u>5.14 Additional Control for Multi Dwelling Housing - Adaptable Housing</u></p> <p>Required for greater than six (6) dwellings.</p>	<p>The proposal is for a 6 dwelling multi dwelling housing development. Therefore, this clause does not apply.</p>	<p>N/A</p>
<p><u>5.15 Additional Control for Multi Dwelling Housing – Crime Prevention through Environmental Design</u></p>	<p>The proposed development satisfies the objectives of Council's Crime Prevention Through Environmental Design controls and policies in this circumstance, minimising areas for entrapment and concealment. See chapter E2 comments below.</p>	<p>Yes</p>

CHAPTER D1: CHARACTER STATEMENTS

Existing Character

The historic township of Bulli lies between the Illawarra Escarpment and the ocean, where the coastal plain widens to the south of Thirroul.

Bulli contains a mix of housing styles and building form, including older low density detached dwellinghouses as well as medium density housing in the form of villas and townhouses. The detached dwellinghouses are predominantly single storey in height and are generally of a weatherboard, fibro and brick construction. Within the coastal precincts of Bulli, some new two storey dwellings are starting to replace the older dwelling stock.

Bulli is also characterised by a large number of heritage items including the Bulli railway station and station masters residence, Bulli Colliery and associated railway bridge embankments, miner's cottages, Denmark Hotel and stables, Bulli Hotel, Bulli post office as well as a number of other significant circa 1920's and 1930's bungalows etc.

Rural residential development also occurs within the landscape clearings adjacent to the Princes Highway, Bulli Pass and the foot hills of the escarpment.

The Bulli showground and racing complex is a regional recreational and sporting facility. Other important open space areas include Slacky Flat Park, Bulli Park and Sandon Point Reserve and beach.

The Bulli retail and business centre is situated on the Princes Highway approximately 1 kilometre south of the Princes Highway and Lawrence Hargrave Drive intersection. The Bulli centre is a traditional retail strip centre strip concentrated along the Princes Highway between the Bulli Railway Station to the north and the intersection of the Princes Highway and Park Road to the south and is a small traditional retail shopping strip which mainly serves the daily convenience needs of the surrounding local population.

Desired Future Character

Bulli should retain its relatively low density residential suburban character with some limited multi-dwelling housing opportunities within a short walking distance (ie 400 – 600 metres) to Bulli railway station. Any multi-dwelling housing should generally be restricted to two storeys in height. Therefore, villas, integrated developments and townhouses are considered the most appropriate forms of multi-dwelling housing.

Dwellings within the eastern coastal part of Bulli should be designed to minimise the scale and bulk of the development through well-articulated building forms. New contemporary or “lightweight” dwellings with a distinctive coastal character are encouraged for the eastern (coastal) part of Bulli. Dwellings should feature sloping flat, curved or gently to moderately pitched roof forms only and to help maximise view sharing opportunities for rear neighbouring dwellings.

Balconies should be lightly framed in stainless steel and / or timber finishes, rather than of brick or masonry construction.

For the western part of Bulli, dwellings with pitched, gable or hipped rooflines are preferred.

New development or alterations and additions to an existing building must also be sympathetic in terms of its siting, scale, height and external appearance to any adjoining item.

The Bulli retail and business centre will continue to provide for the convenience needs of the surrounding population. A full line supermarket may be warranted, where it can be demonstrated that the primary trade area for the supermarket is limited to the surrounding residential catchment of Bulli. Higher order retailing and other higher order business services will continue to be provided by Corrimal town centre and Wollongong City Centre. Major developments on the old Bulli brickworks site and Sandon Point future stages will mean an increase in the future retail demand. The Bulli village centre should cater for this growth organically

The proposed development would be considered consistent with the existing and future desired character of the Bulli suburb, being for the purpose of the adaptive re-use of a heritage item.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 Lighting</u>	Conditions are recommended with regard to the lighting of entries.	Yes
<u>3.2 Natural surveillance and sightlines</u>	Units 1 and 2 have been designed to front the street.	Yes
<u>3.3 Signage</u>	The proposal does not include any signage	N/A
<u>3.4 Building design</u>	The building design minimises areas of concealment or entrapment.	Yes
<u>3.5 Landscaping</u>	Landscaping proposed is considered appropriate and minimises areas of concealment or entrapment.	Yes
<u>3.6 Public open space and parks.</u>	There is no public open space proposed or required.	N/A
<u>3.7 Community facilities</u>	There are no community facilities located within the development as proposed. Communal open space provided is satisfactory.	N/A
<u>3.8 Bus stops and taxi ranks</u>	There are several bus stops located in the vicinity of the development.	Yes

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

Multi dwelling housing

	<i>Rate</i>	<i>Calculation</i>	<i>Required</i>	<i>Provided</i>	<i>Compliance</i>
<i>Car parking</i>					

Resident:	1 space per dwelling <70sqm 1.5 spaces per dwelling 70-110sqm 2 spaces per dwelling >110sqm	0 2x 1.5 1 x 2	5	5	Yes
Visitor:	0.2 per dwelling	0.2 x 3	1(rounded)	1	Yes
<i>Bicycle Parking:</i>	1 bicycle space per 3 dwellings (residents) and 1 bicycle space per 12 dwellings (visitor)	1/3 3/12	2(rounded)	2+	Yes
<i>Motorcycle Parking:</i>	1 motorcycle space per 15 dwellings	3/15	1 (rounded)	1+	Yes

Councils Engineering Officer has assessed the proposal and provided conditionally satisfactory referral advice. A total of 5 resident spaces are proposed, satisfying the provisions of this Chapter.

Manoeuvring diagrams have also been provided demonstrating compliance from all car parking spaces, and allowing all vehicles to enter and exit the site in a forward direction. One motorcycle parking space is proposed adjoining the car parking area. Bicycle parking spaces are proposed adjoining the car parking area.

CHAPTER E6: LANDSCAPING

Council's Landscape Officer has assessed the proposal and provided conditionally satisfactory referral advice. Overall, Councils Landscape Officer considers the proposal satisfactory, subject to conditions as provided at Attachment 5. The proposed landscaped area and deep soil zone comply with the WDCP 2009, as discussed within Chapter B1. The proposal is not considered to be inconsistent with the provisions of this Chapter. The landscape plan is provided within Attachment 1.

CHAPTER E7: WASTE MANAGEMENT

Council's Engineering Officer has assessed the proposal against the requirements of this Chapter. A Site Waste Minimisation and Management Plan was submitted with the application and waste servicing arrangements are satisfactory.

A site waste minimisation and management plan formed part of the application submission. A communal bin storage area is proposed adjoining the car parking area and collection will be from the Princes Highway. Bins will be required to be transported to the frontage of the site via the pathway along the northern boundary of the Denmark Hotel.

CHAPTER E11: HERITAGE CONSERVATION

2. Objectives

- (a) To conserve the environmental heritage of the City in accordance with the principles contained in the Burra Charter;*
- (b) To consider the potential heritage significance of all properties identified on the Wollongong LEP 2009 Heritage Map and other applications as a matter to be taken into account in the assessment of Development Applications affecting those properties;*
- (c) To integrate conservation issues and management into the planning and development control process;*
- (d) To ensure that any development with respect to a heritage site is undertaken in a manner that is sympathetic to, and does not detract from the identified significance of the site;*
- (e) To encourage innovative approaches to the conservation of Wollongong's heritage and to provide incentives for good management practice;*
- (f) To promote Wollongong's cultural heritage as a valuable resource that must be conserved for future generations.*

(g) To encourage and guide recording and interpretation of significant heritage throughout the development process.

The proposal is generally consistent with the objectives of this Chapter.

10. Heritage Impact Assessment

A Heritage Impact Assessment (HIA) formed part of the application submission. The HIA has been reviewed by Councils Heritage Officers and is generally supported.

12. Alterations and additions to heritage listed buildings or buildings within a heritage consideration area

The subject proposal relates to alterations to a heritage item within a heritage conservation area, and therefore this Part of the Chapter applies. Table

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<p><u>12.1 General</u></p> <p>Many heritage items within the Wollongong Local Government area are modest in size by today's standards. Extensions and additions can often provide an appropriate way of ensuring the ongoing viability of a heritage building. Care must be taken to ensure the suitability of these alterations or additions. The following standards relate to any proposed alteration and / or addition to a heritage building or building within a heritage conservation area, including the construction or renovation of garages and outbuilding</p>	Noted	Yes
<p><u>12.2 Development Controls</u></p> <p>1. The required Heritage Impact Statement or Conservation Management Plan shall address a range of matters for any proposed alteration or addition to a heritage item, including (but not necessarily limited to) the following:</p> <p>(a) The approximate age (and architectural period) of the building;</p> <p>(b) The type of original materials used and method of construction;</p> <p>(c) The identification of those major built elements which contribute to the significance of the item such as the roof form, verandah, garden setting, and any original decorative features;</p> <p>(d) Whether any records exist such as plans, photographs, paintings, written or oral evidence which may provide a greater understanding of the item, its original form, inhabitants, function and sequence of construction; and</p> <p>(e) The significance of the building or site and the significance of its various components.</p>	The HIA submitted generally meets the requirements of this clause.	Yes

<p>2. Scale – The scale and form of any building extension should not dominate the existing building, especially when viewed from the most significant elevations. The eave height, roof height, overall width and bay dimensions should not exceed those of the existing item. Where large extensions are proposed consideration should be given to a separate or pavilion style structure connected by way of a covered or enclosed walkway. For many of Wollongong’s heritage items their modest scale contributes to their significance (e.g. Miner’s cottages).</p>	<p>The scale of the development proposed is considered appropriate, being confined to the existing building footprint. No changes to the existing height, roof height or overall width or dimensions of the building are proposed. No large extensions are proposed.</p>	<p>Yes</p>
<p>3. Form – New extensions should be consistent with the existing building form with respect to roof type and pitch, verandah, façade rhythms, geometry of bay dimensions and the size, proportions and position of windows and other openings. However it should avoid complete imitation of the original, rather be of a simpler, contemporary design.</p>	<p>No new extensions are proposed.</p>	<p>N/A</p>
<p>4. Architectural Detail - New extensions should not attempt to replicate the architectural or decorative detail of the original, so as to maintain a distinction between old and new.</p>	<p>No new extensions are proposed.</p>	<p>N/A</p>
<p>5. Any alteration or addition to a heritage item should be designed to compliment the existing period style and character of the heritage item.</p>	<p>The alterations proposed to the Denmark Hotel are considered to complement the existing period style and character of the item. The proposed works at the Miners’ Cottage site are contained to driveway and fencing only, and are also considered to be generally satisfactory.</p>	<p>Yes</p>
<p>6. New additions or extensions to a building should be visually recessive and easily identified as being later work. Measures to achieve this include:</p> <p>(a) The side walls of the extension should be setback or recessed to establish a break or rebate between the two;</p> <p>(b) The use of a lower roofline on the new additions to the building;</p> <p>(c) The use of different but complimentary building materials and colours; and / or</p> <p>(d) The use of ‘lighter’ building materials and construction for the new additions to the building (eg. timber extension to brick/stone dwelling).</p>	<p>No new additions or extensions to the building are proposed. The material selection either seeks to repair or replace existing with similar materials, and is considered generally appropriate. Councils Heritage Officer has recommended conditions as provided at Attachment 5.</p>	<p>N/A</p>

7. The reconstruction of original details should only occur where recommended as an appropriate conservation measure by an approved conservation plan. This should be considered in accordance with the provisions of the Burra Charter	Reconstruction/replacement of materials is required due to the dilapidated state of the existing structure. These works have been reviewed by Councils Heritage Officer and conditions recommended.	Yes
8. New decorative detailing is to be avoided on a heritage building unless documentary, physical or other evidence indicate that it once existed.	No new decorative elements are proposed.	N/A
9. Original roofing materials should be retained wherever possible, however if it can be demonstrated that the roofing is in need of replacement then the new roofing material is to match as closely as possible, the colour, texture and profile of the original material. The use of corrugated, galvanised steel in an unpainted finish or painted grey colour is the preferred replacement for corrugated iron. In recognition of our coastal location, more modern materials such as Colourbond may be considered in particular circumstances	The roof has been replaced and as such, does not comprise the original roofing materials at present. The works to the roof are noted on the submitted plans and are considered generally appropriate by Councils Heritage Officer. Where the roof is required to be repaired or replaced, corrugated, galvanised steel is proposed.	Yes
10. The materials, finishes and colours used in new extensions should compliment the heritage building, rather than trying to replicate the heritage item	The materials selected are considered broadly appropriate.	Yes
11. Colour schemes for heritage buildings should generally be compatible with the particular architectural period of the building.	The colours selected are considered broadly appropriate.	Yes
12. Previously unpainted external surfaces should not be painted or rendered except in exceptional circumstances where this is considered an appropriate conservation measure.	The finishes proposed are noted on the submitted plans and are considered appropriate by Councils Heritage Officer.	Yes
13. Intrusive security measures such as roller shutters, window bars and the like are generally considered inappropriate for heritage buildings or buildings within heritage conservation areas	No intrusive measures such as roller doors or window bars are proposed.	N/A
14. Solar panels, skylights, rainwater tanks, air conditioning units or other like utility installations are to be avoided on the front façade of the building or any other elevation visible from the public domain.	No solar panels or air-conditioning units are shown on plan. Rainwater tanks are indicated to be corrugated galvanised steel. Conditions are recommended in this regard.	Yes
15. Landscaping should be used as a means to screen or 'soften' a new addition or structure especially when viewed from the most significant elevations	Landscaping is proposed and is considered generally appropriate.	Yes

15 Adaptive re-use of a heritage item

- | | | |
|---|---|-----|
| 1. The original use of a place is generally the most appropriate use. Council recognises however that circumstances do not always allow this to be the case. This DCP therefore supports compatible and sympathetic adaptive re-use of heritage items. Adaptive re-use involves the conversion of a building to a use that is different from its previous or original use | The original use of the Denmark Hotel is for the purpose of a Hotel or Licenced Premise, however the site was used for a mix of residential purposes between the early 1900's and 1980's. It has remained vacant since the 1980's. The original use is unlikely to be supported at the site due to the access and car parking arrangements. The proposed use is considered to be compatible and sympathetic with the heritage item, and is supported by Councils Heritage Officers. | Yes |
| 2. Heritage items that remain vacant or underutilised over a period can rapidly fall into a state of disrepair. Adaptive re-use of a heritage item is by far more preferable than demolition or removal of a heritage building in a poor dilapidated condition | The proposal seeks consent for the adaptive reuse of the heritage item. The Denmark Hotel has been vacant for an extended prior of time and fallen into disrepair. The subject proposal seeks to preserve the item through its adaptive reuse for the purpose of multi dwelling housing. | Yes |

15.2 Development controls

- | | | |
|---|--|-----|
| 1. A Conservation Management Plan will generally be required by Council for any adaptive re-use proposal. The significance of the use of the building should be fully explored by the Conservation Management Plan | A Conservation Management Plan has not been requested by Councils Heritage Officers in this instance. A Heritage Impact Statement has been prepared and is supported by Council. | Yes |
| 2. The HIS or CMP must clearly demonstrate that the new use is consistence with the heritage significance and conservation policy for the place. | The HIS demonstrates that the proposed use is consistent with the heritage significance and will conserve the item. | Yes |
| 3. In the event that Council supports the application, appropriate conditions of consent may be imposed requiring the completion of all necessary conservation works as identified in the Conservation Management Plan, prior to the occupation of the heritage building for the approved use or within a set timeframe as determined by Council. | A number of conditions have been recommended by Councils Heritage Officer and are provided within Attachment 5. | Yes |

17 Gardens, landscaping and fencing

<p>Any Development Application involving alterations and additions to a heritage item or other ancillary structures such as garages / carports upon a site containing a heritage item or within a heritage conservation area will require a landscape plan. The landscape plan shall be prepared by a suitably qualified and experienced landscape architect or designer . The landscape plan shall be at a 1:100 or 1:200 scale and shall identify the retention of heritage buildings and all other outbuildings, mature trees, gardens, shrubs, outbuildings, fences, stonework, pathways and other like features upon the site..</p>	<p>A landscape plan was provided as part of the application submission and has been reviewed by Councils Heritage and Landscape Officers. Generally the planting and fence material selection is considered appropriate. Conditions have been recommended in this regard.</p>	<p>Yes</p>
<p><u>19 Development of historical archaeological sites</u></p> <p>Any 'relic', greater than 50 years of age is protected under the archaeological provisions of the Heritage Act 1977 and hence, requires a formal approval process where proposed development will, or is likely to, disturb an Archaeological site. The NSW Heritage Act 1977 contains provision relating to archaeological sites and hence, may have additional requirements relating to a development that falls into this category</p> <p><u>20 Heritage Conservation Areas</u></p> <p>50.5 Old Bulli – Princess Highway</p>	<p>The submitted archaeological assessment indicates that the site is likely to contain archaeological materials that would be considered locally significant in accordance with the NSW Heritage Criteria. Conditions have been recommended by Heritage NSW in this regard and are provided as an attachment to the draft conditions, at Attachment 5.</p>	<p>Yes</p>

20.5.1 What is the area's significance?

1. Old Bulli is significant as one of the earliest areas settled in Bulli and as the centre of the original Bulli township. It demonstrates the rapid expansion of towns located next to successful mines. It also demonstrates the decline of towns when the coming of the railway causes a shift in the town centre to the station area. Set against the backdrop of the Illawarra Escarpment, Old Bulli is a small centre with a number of its earliest buildings extant (Methodist Church, Miners' Cottage, Denmark Hotel). It is therefore able to project a sense of what the c1879 townscape on the Princes Highway might have been.
2. Old Bulli's location at a high point on the Princes Highway, particularly that of the Denmark Hotel and its lookout, suggest importance as a central point between the mines and the jetty where views from public buildings to either facility had the potential to provide advance notice of impending arrivals and departures of ships or coal trains. The hotel is the last surviving hotel of four existing by c1879 and is a reminder of the town's previous prosperity.
3. The entry from the north is a potential 'gateway' to the locality, drawing the eye from the pedestrian overbridge to the Denmark Hotel and beyond, giving the visitor a sense of arrival. The bridge itself is an important, dominant visual reminder of the town's association with coal, as is the Miner's Cottage. The sandstone Methodist Church in particular is a reminder of the existence of a significant local community at the time of its construction (c1865). Refer to Figure 3.

20.5.2 What are the significant characteristics of the area?

- (a) The landmark qualities of the Denmark Hotel, former rail overbridge and Methodist Church.
- (b) The close proximity of, and connectivity with Bulli.
- (c) The distinctive landscape leading from the railway bridge up to the

Noted. The subject proposal relates to the Denmark Hotel site and gains access via the Miners' Cottage site. Both items are noted as being significant to the area, with the Hotel in particular being identified as an important gateway building to the locality.

Noted.

Denmark Hotel, back down into the flats and onwards to Bulli.

- (d) The separation of the church from the rest of the conservation area by the Princes Highway.
 - (e) The interweaving of sympathetic development between the heritage and contributory items. However, this does have the effect of eroding the overall heritage character of the Heritage Conservation Area.
 - (f) The presence of open space on three sides (race course, Slacky Flats and former railway corridor).
 - (g) The maintenance of a similar setback of most of the buildings on the western side of the Princes Highway.
 - (h) The maintenance of green space by the properties neighbouring the church and the resultant sense of green space around the building.
-

20.5.3 Development Controls for the area

<p>A. Built from</p> <p>i. Single storey to street frontage, except where a second storey acts as a step down between an existing larger building and a single storey building, or except where historical evidence exists for two storey streetscape.</p>	<p>No change to the built form is proposed at the front of the site. The significance of the hotel building is related to its two-storey form at the front of the site.</p>	<p>Yes</p>
<p>B. Setback</p> <p>i. Maintain the predominant setbacks on either side of the Princes Highway</p> <p>ii. Ensure landmark settings of Methodist Church and Denmark Hotel are maintained.</p>	<p>The proposal maintains the existing setbacks of the Denmark Hotel.</p>	<p>Yes</p>
<p>C. Fences</p> <p>i. Low fencing in traditional styles and complementary to the respective building.</p> <p>ii. Avoid fencing where there is no historic evidence or demonstrated need.</p> <p>iii. No high fencing or sound barriers to be installed along Princes Highway. iv. Original fences, where they exist, should not be altered other than for the purposes of maintenance and reinstatement of missing sections.</p>	<p>Fencing is proposed to the rear of the site. The fencing has been considered by Councils Heritage and Landscape Officers and is considered appropriate in this instance, achieving a balance between the need to provide and designate reasonable private open space areas for residents and to preserve the significance of the hotel structure.</p>	<p>Yes</p>
<p>D. <u>Driveways</u></p> <p>i. Should be in simple, non-decorative forms.</p> <p>ii. No paved or stencilled patterns.</p>	<p>A crushed granite driveway is proposed and is supported by Councils Heritage Officers.</p>	<p>Yes</p>
<p>E. <u>Views</u></p> <p>i. Retain views to and from landmark buildings such as the Denmark Hotel, Methodist Church, Miner's Cottage and former railway overbridge.</p> <p>ii. Maintain 'gateway' qualities of the northern approach.</p>	<p>The proposal would not impact on any existing views. The views to the landmark hotel building would be maintained as part of the proposal.</p>	<p>N/A</p>

<p>F. <u>Infill</u></p> <p>i. Encourage and support demolition of intrusive buildings and replacement with more sympathetic structures.</p> <p>ii. Infill generally to be sympathetic in form, materials, setback, and design to the predominant character and underlying subdivision pattern of the conservation area.</p>	<p>The proposal does not relate to infill development.</p>	<p>N/A</p>
<p>G. <u>Extensions</u></p> <p>i. Extensions should generally be sympathetic in form, materials, setback and design to the character of the conservation area.</p> <p>ii. Extensions should be set back behind the heritage and contributory buildings.</p>	<p>The proposal does not involve any extensions to the existing built form.</p>	<p>N/A</p>
<p>H. <u>Street furniture</u></p> <p>i. Any new street furniture should not dominate the area and be sympathetic to the character of the area. Locate in places where the heritage characteristics of the area can be appreciated but do not detract</p>	<p>No street furniture is proposed.</p>	<p>N/A</p>
<p>I. <u>Signage</u></p> <p>i. Limit signs on commercial properties to locations on parapets, awning fascias and below awning styles.</p> <p>ii. Permission should not be given for large above awning signs.</p> <p>iii. Removal of inappropriate signage is encouraged.</p> <p>iv. Utilise interpretive signage in a sympathetic manner.</p>	<p>No signage is proposed.</p>	<p>N/A</p>
<p>J. <u>Footpaths and road surfaces</u></p> <p>i. Retain similar style to current, except where any future Streetscape Study/Main Street Plan recommends alternatives.</p>	<p>The footpath arrangement is to be maintained. Conditions are recommended in this regard.</p>	<p>Yes</p>

<p>K. <u>Garages and sheds</u></p> <p>i. Should be free standing and setback from the main buildings.</p>	<p>No garages or sheds are proposed.</p>	<p>N/A</p>
<p>L. <u>Allotment size and subdivision</u></p> <p>i. Retain existing allotment sizes except where new development on amalgamated blocks will retain building form representative of that on multiple individual allotments.</p>	<p>No subdivision is proposed.</p>	<p>N/A</p>
<p>M. <u>Materials</u></p> <p>i. Materials should be sympathetic to the character of the area.</p> <p>ii. Appropriate materials include timber weatherboard, galvanised corrugated iron, face brick or rendered painted masonry.</p>	<p>The material selection is considered generally sympathetic with the character of the area and is supported by Councils Heritage Officers.</p>	<p>Yes</p>
<p>N. <u>Colour</u></p> <p>i. Colour should be sympathetic to the character of the area and not dominate the heritage character of the streetscape.</p> <p>ii. Bright colours should be avoided and where existing, should be removed.</p>	<p>The colour selection is considered generally sympathetic with the character of the area and is supported by Councils Heritage Officers</p>	<p>Yes</p>
<p>O. <u>New development</u></p> <p>i. Development should be sympathetic and respect the form and character of the conservation area.</p>	<p>The proposed works are sympathetic to and respect the character of the area.</p>	<p>Yes</p>
<p>P. <u>Street plantings</u></p> <p>i. Should be kept at a minimum to retain ability to interpret historic building stock</p>	<p>No street plantings are proposed.</p>	<p>N/A</p>
<p><u>22 Heritage Interpretation</u></p>		

Where a development proposes a major change to an item such as adaptive re-use, a new addition, or alteration, or a subdivision of a historic lot or area, some level of onsite or other interpretation may be appropriate to ensure that the change proposed can be easily interpreted in the future. Applicants should give consideration to the incorporation of interpretive measures into proposed development.	Conditions relating to a heritage interpretation plan are recommended and included as part of Attachment 5.	Yes
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CHAPTER E14: STORMWATER MANAGEMENT

Council's Engineer Officer, has assessed the proposal against the requirements of this Chapter. A stormwater concept plan and land survey information were submitted with the application and are considered to be satisfactory. The drainage from the site is proposed to be directed to a level spreader the rear of the site. Conditions are recommended in this regard as provided at Attachment 5.

CHAPTER E16: BUSHFIRE MANAGEMENT

The proposal was referred to the Rural Fire Service pursuant to clause 4.14 of the Environmental Planning and Assessment Act 1979 for advice, as part of the Miners' Cottage site is mapped as being affected by bushfire hazard. The area affected is identified at Figure 11 below.

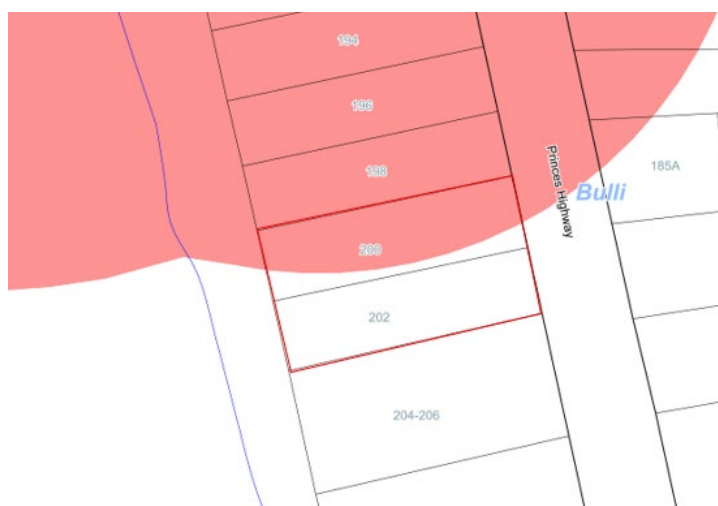


Figure 11: Bush fire prone land mapping extract

A response was received from the RFS on 22 July 2021 advising no objections to the development, subject to recommended conditions. The recommended conditions form part of the draft conditions provided at Attachment 5 to this report.

CHAPTER E18: THREATENED SPECIES

The *Biodiversity Conservation Act 2016* provides a Biodiversity Offsets Scheme which applies to all developments which have the potential to result in impacts on biodiversity.

Section 1.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the *Biodiversity Conservation Act 2016* (BC Act).

The *Biodiversity Conservation Regulation 2017* sets out threshold levels for when the BOS will be triggered. The threshold has two components:

- whether the amount of native vegetation being cleared exceeds a threshold area

- whether the development involves clearing of native vegetation or prescribed impacts on an area mapped on the biodiversity values map published by the Minister for the Environment.

Native vegetation includes planted native vegetation.

If clearing and other impacts exceeds either trigger, the BOS applies to the proposed development and it is necessary to engage an accredited assessor to apply the Biodiversity Assessment Method (BAM) to assess the impacts of the development.

If the BOS is not triggered, the test of significance detailed in section 7.3 of the *BC Act 2016* must be used to determine whether a local development is likely to significantly affect threatened species or ecological communities, or their habitats.

The area clearing threshold as per the *Biodiversity Conservation Regulation 2017* for the subject development site is as per the following:

Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply
Less than 1 ha	0.25 ha (2500sqm) or more

No native vegetation is proposed to be removed from the site as part of the development.

The site is not identified as being of high biodiversity value on the Biodiversity Values Map.

Council's Environmental Assessment Officer has considered whether the development site would potentially provide suitable habitat for any threatened species and the test of significance and has concluded that the proposed development is not expected to likely significantly affect threatened species or ecological communities, or their habitats. The development proposed would not be considered a key threatened process.

None of the trees on the site were identified as containing hollows.

The development would therefore not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the *Biodiversity Conservation Act 2016*.

CHAPTER E19: EARTHWORKS (LAND RESHAPING WORKS)

The proposal would require minor site preparation works, which would not otherwise require development consent. The works are not expected to result in unreasonable impacts on environmental functions and processes, neighbouring properties or the features surrounding land. Conditions are recommended to manage impacts as provided at Attachment 5.

CHAPTER E21: DEMOLITION AND ASBESTOS MANAGEMENT

The submitted plans indicate select internal walls are to be demolished. Conditions are recommended in this regard as provided at Attachment 5.

CHAPTER E22: SOIL EROSION AND SEDIMENT CONTROL

Conditions are recommended in this regard as provided at Attachment 5.

CHAPTER E23: RIPARIAN LAND MANAGEMENT

The subject site is located to the immediate east of a riparian corridor, as demonstrated by Figure 12 below. The watercourse is located within the adjoining Bulli Raceway/showground site, however the rear of the subject site falls steeply towards the watercourse. A Vegetation Management Plan (VMP) was provided as part of the assessment process of the subject application and recommends works to rehabilitate the riparian vegetation and habitat. Councils Environment Officer has reviewed the VMP and provided recommended conditions of consent, which are provided within Attachment 5.

The proposal is also required to be considered as integrated development due to the proximity to the watercourse, and GTAs have been received from NRAR as discussed at section 1.6.2 above.



Figure 12: Riparian Land Mapping extract

Attachment 5 – Conditions

This development application has been determined by granting deferred commencement consent subject to the following conditions:

A. The Development Consent shall not operate until Council has been satisfied as to the following matters:

(i) Registration of Right of Carriageway

The developer, at its own cost, must obtain an easement for the purpose of a Right of Carriageway over 200 Princes Highway, Lot 1 DP 194397. The easement/s must be generally in accordance with the Plan of Proposed Easements prepared by CEH Consulting, Surveyors Reference D218439, undated.

The Right of Carriageway is to be a minimum of three (3) metres wide or wider where necessary to allow for adequate access to Lot 1 DP 986139.

The easement must be registered with NSW Land Registry Services.

B. The developer must satisfy Council, within 12 months of the date shown on the top of this consent, that the matters specified in condition number (i) have been complied with. Failure to satisfy Council within that time period will lapse this development consent.

C. If compliance with the matters contained in condition number (i) results in a substantial variation to the development approved deferred commencement, a new development application must be submitted.

Once Council is satisfied that the matters contained in condition number (i) have been complied with and the developer has been notified in writing of such compliance, the following conditions shall apply in respect of the approved development:

The development proposed is integrated development and approval is required from the approval bodies listed below:

NSW Natural Resources Access Regulator (NRAR)

Pursuant to Section 91(2) of the Water Management Act 2000 – Controlled Activity Approval – General Terms of Approval issued by NRAR dated 13 July 2021 as shall form part of this Notice of Determination – Attachment 3.

Conditions imposed by Council as part of this Integrated Development Consent are:

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision No	Plan Title	Drawn By	Dated
A-101	B	Site Plan	in2 architecture + heritage	15 April 2022
A-110	E	As Proposed – Ground Floor Plan	in2 architecture + heritage	15 April 2022
A-111	E	As Proposed – First Floor Plan	in2 architecture + heritage	15 April 2022
A-112	E	Roof Plan – as proposed	in2 architecture + heritage	15 April 2022
A-115	F	Demolition Plan – Ground Floor	in2 architecture + heritage	27 February 2021
A-201	E	Elevations – East & South	in2 architecture + heritage	15 April 2022
A-202	E	Elevations – West & North	in2 architecture + heritage	15 April 2022

A-301	E	Cross Section (A-A)	in2 architecture + heritage	15 April 2022
A-302	E	Cross Section (Section 2)	in2 architecture + heritage	15 April 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

General Conditions

2. Construction Certificate

A Construction Certificate must be obtained from Council or a Registered Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Part 3 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The Certifier must cause notice of its determination to be given to the consent authority, and to the Council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in Section 13 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

3. Occupation Certificate

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

4. External Authorities

The external authority responses as outlined below and attached to this consent shall form part of this Notice of Determination:

- a. NSW Rural Fire Service (RFS) dated 22 July 2021 – Attachment 1.
- b. Transport for NSW (TfNSW) dated 24 May 2021 – Attachment 2.
- c. Heritage NSW dated 15 July 2021 – Attachment 4.

The conditions as recommended by these external authorities are to be satisfied at relevant times throughout the development process.

5. Tree Retention/Removal

The developer shall retain the existing tree(s) indicated on Arboricultural Impact Assessment by Allied Tree Consultancy dated January 2022 consisting of tree(s) numbered 1-13.

Any branch pruning, which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS 4373:2007.

All tree protection measures are to be installed in accordance with Australian standard AS 4970:2009 Protection of Trees on development sites.

All recommendations in the Arboricultural Impact Assessment by Allied Tree Consultancy dated January 2022 page nos 13-17 are to be implemented including and not restricted to: remedial tree pruning, dead wood removal, fencing and signage, sediment buffer, stem protection, establishing tree protection zones and watering and root hormone application if required.

Before the Issue of a Construction Certificate

6. Development Contributions

In accordance with Section 4.17(1)(h) of the Environmental Planning and Assessment Act 1979 and the Wollongong City Wide Development Contributions Plan (2022), a monetary contribution of \$9,900.00 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

This amount has been calculated based on the proposed cost of development and the applicable percentage levy rate.

The contribution amount will be indexed quarterly until the date of payment using Consumer Price Index; All Groups, Sydney (CPI) based on the formula shown in the Contributions Plan.

To request an invoice to pay the contribution go to www.wollongong.nsw.gov.au/contributions and submit a contributions enquiry. The following information will be required:

- Application number and property address.
- Name and address of who the invoice and receipt should be issued to.
- Email address where the invoice should be sent.

A copy of the Contributions Plan and accompanying information is available on Council's website www.wollongong.nsw.gov.au.

7. Fencing

The development is to be provided with fencing and screen walls at full cost to the applicant/developer as follows:

- a. rear and side property boundaries (behind the building line) and private rear courtyards are to be provided with a minimum 1.8 metre high brick, timber lapped and capped or colorbond fences; and
- b. all other fencing to be in accordance with the conditions of this consent and the final landscape plan.

This requirement is to be reflected on the Construction Certificate plans.

8. Crime Prevention Through Environmental Design (CPTED) - Landscaping

In order to reduce the opportunities for "hiding places" the proposed landscaping must:

- a. Use shrubs/plants which are no higher than one (1) metre.
- b. The type of trees proposed must have a sufficiently high canopy, when fully grown, so that pedestrian vision is not impeded.
- c. Be set back two (2) metres from the centre of the pathway.

This requirement shall be reflected on the Construction Certificate plans.

9. Change in Driveway Paving

A change in driveway paving is required at the entrance threshold within the property boundary to clearly show motorists they are crossing a pedestrian area. Between the property boundary and the kerb, the developer must construct the driveway pavement in accordance with the conditions, technical specifications and levels to be obtained from Council's Manager Works. This requirement shall be reflected on the Construction Certificate plans and any supporting documentation.

10. Structures Adjacent to Driveway

Any proposed structures adjacent to the driveway shall comply with the requirements of the current relevant Australian Standard AS 2890.1 (figure 3.2 and 3.3) to provide for adequate pedestrian and vehicle sight distance. This includes, but is not limited to, structures such as signs, letterboxes, retaining walls, dense planting etc. This requirement shall be reflected on the Construction Certificate plans.

11. Landscaping

The submission of a final Landscape Plan will be required in accordance with the requirements of Wollongong City Council DCP 2009 Chapter E6 and the approved Landscape Plan (ie as part of this consent) for the approval by the Principal Certifier, prior to the release of the Construction Certificate.

12. Certification for Landscape and Drainage

The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifier prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.

13. Landscape Maintenance Plan

The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the Principal Certifier prior to release of the Construction Certificate.

14. Tree Protection and Management

The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:

- a. Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- b. Installation of Tree Protection Fencing - A one (1) metre high exclusion fence must be installed around the extremity of the dripline of the tree/trees to be retained prior to any site works commencing. The minimum acceptable standard is a 3 strand wire fence with star pickets at 1.8 metre centres. This fence must be maintained throughout the period of construction to prevent any access within the tree protection area. Details of tree protection and its locations must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- c. Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75mm thick 100% recycled hardwood chip/leaf litter mulch.
- d. Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the Arborist's recommendations.

15. Amend Plans with Acoustic Recommendations

Prior to the issue of the Construction Certificate amend construction plans are to be prepared implementing all the Section 5.0 – Acoustic Recommendation of acoustic report prepared by Broadcrest Consulting Pty Ltd dated November 2020 to comply with SEPP CI 2.119 noise criteria. A copy of the amended plan must be submitted to Principal Certifier.

16. Council Footpath Reserve Works – Driveways and Crossings

All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be restored and the area appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Any redundant linemarking such as 'marked parking bays' are adjusted/removed at the developer's expense by a Council recognised contractor with the relevant insurances. Details and locations are to be shown on the Construction Certificate Plans.

17. Dilapidation Report

Before the issue of a Construction Certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

18. Building Code of Australia – Fire Safety Upgrade

The following information will be required to be detailed on the plans or supporting documentation to the Principal Certifier, prior to the issue of the Construction Certificate. This condition relates to fire safety upgrade considerations under Clause 64 of the Environmental Planning & Assessment Regulation 2021 and relates to the building. The upgrade work shall be carried out in accordance with the National Construction Code Series (BCA) Volume 1.

- Any works requiring upgrade or a Performance Solution as identified in Building Code Assessment Report prepared by Building Certification Associates dated 4 February 2021 and amended 3 November 2021, details/plans/specifications of such works shall be included in the Construction Certificate documentation.

19. Site Remediation Work

Site remediation work must be undertaken as per the Remediation Action Plan (RAP) prepared by Metech Consulting Pty Ltd dated 25 Jan 2022.

20. Site Validation Report

A Validation Report (Stage IV) shall be submitted to Council prior to the issue of the Construction Certificate.

The Validation Report shall verify that:

- a. the site is not affected by soil and/or groundwater contamination above the NSW EPA threshold limit criteria; and
- b. the site is suitable for the proposed development.

The Validation Report must be prepared by a contaminated land consultant who is a member of certified under one of the following certification schemes:

- the Environment Institute of Australia and New Zealand's (EIANZ) Certified Environmental Practitioner (Site Contamination) scheme (CEnvP (SC)); or
- the Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

The Validation Report is to be issued by the certified contaminated land consultant direct to Council. No third party submissions will be accepted.

21. Heritage - NCA Upgrades (Floorboards and Front Door)

NCA upgrades are required to allow for retention of significant fabric and details. The original front door is to be retained in place and closed off (if required) to meet NCA standards. The original floorboards retained within the first floor component of the building are to be retained. Upgrade of the floor to meet NCA requirements is required to provide for a performance based solution that allows for their retention. Final details of any upgrade requirements to be submitted to Council's Heritage Staff for written approval prior to release of Construction certificate.

22. Construction Management Plan

Prior to the release of the Construction Certificate a Construction Management Plan that details protection measures to avoid any impacts on the Bulli Miners Cottage site and memorial including the provision of site fencing, bollards and tree protection measures is to be prepared and provided to Wollongong City Council for separate written approval. This plan shall also address what measures will be implemented for the protection of adjoining properties and traffic management of construction vehicles.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:

- a proposed ingress and egress points for vehicles to/from the construction site;
- b proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- c proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- d proposed method of loading and unloading excavation machines, building materials formwork and the erection of any part of the structure within the site;

- e proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period;
- f proposed method of support of any excavation, adjacent to adjoining buildings or structures and the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering; and
- g proposed measures to be implemented, in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the roadway.

Note: Any proposed works or placement of plant and equipment and/or materials within any road reserve will require the separate approval of Council, prior to the commencement of such works, pursuant to the provisions of the Roads Act 1993.

23. Heritage - Photographic Recording

The existing building condition is to be documented through a photographic recording prepared in accordance with the NSW Heritage Branch Guidelines. A copy of the recording is to be provided to Council's Heritage Staff for written approval prior to the release of Construction Certificate.

A hard copy of the final recording is to be provided to Wollongong City Council for inclusion in the local studies collection of the Wollongong City Library.

24. Heritage – Interpretation Plan

A brief heritage interpretation plan is to be provided to Council for written approval to guide the development of an appropriate on-site Interpretative Installation to acknowledge the history, ownership and significance of the Denmark Hotel Site. The plan is to be provided to Council's Heritage Staff for separate written approval prior to release of Construction Certificate.

In the event that relics associated with the Hotel are located during the course of the works these relics and details of the archaeological find are to be considered (where appropriate) for inclusion in the interpretation plan and any resulting interpretation material such as an artefact display.

25. Heritage – Access Gates

Final details of access gates to the Miners Cottage site at 200 Princes Highway, including swinging entrance gates and boundary gates, along with any upgrades to the front picket fencing will require consultation with Council's Heritage Staff to ensure they are sympathetic to the heritage significance of the Miners Cottage and any future use of the site by Council. Final details of the proposed gates and fencing including height, material, colour and operation should be provided to Council's Heritage Staff for written approval prior to release of Construction Certificate.

26. Gravel Car Parking Areas

The proposed car parking area is to be cleared, levelled and the surface is to be compacted to ensure adequate traction for vehicles. Details of such compliance are to be reflected on the Construction Certificate plans.

The first two (2) metres of the access driveway into the mine cottage site is to be constructed of a hard-standing all-weather material (i.e. concrete or asphalt bitumen). Loose material is to be prevented from being tracked out of the site onto the public road by means of a suitable designed and bedded, minimum 300mm wide grate between the compacted gravel surface and the hardstand driveway. Details of such compliance are to be reflected on the Construction Certificate plans.

27. Stormwater Drainage Design

A detailed drainage design for the development must be submitted to and approved by the Principal Certifier prior to the release of the Construction Certificate. The detailed drainage design must satisfy the following requirements:

- a. Be prepared by a suitably qualified civil engineer in accordance with Chapter E14 of Wollongong City Council's Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept plan/s lodged for development approval, prepared by Broadcrest Engineering, Reference No. 0671-SW, issue B-01, dated 16/08/2021.
- b. Include details of the method of stormwater disposal. Stormwater from the development must be piped to a level spreader at the rear of the property.

28. Site Filling

Filling on the site shall be restricted to the car parking area only. No wholesale filling of the site is permitted. This requirement shall be reflected on the Construction Certificate plans.

29. Stormwater Disposal Systems

All stormwater from the development shall be discharged to a suitable level spreader system located a minimum of five (5) metres from any buildings and three (3) metres from the property boundary. The system shall be designed by a suitably qualified engineer in accordance with Council's 'Domestic Stormwater Drainage Systems' fact sheet. The overflow level from the level spreader shall be orientated parallel to the contours of the land to ensure the stormwater discharge will be dispersed in a way that replicates natural overland flow. The design of the level spreader shall also take into account recommendations made by a suitably qualified and experienced practising Geotechnical Engineer for the subject site. These requirements shall be reflected on the Construction Certificate plans.

30. The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS 2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

31. The driveway, car parking areas and unit entrances shall incorporate 'low impact' floodlighting to ameliorate any light spillage and/or glare impacts upon surrounding properties. The final design details of the proposed lighting system shall be reflected on the Construction Certificate plans. The installation of the lighting system shall be in accordance with the approved final design.

32. Council Footpath Reserve Works

All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be removed and the area appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Details and locations are to be shown on the Construction Certificate Plans.

33. Structural Certificate - Live and Dead Loads

The submission of a Certificate from a suitably qualified and experienced structural engineer confirming that the existing structure will adequately support all additional live and dead loads imposed by the proposed development, is required prior to the release of the Construction Certificate.

34. Fire Safety Schedule

When issuing a Construction Certificate, a Principal Certifier must attach a Fire Safety Schedule specifying all of the fire safety measures required for the building to ensure the safety of persons in the building in the event of fire.

35. Present Plans to Sydney Water

Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

The Principal Certifier must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit www.sydneywater.com.au or telephone 13 20 92 for further information.

36. Utilities and Services

Before the issue of the relevant Construction Certificate, the applicant must submit the following written evidence of service provider requirements to the Certifier:

- a. a letter of consent from Endeavour Energy demonstrating that satisfactory arrangements can be made for the installation and supply of electricity

- b. a response from Sydney Water as to whether the plans proposed to accompany the application for a Construction Certificate would affect any Sydney Water infrastructure, and whether further requirements need to be met.
- c. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

37. External Clothes Drying Facilities

In the event that external clothes drying facilities are proposed, full details of the screening and the location of these facilities shall be reflected on the Construction Certificate plans and the final landscape plan.

38. Provision of a Fire Hydrant

Prior to the issue of a Construction Certificate, confirmation that the development is located within the required distance of a Fire Hydrant is to be provided. Should the development not be located within the required distance, the development is required to make provision of a fire hydrant in accordance with AS 2419.1:2005 Fire Hydrant Installations and any requirements of the NSW Rural Fire Service and/or NSW Fire Brigades. The final details of the location of the fire hydrant (existing or proposed) shall be reflected on the Construction Certificate plans prior to the issue of the Construction Certificate.

Before the Commencement of Building Work

39. Supervising Arborist - Tree Inspection and Installation of Tree Protection Measures

Prior to the commencement of any demolition, excavation or construction works, the supervising Arborist must certify in writing that tree protection measures have been inspected and installed in accordance with the Arborist's recommendations and relevant conditions of this consent.

40. Certification from Arborist - Adequate Protection of Trees to be Retained

A qualified Arborist is required to be engaged for the supervision of all on-site excavation or land clearing works. The submission of appropriate certification from the appointed Arborist to the Principal Certifier is required which confirms that all trees and other vegetation to be retained are protected by fencing and other measures, prior to the commencement of any such excavation or land clearing works.

41. Tree Protection

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970:2009).

Tree Protection Zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

42. Appointment of Principal Certifier

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

- a. appoint a Principal Certifier and notify Council in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and
- b. notify Council in writing of their intention to commence work (at least two [2] days notice is required).

The Principal Certifier must determine when inspections and compliance certificates are required.

43. Demolition Works

The demolition of the existing building elements shall be carried out in accordance with Australian Standard

AS 2601:2001: The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of SafeWork NSW.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifier. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

44. Hazardous Material Survey

At least one (1) week prior to works commencing, the applicant must prepare a hazardous materials survey of the site and submit to Council a report of the results of the survey. Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must include at least the following information:

- a. the location of hazardous materials throughout the site;
- b. a description of the hazardous material;
- c. the form in which the hazardous material is found, eg AC sheeting, transformers, contaminated soil, roof dust;
- d. an estimation (where possible) of the quantity of each particular hazardous material by volume, number, surface area or weight;
- e. a brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials, and where appropriate, reference to relevant legislation, standards and guidelines;
- f. identification of the disposal sites to which the hazardous materials will be taken.

45. Asbestos Hazard Management Strategy

An appropriate hazard management strategy shall be prepared by a suitably qualified and experienced licensed asbestos assessor pertaining to the removal of contaminated soil, encapsulation or enclosure of any asbestos material. This strategy shall ensure any such proposed demolition works involving asbestos are carried out in accordance with SafeWork NSW requirements (<https://www.safework.nsw.gov.au>). The strategy shall be submitted to the Principal Certifier and Council (in the event that Council is not the Principal Certifier prior to the commencement of any works).

The approved strategy shall be implemented and a clearance report for the site shall be prepared by a licensed asbestos assessor and submitted to the Principal Certifier and Council (in the event that Council is not the Principal Certifier), prior to the issue of an Occupation Certificate or commencement of the development. The report shall confirm that the asbestos material has been removed or is appropriately encapsulated based on visual inspection plus sampling if required and/or air monitoring results and that the site is rendered suitable for the development.

46. Consultation with SafeWork NSW - Prior to Asbestos Removal

A licensed asbestos removalist must give written notice to SafeWork NSW at least five (5) days before licensed asbestos removal work is commenced.

47. Waste Management

The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and reusable materials.

48. Heritage Excavation Permit

The applicant must obtain an excavation permit from the Heritage Branch of the NSW Heritage under Section 140 of the NSW Heritage Act 1977 before any works commence.

Wollongong City Council should be notified of the Permit and owners consent provided for test excavation to commence on the Miners Cottage Site for written approval, prior to release of Construction Certificate or the commencement of any works at the site.

49. Heritage – Archaeological Research Design (ARD)

An ARD should be prepared to support a s.140 application to be submitted to the Heritage Council prior to any works commencing. An Excavation Director must be nominated for that application

and archaeological management (Test excavation and potential salvage excavations) would likely be required.

The final ARD Report and Test Excavation Report should be provided to Council's Heritage Staff prior to test excavation commencing.

50. Road Occupancy Licence (ROL) from Transport for NSW (TfNSW)

Prior to any works commencing, the applicant shall obtain a ROL from TfNSW in conjunction with Council's permit under Section 138 of the Roads Act 1993.

The developer shall apply for a ROL from the TfNSW Traffic Operations Unit (TOU) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TOU. Please allow two (2) weeks prior to commencement of work to process the ROL.

Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the TfNSW Project Manager.

51. Home Building Act Requirements

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act,
- b. In the case of work to be done by an owner-builder:
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

52. Signs On Site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a. showing the name, address and telephone number of the Principal Certifier for the work, and
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c. stating that unauthorised entry to the worksite is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

53. Temporary Toilet/Closet Facilities

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

- a. Each toilet provided must be:
- b. a standard flushing toilet; and
- c. connected to either:

- i. the Sydney Water Corporation Ltd sewerage system or
- ii. an accredited sewage management facility or
- iii. an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

54. Structural Engineer's Details

Structural Engineer's details for all structurally designed building works such as reinforced concrete footings, reinforced concrete slabs and structural steelwork must be submitted to the Principal Certifier, prior to the commencement of any works on the site.

55. Hoardings (within any Public Road Reserve)

The site must be enclosed with a suitable hoarding (type A or B) or security fence of a type in accordance with the Works and Services Division Design Standard, and must satisfy the requirements of the Occupational Health and Safety Act, the Occupational Health and Safety Regulations and Australian Standard AS 2601. This application must be submitted to Council's Works and Services Division, and a permit obtained, before the erection of any such hoarding or fence.

56. Enclosure of the Site

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifier. No building work is to commence until the fence is erected.

57. Notification to SafeWork NSW

The demolition licence holder who proposes demolition of a structure or part of a structure that is loadbearing or otherwise related to the physical integrity of the structure that is at least six (6) metres in height, involving load shifting machinery on a suspended floor, or involving the use of explosives must notify SafeWork NSW in writing at least five (5) calendar days before the work commences.

58. Demolition Notification to Surrounding Residents

Demolition must not commence unless at least two (2) days written notice has been given to adjoining residents of the date on which demolition works will commence.

59. Survey Report - Siting of Development within Property Boundaries

A survey report prepared by a registered surveyor is required to be submitted to the Principal Certifier to ensure that the proposed development is located on the correct allotment and at the approved distances from the boundary. This must be verified by pegging the site prior to commencement of works.

60. Temporary Sediment Fences

Temporary sediment fences (eg haybales or geotextile fabric) must be installed on the site, prior to the commencement of any excavation, demolition or construction works in accordance with Council's guidelines. Upon completion of the development, sediment fencing is to remain until the site is grassed or alternatively, a two (2) metre strip of turf is provided along the perimeter of the site, particularly lower boundary areas.

61. All-weather Access

An all-weather stabilised access point must be provided to the site to prevent sediment leaving the site as a result of vehicular movement. Vehicular movement should be limited to this single accessway.

62. Depth/Location of Services

The depth and location of all services (ie stormwater, gas, water, sewer, electricity, telephone, etc) must be ascertained and reflected on the plans and supporting documentation issued for construction.

63. Notification to Council of any Damage to Council's Infrastructure

Council must be notified in the event of any existing damage to any of Council's infrastructure including, but not limited to the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development prior to the commencement of work. Adequate protection must be provided to Council infrastructure prior to work commencing and during the construction period. Any damage to Council's assets shall be restored in a satisfactory manner prior to the issue of the Occupation Certificate.

64. Site Management, Pedestrian and Traffic Management (Where Works are Proposed in or from a Public Road Reserve)

The submission, as part of an application for a permit under Section 138 of the Roads Act 1993, of a Site Management, Pedestrian and Traffic Management Plan to Council's Manager Regulation and Enforcement for approval is required, prior to works commencing on the site. This plan shall address what measures will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and shall be in compliance with the requirements of the latest versions of Australian Standard AS 1742: Traffic Control Devices for Works on Roads and the TfNSW Traffic Control at Worksites Manual.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:

- a. proposed ingress and egress points for vehicles to/from the construction site;
- b. proposed protection of pedestrians, adjacent to the construction site;
- c. proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d. proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- e. proposed method of loading and unloading excavation machines, building materials formwork and the erection of any part of the structure within the site;
- f. proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period;
- g. proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed where works are in progress in any road reserve and shall be in accordance the latest versions of the TfNSW Specification - "Traffic Control at Work Sites Manual" and the Australian Standard AS 1742: "Manual of Uniform Traffic Control Devices" and accompanying field handbooks (SAA HB81);
- h. proposed method of support of any excavation, adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by a Registered Certifier in Civil Engineering; and
- i. proposed measures to be implemented, in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the roadway.

The approved plan shall be implemented, prior to the commencement of any works upon the construction site.

Note: Any proposed works or placement of plant and equipment and/or materials within any road reserve will require the separate approval of Council, prior to the commencement of such works, pursuant to the provisions of the Roads Act 1993.

65. Works in Road Reserve - Minor Works

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the Roads Act. It is advised that all applications are submitted and fees paid, five (5) days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

- a. All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's road reserve".

- b. Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

66. Dilapidation Report

The developer shall submit a Dilapidation Report recording the condition of the existing streetscape, street trees and adjoining reserve prior to work commencing and include a detailed description of elements and photographic record.

67. Adjustment to Public Utility Service

The arrangements and costs associated with any adjustment to a public utility service shall be borne by the applicant/developer. Any adjustment, deletion and/or creation of public utility easements associated with the approved works are the responsibility of the applicant/developer. The submission of documentary evidence to the Principal Certifier which confirms that satisfactory arrangements have been put in place regarding any adjustment to such services is required prior to any works commencing on site.

While Building Work is Being Carried Out

68. Treatment of any Tree Damage by a Supervised Arborist

Any damage inflicted on a tree during the construction phase which has been nominated for retention shall be treated by an approved arborist at the developer's expense.

69. Provision of Taps/Irrigation System

The provision of common taps and/or an irrigation system is required to guarantee that all landscape works are adequately watered. The location of common taps and/or irrigation system must be implemented in accordance with the approved Landscape Plan.

70. Responsibility for Changes to Public Infrastructure

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerbs and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

71. Tree Protection

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of *AS 4970:2009 Protection of trees on development sites* and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

72. Compliance with the Building Code of Australia (BCA)

Building work must be carried out in accordance with the requirements of the BCA.

73. Implementation of Vegetation Management Plan (VMP)

All vegetation management works must be carried out in accordance with the Vegetation Management Plan prepared by Narla Environmental dated April 2022.

74. Excess Excavated Material - Disposal

Excess excavated material shall be classified according to the NSW Environment Protection Authority's Waste Classification Guidelines – Part 1: Classifying Waste (2014) prior to being transported from the site and shall be disposed of only at a location that may lawfully receive that waste.

75. Site Management

Stockpiles of sand, gravel, soil and the like must be located to ensure that the material:

- a. Does not spill onto the road pavement and
- b. is not placed in drainage lines or watercourses and cannot be washed into these areas.

76. Spillage of Material

Should during construction any waste material or construction material be accidentally or otherwise spilled, tracked or placed on the road or footpath area without the prior approval of Council's Works Division this shall be removed immediately. Evidence that any approval to place

material on the road or road reserve shall be available for inspection by Council officers on site at any time.

77. Asbestos - Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist

The removal of any asbestos material must be carried out by a licensed asbestos removalist if over 10 square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with SafeWork NSW requirements (<https://www.safework.nsw.gov.au>).

78. Asbestos Waste Collection, Transportation and Disposal

Asbestos waste must be prepared, contained, transported and disposed of in accordance with SafeWork NSW and NSW Environment Protection Authority requirements. Asbestos waste must only be disposed of at a landfill site that can lawfully receive this type of waste. A receipt must be retained and submitted to the Principal Certifier, and a copy submitted to Council (in the event that Council is not the Principal Certifier), prior to commencement of the construction works.

79. Asbestos Clearance Certificate

The internal floor area affected or likely to be affected, by scattering of asbestos pieces, particles or fibres during demolition or cutting into the building, is to be cleaned by vacuuming by a contractor approved by SafeWork NSW. A Clearance Certificate to certify that the site area is free of asbestos is to be submitted to Council by a licensed asbestos assessor within 14 days of the completion of renovations (or prior to the Occupation Certificate being issued).

80. Acoustic Glazing to Comply with the cl 2.119 SEPP Transport and Infrastructure 2021

Implement all the structural attenuation recommendations stated in Section 5.0 of Acoustic Report prepared by Broadcrest Consulting Pty Ltd dated November 2020 for dwellings to ensure the following LAeq levels are not exceeded:

- in any bedroom in the building : 35dB(A) at any time between 10pm and 7am.
- anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40dB(A) at any time between 10pm and 7am.

81. Heritage – Retention and Reuse of Original Fabric

All original floorboards retained on the first floor should be retained and reused. Any original fabric such as floorboards, original timber window frames fireplaces and cladding to the birdsnest, should be either retained in situ or repaired and reinstated to the building as per their original arrangement.

82. No Adverse Run-off Impacts on Adjoining Properties

The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

83. Survey Certificate

The submission of a Survey Certificate to the Principal Certifier at footings and/or formwork stage (whichever occurs first) confirming:

- a. the set out of the boundaries of the site,
- b. actual siting of the buildings and
- c. siting levels comply with the approved plans.

84. Protection of Public Places

If the work involved in the erection or demolition of a building involves the enclosure of a public place or is likely to cause pedestrian/vehicular traffic in a public place to be obstructed or rendered inconvenient, or have the potential for conflict between pedestrians and vehicles:

- a. A hoarding or fence must be erected between the work site and the public place;
- b. an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place;
- c. the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in a public place;

- d. safe pedestrian access must be maintained at all times;
- e. any such hoarding, fence or awning is to be removed when the work has been completed.

85. Hours of Work

The Principal Certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7:00am to 5:00pm on Monday to Saturday.

The Principal Certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Any variation to the hours of work requires Council's approval.

Any request to vary the approved hours shall be submitted to the Council in writing detailing:

- a. The variation in hours required (length of duration);
- b. the reason for that variation (scope of works);
- c. the type of work and machinery to be used;
- d. method of neighbour notification;
- e. supervisor contact number; and
- f. any proposed measures required to mitigate the impacts of the works

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the *Protection of the Environment Operations Act 1997*.

86. Lighting not to cause Nuisance

The lighting of the premises must be directed so as not to cause nuisance to the owners or occupiers of adjoining premises or to motorists on adjoining or nearby roads.

87. Provision of Waste Receptacle

The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.

88. Building Site to be Kept Free of Rubbish

The building site must be kept free of rubbish at all times. All refuse capable of being wind blown must be kept in a suitable waste container.

89. Implementation of BASIX Commitments

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

Before the Issue of an Occupation Certificate

90. Egress

Prior to the issue of an Occupation Certificate, Egress must comply with Section D of the National Construction Code Series (BCA) Volume 1.

91. Fire Safety Upgrade (Occupation Certificate)

Prior to the issue of an Occupation Certificate, all upgrade works identified in the Building Code Assessment Report prepared by Building Certification Associates dated 4 February 2021 and amended 3 November 2021, must be complete to the satisfaction of the Registered Certifier.

92. Structural Integrity and Fire Rating

Prior to the issue of an Occupation Certificate:

- a. the building must comply with Part B1 of the National Construction Code Series (BCA) Volume 1, Certification of compliance must be prepared by a suitably accredited Structural Engineer.
- b. All walls and applicable buildings elements must have been constructed to achieve the required Fire Resistance Level (FRL) in accordance with the National Construction Code Series (BCA) Volume 1. Certification of compliance must be prepared by a suitably accredited Structural Engineer detailing the achieved FRL and the building element's location within the building.

93. Acoustic Compliance with the SEPP Transport and Infrastructure

Prior to Occupation Certificate submit an acoustic compliance report to Principal Certifier prepared by a consultant who is a member of the Australian Acoustic Society (AAS) or the Associated of Australian Acoustic Consultants (AAAC). The report shall state that the dwelling internal noise levels are complying with the SEPP Transport and Infrastructure 2021 noise guidelines for development adjacent to busy road (Clause 2.119).

94. Heritage Interpretation Works

Prior to the release of the Occupation Certificate, the developer is to complete any works that are recommended within the endorsed Heritage Interpretation Plan to the written satisfaction of Council's Heritage Staff.

95. Heritage – Heritage Documents

A bound hard and digital copy of all final heritage documents and Reports is to be provided to Council's Heritage Staff for inclusion in the Wollongong local studies library prior to the release of the Occupation Certificate, to the written satisfaction of Council's Heritage Officers, including:

- Heritage Impact Statement;
- Interpretation Plan;
- Photographic recording;
- Archaeological Research Design & Final Test Excavation Report.

96. Heritage – Boundary Fencing

The applicant is required to renew the boundary fence to the adjacent Miners Cottage Site at 200 Princes Highway with a 1.8m high timber fence prior to the release of Occupation Certificate to the written approval of Council.

97. Drainage

The developer must obtain a certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified civil engineer, to confirm that all stormwater drainage and on-site detention works have been constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor must be submitted. These plans and certification must satisfy all the stormwater requirements stated in Chapter E14 of the Wollongong DCP 2009. This information must be submitted to the Principal Certifier prior to the issue of the final Occupation Certificate.

98. Stormwater Disposal Systems Certification

The submission of a certificate from a suitably qualified and experienced civil engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate or commencement of the use. This certification is required to verify that the level spreader stormwater disposal system has been constructed in accordance with the Construction Certificate plans approved by the Principal Certifier.

99. Signage

Signage is to be installed within the Miners Cottage Site, in close proximity to the driveway crossover, advising that no right turn onto the Princes Highway is permitted. Details of the signage including its content, size and location is to be provided to Council's Heritage Officer and Development Engineering Manager for approval, prior to the issue of any Occupation Certificate.

100. Section 73 Certificate

A Section 73 Certificate must be submitted to the Principal Certifier prior to occupation of the development/release of the plan of subdivision.

101. Occupation Certificate

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

102. BASIX

An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The Principal Certifier must not issue the final Occupation Certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate.

NOTE: Clause 154B of the Environmental Planning and Assessment Regulation 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

Occupation and Ongoing Use**103. VMP Reporting**

Annual reports on the progress of the implementation of the Vegetation Management Plan (VMP) prepared by Narla Environmental dated April 2022 must be submitted to Council's Environment Planning Manager for a period of five years from the start date of the VMP's implementation.

104. Fire Safety Measures

All new and existing fire safety measures shall be maintained in working condition at all times.

105. Loading/Unloading Operations/Activities

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.

Attachment 1: RFS Conditions



NSW RURAL FIRE SERVICE

Wollongong City Council
Locked Bag 8821
WOLLONGONG DC NSW 2500

Your reference: (CNR-21869) DA-2021/425
Our reference: DA20210624002602-Original-1

ATTENTION: Kristy Robinson

Date: Thursday 22 July 2021

Dear Sir/Madam,

Development Application
s4.14 - Multiple Dwelling - Multi Dwelling Housing
202 PRINCES HWY BULLI NSW 2516, 1//DP986139

I refer to your correspondence dated 20/05/2021 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

Asset Protection Zones

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

1.

From the commencement of building works and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.

When establishing and maintaining an IPA, the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth-barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

Construction Standards

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2.

New construction must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant BAL 12.5 requirements of the NASH Standard - *Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015)*. New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

3.

The existing building must be upgraded to improve ember protection (if not already constructed to the relevant Bushfire Attack Level under Australian Standard AS3959). Ember protection can be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders.

Water and Utility Services

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

4.

The provision of all new and the modification of any existing water, electricity and gas services must comply with Table 7.4a of *Planning for Bush Fire Protection 2019*.

Landscaping Assessment

5.

All landscaping must comply with Table 7.4a of *Planning for Bush Fire Protection 2019*.

General Advice – Consent Authority to Note

The proposed works are situated 30 metres from a remnant bush fire hazard to the west of the subject site. Pursuant to Table A1.12.5 of PBP 2019, all proposed new works should be constructed to BAL-12.5 standards.

For any queries regarding this correspondence, please contact Bradley Bourke on 1300 NSW RFS.

Yours sincerely,

Anna Jones
Supervisor Development Assessment & Plan
Built & Natural Environment

Attachment 2 TfNSW Conditions



Our ref: STH13/00169/03
Contact: Nathan Boscaro 02 4221 2548
Your ref: CNR-21869

24 May 2021

Kristy Robinson
Wollongong City Council
BY EMAIL: krobinson@wollongong.nsw.gov.au
CC: records@wollongong.nsw.gov.au

DEVELOPMENT APPLICATION 2021/425 – LOT 1 DP 986139, 202 PRINCES HIGHWAY BULLI, THREE UNIT MULTI DWELLING

Dear Kristy

Transport for NSW refers to your correspondence dated 6 May 2021 regarding the subject development application (DA).

TfNSW has completed an assessment of the DA, based on the information provided and focussing on the impact to the state road network. TfNSW notes for this DA:

- The key state road is the Princes Highway;
- Council is seeking advice from TfNSW to assist in its assessment under Clause 101 of State Environmental Planning Policy (Infrastructure) 2007; and
- Vehicle access to the development is proposed via a right of carriageway (ROC) across the adjacent Lot 1 DP 194397 (Bulli Miner's Cottage, 200 Princes Highway), with a shared driveway and parking area servicing the Miner's Cottage and new residential units. Council gave in-principle acceptance to this ROC in 2015. These arrangements are shown in Attachment 1.

Having regard for the above, TfNSW does not object to the DA subject to the conditions outlined in Attachment 2 being included in the conditions of development consent.

TfNSW highlights that in determining the DA under Part 4 of the *Environmental Planning and Assessment Act, 1979*, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent (ie. closing the existing access to the Princes Highway).

For Councils records, information on the Bulli & Thirroul Improvements Project has been provided in Attachment 3.

Upon determination of this matter, it would be appreciated if Council could send a copy of the Notice of Determination to development.southern@transport.nsw.gov.au.

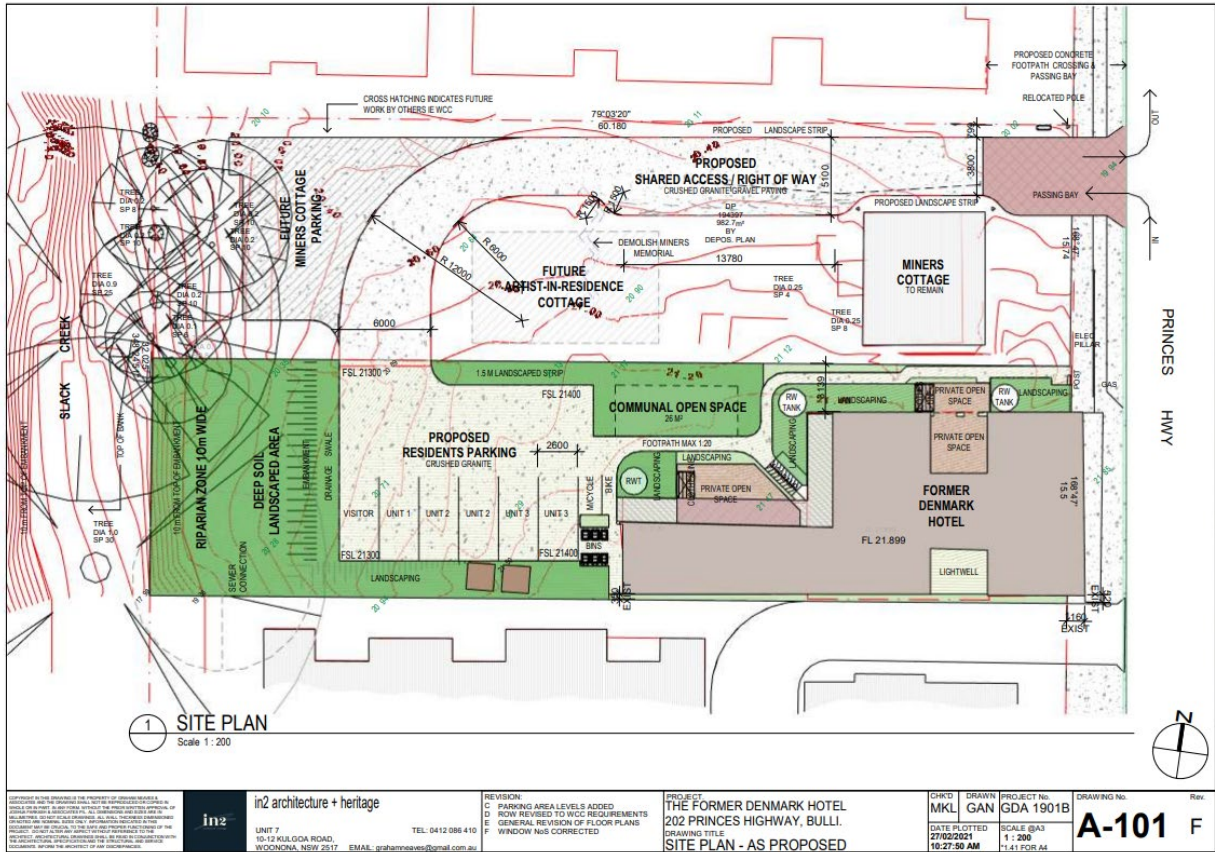
Yours faithfully

A handwritten signature in black ink, appearing to be 'N. Boscaro', written over a horizontal line.

Nathan Boscaro
Team Leader Development Services
Community and Place | South Region

Attachment 1

See attached concept design titled Attachment 1



D:\WORK STUFF\PROJECTS\1901-DENMARK HOTEL\1-2-PLANNING APPLICATION\2021 REVIT DWG\SDENMARK_3
UNITS.DWG, 27/02/2021 10:27:50 AM

Prior to the issuing of the Construction Certificate, the developer must:

1. Apply for Section 138 consent under the Roads Act, 1993 from Council for all works on the Princes Highway.

Prior to commencing works within the road reserve, the developer must:

1. Obtain Section 138 consent under the Roads Act, 1993 for the works on the Princes Highway from Council.

Notes:

- *Provided Council is satisfied the works have been designed in accordance with the relevant Council standard, TfNSW issues its concurrence under Section 138 of the Roads Act, 1993.*

2. Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on a State road or any other works that impact a travel lane of a State road or impact the operation of traffic signals on any road.

Notes:

- *For information on the ROL process and to lodge an ROL application, please visit <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>*
- *The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.*
- *The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.*
- *An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.*

Prior to the issuing of the Occupation Certificate, the developer must:

1. Design and construct the driveway on the Princes Highway to the satisfaction of Council, generally in accordance with Attachment 1 and Council standards.
2. Physically close any other existing access points to the Princes Highway by reinstating the kerb and gutter.
3. Formally execute the proposed right of way arrangement (as shown on the attached plan) by way of a Section 88B Instrument under the Conveyancing Act, 1919 to legally benefit and burden the relevant lots.

Attachment 3

Transport for NSW is currently investigating improvements to the transport network along the Princes Highway at Bulli and Lawrence Hargrave Drive at Thirroul. The study area includes the Princes Highway and Lawrence Hargrave Drive from Hospital Road in Bulli to Mary Street in Thirroul, excluding Bulli Pass. The project team is currently investigating key constraints and issues including on-street parking, traffic queuing and delays in peak periods.

For more information, the applicant can visit the project website at www.rms.nsw.gov.au/projects/bulli-thirroul or contact the project team on 1800 861 977 or email: southernprojects@transport.nsw.gov.au. The applicant can also subscribe to the project mailing list to receive updates as the project progresses.

Attachment 3 NRAR Conditions



Natural Resources
Access Regulator

Contact: Mohammed Ismail
Phone: 02 8838 7535
Email: Mohammed.Ismail@dpi.nsw.gov.au

General Manager
Wollongong City Council
Locked Bag 8821
Wollongong NSW 2500

Our ref: IDAS1136561
Our file: CNR-21869 A-25563
Your ref: DA2021/425

Attention: licensing.east@gmail.com

13 July 2021

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA2021/425
Description: Construction of a three unit multi-dwelling housing development
Location: 202 PRINCES HIGHWAY BULLI 2516 200 PRINCES HIGHWAY BULLI 2516

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Natural Resources Access Regulator's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, NRAR requests these GTA be included (in their entirety) in Council's development consent. Please also note NRAR requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

NRAR will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s96 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, NRAR recommends the following condition be included in the development consent:

The attached GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for a Controlled Activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to NRAR together with any required plans, documents, application fee, security deposit or bank guarantee (if required) and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NRAR website at:

www.industry.nsw.gov.au > [Water](#) > [Licensing & Trade](#) > [Approvals](#).

NRAR requests that Council provide a copy of this letter to the development consent holder.

NRAR also requests a copy of the determination for this development application be provided by Council as required under section 91A (6) of the EPA Act.

Yours Sincerely



M Ismail

David Zerafa
Senior Water Regulation Officer
Water Regulatory Operations
Natural Resources Access Regulator



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1136561
Issue date of GTA:	13 July 2021
Type of Approval:	Controlled Activity
Description:	It is proposed to insert a three unit multi-dwelling housing development within the confines of the remnant historical building envelope and achieve vehicle access via a proposed right of way over the adjacent Bulli Miners Cottage site. (No 200 Princes Highway)
Location of work/activity:	202 PRINCES HIGHWAY BULLI 2516 200 PRINCES HIGHWAY BULLI 2516
DA Number:	DA2021/425
LGA:	Wollongong City Council
Water Sharing Plan Area:	Greater Metropolitan Region Unregulated River Water Sources 2011

The GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Design of works and structures	
GT0009-00010	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
Erosion and sediment controls	
GT0006-00001	The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0014-00007	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
Plans, standards and guidelines	
GT0002-00680	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity(s) described in the plans and associated documents found in Schedule 1, relating to Development Application as provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity(s) may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0003-00002	The application for a controlled activity approval must include the following document(s): - outlet structures; Erosion and Sediment Control Plan; Soil and Water Management Plan; Vegetation Management Plan.
GT0012-00004	Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by

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nrar.enquiries@nrar.nsw.gov.au | <http://www.industry.nsw.gov.au/nrar>



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1136561

Issue date of GTA: 13 July 2021

Type of Approval: Controlled Activity

Description: It is proposed to insert a three unit multi-dwelling housing development within the confines of the remnant historical building envelope and achieve vehicle access via a proposed right of way over the adjacent Bulli Miners Cottage site. (No 200 Princes Highway)

Location of work/activity: 202 PRINCES HIGHWAY BULLI 2516 200 PRINCES HIGHWAY BULLI 2516

DA Number: DA2021/425

LGA: Wollongong City Council

Water Sharing Plan Area: Greater Metropolitan Region Unregulated River Water Sources 2011

Natural Resources Access Regulator.

GT0030-00008 The application for a activity; controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities>.

Rehabilitation and maintenance

GT0023-00001 Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA2021/425 as provided by Council:

- STATEMENT OF ENVIRONMENTAL EFFECTS_V1_PAN-75629

Attachment 4 Heritage NSW Conditions



Kristy Robinson
Wollongong City Council
Locked Bag 8821
Wollongong NSW 2500
Email: krobenson@wollongong.nsw.gov.au

Our File No: EF11/19090
Our Ref: DOC21/535333
Your ref: DA-2021/425
CNR ref: CNR-21869

Dear Kristy Robinson,

DEVELOPMENT APPLICATION REFERRAL Denmark Hotel, 202 Princes Highway, Bulli 2516, Wollongong LGA, (DA-2021/425) CNR-21869

I refer to your submission received by Heritage NSW, Department of Premier and Cabinet on 29 June 2021 referring the above named Development Application (DA) for comment under the terms of the Wollongong Local Environmental Plan (WLEP) 2009.

The site of the proposed development encompasses two items listed as of local significance in the WLEP 2009: 'Denmark Hotel and Stables' (item 5927), at 202 Princes Highway; and 'Miners Cottage' (item 5973), at 200 Princes Highway and adjacent to the Denmark Hotel. The site is also situated within the 'Old Bulli-Princes Highway' Heritage Conservation Area (HCA) listed in the WLEP 2009.

The proposed development involves:

- construction of a three-unit multi-dwelling housing development, within the confines of the former Denmark Hotel building (including utilisation of existing external door and window openings)
- conservation works to the extant façade of the Denmark Hotel
- construction of an open car park and access driveway on the Miners Cottage site
- construction of fire / acoustic rated / low maintenance veneer
- provision of utility services and stormwater drainage
- landscaping works.

The following key documents provided in the application were subject to review:

- *Baseline Historical Archaeological Assessment for Denmark Hotel, 202 Princes Highway, Bulli, New South Wales* (Austral Archaeology, 2020)
- *Statement of Environmental Effects: Adaptive Re-Use of Former 'Denmark' Hotel 202 Princes Highway, (Incl. 200 Princes Highway & Bulli Showground) Bulli, NSW 2516* (n2 architecture + heritage, 2020)
- *Statement of Heritage Impact for redevelopment of the former "Denmark Hotel" at 202 Princes Highway, Bulli NSW and 200 Princes Highway, Bulli NSW* (Graham Neaves Architect + Heritage Consultant, 2021).

The following comments are provided in relation to the proposal:

- The *Baseline Archaeological Assessment* concludes that the site has overall high archaeological potential, notably for evidence such as subsurface deposits and former outbuildings associated with the activities and various functions of the Denmark Hotel (1877–20th century). The yard areas are assessed as having moderate archaeological potential. It is further concluded that archaeological deposits on site are likely to survive largely intact, due to minimal ground disturbance from subsequent site activity. Heritage NSW considers the evaluation of archaeological potential as reasonable. However, it is noted that the assessment does not include specific identification or analysis of (the likelihood for) relics, which are managed under the *Heritage Act 1977*. For example, "areas of interest" at the Miners Cottage are identified as the grassed areas (page 8), however potential deposits/features that may be encountered are not

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elaborated upon in this section, although they are mentioned in the significance assessment (page 10).

- The assessment of significance in the *Baseline Archaeological Assessment* concludes that the archaeological resource of the site variously meets the threshold for local significance for NSW Heritage Criteria a), c), d), e), f) and g). Heritage NSW broadly concurs with the significance assessment, which is supported by some examples from the site of potential archaeology and/or relics— the latter which are defined by significance under the *Heritage Act 1977*.
- Heritage NSW considers the assessment of archaeological impact in the *Baseline Archaeological Assessment* as suitable. It is noted that the development is assessed as acceptable from a heritage perspective primarily as proposed works to the Denmark Hotel are intended to retain the significance of the building, and the Miners Cottage will be subject to minor impact only.

On behalf of the Heritage Council of NSW, it is recommended that the following conditions are included on the Development Application:

Management of impact to potential relics:

1. In the event that an *Historical Archaeological Assessment* identifies the proposal will impact archaeological relics, the Applicant will need to obtain an approved s140 permit under the *Heritage Act 1977* prior to any ground disturbing activities commencing. This application will need to clearly outline what mitigation measures are proposed to avoid harm to any significant deposits.
2. Prior to the issue of the occupation certificate by Council and/or the Principal Certifying Authority, the Applicant shall supply a copy of written correspondence from the Heritage Council of NSW or its delegate confirming that their requirements under any *Heritage Act 1977* approval have been satisfied.

Reasons: The subject site has potential to contain historical archaeological relics, which are protected under s139 of the Heritage Act 1977. The Applicant must obtain an approval under s141 of the Heritage Act 1977 prior to any harm occurring to relics.

Unexpected Finds:

3. The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the *Heritage Act 1977*. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: Relics have statutory protection under s146 of the Heritage Act 1977. The Applicant must obtain an approval under s141 of the Heritage Act 1977 prior to any harm occurring to relics.

If you have any questions regarding the above matter please contact Dr Hana Lewis, Senior Historical Archaeology Officer, at Heritage NSW, Department of Premier and Cabinet by email at hana.lewis@environment.nsw.gov.au.

Yours sincerely

S Lavelle

15 July 2021

Dr Siobhan Lavelle OAM

Senior Team Leader, Specialist Services

Heritage NSW, Community Engagement

Department of Premier and Cabinet

AS DELEGATE OF THE HERITAGE COUNCIL OF NSW

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Attachment 6 - Site Photos



Photo 1: Aerial Photo and location of site photos



Photo 2: Site from the eastern side of Princes Highway



Photo 3: Miners' Cottage and northern elevation of the Denmark Hotel



Photo 4: Denmark Hotel and Miners' Cottage front elevations



Photo 5: Denmark Hotel front elevation



Photo 6: Denmark Hotel southern elevation



Photo 7: Denmark Hotel northern elevation



Photo 8: Internal of Denmark Hotel – fireplace to be retained to Bed 2 and bathroom within Unit 2



Photo 9: Internal of Denmark Hotel – fireplace to be retained to within kitchen area of Unit 2



Photo 10: Verandah of single storey component of Denmark Hotel – to be incorporated as part of Unit 2 POS area



Photo 11: Internal of the two storey element of the Denmark Hotel



Photo 12: Rear elevation of the Denmark Hotel



Photo 13: Rear elevation of the Denmark Hotel



Photo 14: Miners memorial at the rear of the Miners' Cottage



Photo 15: Miners memorial at the rear of the Miners' Cottage



Photo 16: existing driveway and northern elevation of the Miners' Cottage