



**WRITTEN REQUEST PREPARED PURSUANT TO  
CLAUSE 4.6 OF BURWOOD LOCAL  
ENVIRONMENTAL PLAN 2012 IN RELATION TO A  
VARIATION WHICH IS SOUGHT TO THE MAXIMUM  
FLOOR SPACE RATIO DEVELOPMENT STANDARD**

**Submitted in support of a development application  
for alterations and additions to an existing Hotel,  
creation of ground floor retail tenancy, and  
construction of a new residential apartment building  
at Nos 27-33 Everton Road, Strathfield**

**Prepared for**

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## 1. Introduction

### 1.1 The amended proposal

This written request has been prepared in support of an amended development application (“DA”) lodged on behalf of Strathfield Hotel Pty Ltd (“the Applicant”) for mixed use development at Nos 27-29, 31, and 33 Everton Road, Strathfield (“the site”). The DA seeks development consent for alterations and additions to the heritage listed Whelan’s Strathfield Hotel (“the Hotel”), a new retail tenancy, and a nine-storey residential apartment building to the rear of the site (“the proposal”). Works associated with the proposal include a basement car park, stormwater drainage, earthworks, landscaping, vehicular and pedestrian access, and other ancillary works.

The objectives of the proposal are:-

- to redevelop a strategically positioned site into a high-quality, well designed mixed use development as envisaged by the site’s B4 (Mixed Use) zoning;
- to refurbish and upgrade existing facilities and guest accommodation at the Hotel and preserve the ongoing economic vitality and viability of the heritage listed Hotel;
- to active the street level through new retail tenancies addressing Everton Road;
- to create 60 new residential units in a high quality residential apartment building;
- to provide a development that is compatible with the amenity of the site and with the desired future character of the Strathfield Town Centre;
- to deliver a contemporary mixed use building that exhibits urban design excellence and that has acceptable environmental impacts on its immediate surroundings; and
- to achieve established aims of urban consolidation and renewal.

### 1.2 Site zoning, Zone objectives and permissibility

The site is zoned B4 (Mixed Use) pursuant to the Burwood Local Environmental Plan 2012 (“LEP”).

The objectives for the B4 Mixed Use Zone are as follows:-

- *“To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.”*

The proposal is consistent with the above objectives in that it will provide a mixture of compatible land uses (being a new retail tenancy, improved hotel and residential accommodation) that will integrate with an established business premises (being the Whelan’s Strathfield Hotel). Furthermore, the site is highly accessible given its proximity to Strathfield railway station; this will facilitate public transport patronage and encourage, walking and cycling.

The retail tenancy is permitted with consent as commercial premises. The hotel activities comprise a mix of hotel accommodation (a type of tourist and visitor accommodation) and

food and drink premises (a type of retail premises including a pub). These are and a residential flat building are all permitted with consent in the B4 zone.

### 1.3 The floor space ratio standard

Pursuant to the Floor Space Ratio Map referred to in Clause 4.4 ('Floor space ratio') of Burwood Local Environmental Plan 2012 ("the LEP"), the site is subject to a maximum floor space ratio (FSR) of 3:1. As indicated on the amended architectural drawings prepared by ARC Architects Pty Ltd, the proposal has a gross floor area of 5,851 sqm which, on a site area of 1,924 sqm, equates to a floor space ratio of 3.04:1. Pursuant to clause 4.4A(3), the maximum permissible FSR for residential accommodation in "Area 4" within which the site is located is 2.3:1, with which the proposal complies.

However, the proposed alterations and additions to the hotel component of the mixed use development (the hotel being an existing heritage item) will increase the quantum of non-residential GFA by 346 sqm; this comprises 221sqm associated with the refurbishments and upgrades to the private amenities (being individual bathrooms to the suite rooms) and 125sqm associated with the increased circulation areas resulting from the separation of the new suites from the existing hotel rooms to be retained. The result is a non-residential FSR of 0.85:1 which, when added to the residential component of 2.19:1 equates to an FSR of 3.04:1.

Despite clause 4.4, the ratio of the gross floor area of any part of a building used for the purpose of residential accommodation to the site area must not exceed 2.3:1. As stated above, this standard is satisfied.

Despite clause 4.4, pursuant to clause 4.4A(4), the ratio of the gross floor area of any part of a building used for the purpose of serviced apartments to the site area must not exceed 0.3:1. The development includes hotel or motel accommodation as part of the hotel use. Hotel or motel accommodation is defined to mean:

*a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:*

*(a) comprises rooms or self-contained suites, and*

*(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,*

*but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*

Services apartments are defined to mean:

*serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.*

*Hotel or motel accommodation and serviced apartments are a form of tourist and visitor accommodation.*

The suites occupy an amount of GFA calculated by the project architect as being 594 sqm or an FSR of 0.31:1. To the extent that the suites forming part of the hotel or motel accommodation also fall within the definition of serviced apartments, the maximum FSR associated with serviced apartments would be 577.2sqm given the site area of 1,924 sqm. This does not meet the standard of 0.3:1 by some 16.8 sqm. It is noted that serviced apartments means a building providing *self-contained accommodation*. The suites forming part of the hotel or motel accommodation are not completely self-contained as they do not include kitchens.

Clause 4.6 ('Exceptions to development standards') of the LEP allows development consent to be granted to a development application where a proposal requires a variation to a development standard, in this instance the 3:1 FSR development standard pursuant to Clause 4.4 of the LEP and, to the extent relevant, the serviced apartments maximum FSR of 0.3:1.

The objectives of Clause 4.6 are:-

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

This written request addresses the requirements of Clause 4.6.

## **1.4 Topography and surrounding context**

The gradient of the site is generally flat; however it rises marginally from the southwest corner at RL 16.62 metres (AHD) to the southeast corner along Everton Road at RL 17.77 metres (AHD). Similarly, the rear of the site to Cowdery Lane slopes marginally from the northwest corner at RL 17.6 metres (AHD) to the northeast corner at RL 18.8 metres (AHD).

The Whelan's Strathfield Hotel occupies a prominent street front position on Everton Road, within Strathfield Town Centre. Everton Road is an established retail and commercial parade that contains a variety of small businesses including hair salons, takeaway restaurants, local convenience stores, and dry cleaners. These premises are generally characterised by ground floor retail and business activity, with upper floor residential accommodation. The parade forms the most northerly extent of Strathfield Town Centre and is considered a highly accessible location given its proximity to the Strathfield railway station. Surrounding development comprises a broad variety of building styles in terms of age, form and scale.

The close proximity to major public transport, facilities and services has resulted in the site and surrounding area being zoned B4 (Mixed Use) pursuant to Burwood LEP 2012. The site is a highly urbanised environment in which the desired future character will be typified by high density residential, commercial and retail activity.

Several shops and business premises are located to the west continuing around the corner in Mosley Street. To the east of the site is a 9 storey mixed use building currently under construction. To the north of the site on the northern side of Cowdery Lane is a nine storey residential apartment building. To the south is the main western rail line and Strathfield Station on the other side of Everton Street.

## **1.5 Principles and relevant authorities**

The principles and relevant authorities which have been considered in the preparation of this replacement Clause 4.6 variation request are those found in:-

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;
- Wehbe v Pittwater Council [2007] NSWLEC 827 (“Wehbe”);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (“Four2Five No 1”);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (“Four2Five No 2”);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 248 (“Four2Five No 3”);
- Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386;
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118; and
- Al Maha Pty Ltd v Huajun Investments Pty Ltd.

## 2. Relevant Development Standard

Pursuant to Clause 4.4 of Burwood LEP 2012, the site is subject to a maximum FSR of 3:1.

'Floor space ratio' is relevantly defined in Burwood LEP 2012 to mean:-

*"The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area."*

'Gross floor area' is relevantly defined in Burwood LEP 2012 to mean:-

*"**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*  
*but excludes:*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement:*
  - i) storage, and*
  - ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above."*

Clause 4.4A(3) and 4.4A(4) also apply and state:

*(3) Despite clause 4.4, the ratio of the gross floor area of any part of a building used for the purpose of residential accommodation to the site area must not exceed:*

- (a) 2.0:1—if the building is on land in Area 1,*
- (b) 3.0:1—if the building is on land in Area 2,*
- (c) 2.7:1—if the building is on land in Area 3,*
- (d) **2.3:1—if the building is on land in Area 4,***
- (e) 2.2:1—if the building is on land in Area 5,*
- (f) 1.4:1—if the building is on land in Area 6,*
- (g) 0.2:1—if the building is on land in Area 7,*
- (h) 1.8:1—if the building is on land in Area 8.*

*(4) Despite clause 4.4, the ratio of the gross floor area of any part of a building used for the purpose of serviced apartments to the site area must not exceed:*

- (a) 0.6:1—if the building is on land in Area 1,
- (b) 0.45:1—if the building is on land in Area 2,
- (c) 0.3:1—if the building is on land in Area 3,
- (d) **0.3:1—if the building is on land in Area 4,**
- (e) 0.25:1—if the building is on land in Area 5,
- (f) 0.18:1—if the building is on land in Area 6,
- (g) 0.18:1—if the building is on land in Area 7,
- (h) 0.2:1—if the building is on land in Area 8.



### 3. Exceptions to Development Standards (Clause 4.6)

The objectives of Clause 4.6 ('Exceptions to development standards') of the LEP are:-

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

Clause 4.6 provides for development consent to be granted to development in circumstances where the subject development contravenes a development standard imposed by the LEP.

Clause 4.6 of the LEP states (as relevant):-

*“(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

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

*(5) In deciding whether to grant concurrence, the 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 Secretary before granting concurrence.*

Accordingly, the provisions of Clause 4.6 can be used to vary (to the extent required) maximum FSR development standards which apply to the site.

#### **4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case and are there sufficient planning grounds to justify contravening the standard?**

##### **4.1 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

As shown on the drawing DA29 (**Appendix 1**) the maximum FSR of the proposed building has an FSR of 3.04:1 which exceeds the allowable FSR of 3:1 by 1.3%. The proposed FSR for serviced apartments (to the extent that the development comprises serviced apartments) is 0.31:1 which exceeds the allowable FSR of 0.3:1 by 2.9%.

##### **4.2 What is the purpose/object of the FSR development standards?**

The objectives of the FSR controls are set out as follows in Clause 4.4(1) of the LEP:

- (a) to enable development density and intensity of land use to achieve an appropriate urban form,*
- (b) to focus higher development density and intensity of land use in the inner part of the Burwood Town Centre and to provide a transition in development density and intensity of land use towards the edge of the Burwood Town Centre.*

Further objectives of the FSR controls are set out as follows in Clause 4.4A(1)

- (a) to limit the density of residential development in certain business zones to ensure that it does not dominate non-residential development in those zones,*
- (b) to limit the floor space of serviced apartments in certain business zones to ensure that they do not dominate service-providing and employment-generating commercial premises in those zones.*

The proposal is consistent with these objectives (see below).

##### **4.3 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

###### ***The proposal is consistent with the intent of the standard***

The amended proposal is consistent with the objectives of the FSR standard as set out in Section 4.2 in relation to Clause 4.4(1) above for the following reasons.

In relation to Objective (a), the proposal is consistent with the development density and intensity of land uses envisaged by the site's B4 (Mixed Use) Zoning and applicable development standards and controls. The site is a highly urbanised environment in which the desired future character is one that is typified by high density residential, commercial and retail development. Notwithstanding the marginal non-compliance with the FSR control, the proposed mixed use development achieves an appropriate urban form in that it facilitates street activation and commercial activity and delivers additional high quality, new housing stock in an area close to facilities and services and which is well served by public transport.

Any environmental impacts (perceived or otherwise) are commensurate with reasonable development expectations of the site's zoning and associated development standards. The proposal appropriately reflects the desired high density mixed use future character of the Strathfield Town Centre.

The mixed use development will have a high-quality design appearance when viewed from surrounding streets, most notably Everton Road and Cowdery Lane. The scale of development to the Everton Road street front at podium level is appropriate to the context of the Town Centre as envisaged in relevant LEP and DCP controls. The proposed alterations and additions will deliver operational and aesthetic improvements and additions to an existing heritage listed Hotel. The bulk, scale and form of the residential apartment building is consistent with the desired future character of the area and is compatible with the existing residential development to the north (Nos 40-46 Cowdery Lane) and development under construction to the east (at Nos 19-25 Everton Road).

In relation to Objective (b), the site is not located within the Burwood Town Centre or on land towards the edge of the Town Centre.

Accordingly, it is considered that the development is consistent with the objectives of the FSR development standard in Clause 4.4(1) notwithstanding the minor non-compliance with the standard.

The amended proposal is consistent with the objectives of the FSR standard as set out in Section 4.2 in relation to Clause 4.4A(1) above for the following reasons.

In relation to objective (a), the proposal limits the density of residential development by complying with the maximum FSR for residential development of 2.3:1. In this manner the residential element does not dominate non-residential development in the zone. The heritage item to the street frontage of Everton Road is retained and will be the dominant element in the immediate streetscape with the residential tower located to the rear of the site.

In relation to objective (b), the floor space of serviced apartments (to the extent that the development incorporates serviced apartments) does not dominate service-providing and employment-generating commercial premises in those zones. The suites are located within the building with the development retaining a commercial presence to the street frontage. Further the serviced apartments contribute to the on-going viability of the hotel as a mixed use business supporting jobs in an accessible location.

Notwithstanding the above, it is noted that Clause 5.10 ('Heritage conservation') of the LEP includes provisions that allow a consent authority to 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 in circumstances where development for that purpose would otherwise not be allowed.

Specifically, Clause 5.10(10)('Conservation incentives') states as follows:-

*"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 marginal non-compliance with the FSR development standards is associated with the increase in quantum of GFA associated with the alterations and additions to Levels 1 and 2, being the refurbishment and upgrades of Hotel accommodation in order to meet contemporary standards and ensure the ongoing economic vitality of the business.

The development application does not rely on the provisions of Clause 5.10(10) for permissibility. However, as documented in the Conservation Management Strategy prepared by Colin Israel Heritage Advice (submitted under separate cover), the proposal includes conservation works that are intended to reinstate missing components and landscape elements, allow for repair of damaged internal and external fabric, and allow continuing maintenance and expected long term expenses which will arise as part of the long term care and preservation of the Hotel. The conservation management strategy involves retention of areas of highest heritage values while permitting demolition of much altered rear and peripheral parts. It is considered that loss of some fabric would be mitigated by reinforcement of social values in a redevelopment that retains the most significant public parts of the Hotel as part of a viable ongoing business. In this regard, the conservation of the heritage listed Hotel would be facilitated by the granting of development consent for the development application.

### ***The extent of the non-compliance is acceptable and reasonable***

Compliance with the maximum floor space ratio development standards is unreasonable and unnecessary in the circumstances of this DA for the following reasons:-

- The non-compliance with the FSR development standard results from the proposed alterations and additions at ground floor level of the Hotel and an increase in GFA resulting from works associated with the guest accommodation at first and second level (being the provision of individual bathrooms to provide additional private amenities to guests of the hotel) and additional suites.
- The non-compliance is 1.3% above the 3:1 overall FSR limit and 2.9% above the FSR limit for serviced apartments. This extent of non-compliance is well within reasonable limits.
- The marginal increase in GFA resulting from the provision of individual bathrooms at the first and second level maintains the existing number of guest rooms (26) and upgrades guest amenity in order to meet contemporary hotel accommodation standards and customer expectations. The provision of contemporary accommodation is crucial to the ongoing vitality and viability of the hotel business.
- The proposed development has a bulk and scale which is appropriate for the high density character of the locality as envisaged by the site's B4 (Mixed Use) zoning,

- The proposal is compatible with existing development to the north (Nos 40-46 Mosely Street) and approved development to the east (at Nos 19-25 Everton Road);
- The proposed gross floor area, notwithstanding the requested variation to the FSR standard, is appropriate for the site and location within the Strathfield Town Centre;
- The marginal non-compliance with the FSR development standard does not result in any additional or more intense generation of traffic;
- As described below, the objectives of the maximum FSR development standard are achieved notwithstanding the minor non-compliance with the standard; and
- The residential FSR control (pursuant to Clause 4.4A of the LEP) is satisfied.

***The non-compliance results in a better planning outcome***

Yes for the reasons outlined above.

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

The contravention of the floor space ratio development standards is justified on environmental planning grounds specific to this development for the reasons set out above and in the Statement of Environmental Effects that accompanied the development application. The non-compliance with the FSR control does not result in any significant additional detrimental impact on the amenity of adjoining properties.

The purpose of the alterations and additions at ground floor level of the hotel is to address operational deficiencies with the existing amenities and licenced areas (including the dining, bar, and gaming areas) and to enhance customer and visitor experience. These works to the ground floor retain heritage features of the hotel and facilitates the conservation of core components of the heritage item. The proposed alterations and additions at ground floor level of the Hotel do not increase licensed areas within the hotel, and will not result in increased intensity of patron activity nor require additional levels staffing.

Notwithstanding the marginal non-compliance with the FSR control, the proposal is consistent with the objectives and requirements of relevant planning instruments and development standards and will not result in significant adverse environmental impacts. The inherent characteristics of the site and heritage listed hotel (including its size, configuration, and use, make the proposal eminently suitable and justifiable on statutory planning grounds.

There is an absence of significant environmental harm associated with the non-compliance of the proposal with the maximum floor space ratio development standard.

**4.5 Has this written requested adequately addressed the matters required to be demonstrated by sub-clause (3)?**

It is considered that the proposed development adequately addresses the matters set out in Clause 4.6(3) as required by Clause 4.6(4)(a)(i).

**5. Is the development in the public interest because it is consistent with the objectives of the FSR standards and the objectives for development within the zone in which the development is proposed to be carried out?**

Clause 4.6(4)(a)(ii) specifies that a development will be in the public interest if it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is considered that the development will be in the public interest for the following reasons.

**5.1 Consistency with the objectives of the standards**

The proposal is consistent with the objectives of the FSR development standards for the reasons set out in Section 4.3 above and having regard to all other relevant considerations is therefore in the public interest.

**5.2 Consistency with the objectives of the zone**

The site is within Zone B4 (Mixed Use) under Burwood LEP. The objectives of the zone are:-

- *“To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.”*

Notwithstanding non-compliance with the FSR development standards, the proposal is entirely consistent with the above objectives in that:-

- it will provide a mixture of compatible land uses (being business premises, retail premises, hotel accommodation, and private residential accommodation); and
- the proposal integrates the proposed new uses (being the retail tenancies and residential apartment building) within the existing listed heritage Hotel and in a highly accessible location given its proximity to Strathfield railway station (this will maximise public transport patronage and encourage, walking and cycling).

The proposal is consistent with the objectives of the B4 (Mixed Use) Zone.



## 6. The 'Five Part Test'

In addition to the above requirements, a consent authority may choose to not only use the principles of Clause 4.6 but also the 'five part test' established by the Land and Environment Court. (See *Wehbe v Pittwater Council* [2007] NSWLEC 827)

Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded. The 'five part test' is outlined as follows:-

- "1. the objectives of the standard are achieved notwithstanding noncompliance 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 or 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 compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone."*

In relation to point (1):-

The test is satisfied for the reasons set out in Section 4.3 above.

In relation to point (2):-

No reliance is placed on this point. When assessed against the underlying objective of the standard, the amended proposal satisfies the intent in terms of suitability in relation to desired future character, and limited and acceptable visual impacts, privacy impacts and overshadowing impacts

In relation to point (3):-

If strict compliance was to be required with the FSR development standards then the building would not be sufficiently responsive to the site context and heritage character of the building as detailed above in Section 4.3.

In relation to point (4):-

No reliance is placed on this point.

In relation to point (5):-

In the subject case, the non-compliance with the FSR standards is related to retaining a viable hotel operation on the site including hotel accommodation and this contributes to the non-compliance.

## **7. Conclusion**

Based on the above, compliance with the floor space ratio development standards in Clause 4.4 and 4.4A of Burwood Local Environmental Plan 2012 is both unreasonable and unnecessary in the circumstances of the proposal for mixed use development at the Whelan's Strathfield Hotel.

The non-compliance with the FSR development standards results from the marginal increase in GFA resulting from the refurbishment works and alterations and additions to the first and second level. The provision of contemporary accommodation is crucial to the ongoing vitality and viability of the Hotel.

The alterations and additions at ground floor level address operational deficiencies with the existing amenities and licenced areas (including the dining, bar, and gaming areas) and enhance customer and visitor experience. These works to the ground floor retain heritage features of the hotel and facilitates the conservation of the heritage item.

The increase in GFA resulting from the provision of individual bathrooms on the first and second level maintains the existing number of hotel rooms (26) and upgrades guest amenity in order to contemporary hotel accommodation standards and customer expectations.

There are sufficient environmental planning grounds to justify the non-compliances, and the proposal is in the public interest because it is consistent with the objectives of the floor space ratio development standard and the provisions of the Burwood LEP 2012.

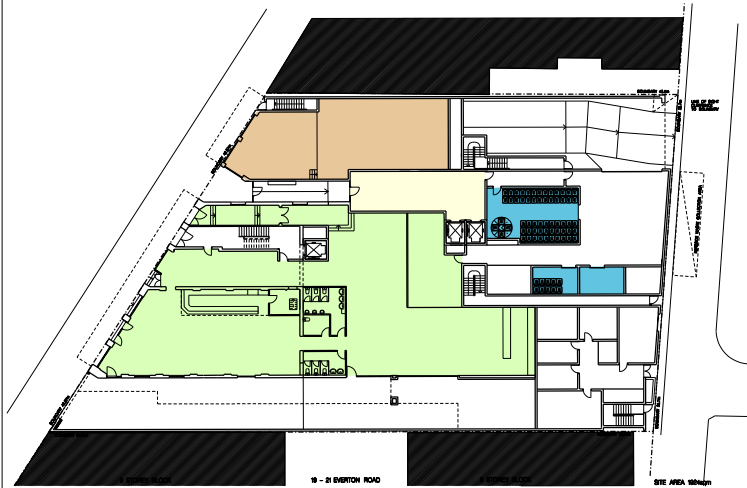
Further, in terms of consistency with the objectives of Clause 4.4 and 4.4A, it is considered that strict adherence to the floor space ratio development standard to this particular development is not warranted and relaxing the standard would result in a better development that achieves a high level of amenity for future residents and visitors of the building and adjoining properties.

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## **Appendix 1 - FSR DRAWING**

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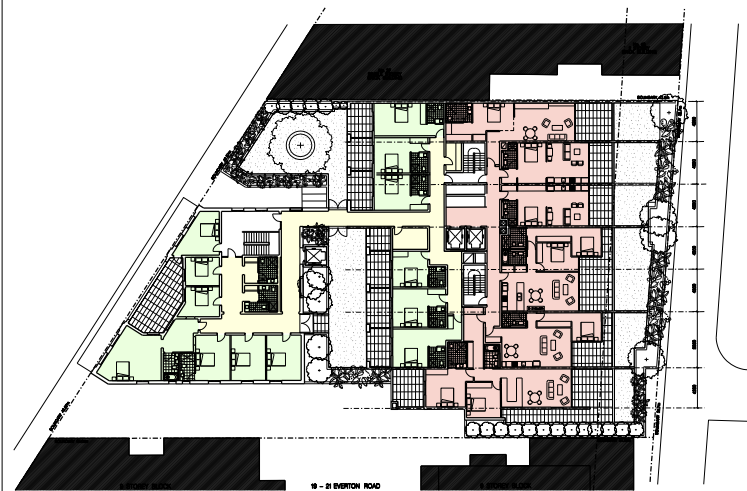
GROUND FLOOR  
3 APARTMENTS

AREAS	COMMERCIAL	RESIDENTIAL
GROUND	755sqm	131sqm
LEVEL 1	436sqm	397sqm
LEVEL 2	436sqm	399sqm
LEVEL 3		585sqm
LEVEL 4		585sqm
LEVEL 5		585sqm
LEVEL 6		583sqm
LEVEL 7		512sqm
LEVEL 8		447sqm
TOTAL	1,627sqm	4,224sqm
FSR	0.85:1	2.19:1
TOTAL AREA	5,851sqm (FSR 3.04:1)	

- GARBAGE AND BULKY GOODS COLLECTION AREAS
- RESIDENTIAL AREAS
- HOTEL ROOM AREAS
- HOTEL CIRCULATION AREAS
- HOTEL BAR AREAS

TOTAL  
24 x STUDIO  
13 x 1 BED  
17 x 2 BED  
6 x 3 BED  
60 APARTMENTS

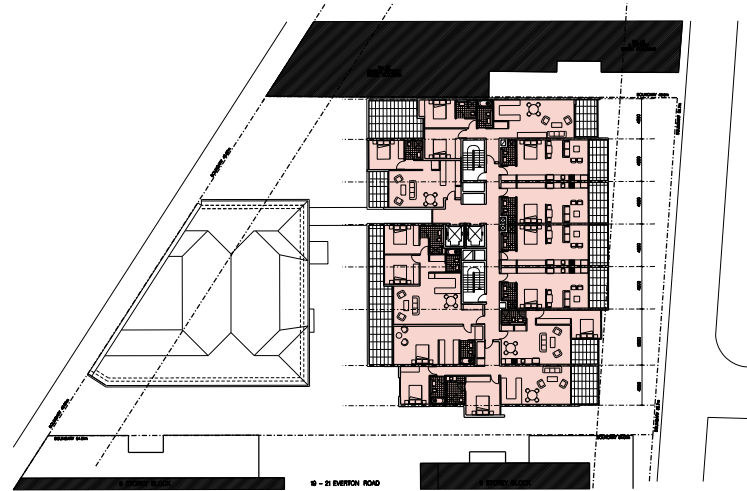
HOTEL ROOMS 12 (6 PER FLOOR)  
SUITES 14 (7 PER FLOOR)



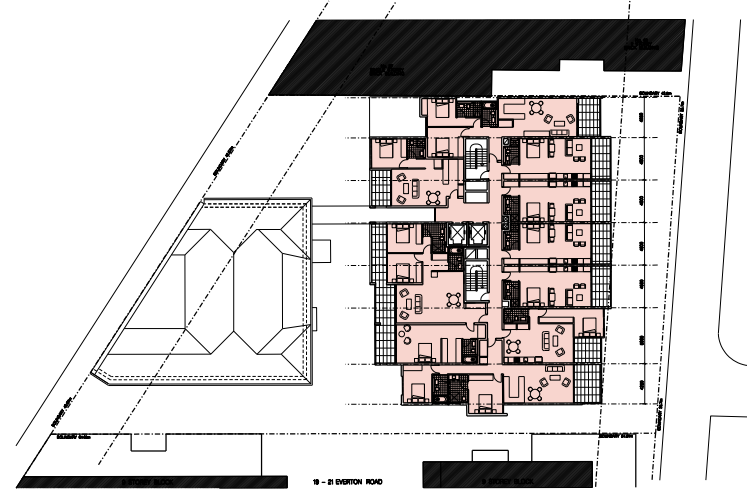
LEVEL 1  
397sqm – RESIDENTIAL AREA  
436sqm – COMMERCIAL AREA



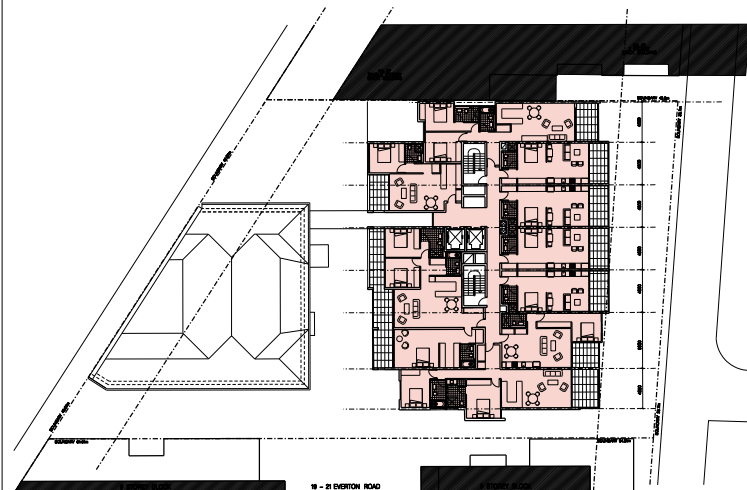
LEVEL 2  
399sqm – RESIDENTIAL AREA  
436sqm – COMMERCIAL AREA



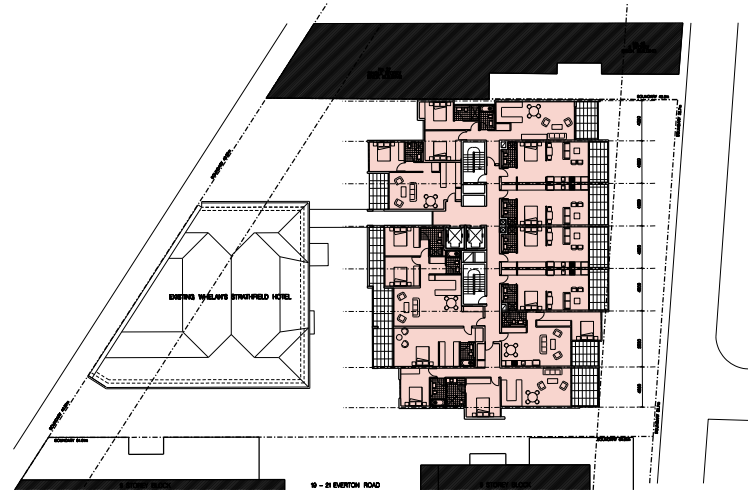
LEVEL 3  
585sqm – RESIDENTIAL AREA



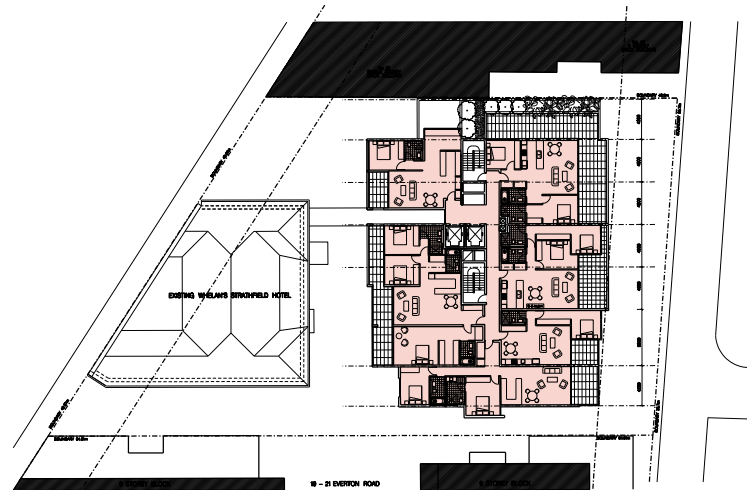
LEVEL 4  
585sqm – RESIDENTIAL AREA



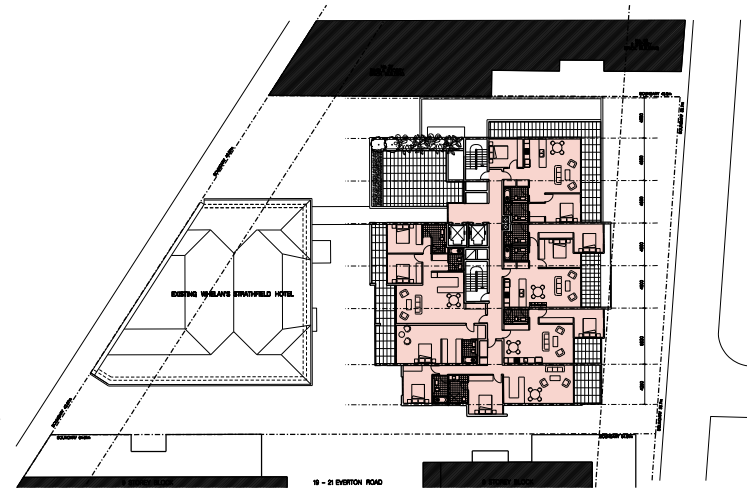
LEVEL 5  
585sqm – RESIDENTIAL AREA



LEVEL 6  
583sqm – RESIDENTIAL AREA



LEVEL 7  
512sqm – RESIDENTIAL AREA



LEVEL 8  
447sqm – RESIDENTIAL AREA

REV D 06.12.2018 PLANS UPDATED

MIXED USE DEVELOPMENT  
27 EVERTON ROAD  
STRATHFIELD NSW 2135

FLOOR SPACE RATIO PLAN  
DRAWING NO. DA-29 ISSUE C  
SCALE 1:400(A1) 1:800(A3) DATE OCTOBER 2016

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e: mail@arcarchitects.com.au



SITE AREA 1924sqm  
LOTS 26 –30 DP 978482  
LOTS 1-2 DP303721  
LOT 32 DP920734