



ITEM No.

REPORT: **DEVELOPMENT APPLICATION No. X/1436/2021 for a additions and alteration to existing residential care facility including landscaping, retaining, basement car parking and new substation at Ritz Nursing Home, 203-223 Leura Mall, LEURA NSW 2780**

Reason for report The proposal is a form of development specified in schedule 6(2)of State Environmental Planning Policy (Planning Systems) 2021, being general development that has a CIV of more than \$30 million.
Pursuant to section 2.19(1) the development is declared to be regionally significant development.

RECOMMENDATION	That the Development Application X/1436/2021 for additions and alteration to existing residential care facility including landscaping, retaining, basement car parking and new substation on Ritz Nursing Home, 203-223 Leura Mall, LEURA NSW 2780 be refused.
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Reasons in support of the recommended decision

1. The clause 4.6 variation requests to vary the 8m height of buildings and the 0.4:1 floor space ratio development standards under LEP 2015 are not supported as it has not demonstrated in either case that compliance is unreasonable or unnecessary, nor that sufficient environmental planning grounds exist to support the variations. Further, the variations are not considered to be in the public interest as it has not been demonstrated that the proposed development is consistent with the objectives of the development standards and the objectives of the R1 General Residential zone.
2. The proposed development is not considered to be consistent with objectives (c), (d) and (e) of Leura Precinct R1-LE03 as specified in clause 7.8(3) of LEP 2015. Therefore, pursuant to clause 7.1 of LEP 2015, it is considered that development consent cannot be granted.
3. The proposed degree of intervention (demolition) in the original 1892 building, and 1913 extensions, is excessive, not warranted and would detract from the heritage values of the site.
4. The proposed new west wing will be at odds with the established character of Wascoe Street and will impact on the amenity of no. 24 Wascoe Street.
5. Insufficient information has been provided to assess the impact of the proposed development on the heritage values of The Ritz gardens.
6. Insufficient information has been provided to understand and assess the proposed landscaping outcome on the prominent north-western embankment, which is subject to a Remedial Action Plan.

Disclosure Disclosure of any political donation and/or gift - No

Declaration of interest Nil

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PART 1 **Development proposal**

PART 2 **Council assessment**

PART 3 **Report of Council's Conservation Architect / Heritage Advisor**

PART 1: Development proposal

Applicant	Pathways Residences
Land owner	Skermanic Pty Ltd
Location	Ritz Nursing Home, 203-223 Leura Mall, LEURA NSW 2780
Lot & DP	L 20 DP 1076123
Date lodged	09-Jun-2022
Value of works	\$40,776,637.00
Description of proposal	<p>The proposal involves the following:</p> <ul style="list-style-type: none"> • Construction of a 3 storey 123 bed aged care residential care facility, each room with en-suite facilities, as well as basement carparking for 40 vehicles, services and cinema and basement access driveway via Wascoe Street. • Retention of the original portion of the Ritz Hotel building and the external facades of the 1913 wings. Use of these buildings as part of the residential care facility. • Retention of the freestanding cottage on Leura Mall as a staff room • Retention of the Managers Residence as a wellness centre • Construction of two new 3 storey wings (west A and west B) adjoining the south and western boundaries to Wascoe Street • Construction of two new 3 storey wings (south A and south B) adjoining the south and south eastern boundaries of the site. • Demolition of the existing rear additions to the Ritz, laundry building, education offices, shed/ outbuildings and chimney; • Restoration of heritage landscaping, garden areas and fencing, • Closure of general access from Leura Mall (with the exception of emergency vehicles) and creation of a new vehicular access off Wascoe Street; • Site preparation works, including site remediation, tree removal and earthworks; • Stormwater drainage works; and • New substation.
Departure or variation to a development standard	The applicant has lodged requests to vary the building height and floor space ratio development standards.
Supporting documentation	<p>The application is accompanied by supporting documentation including:</p> <ul style="list-style-type: none"> ○ Amended Architectural plans

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- Amended Landscape plan and documentation
 - Civil Works plans
 - Heritage Impact Statement
 - Amended Statement of environmental effects
 - BCA and Structural Assessment Reports
 - Section J Report
 - Accessibility report
 - Traffic report
 - Clause 4.6 Variation Requests for Height and FSR
 - Remedial Action Plan
 - Arborist Report

Documentation online

Plans to scale and key documents lodged with the application can be viewed online. Go to www.bmcc.nsw.gov.au/development – Track and View applications. Search and select X/1436/2021.

Reduced site and elevation plans are below.



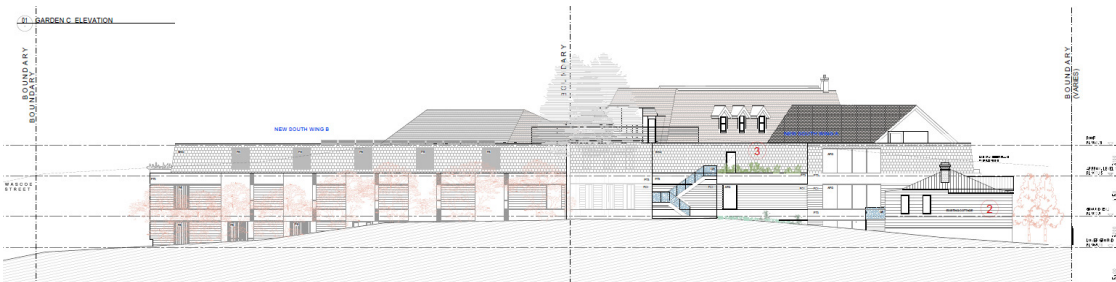
Elevations



North



East



South



West

PART 2: Council assessment

2.1 Overview and summary of issues

Location	Ritz Nursing Home, 203-223 Leura Mall, LEURA NSW 2780
Lot & DP	L 20 DP 1076123
Zoning	R1 General Residential
Characterisation of use	Seniors Housing (Residential Care Facility)
Permissibility	The proposed development is permissible within the zone.
Type of development	Integrated
Applicable environmental planning instrument/s	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 <ul style="list-style-type: none"> ○ Chapter 4 - Koala habitat protection 2021 ○ Chapter 8 - Sydney drinking water catchment ○ Chapter 9 - Hawkesbury-Nepean River • State Environmental Planning Policy (Transport and Infrastructure) 2021 <ul style="list-style-type: none"> ○ Chapter 2 – Roads and traffic; noise and vibration • State Environmental Planning Policy (Resilience and Hazards) 2021 <ul style="list-style-type: none"> ○ Chapter 4 Remediation of Land • Local Environmental Plan 2015 • Development Control Plan 2015
Applicable additional local provisions	<ul style="list-style-type: none"> ○ Impact on environmentally sensitive land ○ Protected area – slope constraint ○ Stormwater management ○ Consideration of character and landscape ○ Design excellence ○ Active street frontages ○ Sustainable resource management ○ Essential services ○ Earthworks
Applicable additional local clauses – development in villages	<ul style="list-style-type: none"> ○ Development in villages ○ Leura Precinct LA-R1-03

Bushfire prone land	The property is not mapped as bushfire prone.
Heritage significance	The property is listed as a heritage item and is within a heritage conservation area.
Aboriginal significance	No Aboriginal objects are recorded or Aboriginal places declared in or near the subject property.
Potentially contaminated land	Contaminated land has been identified on the site and a Remedial Action Plan forms part of the development application.

Site description

Site and surrounds

The subject site is a large single and irregular allotment of land, with a site area of approximately 11,300m² (1.13ha). The site is bounded by Megalong Street to the north, Leura Mall to the east and Wascoe Street to the west. Residential properties at 225 Leura Mall and 24 Wascoe Street immediately adjoin the southern boundary of the site.

The site consists of several historic buildings of varying levels of heritage significance, and varying typologies and scales including:

Highly Significant Buildings:

1. The Ritz (c1892 original building and the c1914 South and West Wings);
2. California Bungalow (Manager's residence) c1929(?);
3. Federation Cottage (Education office) c1905(?); and
4. Brick Chimney of Former Boiler House c1910(?)

Other Buildings:

5. South wing modern extension c2004
6. Laundry
7. Sheds and outbuildings.

The main entry to the site is the driveway located at the corner of Leura Mall and Megalong Street off the roundabout. Car parking areas are located to the north and south of this driveway between the street and the former Ritz Hotel building. There is also a driveway and informal car parking area off the southern entry to Leura Mall.

The site is assessed as an item of state level significance and the State Heritage Inventory Sheet (1170453) includes the following summary statement of significance:

"The earliest, grandest and longest lived of all Leura tourist establishments, The Ritz has state significance as a major hotel for three quarters of a century, a landmark from the western railway third only to the Carrington and the Hydro Majestic, attracting tourists from many places, and an important catalyst in the commercial and tourist development of Leura and the adjacent scenic walks. The garden and grounds of the Ritz are of historic significance on a local level for their evidence of the principal characteristics of a garden associated with a large Blue Mountains hotel".

Surrounding development

Land immediately to the south and west of the site largely comprises single storey detached dwelling houses in well landscaped garden settings. These dwellings are part of the Protected Area - Period Housing under Blue Mountains LEP 2005 (BMLEP 2005) and are zoned Living Conservation under that Instrument. The adjoining dwellings at 24-26 Wascoe Street ("Kanowna" group) are listed as a local heritage item under the BMLEP 2005.

Low density dwellings are located south and south east of the site fronting Leura Mall form part of the Leura South heritage conservation area under Blue Mountains LEP 2015 and are zoned R1 General Residential under that instrument.

Land to the east of the site across Leura Mall is a mix of residential, commercial and community uses, including a number of heritage listed buildings.

Both the site and the above mentioned land to the south and east along Leura Mall are identified as "Leura Precinct R1-LE03" on the LEP 2015 Built Character Map.

Land immediately to the north of the site comprises a mix of single-storey detached dwellings houses along Megalong Street (also Protected Area-Period Housing), with single and two-storey commercial and retail development along either side of Leura Mall.

Land to the east of the site across Leura Mall is a mix of residential, commercial and community uses, including a number of heritage listed buildings and also forms part of the R1-LE03 precinct.



Development history / background

The site was first developed and opened in 1892 at the Leura Hotel and Coffee Palace. A federation cottage on the Leura Street frontage of the site dates back to around 1905.

In 1913 two additional wings were constructed and the hotel was renamed The Ritz. A Manager's residence was constructed around 1929.

The Ritz continued to be used as a hotel, until it was converted to a nursing home in 1970.

The applicant has provided a history of past approvals since the use of the site as a nursing home (source table 2, page 24 of amended SOEE by Gyde)

DA NO.	DEVELOPMENT DESCRIPTION	NOTES
69/1287	Conversion of The Ritz to a nursing home comprising 148 beds	Use as a nursing home commenced during 1970.
Unknown	Minor works including lift and access ramp to the main building	Occurred sometime in the 1990s.
X/662/2001	Alterations and additions to The Ritz nursing home, including a new two-storey residential wing extending to the south of The Ritz main building and a single storey L-shaped utility building, demolition of the existing utility building that housed staff facilities, laundry and maintenance store, conversion of the cottage to staff facilities and a mortuary and upgrading of the remaining service yard area to provide access and vehicle manoeuvrability for deliveries, waste and ambulances	Use of The Ritz as a nursing house was ceased in 2018 when it was closed due to health and safety reasons and has remained vacant since.

City wide infrastructure contribution

The Citywide infrastructure contribution applies. If consent is granted, this contribution can be included as a condition of consent.

Referral authorities

Comments were sought and obtained from:

- Transport for NSW
- WaterNSW
- Endeavour Energy

Notification period

The initial application was notified to adjoining owners and published in the local paper for the period 21 September to 19 October 2021.

The amended application was renotified to adjoining owners and submitters to the initial application and published in the local paper for the period 8 July to 7 August 2022.

Initial Notification Period

Number of submissions

18 submissions received, including 13 objections and 5 submissions in support of the application.

Summary of issues raised – Initial

Issues raised:

- Impacts of proposed western wings and basement car park entry on

Notification Period	<p>adjoining and nearby properties in Wascoe Street and the streetscape and character of the area.</p> <ul style="list-style-type: none"> ○ Impact on vegetation on the site and adjoining site. ○ Impact on heritage items on the site and adjoining. ○ Construction impacts. ○ Inadequate information. ○ Support for development including benefits of the facility, retention of heritage and value added to Leura streetscape.
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Amended Plans Notification Period

Number of submissions	22 submissions received.
Summary of issues raised – Notification of Amended PLans	<p>Issues raised:</p> <ul style="list-style-type: none"> ○ Impacts of proposed western wings and basement car park entry, on adjoining and nearby properties in Wascoe Street, and the streetscape and character of the area; ○ Impacts arising from non compliant design ○ Impact on vegetation on the site and adjoining site ○ Impact on heritage items on the site and adjoining from proposed new buildings ○ Construction impacts ○ Impacts on character of Leura, traffic and parking congestion

Summary of assessment issues -	<p>Key issues determined in the assessment are:</p> <ul style="list-style-type: none"> ○ Impact on heritage ○ Impact on character ○ Impact on amenity
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Assessment issues are detailed below.

2.2 Evaluation

The application has been assessed in accordance with *s4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act)*. Only those provisions relevant to the proposed development have been addressed.

State Environmental Planning Policy (SEPP) – s4.15(1)(a)(i)

The following table provides for an assessment against the provisions applicable State Environmental Planning Policies.

State Environmental Planning Policy (Transport and Infrastructure) 2021		
Chapter 2 Infrastructure		
Division	Discussion	Compliance Y/N
Endeavour Energy		
Clause 45 of (then) Infrastructure SEPP		
Endeavour Energy were notified of the original and amended plans via the Planning Portal. Endeavour energy advised that the development application was supported subject to conditions of consent.		Y
Division 17 - Roads and traffic		
Subdivision 2 Development in or adjacent to road corridors and road reservations		
s2.119 Development with frontage to classified road	<p>Both the original and amended applications were referred to Transport for NSW (TfNSW). Their original letter of 8 November 2021 addressed both requirements, which supported the application subject to conditions as outlined below.</p> <p><i>TfNSW is willing to grant its concurrence to the proposal pursuant to section 138(2) of the Roads Act 1993 subject to the following conditions:</i></p> <ul style="list-style-type: none"> • The existing vehicular layback is to be removed from within the roundabout and replaced with kerb and gutter. The kerb and gutter is to be constructed of concrete, match existing road and footpath levels and not interfere with existing road drainage. • No vehicular access is permitted to the development site from the Classified Roads. <p><i>Pursuant to Clause 104 of ISEPP TfNSW provides the following recommended conditions to assist Council in its assessment of the development application:</i></p> <ul style="list-style-type: none"> • Vehicular access to the site is to be limited to vehicles up to 8.8m in length consistent with the maximum vehicle swept path design of the site. Appropriate signage is to be installed to notify drivers of this restriction. • All vehicles must enter and exit the site in a forward direction. • All driveways shall be sealed from the edge of seal of the carriageway to the property boundary. All vehicle movement and parking areas within the subject site are to be sealed. • As a minimum the off-street car park associated with the proposed development including driveway design and location, internal aisle widths, parking bay dimensions and loading bays shall be in accordance with AS 2890.1-2004 "Off-street car parking", AS 2890.2-2002 "Off-street commercial vehicle facilities" and the Austroads Guide to Traffic Management Part 11: Parking. • Any landscaping, fencing and signage to be provided within the site or along the boundary with any adjoining road reserve is to be designed and maintained to provide safe sight distance to pedestrians for motorists entering and exiting the site to minimise conflict in accordance with Austroads SISD and AS2890.1-2004 "Off-street car parking". • All activities including, loading and unloading associated with this development are to take place within the subject site. • Prior to issuing of the Occupation Certificate for the subject development all road works are to be completed. • Transportation of contaminated fill or materials from the site on public roads must be carried out in accordance with the requirements of Australian Dangerous Goods Code and Australian Standard 4452 Storage and Handling of Toxic Substances. This must include relevant incident management strategies for transportation on public roads. • All signage including any proposed internally lit signs must be contained 	Y
S2.122 Traffic-generating development		

State Environmental Planning Policy (Transport and Infrastructure) 2021		
Chapter 2 Infrastructure		
Division	Discussion	Compliance Y/N
	<p><i>within property boundaries and designed to meet the objectives of Transport Corridor Outdoor Advertising and Signage Guidelines 2017.</i></p> <ul style="list-style-type: none"> <i>• All construction activities must be undertaken wholly within the bounds of the site and not impact the efficiency and safety of all road users, including pedestrians within the locality of the construction activities.</i> <i>• Prior to the commencement of construction works a Traffic Management Plan (TMP) including Driver Code of Conduct is to be submitted to Council and concurrence obtained from Transport for NSW. The preparation of the TMP will require consultation with Transport for NSW, Council, principal contractor(s) and relevant stakeholders. The requirements of the TMP and Driver Code of Conduct are to cover the matters referred to within the TMP Annexure (attached).</i> <p><i>The TMP is to be reviewed and updated in response to any changes in operating conditions. A copy of the TMP and Driver Code of Conduct is to be provided to contractors and employees as a part of the site induction and a copy is to be made available to Transport for NSW with each major update.</i></p>	

State Environmental Planning Policy (Resilience and Hazards) 2021		
Standard	Discussion	Compliance Y/N
Chapter 4 – Remediation of land	<p>The land is listed on the Council's potentially contaminated land register due to activities on site that may cause contamination, as listed in Table 1 of Planning NSW's <i>Managing Land Contamination Planning Guidelines</i>. A Site Investigation was submitted with the original application which identified the following potential areas of concern:</p> <ul style="list-style-type: none"> PAH, lead and TRH contaminated fill across the site at concentrations that may pose a potential risk to human health and the environment. A Remedial Action Plan (RAP) has been prepared for the site, which the report confirms that subject to the successful implementation of the actions contained in the RAP, will render the site suitable for a permissible land use under the current R1 Low Density Residential land use. <p>The RAP provides alternative options for removal of fill from the site or capping. No further information is provided as to which methodology will be employed. The report satisfies the requirements of the SEPP. Council's Environmental Assessment Officer has also assessed the report and provided conditions of consent.</p> <p>However, the implementation of the plan raises unanswered questions regarding the impact of remediation, particularly in the north western corner and embankment of the site, in relation to landscape design, slope stability within the Protected Area- Slope</p>	Y

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State Environmental Planning Policy (Resilience and Hazards) 2021		
Standard	Discussion	Compliance Y/N
	Constraint and ultimately the visual impact of the development if the preferred option results in the loss of, or inability to replant suitable landscaping in this area. This information was requested, but the applicant declined to provide additional information addressing these matters.	

State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Standard	Discussion	Compliance Y/N
Chapter 4 – Koala Habitat Protection 2021		
Part 4.1 Preliminary		
s.4.4 Land to which SEPP (Koala Habitat Protection) 2021 applies	The Blue Mountains local government area is listed in Schedule 2 and Chapter 4 therefore applies to all zones within the Blue Mountains LGA.	Y
Part 4.2 Development control of koala habitats		
s.4.9 Development assessment process – no approved koala plan of management for land	<p>The development is proposed on land without an approved Koala Plan of Management (there are no approved Koala Plans of Management in the Blue Mountains LGA).</p> <p>AND</p> <p>The land (and adjoining land under the same ownership) exceeds 1 hectare in area. The SEPP (Koala Habitat Protection) 2021 therefore applies to the proposed development. A Koala Assessment has been provided as part of the SOEE.</p>	
If Yes to 4.9 s.4.9 (2)-(5) Development assessment process	<p>The Council has assessed whether the development is likely to have any impact on koalas or koala habitat and has taken into account a <i>Koala Assessment report</i> prepared for the development in accordance with the SEPP.</p> <p>The land the subject of the development application-</p> <ul style="list-style-type: none"> does not include Koala use tree species listed in Schedule 2 for the relevant koala management area, and - Includes only horticultural or agricultural plantations <p>The Council is satisfied that the development is likely to have low or no impact on koalas and koala habitat.</p>	Y
Chapter 8 Sydney Drinking Water Catchment	Water NSW has issued its concurrence for the development and the concurrence forms part of the development consent	Y

State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Standard	Discussion	Compliance Y/N
Chapter 9 Hawkesbury Nepean River	The proposal complies with the general planning considerations and the specific planning policies and related recommended strategies which are applicable to the proposed development, including water quality, water quantity and urban development. As the development proposal does not increase any pervious area, the post development flows will not be increased to those which currently exist.	Y

Draft Instruments – s4.15(1)(a)(ii)

Nil - See further commentary below.

The State Environmental Planning Policy (Housing) 2021 commenced after the current development application was submitted. Under the savings and transitional provisions in Schedule 7A(2)(1)(a), the SEPP does not apply to the current application as it was made, but not yet determined, before the commencement date of the SEPP.

Further, the savings provisions do not require the Housing SEPP 2021 to be considered as a draft instrument. This is at odds with typical savings provisions which have been found in case law to require that a consent authority take the amending instrument into consideration as a draft instrument under section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. However, no such wording exists in the current SEPP and therefore Council is not satisfied that the Housing SEPP ought to be given the weight of a draft instrument.

Accordingly, while the Amended Statement of Environmental Effects submitted by the applicant does address the Seniors Housing provisions of the SEPP, there is no claim attached to the assessment that these provisions ought to be given the weight of a draft instrument.

It is noted that the former State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 did not apply to the proposed development site, as the operation of this SEPP was excluded, under clause 4(b)(1), from land identified on the metropolitan rural areas exclusion zone map as a rural area exclusion zone. Therefore while Schedule 7A(2)(2) provides that the provisions of a repealed instrument, as in force immediately before the repeal of the instrument continue to apply in a matter where the DA was lodged but not determined prior to the commencement of the Housing SEPP (2021), in this case, where the repealed SEPP did not apply to the site prior to the commencement of the Housing SEPP (2021), the repealed SEPP (Housing for Seniors or People with a Disability) 2004 is not an applicable instrument for this development application.

The applicant, at page 59-63 of the Amended Statement of Environmental Effects, has provided a comprehensive assessment of the proposed development against the applicable Seniors Housing Provisions in Part 5 of Chapter 3 of the Housing SEPP which has been reviewed as part of the assessment of the current application. Council has identified some key areas where the development does not comply with the provisions which are discussed below. Other than the matters identified below, it is accepted that the proposed development would meet the remaining Seniors Housing (residential care facility) provisions of the Housing SEPP, *if* it was applicable to the current application.

Division 3 Development Standards		
84 Development standards—general	<p>1) <i>This section applies to development for the purposes of seniors housing involving the erection of a building.</i></p> <p>(2) <i>Development consent must not be granted for development to which this section applies unless—</i></p> <p>(a) <i>the site area of the development is at least 1,000m², and</i></p> <p>(b) <i>the frontage of the site area of the development is at least 20m measured at the building line</i></p> <p>(3) <i>The servicing equipment must—</i></p> <p>(a) <i>be fully integrated into the design of the roof or contained and suitably screened from view from public places, and</i></p> <p>(b) <i>be limited to an area of no more than 20% of the surface area of the roof, and</i></p> <p>(c) <i>not result in the building having a height of more than 11.5m.</i></p>	<p>The proposal complies with site area and frontage controls.</p> <p>With regards to the height - the existing heritage buildings exceed the maximum permissible height under the SEPP.</p> <p>The height controls infer a maximum height of 11.5m, but this includes all servicing equipment, which must be screened from public places, occupy only 20% of the roof.</p> <p>As the service equipment sits atop the roof, by inference the remaining of the building would need to be less than this height.</p>

Division 5 Design Requirements Standards		
98 Design of Seniors Housing	<p><i>A consent authority must not consent to development for the purposes of seniors housing unless the consent authority is satisfied that the design of the seniors housing demonstrates adequate consideration has been given to the principles set out in Division 6.</i></p>	See below for Division 6 assessment.
Division 6 Design Principles		
99 Neighbourhood amenity and streetscape	<p><i>Seniors housing should be designed to—</i></p> <p>(a) <i>recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation, and</i></p> <p>(b) <i>recognise the desirable elements of—</i></p>	<p>For the reasons detailed elsewhere in this assessment report, it is considered that the proposed development has not been designed to:</p> <ul style="list-style-type: none"> • Recognise the desirable elements of the locations current character. • Maintain reasonable neighbourhood amenity and appropriate residential character by <ul style="list-style-type: none"> - providing setbacks to reduce bulk and

	<p>(i) the location's current character, or</p> <p><i>(ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area, and</i></p> <p><i>(c) complement heritage conservation areas and heritage items in the area, and</i></p> <p>(d) maintain reasonable neighbourhood amenity and appropriate residential character by—</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p><i>(ii) using building form and siting that relates to the site's land form, and</i></p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and</p> <p><i>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</i></p> <p><i>(e) set back the front building on the site generally in line with the existing building line, and</i></p> <p><i>(f) include plants reasonably similar to other plants in the street, and</i></p> <p><i>(g) retain, wherever reasonable, significant trees, and</i></p> <p><i>(h) prevent the construction of a building in a riparian zone.</i></p>	<p>overshadowing</p> <ul style="list-style-type: none"> - adopting building heights at the street frontage that are compatible in scale with adjacent buildings.
101 Solar access and design for climate	<p><i>The design of seniors housing should—</i></p> <p><i>(a) for development involving the erection of a new building— provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and</i></p> <p><i>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</i></p>	<p>At issue here is that the proposed design adversely impacts on the amount of daylight received by the adjoining building to the south at 24 Wascoe Street.</p> <p>The shadow elevations provided with the application confirm that the proposed west wing results in the loss of daylight access to the only northern windows of this period dwelling.</p>
Division 7 Non-discretionary development standards		

<p>106 Interrelationship of Division with design principles in Division 6</p>	<p><i>Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.</i></p>	
<p>107 Non-discretionary development standards for hostels and residential care facilities</p>	<p><i>(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of hostels and residential care facilities that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i></p> <p><i>(2) The following are non-discretionary development standards in relation to development for the purposes of hostels or residential care facilities—</i></p> <p><i>(a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,</i></p> <p><i>(b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m—</i></p> <p><i>(i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and</i></p> <p><i>(ii) is limited to an area of no more than 20% of the surface area of the roof, and</i></p> <p><i>(iii) does not result in the building having a height of more than 11.5m,</i></p> <p><i>(c) the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,</i></p>	<p>The entire Wascoe Street frontage is higher than 9.5m, including the SW corner which impacts the solar access to no. 24 Wascoe Street.</p>

Local Environmental Plan 2015 [LEP2015] – s4.15(1)(a)(i)

The proposed development has been assessed against the provisions of LEP 2015 with significant points identified and discussed below.

1. Assessment context - Applicable LEP controls on and surrounding the site

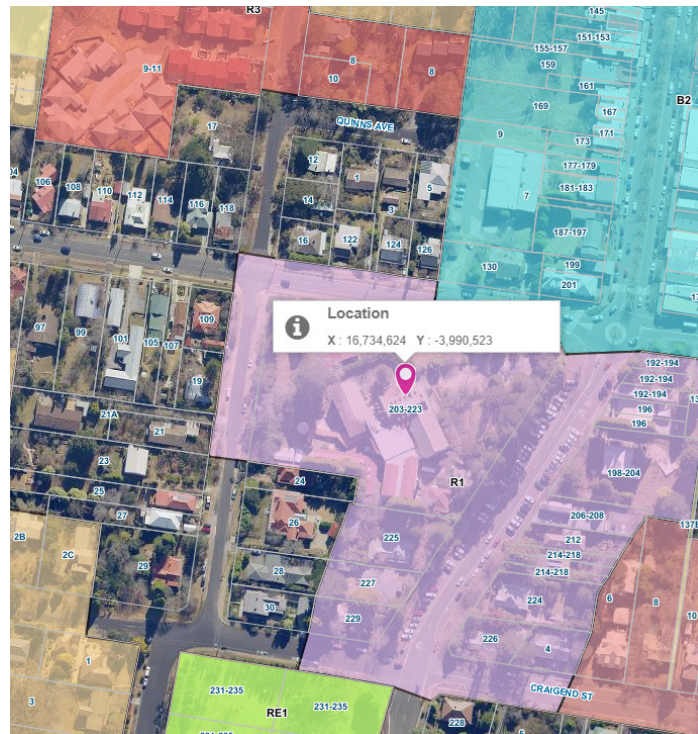
The subject site is zoned under LEP 2015 but adjoins land zoned under LEP 2005. The land use zoning provisions applicable on and surrounding the site are relevant to establishing the assessment context for this

application, as many of the applicable controls under both LEPs require consideration of the impact of the development on the character and setting of the locality. In addition to the zoning controls applicable under the relevant instruments, each LEP contains additional provisions dealing with precincts, character and heritage. This section seeks to establish this important assessment context for the benefit of the Panel.

2. Zoning

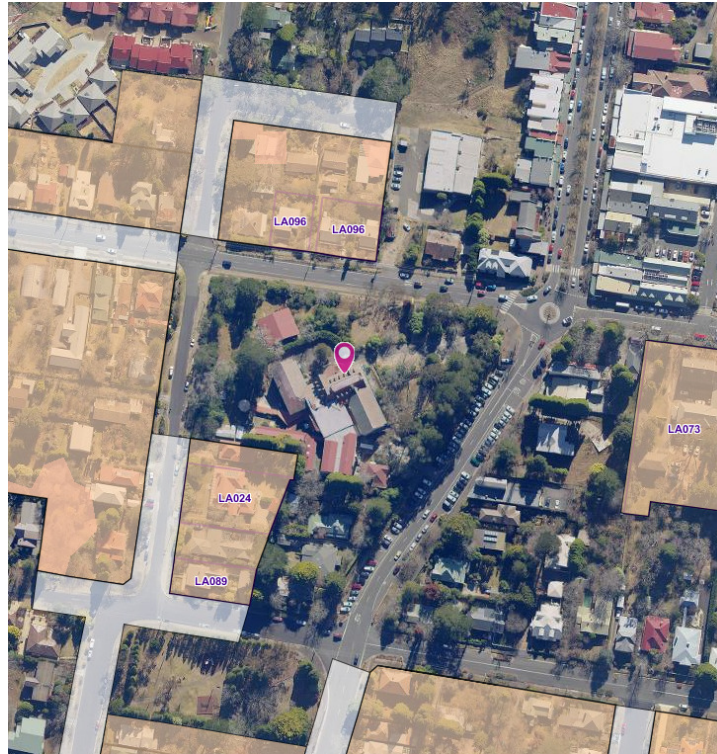
LEP 2015 applies to the subject site and adjoining and nearby properties to the northeast, east and southeast of the subject site. See the coloured areas on the LEP 2015 zoning map below.

The areas to the northwest, west and southwest of the site which are not coloured on the below zoning map are deferred from LEP 2015 and the provisions of LEP 2005 apply to these areas.



Areas zoned under LEP 2015

The map below shows the surrounding localities to which LEP 2005 applies. These sites are located in the Living Conservation Zone. They are also identified as Protected Area- Period Housing.



Areas zoned Living Conservation under LEP 2005

3. Character of Surrounds

Other than the relationship between the proposed development and the heritage values and character of the site, this assessment focuses heavily on the scale and character of buildings to the south and southwest of the subject site. This is because of the relationship between the subject proposal and these buildings. This relationship is derived from the fact that the new built forms are proposed to be located in the southern portion of the site adjacent to these single storey period housing areas. The proposed new buildings are somewhat removed from other types and forms of development located north of Megalong Street and are somewhat screened when viewed from the north as they are located behind the existing Ritz buildings.

Wascoe Street is characterised by larger allotments accommodating modest, single storey dwelling houses within prominent traditional garden settings. They are part of a Period Housing area characterised by housing stock incorporating Victorian, Edwardian, Federation, Inter-War or Art Deco building styles, creating a traditional streetscape character in the locality of modest single storey dwellings, largely of light weight (timber weatherboard and corrugated iron) construction, commonly with hip and gable roof forms. Lot sizes and shapes are variable within Wascoe Street, and while setbacks are variable, all include landscaping within the front setbacks of a scale complementing the modest single storey dwellings. Screen planting of trees and hedges is a common element of the street frontages of the dwellings in this area.

The adjoining dwelling at 24 Wascoe Street is a small single storey cottage, while not mapped as a heritage item in the LEP 2005 mapping, is nonetheless identified in the heritage schedule of LEP 2005 as forming part of the LA020 “Kanowna” Group Heritage item which comprises both 24-26 Wascoe Street. The heritage inventory sheet identifies the two buildings comprising the Kanowna Group as being constructed in 1905, and describes the item as Kanowna at 26 Wascoe Street and the adjacent cottage at 24 Wascoe Street are a pair of Federation period houses, associated by their common historical use as a hospital.

The dwelling is located on a narrow lot of land, near the southern side boundary of the subject site, with extensive landscaped gardens in the rear yard.

Dwellings to the south and southeast of the site along Leura Mall are located within the LA106 Leura South Heritage Conservation Area (HCA) under LEP 2015, and share the R1 General Residential zoning of the subject site.

These properties are characterised by late 19th- middle 20th century dwellings, characterised by lightweight construction materials such as timber weatherboard and corrugated iron. There are also mid-late 20th century dwellings within the HCA, with the common theme for both periods being the cultural landscape setting, with extensive gardens, hedges and conifer windbreak trees, with many houses hidden from casual view by dense gardens and street planting.

The dwelling adjoining the south-eastern boundary of the site is a modest older style cottage, which includes a conifer windbreak characteristic of the HCA on its northern boundary adjoining the subject site.

Part 2 Permitted or prohibited development			
Clause	Standard	Discussion	Complies?
Land Use Table	Permissibility	<p>The proposed use is categorised as a Residential Care Facility under LEP 2015, which is defined as:</p> <p><i>Residential care facility</i> means accommodation for seniors or people with a disability that includes—</p> <ul style="list-style-type: none"> (a) meals and cleaning services, and (b) personal care or nursing care, or both, and (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, but does not include a dwelling, hostel, hospital or psychiatric facility. <p>A Residential care facility is a type of seniors housing, which itself is identified in the LEP as a form of residential accommodation.</p>	Y
2.3	Zone objectives	<p>The site is located within the Zone R1 General Residential zone.</p> <p>The zone objectives are:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To ensure that building form and design does not unreasonably detract from the amenity of adjacent residents or the existing quality of the environment due to its scale, height, bulk or operation. • To enhance the traditional streetscape character and gardens that contribute to the attraction of the area for residents and visitors. • To provide opportunities for the development of a variety of tourist-oriented land uses within a predominantly residential area. <p>The proposal provides a needed form of housing within the</p>	N

Part 2 Permitted or prohibited development			
Clause	Standard	Discussion	Complies?
		<p>community and is consistent with zone objectives 1 and 2.</p> <p>Zone objectives 3 and 6 are not relevant to the development.</p> <p>However, it is considered that the proposed development is inconsistent with two key objectives, and that the height and floorspace ratio non-compliances contribute to the inconsistency.</p> <p>The two objectives of concern are:</p> <ul style="list-style-type: none"> <i>To ensure that building form and design does not unreasonably detract from the amenity of adjacent residents or the existing quality of the environment due to its scale, height, bulk or operation.</i> <i>To enhance the traditional streetscape character and gardens that contribute to the attraction of the area for residents and visitors.</i> <p>The design of the proposed new West Wing is considered to detract from the traditional streetscape character in Wascoe Street due to its scale, height and bulk. The proposed design will also impact on the amenity of no. 24 Wascoe Street.</p> <p>The current plans incorporate modifications to the design of the West Wing since the originally submitted plans. This includes stepping the top storey of the West Wing back when viewed from Wascoe Street and incorporation of a Mansard-style roof. The amended plans have softened the visual impact of the carpark opening to some extent via the addition of landscaping along the edge of the driveway retaining walls and screening the electricity substation. In addition, podium planting has been provided above the basement entry which improves the landscape setting compared to the original plans. However, as outlined in the report by Council's Heritage advisor, these design changes do not sufficiently ameliorate the visual impact of the proposed development on the Wascoe Street streetscape.</p> <p>This is particularly acute at the southern end of the building, where the three storey building sits atop the basement car park entry and, notwithstanding the landscaping of the basement entry area, the basement entry area exposes a significant portion of the West Wing buildings to the street.</p> <p>As such, the scale, height and bulk of the development along the Wascoe Street frontage, particularly in the southwestern corner of the site, adjoining the Period Housing Area, does not enhance the traditional streetscape character of the locality. The building footprint does provide the potential for adequate landscaping, but the height and bulk of the building particularly in this locality cannot be adequately screened or softened by landscaping. A more appropriate transition in height is required in relation to the Period Housing area, in addition to the built form elements identified in the Heritage report.</p> <p>The dwelling at 24 Wascoe Street, immediately adjoining the site suffers the most significant adverse impacts on amenity and environmental quality from the proposed development. The proposed west wing, although moved back 70cm under the</p>	

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Part 2 Permitted or prohibited development			
Clause	Standard	Discussion	Complies?
		<p>amended plans still results in overshadowing beyond what would be expected of a compliant building. While the north facing windows at no. 24 Wascoe Street are bedroom windows, not living room windows, they are nonetheless the only north facing windows in the dwelling and currently provide daylight, and solar access to the interior of the dwelling</p> <p>It is accepted that the proposed design does not result in significant overlooking of the property at no. 24 Wascoe Street, notwithstanding any perceived loss of privacy that may be experienced by the occupants due to the scale of the new built elements to its north and east.</p>	

Part 4 Principal development standards			
Clause	Standard	Discussion	Complies?
4.3	Height of buildings	<p>Maximum Permitted Height – 8.0m.</p> <p>The existing Ritz buildings already exceed this height.</p> <p>The proposed development achieves a maximum height of 13.3m which the highest buildings comprising the existing Heritage buildings to be retained on site.</p> <p>The proposed new western wings, particularly that element fronting Wascoe Street and returning along the SW corner of the site exceed the 8m height limit, with the height exceedance varying from 1.78m to 4.65m along the Wascoe Street frontage of the building. In addition, plant and equipment set back from the street on the western and southern wings also exceed the maximum height, as does the lift overrun and south eastern corner of the proposed new southern building.</p> <p>At issue is the variation to the height controls along the Wascoe Street frontage and the southwestern corner of the site, which contributes to a range of adverse planning outcomes as discussed in this report.</p> <p>A clause 4.6 variation request for the height of building development standard has been submitted and an assessment of this is located below.</p>	N – cl. 4.6 variation request submitted
4.4	Floor space ratio	<p>The maximum FSR permitted under LEP 2015 is 0.4:1. The proposed FSR is 0.665:1.</p> <p>A clause 4.6 variation request for the maximum FSR development standard has been submitted and an assessment of this is located below.</p>	N – cl. 4.6 variation request submitted


Clause 4.6 - Exceptions to development standards (Building height)	
Exception requested	The applicant has requested a variation to the building height development

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	<p>standard to permit an increased building height.</p> <p>The maximum building height development standard is 8m.</p>
Exclusions	The development standard is not one of those excluded under 4.6(6) or 4.6(8).
Area of non-compliance	CI 4.3 Height of Buildings.
Nature and extent of non-compliance	<p><u>Existing non-compliance</u></p> <p>The existing built form on the site, which is proposed to be retained, has a maximum height of 13.3m, representing a breach of the building height development standard by 5.3 metres: a variation of 66.25%.</p> <p><u>Proposed non-compliance</u></p> <p>The proposed new built form, at its greatest extent, has a proposed building height of 12.65 metres, representing a breach of the building height development standard by 4.65 metres: a variation of 58.12%.</p>
Objectives of the standard	<p>The objectives of the height of buildings clause are:</p> <ul style="list-style-type: none"> (a) to ensure that the bulk of development is not excessive and relates well to the local context, (b) to protect privacy and the use of private open space in new development or on adjoining land, (c) to nominate heights that will provide a transition in built form and land use intensity, (d) to ensure an appropriate height transition between new buildings and heritage items. <p>These objectives apply to all land that is subject to a building height control under Blue Mountains LEP 2015, regardless of whether the height control is 5.5m, 8m or 12m. To gain a fuller understanding of the particular objectives underpinning the 8m height control, further reference to the LEP is required.</p> <p>The 8m building height development standard in this part of Leura aligns with Leura Precinct R1-LE03. Precinct objectives at Part 7 of LEP 2015 as well as supporting provisions at section G of DCP 2015 should be considered when seeking to understand the specific objectives of the 8m development standard.</p> <p>Objectives of Leura Precinct R1-LE03 in clause 7.8(3), which relate to building height, are:</p> <ul style="list-style-type: none"> <i>(c) to maintain and enhance the historically distinctive pattern of detached cottages that are surrounded by gardens and freestanding garages by conserving existing trees that provide visually significant streetscape features and ensuring that landscaping complements and extends the established pattern of tall canopy trees that are located primarily alongside property boundaries,</i> <i>(d) to promote high levels of residential amenity for both future residents and existing neighbouring properties,</i> <i>(e) to promote new buildings that are consistent or compatible with the scale, bulk and architectural character of existing houses and cottages,</i> <p>The introductory text at G7.3 Leura Precinct R1-LE03—Southern Tourist Precinct of DCP 2015 includes the following statements which relate to building height:</p> <p><i>Located to the south of the core village area, this precinct serves as a transition between the retail core and adjacent residential areas.</i></p>

	<p>...</p> <p><i>Where new development is provided, it maintains the residential scale and character of the precinct, including the established gardens and mature vegetation that make a significant contribution to the character of the precinct.</i></p> <p>Controls included at G7.3 Leura Precinct R1-LE03—Southern Tourist Precinct of DCP 2015, which relate to building height, are:</p> <p><i>C12. New development is to be sympathetic to nearby traditional building forms, materials and details, including the use of traditionally-pitched roofs, articulated layouts and forms, verandahs, timber joinery, vertically-proportioned openings and some painted external finishes, with a curtilage of landscaped areas and an address to the street provided. New development is to be similar in form and materials to quality older buildings but subservient in detail to distinguish it as new work.</i></p> <p><i>C14. Any non-residential activities should be accommodated in buildings with a residential scale and character.</i></p> <p>These precinct specific LEP and DCP provisions provide for improved understanding of the rationale behind the 8m building height development standard. In particular, the precinct objectives at 7.8(3)(c), (d) and (e) should reasonably be interpreted as also being objectives of the 8m building height development standard.</p> <p>A full assessment against these LEP and DCP provisions is included elsewhere in this report.</p>
Objectives of the zone	<p>The objectives of the R1 General Residential zone are:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To ensure that building form and design does not unreasonably detract from the amenity of adjacent residents or the existing quality of the environment due to its scale, height, bulk or operation. • To enhance the traditional streetscape character and gardens that contribute to the attraction of the area for residents and visitors. • To provide opportunities for the development of a variety of tourist-oriented land uses within a predominantly residential area.
Relevant tests	<p>Under Clause 4.6(3) and (4) of LEP 2015, consent for a development that contravenes a development standard must not be granted unless the consent authority is satisfied that:</p> <p>(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard; and</p> <p>(4)(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.</p> <p>The below assessment is structured to address these tests.</p>
Test 1 - Unreasonable or unnecessary	

Justification by applicant	<p>The submitted variation request puts forward a single argument as why compliance with the standard is unreasonable or unnecessary:</p> <ul style="list-style-type: none"> • That the objectives of the standard are achieved notwithstanding non-compliance with the standard. <p>Refer to submitted 4.6 variation request for detail.</p>
Assessment	<p>In suggesting that the proposal is consistent with the objectives of the development standard being varied, the applicant's submitted variation request limits its discussion to the building height control objectives at clause 4.3 of LEP 2015. These objectives apply to all land that is subject to a building height control under Blue Mountains LEP 2015, whether that height control be 5.5m, 8m or 12m. To gain a fuller understanding of the objectives underpinning the 8m height control, further reference to the LEP is required. Provisions relating to Leura Precinct R1-LE03 give an indication of what this control is aiming to achieve, beyond the generic objectives at clause 4.3. A full assessment of whether the proposal meets the objectives of the development standard is provided in response to Test 3 below. It finds that the objects of the building height development standard are not met in respect of the proposed new west wing where the proposed breach is most significant and most impactful. Further to the below assessment against Test 3, the height of the proposed development, when viewed from Wascoe Street is not consistent with Leura Precinct R1-LE03 objective 7.8(3)(e) which is also considered to be an objective of the 8m building height development standard.</p>
Test 2 – Sufficient environmental planning grounds	
Justification by applicant	<p>The submitted variation request relies on the following arguments (in summary):</p> <ul style="list-style-type: none"> • The viability of the project depends on the breach of the development standard. • The new built elements that breach the development standard are lower in height than the existing built elements that breach the development standard. • The breach of the development standard allows for the retention, refurbishment and adaptive reuse of the heritage buildings. <p>Refer to submitted 4.6 variation request for detail.</p>
Assessment	<p>The viability of the project is not considered to be a relevant consideration in assessing the proposed variation to the building height development standard.</p> <p>It is accepted that the new built elements that breach the development standard are lower in height than the existing built elements that breach the development standard.</p> <p>Documentation supporting the proposed development, including the submitted variation requests, refer to the 'retention' and 'refurbishment' of the existing heritage buildings. The retention and refurbishment of the heritage buildings is put forward as a key benefit of the proposal. However, retention and refurbishment is not considered to be an accurate description of the proposed works on the heritage buildings. Demolition Plan 01 and Demolition Plan 02 show that the 1892 building is being significantly altered through demolition of internal walls and that the structural walls and floors of the 1913 wings are being</p>

	demolished with only the facades and roofs being retained. Rather than 'retaining' and 'refurbishing' the heritage buildings, the heritage buildings are being substantively demolished.
Test 3 - Public interest - Consistent with the objectives of the standard and the objectives of the zone	
Justification by applicant	<p>Section 5 of the submitted clause 4.6 variation request contains commentary in response to the objectives of the building height control.</p> <p>Section 7 of the submitted clause 4.6 variation request contains commentary in response to the objectives of the R1 General Residential zone.</p>
Assessment	<p>Objectives of the standard</p> <p><u>(a) to ensure that the bulk of development is not excessive and relates well to the local context</u></p> <p>To determine an expected bulk for new development which, in-turn, will help considerations of what 'excessive' might constitute, it is considered reasonable to look to the R1-LE03 LEP objectives and DCP controls. These provisions emphasise the importance of new buildings maintaining "...the residential scale and character of the precinct". As noted in the submitted variation request, the precinct contains buildings that are typically residential in scale and character. In simple terms, this is taken to mean single storey dwellings within established garden settings.</p> <p>It is generally accepted that, via the proposed retention of the cottage in the south-east corner of the site and the two-storey presentation of the new South Wing A, the proposed development when viewed from Leura Mall is not excessive and relates well to the local context. South Wing B is considered to be sufficiently setback and obscured from vantage points on Leura Mall so as not to alter this finding.</p> <p>However, it is considered that the bulk and scale of the proposed West Wing is excessive and does not relate well to the local context. The local context, when viewed from Wascoe Street, is the single storey dwellings on Wascoe Street. In contrast, the proposed West Wing will present to Wascoe Street as a three storey building. While the need for the proposed basement entry is accepted, it will have the effect, from some vantage points on Wascoe Street, of adding to the bulk of the built form in the south western part of the site. This increases the need to reduce the building's scale at this location.</p>  <p><u>(b) to protect privacy and the use of private open space in new development or on adjoining land</u></p> <p>The proposed West Wing will have a negative impact on the enjoyment of the private open space to the rear of no. 24 Wascoe Street. This is because the</p>

	<p>non-compliant built form will have a greater impact on solar access to the private open space at no. 24 relative to a building with a compliant building height.</p> <p><u>(c) to nominate heights that will provide a transition in built form and land use intensity</u></p> <p>It is generally accepted that, via the proposed retention of the cottage in the south-east corner of the site and the two-storey presentation of the new South Wing A, the proposed development when viewed from Leura Mall provides an effective transition to the lower intensity residential development to the south. South Wing B is considered to be sufficiently setback and obscured from vantage points on Leura Mall so as not to alter this finding.</p> <p>However, it is considered that the bulk and scale of the proposed West Wing does not provide for an effective transition to the lower intensity residential development along Wascoe Street. The proposed West Wing will present to Wascoe Street as a three storey building. There will be no 'transition' between this large built form and the single storey cottages on Wascoe street.</p> <p>While the need for the proposed basement entry is accepted, it will have the effect, from some vantage points on Wascoe Street, of adding to the bulk of the built form in the south-western corner of the site. This increases the importance of a reduced scale at the south-western portion of the site.</p> <p><u>(d) to ensure an appropriate height transition between new buildings and heritage items.</u></p> <p>It is generally accepted that the height of the proposed buildings will not overly compete with the existing 1892 and 1913 buildings on the site.</p> <p>Objectives of the zone</p> <p>As stated earlier in this report, concern exists regarding the proposals ability to comply with the following objectives of the R1 General Residential zone:</p> <ul style="list-style-type: none"> • To ensure that building form and design does not unreasonably detract from the amenity of adjacent residents or the existing quality of the environment due to its scale, height, bulk or operation. • To enhance the traditional streetscape character and gardens that contribute to the attraction of the area for residents and visitors. <p>As the proposal as currently designed is not demonstrably consistent with the underlying objectives of the development standard or the objectives of the R1 General Residential zone, it is considered that, by the logic contained with Clause 4.6(4)(a)(ii), the proposal is not in the public interest.</p>
Other considerations – Matters of State or regional significance; Public benefit	<p>It is not considered that the non-compliance with the development standard raises any matters of state or regional significance.</p>
Supported	<p>No.</p>

Clause 4.6 - Exceptions to development standards (Floor space ratio)

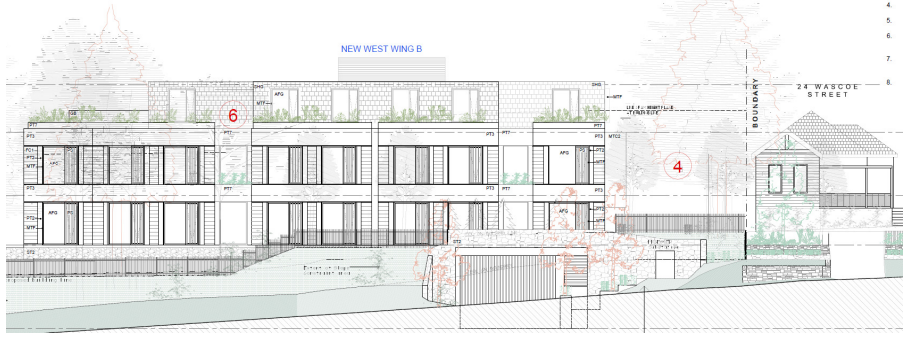
Exception requested	<p>The applicant has requested a variation to the maximum floor space ratio (FSR) development standard.</p> <p>The maximum FSR development standard is 0.4:1.</p>
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Exclusions	The development standard is not one of those excluded under 4.6(6) or 4.6(8).
Area of non-compliance	Cl 4.4 Floor Space Ratio.
Nature and extent of non-compliance	The development application proposes an FSR of 0.665:1. The proposed FSR therefore exceeds the 0.4:1 FSR standard by 66.25%.
Objectives of the standard	<p>The objectives of the FSR clause are:</p> <ul style="list-style-type: none"> <i>(a) to ensure that development is compatible with the bulk, scale and character of existing and future surrounding development,</i> <i>(b) to provide for a built form that is compatible with the role of the town and major centres.</i> <p>These objectives apply to all sites subject to an FSR control regardless of what that FSR control is. Therefore, to gain a better understanding of the underlying objectives behind the FSR control, and more particularly, why it is 0.4:1 rather than some other figure, we must take a more comprehensive view of the LEP.</p> <p>The 0.4:1 FSR development standard in this part of Leura aligns with Leura Precinct R1-LE03. Precinct objectives at Part 7 of LEP 2015 as well as supporting provisions at section G of DCP 2015 should be considered when seeking to understand the specific objectives of the 0.4:1 FSR development standard.</p> <p>Objectives of Leura Precinct R1-LE03 in clause 7.8(3), which relate to FSR include, are:</p> <ul style="list-style-type: none"> <i>(e) to promote new buildings that are consistent or compatible with the scale, bulk and architectural character of existing houses and cottages,</i> <p>The introductory text at G7.3 Leura Precinct R1-LE03—Southern Tourist Precinct of DCP 2015 includes the following statements which relate to FSR:</p> <p><i>Located to the south of the core village area, this precinct serves as a transition between the retail core and adjacent residential areas.</i></p> <p>...</p> <p><i>Where new development is provided, it maintains the residential scale and character of the precinct, including the established gardens and mature vegetation that make a significant contribution to the character of the precinct.</i></p> <p>Controls included at G7.3 Leura Precinct R1-LE03—Southern Tourist Precinct of DCP 2015, which relate to FSR, are:</p> <p><i>C12. New development is to be sympathetic to nearby traditional building forms, materials and details, including the use of traditionally-pitched roofs, articulated layouts and forms, verandahs, timber joinery, vertically-proportioned openings and some painted external finishes, with a curtilage of landscaped areas and an address to the street provided. New development is to be similar in form and materials to quality older buildings but subservient in detail to distinguish it as new work.</i></p> <p><i>C13. Buildings are not to exceed 18m width or depth in any direction.</i></p> <p><i>C14. Any non-residential activities should be accommodated in buildings with a residential scale and character.</i></p> <p>These precinct specific LEP and DCP provisions provide for improved understanding of the rationale behind the 0.4:1 FSR development standard. In particular, the precinct objective at 7.8(3)(e) should reasonably be interpreted as also being an objective of the 0.4:1 maximum FSR development standard.</p>

	A full assessment against these LEP and DCP provisions is included elsewhere in this report.
Objectives of the zone	<p>The objectives of the R1 General Residential zone are:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To ensure that building form and design does not unreasonably detract from the amenity of adjacent residents or the existing quality of the environment due to its scale, height, bulk or operation. • To enhance the traditional streetscape character and gardens that contribute to the attraction of the area for residents and visitors. • To provide opportunities for the development of a variety of tourist-oriented land uses within a predominantly residential area.
Relevant tests	<p>Under Clause 4.6(3) and (4) of LEP 2015, consent for a development that contravenes a development standard must not be granted unless the consent authority is satisfied that:</p> <p>(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard; and</p> <p>(4)(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.</p> <p>The below assessment is structured to address these tests.</p>
Test 1 - Unreasonable or unnecessary	
Justification by applicant	<p>The submitted variation request puts forward a single argument as why compliance with the standard is unreasonable or unnecessary:</p> <ul style="list-style-type: none"> • That the objectives of the standard are achieved notwithstanding non-compliance with the standard. <p>Refer to submitted 4.6 variation request for detail.</p>
Assessment	<p>In suggesting that the proposal is consistent with the objectives of the development standard being varied, the applicant's submitted variation request limits its discussion to the FSR control objectives at clause 4.3 of LEP 2015. These objectives apply to all land that is subject to an FSR control regardless of what the control actually is. To gain a fuller understanding of the objectives underpinning the 0.4:1 FSR control, further reference to the LEP is required. Provisions relating to Leura Precinct R1-LE03 give an indication of what this control is aiming to achieve, beyond the generic objectives at clause 4.4. A full assessment of whether the proposal meets the objectives of the development standard is provided in response to Test 3 below. It finds that the objects of the FSR development standard are not met. Further to the below assessment against Test 3, the bulk and scale of the proposed development when viewed from Wascoe Street is not consistent with Leura Precinct R1-LE03 objective 7.8(3)(e) which is also considered to be an objective of the 0.4:1 maximum FSR development standard.</p>

Test 2 – Sufficient environmental planning grounds	
Justification by applicant	<p>The submitted variation request relies on the following arguments (in summary):</p> <ul style="list-style-type: none"> • The viability of the project depends on the breach of the development standard. • The breach of the development standard allows for the retention, refurbishment and adaptive reuse of the heritage buildings. • Demand exists for the proposed use and the use requires a greater amount of floor space. • The exceedance does not impact on the amenity of adjoining properties. • The additional floorspace does not impact on existing views to and from the site, nor the site's landscape values. <p>Refer to submitted 4.6 variation request for detail.</p>
Assessment	<p>The viability of the project is not considered to be a relevant consideration in assessing the proposed variation to the FSR development standard.</p> <p>Documentation supporting the proposed development, including the submitted variation requests, refer to the 'retention', 'reuse' and 'refurbishment' of the existing heritage buildings. The retention and refurbishment of the heritage buildings is put forward as a key benefit of the proposal. However, retention, reuse and refurbishment are not considered to be accurate descriptions of the proposed works on the heritage buildings. Demolition Plan 01 and Demolition Plan 02 show that the 1892 building is being significantly altered through demolition of internal walls and that the structural walls and floors of the 1913 wings are being demolished with only the facades and roofs being retained. Rather than 'retaining' and 'refurbishing' the heritage buildings, the heritage buildings are being substantively demolished.</p> <p>Concern exists that the additional floorspace, in the form of an overly large West Wing, has a negative impact on the amenity of the dwelling at 24 Wascoe Street through reduced solar access.</p> <p>As noted elsewhere in this report, the FSR control applies to Leura Precinct R1-LE03. It does not apply only to this site and was not tailored to the context of this site. It is suggested that the 0.4:1 FSR control was put in place by the plan makers to assist achievement of the precinct objectives, including precinct objective (e), on otherwise unencumbered sites. On an unencumbered site, building mass could reasonably be expected to be evenly spread across the site, subject to other controls such as setbacks being respected. Therefore, in the context of an unencumbered site, bulk and scale would be minimised and would likely be consistent or compatible with the bulk and scale of existing cottages, as envisaged by precinct objective (e). The necessary 'sterilisation' of a large portion of the site which is taken up by the historic buildings, and the high-value landscaped areas in the north of the site, indicates that the maximum FSR control is unlikely to be achieved (let alone a breached) on this site. The concentration of a non-compliant amount of floorspace on the portion of the site less encumbered by heritage values necessarily means that the resulting building mass is not consistent or compatible with the bulk and scale of existing cottages, as required by precinct objective (e).</p>

Test 3 - Public interest - Consistent with the objectives of the standard and the objectives of the zone	
Justification by applicant	<p>Section 5 of the submitted clause 4.6 variation request contains commentary in response to the objectives of the FSR development standard.</p> <p>Section 7 of the submitted clause 4.6 variation request contains commentary in response to the objectives of the R1 General Residential zone.</p>
Assessment	<p>Objectives of the standard</p> <p><u>(a) to ensure that development is compatible with the bulk, scale and character of existing and future surrounding development.</u></p> <p>The bulk, scale and character of existing surrounding development can generally be considered to be single storey 'period' dwellings within established garden settings. This is because the new built forms are proposed to be located in the southern portion of the site adjacent to these single storey period housing areas, removed from other types of development located north of Megalong Street, and somewhat screened behind the existing Ritz buildings.</p> <p>To determine the expected bulk, scale and character of future surrounding development, it is considered reasonable to look to the Leura Precinct R1-LE03 LEP objectives and DCP controls. Notably, the objectives of the Leura Precinct R1-LE03 include:</p> <p style="padding-left: 40px;"><i>(e) to promote new buildings that are consistent or compatible with the scale, bulk and architectural character of existing houses and cottages,</i></p> <p>Despite some façade articulation and the faux-mansard roof, the West Wing will read as a three-storey high and very long building. It is therefore considered that the proposed new West Wing building is not consistent or compatible with the bulk and scale of existing cottages.</p>  <p><u>(b) to provide for a built form that is compatible with the role of the town and major centres.</u></p> <p>The role of this site within the Leura town centre is dictated by the objectives of Leura Precinct R1-LE03. Given that a key objective of the precinct is 'to promote new buildings that are consistent or compatible with the scale, bulk and architectural character of existing houses and cottages', it is difficult to see how the proposal can be assessed as compatible with the role of the Leura town centre.</p> <p>Objectives of the zone</p> <p>As stated earlier in this report, concern exists regarding the proposals ability to comply with the following objectives of the R1 General Residential zone:</p> <ul style="list-style-type: none"> To ensure that building form and design does not unreasonably detract

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	<p>from the amenity of adjacent residents or the existing quality of the environment due to its scale, height, bulk or operation.</p> <ul style="list-style-type: none"> To enhance the traditional streetscape character and gardens that contribute to the attraction of the area for residents and visitors. <p>As the proposal as currently designed is not demonstrably consistent with the underlying objectives of the development standard or the objectives of the R1 General Residential zone, it is considered that, by the logic contained with Clause 4.6(4)(a)(ii), the proposal is not in the public interest.</p>
Other considerations – Matters of State or regional significance; Public benefit	It is not considered that the non-compliance with the development standard raises any matters of state or regional significance.
Supported	No.

Part 5 Miscellaneous provisions			
Clause	Standard	Discussion	Complies?
5.10 Schedule 5	Heritage conservation	<p>Part 3 of this report contains a detailed assessment of the impact of the proposed development on the heritage items within the site, and also on adjoining and nearby heritage items and heritage conservation areas. The assessment at Part 3 is authored by Council's Conservation Architect / Heritage Advisor.</p> <p>Of high importance to this development proposal is the retention, adaptive reuse, and refurbishment of the site's historic buildings as well as the restoration of the historic garden setting.</p> <p>The proposal retains the c1905 cottage in the south-eastern corner of the site which is positive due to the significance of this cottage, as well as the transition its retention provides to the South Leura Heritage Conservation Area immediately to the south.</p> <p>The proposal retains the c1936 Manager's Residence set within the gardens in the north of the site which is positive due to the original layout and fabric of this building being mostly intact.</p> <p>As made clear in the attached report by Council's Conservation Architect / Heritage Advisor, insufficient details have been provided in relation to the interior detailing of both cottages as part of the proposed adaptive reuse of these buildings.</p> <p>Subject to appropriate documentation of interior heritage detailing and preparation and implementation of a schedule of conservation works, it is considered that the proposal effectively delivers the retention, adaptive reuse, and refurbishment of these two cottages.</p> <p>Retention and refurbishment of the exterior of the original 1892 building, and protection of its curtilage such that views to and from</p>	N

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Part 5 Miscellaneous provisions			
Clause	Standard	Discussion	Complies?
		<p>the building are maintained/enhanced, are the most critical outcomes for any redevelopment of this site. The current proposal maintains this building as the most prominent building in the locality and will allow it to continue to be viewed from key vantage points, such Leura Mall, Megalong Street and Leura Train Station. In this way, the proposal will allow for the 1892 building to continue to be interpreted as a former hotel set in resort style grounds. This is a hugely positive element of the proposal.</p> <p>However, 'retention', 'adaptive reuse' and 'refurbishment' are not considered to be accurate descriptors of the proposed works on either the 1892 building or the 1913 wings. Demolition Plan 01 and Demolition Plan 02 show that the 1892 building is being significantly altered through demolition of internal walls and that the structural walls and floors of the 1913 wings are being entirely demolished with only the facades and roofs being retained. Rather than retaining, adaptively reusing, and refurbishing these heritage buildings, it is considered that the current proposal potentially provides for excessive intervention in the 1892 building and the effective demolition of the 1913 wings.</p> <p>It has been difficult to ascertain the impact of this degree of demolition on the heritage values of the site. The submitted HIS contains no analysis or assessment of the proposed demolition of all interiors in the 1913 wings and the substantial demolition works within the original 1892 building.</p> <p>No evidence has been provided demonstrating that this level of demolition is required for structural, BCA compliance, fire-safety or accessibility reasons. Council's own investigations, aided by input from external consultants engaged to peer review the submitted documentation, indicates no clear justification for the extent of demolition proposed. In the absence of such justification, it could be assumed that perhaps cost and 'constructability' are the objectives behind the extent of demolition proposed.</p> <p>Further, the application lacks a thorough analysis of the heritage values of The Ritz gardens. Without this analysis, the suitability of the proposed approach to landscaping is difficult to assess.</p>	
5.10.8	Aboriginal places of heritage significance	A search of the AHIMS register on the OEH website shows no aboriginal sites or places on or within 50 m of the land.	Y

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
6.1	Impact on environmentally sensitive land	The only environmentally sensitive land on the subject site is Protected Area – Slope Constraint Area. Refer to assessment at clause 6.4 for detail.	Y
6.4	Protected Area – slope constraint area	<p>The embankment situated on the north western corner of the site and extending along Wascoe Street is mapped as Protected Area – Slope Constraint.</p> <p>The Statement of Environmental Effects and Landscape Report submitted with the amended application are based on the premise that the development will have <i>minimal intervention</i> within the embankment area, other than removal of some existing trees, including the Monterey Pines, where they are affected by the building works or are in a state of decline or dead. However, these assumptions do not account for the findings of the contaminated lands report and subsequent Remedial Action plan (RAP), which identify contaminated lands which need to be remediated in these areas. The remediation will affect the area designated as Protected Area Slope constraint.</p> <p>The RAP recommends either capping or removal of contaminated fill. However, while requested, the applicant has declined to provide additional details as to how the remediation will be achieved or to consider the landscaping implications of the proposed treatment. Capping the contaminants for example may prevent establishment of sufficient landscaping to screen the development from Wascoe Street. Removal of fill on steep slopes may affect the viability of existing vegetation identified for retention. In this case, tree 16, which is located within the slope constraint area is important to retain due to its contribution to the landscape setting of the site when viewed from public areas such as the Leura Railway Station and Megalong Street.</p> <p>The slope constraint area comprises only a small portion of the site, and for the purposes of the assessment, 'development' within this area of the site is considered to consist of site remediation required under the RAP, landscaping, and repairs to or construction of new retaining walls, and stormwater disposal.</p> <p>The remainder of the development is sited outside of the slope constraint area and is considered to have no impact on the north western corner.</p> <p>Clause 6.4(3) and (4) provide that:</p> <p>(3) <i>Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that—</i></p> <p>(a) <i>all existing native vegetation situated outside any part of the land required for the development will be retained and appropriate measures will be incorporated to facilitate the maintenance of such vegetation, and</i></p>	Y

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p>(b) <i>the development will incorporate measures to regenerate any native vegetation that has been cleared from land to which this clause applies that does not form part of the site of any existing or proposed development, and</i></p> <p>(c) <i>the development will not have any adverse impact on the rate, volume or quality of water running off the land, and</i></p> <p>(d) <i>a geotechnical report prepared by a suitably qualified person demonstrates that the soil characteristics and structural elements of the land are suitable for the proposed development, and</i></p> <p>(e) <i>the development cannot practicably be located on land other than the land to which this clause applies.</i></p> <p>(4) <i>In determining whether the development can practicably be located on land other than the land to which this clause applies, the consent authority must consider the following—</i></p> <p>(a) <i>the design, type and site coverage of the proposed development, and</i></p> <p>(b) <i>the physical characteristics of the land on which the development is proposed to be carried out, and</i></p> <p>(c) <i>the suitability of the land for the proposed development.</i></p> <p>In relation to subclause 6.4(3):</p> <ul style="list-style-type: none"> • The site is a modified landscape setting and therefore subclauses (a) and (b) are not directly applicable. • As outlined in the stormwater section below, there is potential for discharge of stormwater to impact on the slope constraint area. However, addressing this issue requires a minor amendment only to the existing stormwater plan This can be addressed through conditions of consent requiring connection of the stormwater to Megolong Street. Sufficient certainty exists as to the outcome. Therefore consideration (c) is satisfied. • The geotechnical report provided with the application addresses building construction, but does not address the stability of the slope on the north western corner, although the RAP identifies potential methods for dealing with contamination. While there is uncertainty about the outcome of the remediation techniques and landscaping outcomes within the slope constraint area, it is not considered that further geotechnical detail, beyond that provided in the RAP is necessary to satisfy the intent of the clause 6.4. Therefore consideration (d) is satisfied. • Remediation and landscaping of the slope constrained area is essential to the development. Therefore consideration (e) is satisfied. <p>In summary, concerns remain with the impact of the required remediation on the western embankment, the landscape treatment possible being dependent on the remediation options chosen, and the ability to retain tree 16 in a healthy state after remediation works and embankment stabilisation/landscaping.</p> <p>The required works are not contrary to the provisions of clause 6.4 and the remediation, landscaping and bank stabilisation matters</p>	

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		identified above are likely to be able to be resolved with the submission of further information.	
6.9	Stormwater management	<p>Clause 6.9 (2) provides that:</p> <p><i>Development consent must not be granted for development unless the consent authority is satisfied that the development—</i></p> <ul style="list-style-type: none"> <i>(a) incorporates best practice water sensitive urban design principles, and</i> <i>(b) is designed to maximise the use of water permeable surfaces on the land having regard to groundwater levels and the soil characteristics affecting on-site infiltration of water, and</i> <i>(c) includes, if practicable, on-site stormwater retention for reuse as an alternative supply to mains water, groundwater or river water, and</i> <i>(d) avoids any adverse impacts caused by stormwater runoff on adjoining properties, native bushland and the receiving natural environment by ensuring that—</i> <ul style="list-style-type: none"> <i>(i) the quality of surface water or groundwater leaving the site is not reduced in the short or long term, and</i> <i>(ii) the quantity and flow characteristics of stormwater leaving the site is not adversely altered, and</i> <i>(iii) stormwater treatment and disposal methods achieve adequate filtration, absorption, dissipation and scour protection, and</i> <i>(e) integrates stormwater management measures into the landscape so as to provide a neutral or beneficial effect on environmental and water quality protection, stormwater retention and detention, flood mitigation, landscaping, public open spaces and recreational and visual amenity.</i> <p>Council's engineer has assessed the proposed management arrangements against the LEP and DCP controls, including the above provisions. Their comments are below:</p> <p>For the design of the proposed stormwater management system, the site has been split into two catchments. Each catchment is provided with a rainwater tank, on site detention tank and proprietary water quality devices (cartridges). There is no information as to how runoff from the various impervious areas will drain to the tanks, only a statement "the flows from this catchment are intended to be captured via pits and pipes (as per the Hydraulic Engineer's design)"...</p> <p>There is no information as to how driveway runoff will be conveyed to the tanks (levels are below tank levels), only a note "Refer to Hydraulic Engineer's Design for details". It is inferred that a pump well and pumps will be provided, but the design is incomplete.</p> <p>Capture of all runoff from areas such as paths is not consistent with best practice water sensitive urban design, which promotes the disconnection of smaller paved areas from the piped system. This is contrary to Clause 6.9(2)(a) of the LEP 2015.</p> <p>The rainwater tanks are small compared to the roof areas contributing – comparable to the volume which would be required for a single dwelling. The re-use of roofwater stored in the rainwater tanks is not stated on the plans or in the report. It is understood that</p>	Y

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p>concerns can be raised around the re-use of roofwater for vulnerable older residents, however there are staff amenities which could be connected. This is contrary to Clause 6.9(2)(c) of the LEP 2015.</p> <p>The perforated pipe and “bubbling pit” will not achieve infiltration or dissipation as the pipe is not level and flows entering the upstream end will just flow out of the pit in a concentrated discharge. This will cause scour between the pit and the boundary, contrary to Clause 6.9(2)(d)(iii) of the LEP 2015.</p> <p>The perforated pipe and surcharge pit are upslope of an area of identified uncontrolled fill where Test Pit 113 collapsed at 1.6 metre depth (an indication of loose material and seepage). This area will be included in the remediation works, however the report does not state whether this area will be excavated or capped, and introduction of any moisture into this area would need to be endorsed by the geotechnical engineer, whether in relation to a reworked embankment or capped loose material. This anomaly can be resolved by a condition requiring the pipe and pit to be deleted if required by the geotechnical engineer.</p> <p>Notwithstanding the above, the modelling provided by the applicant’s engineer has been accepted by WaterNSW as achieving a neutral or beneficial effect on water quality. Subject to appropriate conditions of consent, the development can meet the requirements of Clause 6.9(2) of the LEP 2015.</p>	
6.14	Earthworks	<p>Clause 6.14(3) provides that:</p> <p><i>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</i></p> <p><i>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></p> <p><i>(b) the effect of the development on the likely future use or redevelopment of the land,</i></p> <p><i>(c) the quality of the fill or the soil to be excavated, or both,</i></p> <p><i>(d) whether the development minimises cut and fill and the use and location of cut and fill on the site,</i></p> <p><i>(e) the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p><i>(f) the source of any fill material and the destination of any excavated material,</i></p> <p><i>(g) the likelihood of disturbing relics,</i></p> <p><i>(h) whether the location of the earthworks is appropriate, taking into account land that has previously been cleared in response to site characteristics,</i></p> <p><i>(i) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive land and measures to prevent sediment, building materials, waste or other pollutants from leaving the site and entering adjoining land, street gutters, drains or watercourses,</i></p>	Y

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p>(j) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>The proposed development involves substantial excavation for the proposed basement carpark. The application has been reviewed against the heads of consideration and it is considered that sufficient information has been provided to confirm that the proposed development will not adversely impact on the various issues listed above. A geotechnical report accompanies the development application and includes details in relation to the excavation, identifying that excavation will initially encounter sandy soils, but will predominantly occur through the weathered sandstone bedrock. Hard rock excavation techniques will be required, which may include percussive techniques. The report identified (at page 6) that:</p> <p><i>The use of excavators with hydraulic rock hammer attachments should be feasible given the distance to the neighbouring buildings, however, the risk to the building within the subject site must also be considered and this may restrict where hydraulic rock hammers can be used. The excavation procedures should be carefully reviewed prior to excavation commencing so that appropriate equipment is used.</i></p> <p><i>If there is concern that vibrations may be transmitted to nearby buildings, dilapidation surveys of those buildings should be carried out prior to rock hammer use. This may be appropriate for the adjoining properties to the south, particularly 24 Wascoe Street where the house is located close to the common boundary. The dilapidation surveys should comprise detailed inspections of each property, both externally and internally, with all defects rigorously described, i.e. defect location, defect type, crack width, crack length, etc. The owners of each property should be asked to confirm that the dilapidation reports represent a fair record of actual conditions as these reports can help to guard against opportunistic claims for damage that is present prior to the start of excavation.</i></p> <p>Recommendations are included in the report to minimise risk of ground borne vibrations transmitting to nearby structures or infrastructure and the quantitative monitoring of impacts, during trial excavations to assess how close the hammer can operate to adjoining structures or infrastructure. Compliance with recommendations can be included as a condition of consent.</p> <p>Additional earthworks to address soil contamination re addressed in the Remedial Action Plan report.</p>	
6.17	Consideration of character and landscape	<p>Clause 6.17 applies to land in a residential zone and has the objectives of promoting design of residential properties that are consistent with, or enhance, the established character of the buildings, gardens and streetscapes of the villages in the Blue Mountains. As a type of residential accommodation, the provisions are applicable to the proposed development.</p> <p>The established character of the locality is described earlier in the assessment. Clause 7.8(3) objectives (c) and (f) inform the desired character and landscape within the precinct, requiring development</p>	N

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p>within this precinct:</p> <p>(c) <i>to maintain and enhance the historically distinctive pattern of detached cottages that are surrounded by gardens and freestanding garages by conserving existing trees that provide visually significant streetscape features and ensuring that landscaping complements and extends the established pattern of tall canopy trees that are located primarily alongside property boundaries.</i></p> <p>Clause 6.17(3) provides that:</p> <p><i>Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the following—</i></p> <p>(a) <i>the scale and massing of any proposed building,</i></p> <p>(b) <i>the use of building materials, including colours and finishes, and the proposed development's compatibility with the characteristics of the site and the locality,</i></p> <p>(c) <i>the building form and design, ensuring that the building is articulated and varied, and provides a fine-grained residential built form, an individual dwelling identity and street address,</i></p> <p>(d) <i>the location of buildings on the lot and the relationship of the building to the public street,</i></p> <p>(e) <i>measures to minimise any potential impacts on the amenity of any adjoining residents,</i></p> <p>(f) <i>the capacity of the building design, where possible, to encourage active street frontages,</i></p> <p>(g) <i>whether the garden setting establishes a standard of presentation that is comparable with adjacent dwellings and parks, or the immediate landscape setting.</i></p> <p>The assessment against these provisions, which is outlined below confirms that west wings of the development do not achieve a design that is consistent with, or enhances the character of the buildings and streetscapes in the locality:</p> <p>(a) - Having regard to the existing and desired character and landscaping outcomes in the locality as outlined above, it is considered that the scale and massing of the proposed new western wings are incompatible with the existing and desired character of Wascoe Street and adjoining Kanowna Group heritage buildings.</p> <p>(b)-(c) - Council's Conservation Architect / Heritage Advisor assesses the West Wing building materials, form and design in his report, which forms Part 3 of this report, and these findings are summarised in response to clause 7.8 below. The assessment concludes that the building form, design materials and finishes are incompatible with the characteristics of the locality. The new west wing is considered to be institutional in scale and the articulation not sufficiently fine grained to complement the distinctive pattern of detached cottages within Wascoe Street.</p>	

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p>(d)-(e) - Council's Conservation Architect / Heritage Officer also raised concerns in relation to the setback of the western wing from the street, recommending it should be set back behind the front setbacks of the neighbouring heritage properties (Kanowna Group immediately to the south), to reduce the impact of the building on the streetscape, the heritage items and neighbouring residential amenity.</p> <p>(f) - Active street frontages are not required for the proposed development.</p> <p>(g) - There is potential for the garden setting to provide a standard of presentation comparable to the immediate landscape setting of the historic Ritz development and the adjacent dwellings. However:</p> <ul style="list-style-type: none"> While additional information has been submitted in relation to the historic landscaping context of the site, this information has not been translated into a CMP or amended landscape plan. Insufficient detail has been provided as to the proposed landscape outcome on the western embankment, to screen the western wing from Wascoe Street. Additionally, there is no certainty as to how the RAP will be implemented and the resultant impact on landscaping and Tree 16 which is an important landscape element when viewed from higher areas of Leura and Megalong Street. 	
6.19	Design excellence	<p>This clause applies as the site is shown edged heavy blue on the Built Character Map. The map refers to the RE-LE03 precinct. The objectives of this precinct, which help to establish the required standard of architectural and urban design in the precinct are discussed in response to clause 7.8 below.</p> <p>Clause 6.19(3) prevents the granting of development consent for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</p> <p>Clause 6.19(4) identifies a range of matters that the consent authority must have regard to in considering whether the development exhibits design excellence:</p> <p><i>(4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</i></p> <p><i>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</i></p> <p>For the reasons outlined below, the proposed development is not considered to provide a high standard of architectural design, materials and detailing appropriate to the building type and location.</p> <p>The report of Council's Conservation Architect / Heritage Advisor (part 3 of this report) identifies a range of design issues:</p>	N

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<ul style="list-style-type: none"> In relation to the heritage buildings, the report finds that the proposed retention of only the façade of the 1913 wings does not allow for the proper conservation and reuse of these buildings. Further, the lack of design, materials and detailing for the interior conservation of the main 1892 Ritz building means there is insufficient detail to be satisfied that a high quality design appropriate to the building type (high profile heritage building) or location (high profile location) will be achieved for that element. Insufficient details are also provided in relation to the interior heritage detailing of the Manager's Cottage and Leura Mall cottage as part of the proposed adaptive reuse of these buildings. The report, also finds that the new western wings do not achieve a high standard of architectural design, materials and detailing appropriate to the building location and setting. It is acknowledged that the design may meet the requirements for operation of an aged care facility, but it is not well integrated into this historic locality and impacts on the character, setting and amenity of adjoining properties. <p><i>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</i></p> <p>The form and external appearance of the proposed west wings is not considered to improve the quality and amenity of the public domain. As outlined in the report of Council's Conservation Architect / Heritage advisor, the west wing building form, design materials and finishes are incompatible with the characteristics of the locality. The building is considered to be institutional in scale and the articulation not sufficiently fine grained to complement the distinctive pattern of detached cottages within Wascoe Street.</p> <p>The form and external appearance of the remainder development has the potential to conserve the heritage buildings and rejuvenate the landscape setting, improving the quality and amenity of the public domain. However as outlined elsewhere in this report, insufficient detail has been provided to confirm that this potential will be realised.</p> <p><i>(c) whether the development detrimentally impacts on view corridors,</i></p> <p>The proposed development does not impact on view corridors.</p> <p><i>(d) whether the development detrimentally impacts on any land protected by solar access controls established in the Blue</i></p>	

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p><i>Mountains DCP,</i></p> <p>The proposed development detrimentally impacts on land protected by solar access controls established in the Blue Mountains DCP. The proposed development significantly impacts on sunlight and daylight access to the adjoining residential development at 24 Wascoe Street, overshadowing the only north facing windows of that dwelling. The extent of the overshadowing impacts are detailed in the DCP section of this report.</p> <p><i>(e) the requirements of the Blue Mountains DCP,</i></p> <p>An assessment of the proposed development against the applicable DCP requirements is provided below.</p> <p><i>f) how the development addresses the following matters—</i></p> <ul style="list-style-type: none"> <i>(i) the suitability of the land for development,</i> <i>(ii) existing and proposed uses and use mix,</i> <i>(iii) heritage issues and streetscape constraints,</i> <i>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i> <i>(v) bulk, massing and modulation of buildings,</i> <i>(vi) street frontage heights,</i> <i>(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</i> <i>(viii) the achievement of the principles of ecologically sustainable development,</i> <i>(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,</i> <i>(x) the impact on, and any proposed improvements to, the public domain.</i> <p>(i)-(ii) - The land is zoned to permit Residential Care Facilities and its immediate past use was for that purpose.</p> <p>(iii) - As outlined in the report of Council's Conservation Architect / Heritage Advisor, and discussed elsewhere in this report, the proposed development has not adequately addressed the conservation and adaptive reuse of the significant heritage buildings on site. The new western wing design also has insufficient regard to the heritage conservation area controls applying to the site, the adjoining heritage item to the south or the streetscape constraints imposed by the Wascoe Street Period Housing Area which remains zoned under LEP 2005.</p> <p>(iv) - The development does not adequately address the</p>	

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p>relationship with other development along the Wascoe Street frontage, or the adjoining property at 24 Wascoe Street. The urban form of the Western Wings creates streetscape and amenity impacts on these properties. While there is a wide setback to the dwelling at no. 24 Wascoe Street, the non-compliant height of this building means that there is an unreasonable amenity impact in terms of solar access on this property as discussed above. A wide setback is required on the southern boundary to provide suitable separation between the larger bulk and scale of the proposed development and the single storey cottage development of the adjoining Wascoe Street Period Housing area. However, either the height of the building needs to be lowered at this point or the setback needs to be further increased to provide a satisfactory level of amenity. The building is also set closer to Wascoe Street than the adjoining dwelling, contributing to the bulk and scale impacts. The street setback would be acceptable if the height of the building and its design were modified as identified in the report of Council's Conservation Architect / Heritage Advisor.</p> <p>(v) - As discussed previously, the bulk and massing of the proposed western wing along Wascoe Street and the SW corner of the site adjoining 24 Wascoe Street has an impact on the streetscape, character and visual amenity of the locality.</p> <p>(vi) - By retaining the c1905 Leura Mall cottage, the proposal provides for a suitable street frontage height to Leura Mall. The issue remains with the height of the proposed west wing along Wascoe Street as discussed above and elsewhere in the report. The height, in combination with the design and setbacks does not result in suitable frontage to this street, which is near a zone boundary with the adjoining low density Period Housing area of Wascoe Street.</p> <p>(vii) - The sustainable design of the building is discussed in response to clause 6.21 of the LEP below. There are no internal issues in this regard. The overshadowing of the only north facing windows at no. 24 Wascoe Street, as described above, is considered to have environmental impacts for the occupants of this building including increasing reliance on artificial lighting and heating. As these impacts arise from a building which does not comply with the height controls, and the applicant's shadow elevations demonstrate a building complying with the height controls would largely maintain current sunlight access in mid-winter, these impacts are considered to be unreasonable.</p> <p>(viii) - The proposed development raises no matters of concern in relation to the achievement of ESD principles other than the</p>	

Part 6 Additional local provisions			
Clause	Standard	Discussion	Complies?
		<p>overshadowing of no. 24 Wascoe Street addressed above.</p> <p>(ix) - The proposed basement carpark accommodates all staff, visitor and service vehicle access and parking. The proposal has been assessed by Transport for NSW and Council's Development Assessment Engineer. While representing a change to the existing traffic pattern in Wascoe Street, the proposed basement car park access, when the facility is operational, was not assessed as resulting in an unreasonable increase in traffic within Wascoe Street. This is discussed further in the DCP controls section of the report. The proposed development caters for the required number of parking spaces for the development within the basement carpark, including visitor parking. An assessment of the access driveway confirms it is located directly opposite an adjoining garage and right of way access driveway. Late-night movements, for example at the end of a shift, are not expected to result in light disturbance. Conditions of consent can be imposed to restrict delivery and servicing arrangements to normal operating hours to ensure that traffic at night is minimised and staffing levels at the facility are also decreased at night compared to daytime levels.</p> <p>With regards to service vehicles, the height of the carpark only allows small garbage trucks, and as waste collection will be a private arrangement, it will be a matter for the operator to ensure the waste contractor will be able to service the facility from inside of the basement.</p> <p>(x) - Proposed public domain works involve the driveway crossing in Wascoe Street. Regrading of the footpath area in the vicinity of the substation near the driveway is also proposed. and the remediation and revegetation of the NW bank of the site will also require this work to continue into the public domain as the embankment extends into the road reserve.</p>	
6.21	Sustainable Resource Management	The proposed development sufficiently promotes sustainable resources management in the design and operation of the development by achieving ecologically sustainable development practices including remediation of the site to remove contaminated material, a waste avoidance and minimisation plan for construction waste, and a Section J report addressing energy efficiency within the proposed facility.	
6.23	Essential Services	The site is located within an existing urban area and has access to all required essential services. An electrical substation is proposed, and the application has been referred to and supported by Endeavour Energy, subject to conditions of consent.	

Part 7 Additional local clauses – development in villages		
Clause	Standard	Discussion
7.1	Development in villages	<p>Clause 7.1 provides that:</p> <p><i>Development consent must not be granted for development on land identified in this Part unless the consent authority is satisfied that the development on the land identified is consistent with the objectives specified for that development</i></p> <p>The site is located within the Leura Precinct R1-LE03. Clause 7.8(3) contains the applicable objectives, which are discussed below.</p> <p>It is considered that the development is not consistent with the objectives specified for the reasons outlined below.</p> <p>As the development as currently proposed is inconsistent with the objectives, clause 7.1 does not allow for the granting of development consent for the proposed development.</p>
7.8(3)	Precinct R1-LE03 Objectives	<p>The following objectives apply to the site:</p> <p>(3) <i>The objectives for development on land identified as “Leura Precinct R1-LE03” on the Built Character Map are as follows—</i></p> <ul style="list-style-type: none"> (a) <i>to promote the tourism role of Leura village,</i> (b) <i>to accommodate a diverse mix of dwellings and retail and other business-related services that service the local community as well as visitors,</i> (c) <i>to maintain and enhance the historically distinctive pattern of detached cottages that are surrounded by gardens and freestanding garages by conserving existing trees that provide visually significant streetscape features and ensuring that landscaping complements and extends the established pattern of tall canopy trees that are located primarily alongside property boundaries,</i> (d) <i>to promote high levels of residential amenity for both future residents and existing neighbouring properties,</i> (e) <i>to promote new buildings that are consistent or compatible with the scale, bulk and architectural character of existing houses and cottages,</i> (f) <i>to encourage restoration of traditional architectural forms and details for existing early 20th century cottages and houses,</i> (g) <i>to provide on-site parking that does not dominate the street frontage and that is integrated with the design of surrounding garden areas.</i> <p>a) While not a tourist development, seniors housing is permissible in the zone. A well-preserved historic building, within a suitable landscape setting would nonetheless make a contribution to the character of the locality and its attractiveness as a tourist destination. However, as outlined in the heritage assessment, the restoration and conservation of the heritage buildings is not guaranteed under the proposed development and with the information currently available.</p> <p>Further, questions remain about the landscape setting, particularly on the Wascoe and Megalong Street functions. The form and impact of boundary fencing is also unclear, with some plans indicating 2.5m high boundary fences and the relationship of the property to the adjoining streets is therefore unclear. Landscape and fencing matters can potentially be addressed via conditions of</p>

Part 7 Additional local clauses – development in villages		
Clause	Standard	Discussion
		<p>consent.</p> <p>b) The proposed development is consistent with objective (b) as it diversifies the dwelling mix in the locality and provides seniors housing to the community.</p> <p>c) The proposed development is inconsistent with objective (c) in that:</p> <ul style="list-style-type: none"> i. In relation to the period housing cottages in Wascoe Street, the height of the west wing buildings does not provide a suitable transition to the modest single storey cottages in the Wascoe Street Period Housing Area. The massing of the west wing has not responded to the streetscape rhythm of existing development. As outlined in the attached heritage assessment report, the proposed building is institutional in design and scale, and does not provide sufficient articulation to the roof or walls. Varying setbacks and smaller building elements along the Wascoe Street frontage would break up the streetscape façade and respond to the finer grain and rhythm of the existing historical development. In addition, insufficient detail is provided in relation to the landscaping of the Wascoe Street frontage, both in terms of landscape design response and response to the Remedial Action Plan (capping or excavation of contaminated materials) to be satisfied that the landscaping will successfully complement and extend the pattern of canopy trees along the western embankment area and provide the necessary landscape buffer between the buildings and Wascoe Street. These matters are addressed further in relation to objective (e) below. ii. Of additional concern is the impact of remediation on the large canopy tree (tree 16) on the upper edge of the embankment. This tree plays a significant role in the landscape setting of the site when viewed from elevated areas such as Leura railway station. Retention of this tree will play a role in screening the new west wing and retaining the landscape setting of the site when viewed from key vantage points. iii. Council's heritage advisor also has concerns in relation to the success of the proposal in conserving landscape settings as the DA documentation does not include a detailed historical analysis and assessment of the soft landscape and gardens and yet the DA proposals include significant change in the landscape. While additional information has been submitted in relation to the landscaping context of the site, this information has not been translated into a CMP or amended landscape plan. <p>d) The proposal is considered to provide a high level of residential amenity for the future occupants of the site, but not for existing neighbouring properties. The height of the proposed west wing results in the loss of solar access to the only north facing windows of the adjoining dwelling at no. 24 Wascoe Street. The impact arises from the height noncompliance and, as the applicant's shadow elevations demonstrate, a building which complies with the height development standard would allow for adequate sunlight into these windows. In addition, the visual impact of the development, with three storey buildings extending along its</p>

Part 7 Additional local clauses – development in villages		
Clause	Standard	Discussion
		<p>eastern rear boundary and southern side boundary, results in a loss of visual amenity. Similarly, from Wascoe Street there is a loss of visual amenity arising from the incompatibility with the built form, particularly at the southwestern end of the site where the basement carpark entry will allow the full scale of the development to be visible from the street. While recent amendments to the proposal improve the visual amenity of the carpark entry, with its retaining walls up to 5m in height, the cumulative impact of the basement entry and form and massing of the three-storey building in this part of the site is considered to result in an unacceptable impact on the character, streetscape and therefore visual amenity of the residents in this part of Wascoe Street.</p> <p>e) The proposed new western wings of the development are not consistent or compatible with the scale, bulk and architectural character of existing houses and cottages in Wascoe Street. As outlined in the heritage assessment report:</p> <p><i>To achieve the 'scale' objective the west wing should be reduced to a footprint more closely aligning with the CMP for new development (ref 2021 CMP p141) and the footprint broken up into smaller interconnected built elements. To achieve the 'bulk' objective the proposed building height should be reduced by a storey to within the permissible height and more consistent with the existing development. To achieve the 'architectural character' objective the detailed local character study of the various precincts in the immediate vicinity needs to inform the architecture, roof form, materials and finishes. A reduced overall height, a modulation of height along the Wascoe Street elevation, a varied setback along Wascoe Street with smaller inter-linked built forms fronting Wascoe Street, as suggested above, a more locally-responsive, articulated, scaled and massed design outcome could be achieved. With this improved overall form, the external envelopes of the individual built elements could then be treated in slightly different ways along the length of Wascoe Street drawing from the early 20th C character of a streetscape and avoid a large, modern, institutional look to the new development.</i></p> <p>f) The proposed development now includes the retention of the c1905 cottage on the Leura Mall side of the development, which in the context of the Leura Mall streetscape is consistent with this objective, subject to the preparation of a satisfactory schedule of conservation works to provide certainty regarding the retention of significant fabric.</p> <p>g) The proposed development provides basement car parking and therefore the parking itself does not dominate the streetscape. The proposed basement carpark entry is a significant new element in the traditional streetscape. However, the amended plans do provide adequate landscaped area and landscaping, including podium planting over the entry, to provide some compatibility with the surrounding garden areas. This would be acceptable if not for the cumulative streetscape impact arising from the basement entry and the building scale, form and design in the southwestern corner of the site.</p>

Development Control Plan 2015 – s4.15(1)(a)(iii)

The proposed development has been assessed against the provisions of the Development Control Plan 2015

with significant points of consideration identified and discussed in the table below.

Part B Context, site analysis and design		
Clause	Standard	Discussion
B2	Building envelope	As the site is in a precinct, the applicable building envelope controls are found in DCP Part G. Part B building envelope controls do not apply in this case.
B3	Character and design	Specific character considerations for the site are found in DCP Part G and the matters in this section are addressed in the Part G assessment and the LEP assessment.

Part C Environmental management			
Clause	Standard	Discussion	Compliance Y/N
C2	Bushland and weed management – Weed management is relevant to this site.	<p>The Ritz gardens have been identified in as containing a large percentage of plant species that would once have been commonplace in the landscape setting but are now regarded as common weed species of the Blue Mountains, including <i>Genista spp.</i>, <i>Cytisus spp.</i>, <i>Ligustrum spp.</i>, <i>Pittosporum undulatum</i>, <i>Lonicera japonica</i>, <i>Robinia pseudoacacia</i>, <i>Prunus laurocerasus</i>, <i>Pistachio chinensis</i>, <i>Ilex aquifolium</i>, <i>Salix spp.</i>, <i>Rhus (syn. Toxicodendron)</i>, <i>Raphiolepis spp.</i>, <i>Buddleja davidii</i>, <i>Hedera helix</i>.</p> <p>Additional information was provided which identified the existing plant species and contains recommendations in relation to the removal of weed species and replacement of other species to reinforce an alpine character.</p> <p>Council's Landscape Assessment Officer was supportive of the following recommendations of the supplementary prepared by Matthew Taylor:</p> <ul style="list-style-type: none"> • <i>That the concept of specimen plantings be encouraged to reinforce an "alpine" character. This character is reflected in the documentation prepared by Svalbe & Co in association with Brendan Moar for this site.</i> • <i>That the garden around the manager's house should be recognised as a separate entity and that rebuilding of existing stone walls and additional garden detail that reflects the period of the manager's house be planted. Recommendations in relation to</i> 	Insufficient detail

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Part C Environmental management			
Clause	Standard	Discussion	Compliance Y/N
		<p><i>the stone walls are to be per the Supplementary Report prepared by John Oultram for the site.</i></p> <p>However, the recommendations of the report have not yet been translated into an amended landscape plan, or the Conservation Management Plan, as discussed further below.</p>	
C3	Landscaping	<p>An amended landscape plan was requested by Council, including to address weed management issues, and particularly to identify landscaping options for the north-west embankment along Wascoe Street and the western end of the Megalong Street frontage, which requires remediation work as well as potentially provision of retaining walls on the steep embankment.</p> <p>While some aspects of the landscape and weed management plan are potentially able to be addressed prior to the issue of a construction certificate, Council's Landscape Assessment Officer remained of the opinion that:</p> <p><i>full and detailed information of the north western parts of the site must be submitted prior to approval. There is currently no real understanding of the extent of soil removal and the potential for landscape restoration in this vitally important area.</i></p> <p>Nonetheless, without prejudice conditions were provided by the landscape officer, with their assessment identifying a range of issues that require further attention:</p> <p>For the north-west embankment areas, the plans would need to include the following:</p> <ul style="list-style-type: none"> <i>further soil assay to determine if contamination is an issue</i> <i>additional geotechnical assessment of determine slope composition and structural integrity</i> <i>the staging of works to ensure the maintenance of slope stability</i> <i>detailed specifications for weed control</i> <i>assessment of the current condition of any</i> 	Insufficient detail

Part C Environmental management			
Clause	Standard	Discussion	Compliance Y/N
		<p><i>ironstone wall remaining on the slope</i></p> <ul style="list-style-type: none"> <i>the salvage of all ironstone fragments or wall components (over the whole of the site) for reuse in key areas</i> <i>construction details of any retaining structures to an engineer's specifications</i> <i>landscape planting selection to ensure long term landscape outcomes</i> <i>landscape edging and other specifications for this particular area</i> <i>maintenance specifications.</i> <p>In the circumstances of this case, some certainty regarding the landscaping outcomes on the north-western corner of the site is important to the full assessment of the impact of the proposed western wings from Wascoe Street, Megalong Street and the higher areas of Leura around the railway station.</p> <p>The bulk, scale and height of the west wings and their impact on the Wascoe Street period housing area and adjoining heritage housing is a key issue for this development application. The landscaping of the embankment area along the Wascoe Street frontage is considered to play an essential role in reducing the visual impact of the west wings from the street. Insufficient detail has been provided to be satisfied that the landscaping in this locality will suitably screen the buildings.</p> <p>As outlined in the discussion of remediation in the SEPP section of the report, contaminated land also extends under a significant tree which is important to retain to minimise the visual prominence of new development on the western side of the site and ensure the heritage buildings are the dominant visual element when viewed from the railway station and higher surrounding areas. In the absence of details as to how the remediation plan will be implemented, there is insufficient certainty regarding its retention. The RAP options also impact the type of landscaping which can be achieved, and if the capping option is chosen, it is uncertain as to whether landscaping of sufficient height and density can be achieved to offset the</p>	

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Part C Environmental management			
Clause	Standard	Discussion	Compliance Y/N
		visual impact of the new west wing buildings.	
C6	Water management	<p>The proposed development has been assessed against the provisions of the DCP. The matter is addressed in the stormwater section of the report.</p> <p>The stormwater design is not fully supported, however is capable of modification prior to the issue of a CC.</p>	Y

Part D Heritage management			
Clause	Standard	Discussion	
D1	Heritage	Refer to the assessment in the LEP section of this report.	

Part E Site development and management			
Clause	Standard	Discussion	Compliance Y/N
E1	Services	All required services are available.	Y
E2.2	Traffic, parking and access	<p>Parking Required:</p> <ul style="list-style-type: none"> 1 space/10 beds (or 1 space per 15 beds for dementia facilities) 1 space per 2 employees on duty at any one time, plus an ambulance space. <p>The development proposes 123 beds, with the maximum number of staff on site at any one time being 49 staff. The SOEE does not provide a breakdown of the number of dementia beds, so the rate of 1 space/10 beds is used in the calculations.</p> <p>12 spaces are required for the 123 beds.</p> <p>24 spaces are required for the times when maximum staffing is on site.</p> <p>Therefore, a total of 36 spaces are required.</p> <p>The proposal complies with parking requirements as the basement car park provides parking for forty (40) car parking spaces.</p> <p>These spaces include:</p> <ul style="list-style-type: none"> Fourteen (14) visitor car parking spaces; One (1) disabled car parking space; and 	Y

Part E Site development and management			
Clause	Standard	Discussion	Compliance Y/N
		<p>– One (1) loading bay, that will also be used as the ambulance bay.</p> <p>The parking location and layout has been assessed as acceptable by Council's Development Engineer and complies with the requirements of the DCP.</p> <p>The proposed servicing arrangements, which are all located within the basement, have also been assessed and are considered appropriate for this development. Garbage servicing is to be provided by contractors and smaller sized garbage trucks are available to provide the proposed garbage service within the basement.</p> <p>Traffic</p> <p>The proposed development is identified as a traffic generating development and the submitted traffic report referred to Transport for NSW to be assessed. Council's Development Engineer has also assessed the development against the provisions of the DCP.</p> <p>The proposed development is supported by both, subject to conditions of consent.</p>	
E2.3	Access	<p>The proposed development is to be accessed off Wascoe Street, with a two-way driveway providing access to basement parking and service areas</p> <p>The parking avoids the environmentally sensitive land on the north-western corner of Wascoe Street; and the driveway is sited so that it is not directly opposite the habitable rooms of dwellings on the opposite side of Wascoe Street. As outlined in the response to submissions, the roller door to the basement is well set back from neighbouring properties and in accordance with the noise report, the entry grates and roller doors will be designed to minimise noise and vibration, to a level which is acceptable for the residential location.</p> <p>The impacts of operational traffic from the proposed development have also been addressed in the traffic report and assessed by Council and Transport for NSW. The development has a relatively low traffic generation when operational and Wascoe Street is capable of accommodating the traffic generated by the development, subject to the works required by Transport for NSW and a</p>	Y

Part E Site development and management			
Clause	Standard	Discussion	Compliance Y/N
		<p>pedestrian pathway along the Wascoe Street frontage of the site.</p> <p>Therefore, while the proposed development will increase vehicle movements in Wascoe Street, the traffic generation estimated in the Traffic Report will remain significantly below the Transport for NSW thresholds for local roads. As the increase in traffic volume can be readily accommodated on the local road, the proposed location is considered acceptable and will be constructed to minimise environmental impacts and provide safe access to and from the facility. There are no traffic or road safety grounds on which to refuse the application.</p>	
E3	Accessibility, adaptability and housing choice	<p>Development standards concerning accessibility and useability for residential care facilities are not specified in this DCP. Relevant standards are applied through Commonwealth aged care accreditation standards and the Building Code of Australia.</p> <p>The detail as to how these requirements are to be met in the heritage buildings is yet to be fully resolved.</p>	N/A
E4	Site management	Preliminary site management, and erosion and sedimentation control details, including a geotechnical report for the basement excavation have been provided. A detailed construction management plan, including construction traffic management plan would be required prior to the issue of any construction certificate.	Y
E5	Safety and security	The proposal adequately addresses these matters.	Y
E6	Waste management	Satisfactory details have been provided for this stage of the assessment. More detailed waste management plans for construction would be required prior to the issue of a construction certificate.	Y
E7	Contamination	See the assessment in the SEPP section of the report.	Y
E8	Public domain	Works within the public domain of Wascoe Street will be required, including a footpath between Megalong Street and the access driveway, the driveway and battering on either side and	Y

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Part E Site development and management			
Clause	Standard	Discussion	Compliance Y/N
		<p>earthworks and landscaping of the embankment.</p> <p>However, it is considered that compliance with Council's public domain requirements can be achieved.</p>	

Part F Specific development types			
Clause	Standard	Discussion	Compliance Y/N
Medium Density Residential			
F1.2.1 (C1-C2)	Building articulation and separation	<p>These provisions deal with provision of adequate separation within a seniors housing development. Sufficient internal privacy is available.</p> <p>Building articulation is addressed in the Part G controls for this development and the various heads of consideration in the LEP. At issue is the design of the west wings.</p>	<p>Y – internal separation</p> <p>N – building articulation</p>
F1.2.4	Landscaping	The landscaping is capable of complying with these considerations, although as discussed previously, the detail is not yet adequately resolved. In particular, the heritage values of the existing gardens has not been adequately documented, nor has the proposed approach to landscaping on the north-western embankment which is subject to a Remedial Action Plan.	Insufficient detail
F1.2.7	<p>Sunlight access</p> <p>Part F1.2.7 (C2) & (C3)</p>	<p>Part F1.2.7 contains the follows guidance:</p> <p><i>C2. Locate and design development so that between the hours of 9am and 3pm on 21 June:</i></p> <p><i>(a) at least 1m² of living room windows associated with neighbouring development receive a minimum of 3 hours of unobstructed sunlight, and</i></p> <p><i>(b) at least 50% of private open space areas (or the principal area of private open space in the case of multi dwelling housing or seniors housing) associated with development on adjoining allotments receive a minimum of 3 hours of unobstructed sunlight.</i></p> <p><i>(c) landscape plant material selection, planting style and placement must be responsive to the solar access characteristics of the private open space.</i></p> <p><i>C3. Where pre-development sunlight access enjoyed by development on adjoining allotments is less</i></p>	<p>N –Dwelling</p> <p>Y –Private Open Space</p>

Part F Specific development types			
Clause	Standard	Discussion	Compliance Y/N
		<p><i>than the outcomes prescribed in C2, new development is not to create any additional overshadowing for that development.</i></p> <p>The proposed development has impacts on the sunlight access to the dwelling 24 Wascoe Street, located immediately to the south of the site.</p> <p>The dwelling has its living areas on the southern side of the dwelling, other than the kitchen which does not have windows in the northern elevation. Private open space is provided in the rear yard, to the east of the dwelling. The principle private open space area, usually located closest to the dwelling consists of two areas with seating immediately adjoining the rear of the dwelling, one on the northern side and one on the southern side of the rear yard.</p> <p>The shadow elevations provided include both existing shadow and shadow from the proposed building, marking the additional shadow caused by that part of the building under the 8m height limit and that above.</p> <p>The existing dwelling at no. 24 Wascoe Street has its living areas located on the southern side of the dwelling and these rooms do not receive the required 3 hours of direct sunlight between 9 and 3pm. The only windows receiving direct north facing are the two north facing bedrooms. It is noted that the west facing bedroom also receives afternoon sunlight through its windows.</p> <p>In this case, clause C3 applies, requiring preservation of existing sunlight. For the reasons outlined below, the proposed development does not preserve adequate existing sunlight to the dwelling.</p> <p>At present the north facing windows are shown to be in sunlight from 9am to 3pm. However, the shadow elevations show that the proposed development removes existing solar access from the only north facing windows of the dwelling from 9am until 2pm. It is not until 2pm that one window achieves the minimum 1m² of sunlight and 3pm until both windows are in full sunlight.</p> <p>The shadow elevations also demonstrate that a development complying with the maximum 8m</p>	

Part F Specific development types			
Clause	Standard	Discussion	Compliance Y/N
		<p>height requirement would preserve full sunlight to these north facing windows from 11am onwards.</p> <p>The objective of the control does not narrow the consideration of sunlight only to living room areas:</p> <p><i>F1.1.4 (O1). To ensure that low-density residential development is located and designed to optimise solar access to living areas and private open space, and to maintain reasonable solar access to adjacent properties.</i></p> <p>The explanation to the solar access provisions also identifies that:</p> <p><i>Adequate solar access contributes to the health and amenity of low density residential development and its inhabitants. Good solar access also reduces reliance on artificial lighting and heating which has subsequent financial and environmental benefits.</i></p> <p>It is considered that in a dwelling in the cold climate of Leura, even when the only north facing windows of a dwelling are bedroom windows, that maintenance of solar access to these windows is important to the amenity and energy efficiency of the dwelling, in accordance with control C3 and the objectives of the clause.</p> <p>In relation to the principal private open space, closest to the dwelling, an assessment of the shadow elevations confirms that the proposed dwelling increases overshadowing at 9am with both the northern and southern sides of the principal private open space likely to be in shadow. However, by 10am the southern area of seating is in sunlight, as is the area directly behind the rear of the building. This area remains in sunlight in both the existing and proposed shadow elevations until 3pm when the area to the south is overshadowed by the dwelling itself. Therefore, it is considered that the proposal maintains sufficient sunlight to private open space.</p> <p>Concerns were also raised in submissions in relation to the impact of overshadowing on the gardens. However, the existing and proposed shadow elevations show only a minor additional shadow encroachment to the northern side of the rear yard up until 3pm. A review of historical air photos also confirmed that in winter the yard is overshadowed by existing dense row of trees on</p>	

Part F Specific development types			
Clause	Standard	Discussion	Compliance Y/N
		the subject site, with the shadow extending onto no. 26 Wascoe Street. Therefore, it is considered that the proposed development does not have a significant impact on shadowing of the garden.	
F7.7 Seniors Housing			
C2-C3	The development complies with the minimum lot size of 1,100m ² and 20m site frontage		Y
C4-C5-	<p>Pedestrian Access</p> <p>Pedestrian entry to the proposed development is to be provided via the existing driveway off the Leura Mall/ Megalong Street roundabout and two separate pathways off the site's southern end of its frontage to Leura Mall. Suitable gradients exist and a pedestrian crossing links the site to the shops on the Megalong Street corner. While a classified road, this is a low-speed road, heavily frequented by pedestrians and considered acceptable in the circumstances of the case. Most services will be provided on site as this is a residential care facility.</p>		Y

Part G7.3 Locality management – R1-LE03 Precinct			
Clause	Standard	Discussion	Compliance Y/N
C1-C3	LEP standards	These controls require compliance with LEP Height, FSR and applicable precinct objectives. These are LEP matters discussed in that section.	N
C4	Height of Lowest Habitable Floor Level	Not to exceed 1m above ground. New buildings comply.	Y
C5	Cut and Fill	<p>Not to exceed 0.5m within 5m of any property boundary.</p> <p>Cut within 5m of boundaries is non-compliant in the following locations:</p> <ul style="list-style-type: none"> Up to 3m excavation depth, 3m from the southern site boundary adjoining 225 Leura Mall. <p>It is considered that the assessment of trees and recommendations for trees 127-136 in the submitted arborist report are relevant to the subject application and can be relied upon. A reconsideration of the impact of the amended proposal on tree 137 is required. Subject to an amended arborist report providing for the retention of tree 137, this non-compliance is considered acceptable.</p> <ul style="list-style-type: none"> Up to 3m excavation depth 1-3.5m of the western 	N

Part G7.3 Locality management – R1-LE03 Precinct			
Clause	Standard	Discussion	Compliance Y/N
		<p>boundary adjoining the rear of 24 Wascoe St.</p> <p>The non-compliant setback to excavation from the rear boundary of 24 Wascoe Street would be considered acceptable in the circumstances of the case, if an arborist report confirmed that the existing trees to be retained on the boundary (trees 138-144) and tree 137 on the adjoining property to the south, will not be adversely affected. A condition of consent can be imposed to have the arborist report updated and plans updated if necessary to ensure appropriate management of impacts.</p> <ul style="list-style-type: none"> Up to 2m excavation along the southern site boundary adjoining 24 Wascoe Street. <p>The submitted arborist report adequately assessment the impact of this non-compliance on trees along this boundary. The proposed management of these trees, including removal and replacement planting, is considered acceptable.</p>	
C6	Front Setbacks	<p>Consistent with that of adjacent buildings.</p> <p>The controls do not differentiate between primary and secondary street setbacks, so it is read that setbacks on all street frontages need to be consistent with that of adjoining buildings.</p> <p>Existing and new buildings have frontages to Wascoe Street, Megalong Street and Leura Mall. The new building work is located behind the setback of the heritage cottage on the Leura Mall frontage and new work does not extend closer to Megalong Street than the existing setback.</p> <p>The development is forward of the adjoining dwelling at 24 Wascoe Street on the western side. Combined with the building height and scale, this setback is considered to contribute to an unacceptable impact on amenity and character of Wascoe Street. See the assessment report of Council's Conservation Architect / Heritage Advisor in part 3 of the report and the above assessment of the applicable precinct and design LEP provisions.</p> <p>If the height, bulk and scale of the south-west corner of the proposed west wing is reduced, the reduced visual impact may allow for the retention of the proposed setback to Wascoe Street.</p>	<p>Y to Leura Mall and Megalong Street</p> <p>N to Wascoe Street</p>

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Part G7.3 Locality management – R1-LE03 Precinct			
Clause	Standard	Discussion	Compliance Y/N
C7-8	Minimum side and rear setbacks 2m side setback 4m rear setback	Side setback – minimum of 2m (side setback is relevant to the side boundary adjoining eastern (rear) boundary of 24 Wascoe Street). Rear setback – minimum of 4m (southern boundary adjoining 225 Leura Mall and 24 Wascoe Street). The building setbacks comply with the minimum setback requirements.	Y
C9	All setback areas are to be landscaped	All setback areas are landscaped.	Y
C10.	Maximum site cover	40% of the total allotment area. The proposed development has a site coverage of 25.3% of the site area, which complies with the maximum permitted.	Y
C11	Minimum area to be retained as soft, pervious or landscaped area	50% of the total allotment area. The total landscaped area of the site is 50.5%.	Y
C12	Building Design	Control C12 reads as follows: <i>New development is to be sympathetic to nearby traditional building forms, materials and details, including the use of traditionally-pitched roofs, articulated layouts and forms, verandahs, timber joinery, vertically-proportioned openings and some painted external finishes, with a curtilage of landscaped areas and an address to the street provided. New development is to be similar in form and materials to quality older buildings but subservient in detail to distinguish it as new work.</i> The proposed new wings have a satisfactory design relationship to the existing heritage buildings to be retained within the site. However, the new west wing is not sufficiently sympathetic to nearby traditional building forms in Wascoe Street as detailed in the report of Council's Conservation Architect / Heritage Advisor. A curtilage of landscaped areas is proposed between the buildings and the site setbacks. Sufficient area for landscaping is also available between the managers cottage and the new western wing to screen the new wing from elevated areas of Leura and ensure that the heritage buildings are the dominant visual element in	Y West setback subject to arborist report re tree retention on rear boundary of 24 Wascoe Street.

Part G7.3 Locality management – R1-LE03 Precinct			
Clause	Standard	Discussion	Compliance Y/N
		<p>these elevations.</p> <p>A question remains regarding the adequacy of the western side boundary setback as outlined above. This needs to be confirmed with an arborist report.</p>	
C13	Building with and depth	<p><i>Not to exceed 18m width or depth in any direction.</i></p> <p>This assessment focuses on the newer wings. There is, of course, no issue with the depth and width of the heritage buildings.</p> <p>The proposed west wings (A and B) on Wascoe Street and along the southern boundary of the site adjoining 24 Wascoe Street are both 37m in length.</p> <p>The southern elevation of the west wings provides little in the way of articulation to break up the 3 storey-built form.</p> <p>There is more variation along the Wascoe Street (western) elevation. However as discussed elsewhere in the report, the bulk and scale of the building results in a development incompatible with the character of Wascoe Street.</p> <p>There is a cumulative impact arising from the height of the western wing and the length of built form. In practical terms as this is a residential aged care facility where the design requires longer and deeper buildings for effective functioning, it is considered that the height and design are the more critical elements. If these were resolved, the length of the buildings would be acceptable in the circumstances of the case.</p>	N
C14	Non-residential activities	Not applicable to this application.	N/A
C15	Gardens	<p>Control C(15) states the following:</p> <p><i>Gardens should incorporate a backdrop of canopy trees along rear boundaries plus trees and shrubs scattered through front and side yards.</i></p> <p>Subject to resolution of the western boundary (adjoining the rear of 24 Wascoe Street) basement impact on tree retention in this area, and on the tree on the adjoining property it is considered that there is sufficient scope to achieve these objectives.</p> <p>Resolution of the RAP treatment option to be employed and its impact on tree retention and landscaping in the north-western corner of the site is also required.</p>	Y subject to resolution of identified issues

Part G7.3 Locality management – R1-LE03 Precinct			
Clause	Standard	Discussion	Compliance Y/N
		The landscape design is not yet fully resolved and further work on the approach to landscaping via the CMP is a preferable starting point.	
16	Driveways, Parking Areas and Garages	<p>Control C16 states the following:</p> <p><i>Driveways, parking areas and garages should not dominate any street frontage, and are to be integrated with the design of surrounding landscaped areas.</i></p> <p>See the response to LEP clause 7.8(g) above.</p>	Y

Planning Agreement – s4.15(1)(a)(iia)

There are no planning agreements that apply to the proposed development or the subject site.

Regulations – s4.15(1)(a)(iv)

The *Environmental Planning and Assessment Regulation 2021*, provides controls and regulations that relate to the management of the proposed development. These requirements are inherent in the assessment processes undertaken for the proposal.

Fire safety and other considerations

Standard	Discussion	Compliance Y/N
Fire safety	<p>The application was accompanied by a BCA compliance report from and a Fire Engineering Statement. Should the development as proposed by approved, the recommendations of within each should be complied with.</p> <p>However, both reports relate to the proposal to substantively demolish the 1913 wings and substantively intervene in the original 1892 building. Council engaged an independent fire safety consultant to peer review the material provided with the application. This review has confirmed that no evidence has been provided demonstrating that the proposed level of intervention/demolition of the historic buildings is required for BCA compliance or fire-safety reasons and that the retention of all historic buildings on the site will not affect fulfilment of BCA fire-safety requirements.</p> <p>It is recommended that the BCA compliance report and Fire Engineering Statement be updated to reflect the retention, adaptive reuse and refurbishment of all historic buildings on site.</p>	

Biodiversity Conservation Act 2016	
S7.3 Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats	<p>A five part test of significance has been undertaken to determine the potential impact upon threatened species, endangered or critically endangered ecological communities. There are not threatened species or endangered or critically endangered ecological communities on the subject or adjoining properties. It has been concluded that there is not likely to be a significant impact to threatened species or ecological communities or their habitat, or to any declared area of outstanding biodiversity value from the proposed development.</p> <p>A Biodiversity Development Assessment Report (BDAR) is therefore not required to address the Biodiversity Offset Scheme (BOS) requirements.</p>
S7.4 Exceeding biodiversity offsets scheme threshold	<p>The Biodiversity offset Scheme (BOS) threshold is not triggered by the development proposal.</p>

Likely impacts – s4.15(1)(b)	
Likely impacts on the natural and built environment	
	Discussion
Heritage	<p>The proposed development represents a rare opportunity to secure investment in this high value heritage item. However, as discussed in reference to clause 5.10 of LEP 2015, and supported by the report of Council's Conservation Architect / Heritage Advisor at Part 3 of this report, it is not considered that the proposed development will allow for retention, adaptive reuse and refurbishment of the historic buildings on the site. Rather, it is considered that the proposed development represents the substantive demolition of the 1913 wings and excessive intervention in the original layout and fabric of the original 1892 building. The excessive amount of demolition/intervention is considered to detract from the heritage values of the site.</p>
Character and amenity	<p>As discussed elsewhere in this report, it is considered that the proposed west wing, mainly due to its height at the south-west corner of the site, will be at odds with the established character of Wascoe Street and will impact on the amenity of no. 24 Wascoe Street.</p>
Impact of Remedial Action Plan on Landscaping and Tree Retention	<p>Insufficient information has been submitted to be satisfied that the required remediation actions will not adversely impact on landscaping and tree retention.</p> <p>The submitted Remedial Action Plan does not state where removal of contaminated material will be carried out and where capping is likely to be recommended. It also does not state that landscaping, including tree planting, will be possible over the encapsulated materials, if encapsulation is required. This is particularly important for the embankments on the north-western corner of the site, which are highly visible from Megalong Street and Wascoe Street and contain the deepest uncontrolled fill, noting that test pit TP113 collapsed at 1.6 metres depth during geotechnical investigations. In terms of the site remediation, this detail is technically not important. However in terms of ensuring that a suitable landscape setting is achieved, appropriate to the heritage values of the site, and adequate planting to minimise the visual impact of the new west wings</p>

Likely impacts – s4.15(1)(b)**Likely impacts on the natural and built environment**

	Discussion
	<p>on Wascoe Street and public locations such as the railway station and Megalong Street.</p> <p>Conditions of consent can be imposed to ensure an appropriate outcome.</p>
Groundwater	<p>The relevant reports provided by the applicant state that groundwater inflow into the basement excavation will not occur. The development application did not identify the application as integrated development for the purposes of the s90(2) of the Water management Act 2000, although it is Council's opinion that these provisions are triggered by the development application.</p> <p>Nonetheless, the applicant is entitled to elect not to deal with this matter as integrated development. The provisions of s90(2) of the Water Management Act 2000 still apply to the development if excavation or site works result in groundwater inflow into the basement excavation, notwithstanding the applicant's preliminary findings to the contrary.</p> <p>Any approval would need to include a condition of consent requiring the applicant to contact WaterNSW in the event that it does occur, as an aquifer interference approval is required if inflows exceed a certain value. Council's engineer has advised that this may be a complicated approach, as a tanked basement would be difficult to construct at such an advanced stage of works, however this would be a matter for the applicant.</p>

Likely social impacts

	Discussion
	<p>The provision of an additional residential care facility would go towards meeting the significant demand for such facilities in the Blue Mountains and therefore the proposal would deliver significant social benefits.</p> <p>As discussed elsewhere in this report, the proposed development represents a rare opportunity to secure investment in this high value heritage item. Securing the site's heritage values and preserving them into the future would represent a significant social benefit, allowing current and future generations to appreciate and enjoy The Ritz as an iconic local landmark with considerable heritage interest. However, it is considered that the degree of demolition and intervention in the original 1892 and 1913 buildings is excessive, not warranted and would detract from the heritage values of the site.</p>

Likely economic impacts

	Discussion
	<p>The use of the subject site for a residential care facility would inject demand into the local economy through the need for supporting services and the location of a significantly sized workforce into Leura town centre.</p> <p>The securement of the site's heritage values into the future would help maintain Leura's appeal as an attractive town for tourists, however it is considered this is dependant on the substantive retention of the site's historic buildings and their adaptive reuse and refurbishment.</p>

Suitability of the site for the development – s4.15(1)(c)

Site suitability

The site is considered suitable for a residential care facility. However, elements of the subject proposal do not adequately respond to the site's constraints.

Submissions – s4.15(1)(d)

Notification and / or exhibition

Consultation was undertaken in accordance with the requirements of Council's Community Participation Plan and the requirements under the Environmental Planning and Assessment Regulations.

1. Original Development Application

Notification

The original development application was advertised in the Blue Mountains Gazette for 14 days from 21 September to 19 October 2021. Written notification was also sent to adjoining and nearby properties. The following issues were raised in the submissions and have been addressed in this report.

Objections (13 submissions):

- Impacts on Wascoe Street from proposed west wings and basement including visual impact, traffic, road safety and noise, privacy, bulk and scale; character of the locality
- Amenity impacts on 24 Wascoe Street immediately south of site, including loss of sunlight impact on amenity, building heating in winter and gardens, noise of basement, privacy, visual impact.
- Impact on 225 Leura Mall – visual impact, privacy, impact on vegetation
- Inadequate and difficult to read information making it hard to understand the proposal
- Environmental impact of vegetation removal and loss of gardens and mature vegetation
- Impact on heritage listed buildings at 24-26 Wascoe Street
- Parking and traffic impacts on locality
- Support proposed use, but not scale of use
- Loss of heritage items, impact of western buildings on heritage values of site and undesirable precedent of contemporary design on a heritage site;
- Construction impacts

Support (5 submissions)

- demolition necessary for contemporary buildings, but keep chimney and cottage
- improve look of derelict corner, elegant use of historic building,
- sympathetic and no impacts, adds value to Leura Streetscape
- benefits of facility
- Best outcome possible, superior to gothic buildings on site
- Support for buildings, concern regarding landscape setting and need to retain as many existing trees as possible;

2. Amended Development Application		
Notification		The amended development application was advertised in the Blue Mountains Gazette for 14 days between 8 July and 7 August 2022. Written notification was also sent to adjoining and nearby properties. The following issues were raised in the submissions and have been addressed in this report.
Issue raised in submissions		Comment
1.	<p>Adverse Impacts on 24 Wascoe Street</p> <p>Objections were received from the owner and relatives of the owner, as well as other community members:</p> <ul style="list-style-type: none"> Revised plans would have a devastating impact on 24 Wascoe Street. None of the significant issues raised about the original proposal and its impacts on 24 Wascoe Street have been seriously or genuinely addressed by the developer. Amended proposal continues to adversely impact neighbouring properties unnecessarily and if proceeds will drastically and forever alter the pleasant, quiet and treed character along Wascoe St. Only a 70cm setback increase [from the original proposal] means indoor and outdoor living areas will still be constantly in shadow. SOEE and cl 4.6 variation falsely claim there is no impact on properties. Impacts of the western wings are to destroy privacy and solar access to 24 Wascoe Street, in addition to 24 hour a day driveway. 24 Wascoe Street shares 2 boundaries with the Ritz and will bear the brunt of the high density 'wing' buildings proposed. Building breaching height control should not cause any overshadowing. Minimal separation from adjoining dwelling in Wascoe Street, inadequate due to the non-compliant height of the building. Top floor setback should be at least 12m from the side boundary property. The proposed built form is inconsistent with adjoining dwelling at 24 Wascoe Street – built form should incorporate shorter, more 	<p>The impact of the proposed development on the amenity of the adjoining dwelling are recognised, particularly the impact of the height, length and bulk of the building on solar and daylight access, visual intrusion, thermal efficiency and amenity.</p> <p>The impacts arise from buildings which do not comply with the height and scale controls.</p> <p>The concerns raised have been taken into account in the development assessment, including assessment of the clause 4.6 variation report and contribute to the recommended reasons for refusal of the application.</p>

	<p>vertical elements based on proportions of that building; and be maximum of 2 storeys within 8m height limit.</p> <ul style="list-style-type: none"> • Maple planting along boundary to no. 24 supported, but supplementary screening may be required. Plantings should be lower than west wing building to prevent loss of winter solar energy access. • See also concerns in relation to impact on heritage items below. 	
2	<p>Amenity Impact on Nearby Residents of Wascoe Street and Wascoe Street Character</p> <p>The matters below were raised by residents of Wascoe Street in the immediate vicinity of the development and also by members of the wider community:</p> <ul style="list-style-type: none"> • Loss of personal privacy. • Increased noise and traffic in the silent hours particularly from the basement carpark. • Driveway placement – noise from roller door, service vehicles, lights from exiting vehicles shining in windows; narrow street not suitable for the basement entry. • Enormous adverse personal impact during construction including noise and traffic. • Ongoing operations - greatly reduced amenity and tranquillity of their home, and residents bought into this area because it was a quiet residential street. • Must limit servicing hours to normal waking hours and garbage trucks to small vehicles that can turn in basement; all vehicles must be able to enter and leave underground carpark in forward direction. • Access point and underground parking a grossly inappropriate misuse of site; should rely on existing driveway. • Height and scale has a detrimental impact on adjoining properties; loss of privacy to adjoining occupants on opposite side of Wascoe Street, inappropriate density in low density zone. • Would welcome complying development 	<p>The impact of the height, bulk and scale of the proposed west wings on Wascoe Street Period Housing Area has been recognised and taken into account in the development assessment, including assessment of the clause 4.6 variation report and contribute to the recommended reasons for refusal of the application.</p> <p>The impacts of the 24 hour operation of the driveway have also been assessed.</p> <p>The driveway is located:</p> <ul style="list-style-type: none"> • 15 metres from the nearest windows of no. 24 Wascoe Street dwelling and at the roller door location is 6 metres below the dwelling; and • The roller door is set back some 14 metres from the property boundary and 34 metres from the front fences of the properties on the opposite side of Wascoe Street. <p>The extent of the separation, combined with acoustic treatments recommended in the noise report, lower night time use and restrictions on the times for service vehicles would adequately manage this particular impact.</p> <p>All servicing is proposed to occur within the basement, including garbage collection.</p> <p>The impact of the driveway placement on light spill into opposite dwellings has also been considered. The driveway is located opposite the driveway and an adjoining right of way at 21 and 21A Wascoe Street. There is also shrub planting along the road reserve in front of the dwelling at no. 21 Wascoe Street. Therefore, at night, there is unlikely to</p>

	<p>that compliments the streetscape and village and exists without severely negatively impacting others, which this proposal does not achieve.</p> <ul style="list-style-type: none"> • Height is inconsistent with the single storey development in Wascoe Street, where 2 storey developments are not even permitted. • Wascoe St's quiet character, amenity and privacy would be negatively impacted by the proposed new driveway, removal of vegetation for safer sightlines, and creation of overlooking structures, increase road in poor standard made worse by 2 years of construction vehicles. • Scale - height , length of the of west wings non compliant with controls and inconsistent with the existing and required character of the area. • Adverse impact on amenity of Wascoe Street by movements associated with 24/7 operation traffic. • Adverse impacts of construction – 6 months of jackhammering, no compensatory street upgrade and long term 24 hour vehicle activity. • 3 storey Wascoe Street wings out of character with the existing appearance and built form of single storey traditional dwellings in that street. Visually overpowering. • Mansard roof form should be deleted as it does not comply with the 8m height standard and this breach results in a large, bulky building excessive in scale, form and appearance; adverse impact on Wascoe Street. Impact more noticeable due to driveway and garage entry. • 4m ground floor height excessive and contributes to poor street outcome. • Substation on Wascoe Street frontage should be located elsewhere. 	<p>be any direct impact from car headlights exiting the basement carpark on adjoining dwelling houses.</p> <p>Setbacks from Wascoe Street to the building are sufficient to maintain an appropriate level of privacy for dwellings on the opposite side of the street. With regards to no. 24 Wascoe Street, privacy screening is proposed on the southern side of the western wing.</p> <p>Therefore, due to the screening, separation distances, and nature of the use for aged residential care, it is considered that the design does not result in privacy issues to the adjoining and nearby residents.</p> <p>Daytime traffic volumes associated with the use when operational have been reviewed by Transport for NSW and Council's Development Engineer. The road is considered suitable for the volume of traffic generated and while the development will increase traffic numbers from that existing, it is considered that the operation of the facility would not have an unreasonable impact on the street.</p> <p>During construction, particularly at excavation stage, there is likely to be a substantial impact on the amenity of the street due to increased truck movements and noise. These impacts are considered mostly unavoidable for a development of this kind, which is permissible on the site. Conditions of consent relating to hours of operation and noise and vibration resulting from excavation can be utilised. A construction traffic management plan is also required by the RMS. The construction management plan will also need to address pedestrian safety during construction.</p> <p>Safety and traffic issues are further discussed below.</p>
3.	<p>Impact on 225 Leura Mall</p> <ul style="list-style-type: none"> • Amended proposal has greater impact on 	<p>The amended plans do result in a southern wing which runs parallel to the boundary with no. 225 Leura Mall, due to a redesign to</p>

<p>dwelling and garden than original proposal.</p> <ul style="list-style-type: none"> • Built structure only 3m from boundary and at higher elevation than house increasing impact. • Lower GF structure only 2m from boundary due to shoring zone; likely more impact on root structures of trees on their properties. This zone needs to be set back further to protect trees in accordance with arborist report for previous plans. No updated arboricultural report was provided. • Development relies on trees on the submitters property for screening, with only a 2m trench available on the nursing home site for landscaping due to the trenching. Need a 5m wide space. • Owner requests arborist supervision during excavation to protect their trees; and 5 year indemnity to cover future damage or injury to these trees. • Beyond cost of removing damaged trees, their loss would impact on Leura Mall streetscape; development needs substantial landscaping to minimise its detrimental impact on the streetscape and character of the area. • Entire new development pushed towards rear of the site due to heritage constraints, significantly affecting its southern neighbours. Development should be assessed on the basis of the effective available land area rather than the entire site and on this basis would be a gross overdevelopment. 	<p>allow retention of the heritage cottage.</p> <p>The original plan had the wing at an angle to this boundary.</p> <p>The setback to the outer wall of the basement has been increased to 6.40m from this boundary, with cut shown on the excavation plan as extending to within 3 metres of the boundary with this property.</p> <p>The nearest point of the basement under the original proposal (as amended to address this concern when originally raised) was 5.54m.</p> <p>Retention of trees along this boundary, consistent with those that characterise this Heritage Conservation Area, is an important consideration.</p> <p>An arborist report accompanied the original application and confirmed that the proposed building was not expected to adversely impact on the line of trees along the boundary, including tree 137 nearer the rear of the site, subject to works being conducted in accordance with the recommendations of the report. The report recommendations are such that they would also apply to the amended design to keep the row of boundary trees.</p> <p>Conditions of consent requiring arborist supervision for works in this area could be applied. However, it is not possible to apply a condition dealing with the cost of dealing with damaged trees. This is a civil matter.</p> <p>The existing southern wings of the building are located at a similar setback to that proposed, although the new proposal and it extends further to the west along this boundary than the existing wing. Additional tree planting on site is proposed along this additional extension.</p> <p>The dwelling on no. 225 is well separated from the shared boundary with the subject site and subject to the retention of the vegetation as discussed above the impact of the proposed development on this dwelling is considered acceptable.</p>
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4.	<p>Parking, Traffic and Road Safety</p> <ul style="list-style-type: none"> • Adverse impacts on Wascoe Street from traffic and pedestrian safety as no pedestrian pathway, Megalong Street used as a short cut already and will have a significant traffic impact. In addition, the road is in poor standard made worse by 2 years of construction vehicles. • Traffic – 37% and 32% traffic increases not relatively minor and just because TFNSW guidelines met doesn't take into account village atmosphere of Leura. • Need to relocate entry and exit to Leura Mall. • Weekend visitor parking to facility will spill out onto Leura. • Garbage trucks won't be able to manoeuvre in basement. • Effective management of Leura's traffic is already problematic as evidenced by the Council's ongoing engagement with community to try to resolve the problem. These impacts would worsen with this proposed overdevelopment. 	<p>The proposed location of the basement car parking on the Wascoe Street frontage has been assessed in terms of its impact on traffic generation and road safety by Council's engineer and Transport for NSW. The submissions received have also been reviewed by Council's engineer.</p> <p>Traffic generation rates used in the consultant's traffic report have been accepted by Transport for NSW.</p> <p>The proposed impacts of the development on traffic, parking and road safety are considered to be within acceptable limits.</p> <p>The impact on pedestrian safety in Wascoe Street from the operation of the development has also been considered. Any development would require a footpath along the Wascoe Street road frontage.</p> <p>The proposed development provides sufficient parking to comply with Council's requirements. While existing traffic problems in Leura are recognised, the parking provision and traffic assessments confirm that the traffic generation of the development once operational, including visitors, does not warrant refusal or modification of the application.</p> <p>The basement is of sufficient size and height to allow for servicing by medium rigid vehicles. Private garbage service vehicles are available that will be able to access and operate within the basement.</p> <p>While the community preference as expressed in the submissions and Council's early preference is for the entry to be from Leura Mall, this is not the application as submitted and that must be assessed. The entry location could not be amended without a complete redesign of the proposal. As the impact of traffic on Wascoe street is considered to be acceptable, the preference for an alternative access point is not a matter that can be given any substantial weight in assessing the application.</p>

		The draft Leura traffic plan did propose to direct tourist coaches into Wascoe Street, but Council decided in August this year not to pursue this option.
5.	Impacts on Heritage Items and Heritage Conservation Area <ul style="list-style-type: none"> Inappropriate colours and materials for a HCA No. 24 and 26 Wascoe Street are heritage listed. Details of heritage history provided Services entry too close to these heritage listed buildings. Impact on heritage buildings as 24 and 26 Wascoe Street. While retaining more heritage on site, is detrimentally affecting historically important adjoining local heritage items. 	The impacts of the proposed development on heritage within the site, and adjoining heritage items, heritage conservation and period housing areas has been assessed in the report and contributes to the reasons for refusal of the application.
6.	Landscaping <ul style="list-style-type: none"> Extent of vegetation removal 	The proposed landscaping has been considered as part of the assessment report. Landscaping detail is not sufficiently resolved in the application.
7.	Adverse Impacts on Leura Village and resultant impacts on tourism <ul style="list-style-type: none"> Buildings out of context with the architecture, character and scale of Leura village and the design and will adversely impact on tourism appeal, adversely impacting on business and tourism by diminishing the uniqueness of Leura. Proposed modern buildings will dominate, visible from significant viewpoints and approaches incl. railway station, hospitality venues on the main ridge to the north, from Katoomba on the western approach to Leura and from Jersey Avenue, Leura Mall and popular Bloome Park to the south. 2 year construction brings major disruption to Leura businesses just recovering from bushfires and pandemic. Completely inappropriate for the adjoining Leura Shopping area. Overdevelopment. Looks like new blocks of 	<p>The matters in relation to the scale of the buildings and the streetscape impact from adjoining streets and higher areas of Leura have been taken into account in the development assessment.</p> <p>The primary impact on streetscape and character from the proposed modern buildings would be viewed from Wascoe Street and its intersection with Megalong Street.</p> <p>Subject to the retention of identified significant trees on the Megalong Street frontage, the proposed new western wings would not be visually dominant when viewed from the railway station and higher areas. Views from the main shopping area of Leura would remain of the gardens and heritage buildings.</p> <p>Traffic and congestion concerns have been assessed and are addressed above.</p>

	<p>flats, and exceeds statutes.</p> <ul style="list-style-type: none"> • There is room for a nursing home, but with a more carefully considered plan for existing residents in local and surrounding streets. Proposal needs to be reconsidered and redesigned to fit into the area. • Heritage preservation aspects positive, but large expansion along Megalong and Wascoe Streets setting a precedent for high density buildings in heart of Leura Village. • Will devastate special character of Leura and worsen traffic issues. • Leura is already congested. 	
8.	<p>No Social Impact/public benefit</p> <ul style="list-style-type: none"> • Need for community benefit such as public parking under building to offset impacts of a development of this scale on the community • No social benefit from the development • Need to integrate parking approach so that council parking also provided under the Ritz, with entry and exit both off Leura Mall. Instead, weekend visitor parking to facility will spill out onto Leura. • Should require upgrading of relevant infrastructure while retaining the heritage values of the Leura HCA, at developer's cost. • Increased demand on local hospital with no emergency surgery • No social benefit – luxury nursing home only. • Restoration of the Ritz is important but should not be at the expense of neighbouring residents amenity or weakening other heritage and development controls. • Exclusive aged care facility is not community minded or meeting needs of Blue Mountains community. • Adverse impact on traffic and gives nothing back to the community. 	<p>The matters raised in relation to social benefits v impacts on adjoining residents and the locality have been taken into account in the assessment.</p> <p>The provision of additional seniors housing in the locality, of a modern standard is considered to be a social benefit. To the extent that affordability of the housing for residents is a relevant town planning matter, the affordability to local residents is a matter that also is addressed through Commonwealth aged care funding arrangements and the development is not necessarily restricted to high income residents.</p> <p>The provision of public parking under the building is not something that can be mandated as part of this application as there are no contributions plans in place that require such an outcome. Additional parking would also create additional excavation, construction time and construction amenity issues for neighbours.</p> <p>Any aged care development in the Blue Mountains will have an impact on demand in relation to hospital services. The demand is not considered so substantial that it warrants refusal of the application.</p>

	<ul style="list-style-type: none"> No community benefit from this overdevelopment, as the plan is to capture the majority of residents' spending within the site and proposal is for high end care, which is not affordable for ordinary Blue Mountains residents and is therefore unlikely to provide a usable service to the local community 	
9.	<p>Inaccurate or Insufficient Information</p> <ul style="list-style-type: none"> Traffic assessment conducted in the pandemic DA needs to address traffic based on relevant traffic flows, not pandemic flows Parking studies done during Covid and based on inaccurate data now traffic is returning to Leura; Limited drawings or concept illustrations for the new western wings and shaded to downplay their bulk and height Plans don't represent height above surrounding natural ground level Locals have a misapprehension about the proposed development – don't understand it or approval pathway Lack of community consultation 	<p>The traffic assessment has been reviewed by and accepted by Transport for NSW. The data is considered accurate and has been accepted by Transport for NSW and Council.</p> <p>The application has been publicly exhibited by Council in accordance with legislation.</p>
10.	<p>Proposed Use and Strategic Planning Issues</p> <ul style="list-style-type: none"> Should be a hotel for tourists and locals to enjoy If it wasn't a nursing home years ago, wouldn't be having this dialogue now. Use - include tourist facilities – being part of Leura village and attracting tourists, not just a nursing home Excessive height control breach should not be considered as part of a DA, only as strategic planning matter 	<p>Seniors Housing is permissible on the site.</p> <p>The LEP allows an applicant to request a variation to the height development standard as part of a development application.</p>

Public interest – s4.15(1)(e)	
Public interest	<p>The proposed development is not considered to be in the public interest for the following reasons:</p> <ul style="list-style-type: none"> ○ The heritage value of the historic buildings on the site justifies their retention, adaptive reuse and refurbishment. However, the current proposal is to substantively demolish the 1913 wings and excessively intervene in the original 1892 building. ○ The proposed new west wing, mainly due to its height at the south-west corner of the site, will be at odds with the established character of Wascoe Street and will impact on the amenity of no. 24 Wascoe Street.

BLUE MOUNTAINS LOCAL PLANNING PANEL - ITEM NO. – MEETING DATE

PART 3 Report of Council’s Conservation Architect / Heritage Advisor

THE RITZ, LEURA MALL NSW 2780

Final rev3 28/11/22

Proposed Adaptive Reuse – Aged Care Use – Amended DA Proposals

This report addresses the amended Development Application (DA X/1436/2021) following discussions and meetings with the Sydney Western City Planning Panel (SWCPP) and Applicant in late 2021 and early 2022.

Background

The report follows a number of previous heritage-related reports prepared over the past 2 years outlining the significance values of The Ritz, but it is perhaps important to reiterate some of those values as the property is a highly significant group of landmark historic buildings located in the centre of Leura village which together have State level significance values and as stated in the State Heritage Inventory sheets Leura is one of the most significant towns in the Blue Mountains. The State Heritage Inventory sheet also state that the Ritz is *“the earliest, grandest and longest lived of all Leura tourist establishments, The Ritz has state significance as a major hotel for three quarters of a century, a landmark from the western railway, third only to the Carrington and the Hydro Majestic, attracting tourists from many places, and an important catalyst in the commercial and tourist development of Leura and the adjacent scenic walks...The Ritz has a unique character among the former Blue Mountains guesthouses created by the use of gothic elements of steeply pitched roofs, chimneys, gables and dormers...the fine gardens enhance the building providing interesting views to and from the home”*

In summary, there has been considerable constructive advice provided to the Applicant to try to ensure that the proposals, the project team, the site investigations, the historical research and detailed documentation and the architectural response **respects and enhances** this significant property. The advice to date has only had limited success in some aspects. The various heritage-related reports include:

- Land Use Heritage Advice (LUA) Tabulated Heritage Advice, June 2020
- LUA Heritage Advice Suggested Sketch Alternatives, June 2020
- LUA Heritage Advice, January 2021
- Development Application (DA), Tabulated Heritage Advice, October 2021
- DA Heritage Advice, The Way Forward, March 2022
- Amended DA, Initial Heritage Advice, June 2022
- Amended DA, Final Heritage Advice, October 2022 (this report)

Overview

Related to the above advice the following tabulation extracts the key recommendations from the more recent October 2021 and March 2022 reports. Copies were previously provided to Council, the Panel and the Applicant.

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From a heritage viewpoint the amended proposals broadly follow the intent of the previous proposals with recent changes to the approach to the adaptation of the 1913 buildings, retention of the 1905 cottage on Leura Mall and amendments to the exterior of the proposed development on Wascoe Street. The adaptation to the 1913 buildings, which are assessed in the 2020 CMP as being of equivalent high level significance to the original 1892 building, has been recently amended from demolition of both 1913 buildings to retention of only the building facades. The limited extent of conservation and restoration within the original 1892 building does not appear to have changed in recent amendments. The retention of the c1905(?) or earlier cottage is a positive amendment but the c1910(?) or earlier brick chimney which was part of the original boiler house for The Ritz, located adjacent to the cottage and a local landmark in Leura Mall, is still proposed for demolition. The proposed new western wing on Wascoe Street has remained largely unchanged in its scale, massing and height and it continues to make a major impact on the traditional form, scale and character of Wascoe Street despite some minor design changes to some elevations. Wascoe Street and the neighbouring heritage buildings are currently within a Period Housing Area and recommended for inclusion in the South Leura HCA (LA106). There has been no further investigation or analysis prepared for the gardens and therefore still the need for preparation of a detailed soft landscape conservation management plan for the property to set out the guiding policies.

Brief Review Amended Heritage Impact Statement

Although the August 2021 HIS (prepared by John Oultram dated June 2022) has been partially amended to accompany the current proposals it still provides little detail or supporting analysis to the proposals. The adaptive reuse approach, particularly relating to the 1892 and 1913 buildings, which was the focus of the March 2022 discussions with the Applicant and the SWCPP leading to the suggestion of amended proposals to adopt that adaptive reuse approach to the project, have not been fully realised. The document only includes brief references to the 1913 wings the most detailed only relating to excavation for the basement rather than, say, the demolition of the internal structure. Also, under the heading “Adaptive Reuse and Alterations” (ref HIS para 8.1.5 p38) only refers to the adaptive reuse of 1892 building and the 1926 bungalow. The adaptive reuse of the 1913 south and west wings or, say, 1905 cottage have not been addressed.

The CMP for the Ritz (also prepared by John Oultram, 2021) contains the important guiding conservation policies and tradings of heritage significance. The amended HIS still refers to the HIGH significance gradings for ‘The Ritz buildings’ which specifically relates to Buildings A1, A2 and A3 – ie the 1892 building and the two 1913 buildings all of which are identified in fig 6.1 page 44. These buildings are the significant elements of the historic Ritz Hotel complex. The HIS also draws attention to these three significant buildings in referencing fig 6.1 of the HIS relating to the 2021 CMP policy ‘Treatment of Fabric’ (ref p70 para 10.5.1) which states “*Define (the) significant buildings as (those) shown in Figure 6.1*” ie the buildings toned in blue in figure 6.1. Therefore is an imperative for a full assessment.

Without an full understanding of a historic place in its detail, it is impossible to adequately assess the level of impact. Two of the three basic questions recommended by Heritage NSW in the steps to prepare a HIS have not been considered or responded to in the amended document. Heritage NSW recommend that a HIS clearly address in an open and transparent way (i) the aspects of the proposals ‘*that could detrimentally impact on heritage significance*’ and then ‘*the reasons explained as well as the measures taken to minimise impacts*’ (ref Heritage NSW *Statements of Heritage Impact*, 2004). This assessment was not undertaken in the HIS and the question omitted in the assessment (ref HIS pp65) And the Heritage NSW guidelines then recommends (ii) that the sympathetic solutions considered in the design proposals be documented and the reasons articulated why those solutions were discounted. For instance, the assessment could have addressed, say, the demolition of the 1913 wings or, the extent to which the proposed development to the west, beyond the curtilage recommended by the CMP, impacts on the gardens, the grounds and particularly the established trees in that area. Similarly, the extent of impact on the other historic buildings have not been fully assessed. Without the appropriate level of heritage assessment of the amended development proposals, the requirements of the BMLEP heritage conservation clause 5.10(4), requiring an understanding of ‘*the effect of the proposed development on the heritage significance*’ is not possible.

Other anomalies in the June 2022 HIS include the following:

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- Re para 8.1.4 relating to “Rebuilding” states that “*the external form and detail of the wings of the early Hotel will be retained with the interiors **adapted** to suit the new use*”. The current proposals are for **demolition** of the internal structural foundations, walls, floors and ceilings. An adaptive reuse approach is recommended in this heritage assessment and feedback.
- Re para 8.1.7 relating to “Site Works” states that “*the site fencing is largely to the perimeter at the top of embankments*”. The HIS discusses the need for the proposed aged care use to have security fencing but the HIS does not address the impact of the proposed fencing height (2.5m?) and their location at the highly visible locations on the top of embankments. High security fencing is not appropriate bounding Leura Mall, Period Housing Area and heritage items and points to the conflict in the proposed use.
- Re para 9.2.2.1 relating to “European Archaeology” states that the development area has some archaeological potential because the significant early buildings related the first stage of the Hotel lie below the 1913 and 1970s wings. But recently amended text states that finding any remains would be precluded without the benefit of further investigation. Further investigation should be recommended.
- Re para 9.2.2.2 relating to “*Excavation to the South and West Wings*” contains no discussion on the other aspects of the proposals such the demolition of the original structure. As noted elsewhere in this heritage assessment and feedback, there is no objection if feasible to the excavation below the 1913 buildings, the objection is the ‘facadism’ and loss of original structural fabric resulting from the only option explored.
- Re para 9.4 relating to the “South and West Wings” the HIS clearly states in paras 8.1.4 and 9.2.4 that the facades will be retained but para 9.4 then states that external doors and windows will only be reused where possible in their original locations. The DA documents do not include adequate investigation of significant fabric of any of the heritage buildings in the group which reinforces the heritage assessment and feedback in this tabulation.
- Re para 9.5 relating to the built footprint. The illustrated figures 9.10 are misleading as the additional new construction proposed by either the demolition of the structure of the 1913 wings or the new construction of the basement are overlooked. The CMP recommended area for new development shown in fig 9.10 was developed with containing the extent of “heritage impact”. The light blue shown in fig 9.10 overlooks the heritage impact resulting from the current proposals to the 1913 wings and the landscape and gardens. The proposed west wing and basement carpark result in considerable impact on established trees on the western side of the key heritage buildings impacting on their setting. The areas indicated as “Decrease on Footprint” relate to statutory requirements in response to the scale of the proposed development and not concessions on the part of the Applicant.
- Re para 9.5.2 relating to “Setbacks” suggests that as the south gable of the 1913 wing has been modified (ie ost 1970s external fire stair) that the construction of an inappropriate addition shown in fig 9.12 page 56 is acceptable. As noted above, the CMP and HIS stress the HIGH level of significance of the 1913 wings and the policies in the CMP are guided by positive conservation outcomes. For instance, CMP policy A17 relates to adaptation of the exteriors of all the HIGH ranking buildings and states “*preserve and conserve all significant fabric introduced prior to 1970*” clearly allowing for recovery of heritage significance by, say, removal of the fire stairs rather than construction of another equally inappropriate structure. The proposed addition should be deleted.
- Re para 10.6.7 relating to “Adaptation for Fire, Access and other Statutory Requirements” and CMP Policy A22. The CMP policy clearly councils the Applicant and Specialist Consultants (ie BCA, fire safety and structural) to investigate alternatives to determine design and construction strategies that minimise damage to significant fabric. Furthermore, to carry out alterations in areas and spaces of lower significance in preference to those of higher significance. The amended DA documents are no closer to detailing the possible BCA, fire safety or structural issues. There has been little analysis of fabric by the heritage consultant or the BCA, fire safety and structural consultants. This issue is reflected in the feedback and advice received from the Peer Review of BCA and structural requirements undertaken by Council in 2021 and 2022. The recently amended HIS only states under this criterion on p78 that the current proposals are “Capable of Compliance”. The statement is not supported by any documentation as to how that will be achieved and at what impact to the fabric.
- Re para 10.7 relating to permissible “Demolitions”. CMP Policy A25 is extracted on page 80. The policy stated only buildings and structures assessed in the CMP as being of LITTLE significance or INTRUSIVE was permissible. However, the HIS is misleading in adding elements of MODERATE significance to fig 8.7.1 on page 80 (ie the 1890s brick chimney and the 1905 cottage). The proposed demolition of the structure of the two 1913 wings (ie the blue toned buildings) are not referred to in the heritage impact assessment.

Re-assessment and Recommendations

The following tabulation broadly re-assesses those previous recommendations, the response to date and the current recommendations. Only a summary has been extracted from the ‘key previous recommendations’ in first column of the tabulation below and for the full content the original report should be cross-referred to for detail. The centre column of the tabulation below briefly comments on the amended DA proposals and cross-refers to other pertinent reports where necessary to streamline this part of the assessment. The final column (i) reiterates recommendations from the previous reports, if necessary or (ii) includes a recommendation relevant to the recently amended DA proposals. The content in italics generally relates to content drawn from the earlier reports, assessments and recommendations. To simplify this assessment the principal rows of the tabulation follow those of the previous assessment and recommendations grouping demolition, adaptive reuse and new development issues.

Previous Recommendations Extracted from DA, Tabulated Heritage Advice, October 2021, DA Heritage Advice, The Way Forward, March 2022, and amended DA, Initial Heritage Advice, June 2022	Response and DRAFT Comment Cross-references to relevant reports and recommendations by others, such as Council’s Landscape Officer, Consultant Heritage Structural Engineer (Shreeji Heritage) and Consultant Fire Safety & BCA Engineer (BCA Logic)	Current DRAFT Recommendations This column of recommendations could be used as a basis for reasons for refusal, request for additional information or as part of the requirements for a Conditioned Approval or Deferred Commencement.
DEMOLITION		
<p><i>c1913 South and West Wings (ref 2020 CMP bldgs A2 and A3 respectively)</i> <i>Retain the c1913 South and West Wings (ref CMP bldgs A2 and A3). The wings have been an integral elements in the outward composition and character of The Ritz for over 100 years. The extent of demolition currently proposed is unacceptable for a heritage item of the level of significance as The Ritz.</i></p>	<p>The facades of the 1913 buildings will now be retained as part of the amended DA Documentation. The structural system of floors and internal walls are still proposed for demolition.</p> <p>The discussions with the SWCPP and Applicant including the process towards ‘a way forward’ encouraged the adoption of an adaptive reuse approach to the project rather than a demolition approach in view of the overall significance of the property. In those discussions in early 2022 in recognition by the Applicant of the significance of The Ritz and the need to retain the 1913 wings and other significant built elements, it was suggested that the existing internal fitout and partition walls of the 1913 wings could be demolished to allow greater flexibility to the internal planning, if an improved adaptive reuse approach was adopted for the project by retention of the 1913 buildings and other significant built elements. While the recent amendments now retain the 1905 cottage the retention of only the facades of the 1913 buildings, more commonly known as ‘facadism’, is not regarded as best practice</p>	<p>1. The following is recommended:</p> <p>1. The original structural floors and walls of the 1913 wings are to remain in place to support the building facades and roofs. The proposed excavation of the extended basement area under the 1913 wings is acceptable in principle and the proposal will need to be supported with an approved structural design to ensure the full integrity of the historic buildings. The alteration, penetration and formation of small openings to, say, interconnect adjoining spaces with door openings, in some of the original internal and external structural walls is also acceptable dependant on the number, extent and location.</p> <p>2. Prepare a detailed <i>Schedule of Conservation Works</i> for the 1913 wings to (i) record the existing building exteriors and interiors in their current configuration,</p>

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	<p>conservation. The extent of sensitive adaptive reuse of the 1892 building is also still unclear with no apparent additional detail to the conservation documentation.</p> <p>The amended proposals retain only the lightweight facades of the 1913 wings without any original structural walls or floors which also poses major complications in construction and supporting systems in view of the still proposed basement excavation below the 1913 wings. The existing wings are structurally sound and the demolition is not warranted because of the condition. There is potential for damage as referred to in the Shreeji Heritage 2nd Structural Peer Review (ref report dd 24th August 2022). There is a high degree of flexibility in the redesign of the interiors of the 1913 wings to achieve reasonable adaptation to a changed use. The retention of the original structural system also reduces the risk of the proposed excavations. It is recommended that the structural floors and walls remain in place to support the facades and roofs, however there is capacity for some wall and floor penetrations and new openings without unduly impacting on the fabric.</p>	<p>layout, construction and detail as a first step in preparing the required conservation documentation (ii) analyse and assess the respective significance levels of each element in developing a methodology to dismantle and dispose, dismantle and store/reuse on site, conserve in-situ or display and interpret within the development (iii) recommend appropriate conservation measures for storing, reusing or displaying any significant elements (iv) recommend appropriate conservation measures for conserving significant elements which will remain insitu, restored or will replace missing elements. This may predominantly relate to the building facades but could include other significant elements relating to the original floors, walls and or roofs (iv) prepare a specification for all proposed conservation works on a floor-by-floor, element-by-element basis to guide the proposed works, the builders and tradespersons. The Schedule will be in an A4 format and supplemented with illustrations, drawings and photographs to clearly identify the conservation work proposed.</p>
<p><i>Investigate sympathetic upgrade options of the external fabric and adaptive reuse options of the interiors to suit any new use for the</i></p> <p><i>(i) exteriors of the 1913 Ritz buildings and</i></p> <p><i>(ii) interiors of the 1892 and 1913 Ritz buildings</i></p>	<p>An analysis of sympathetic upgrade options have not been developed for either the 1913 wings or the 1892 original building as part of the amended DA Documentation.</p> <p>The following issues are uncertain and will require an investigation of alternative performance solutions or options to avoid unnecessary impact on remaining heritage fabric :</p> <ul style="list-style-type: none"> • The required fire safety upgrade between 	<p>2. The following is recommended:</p> <p>1. <i>Investigate sympathetic upgrade options of the external and internal fabric and develop adaptive reuse options to suit the proposed new use that conserves the significant remaining fabric of the 1913 wings and the 1892 building. This must include areas of either building that the proposed use may not be required at this</i></p>

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	<p>original floors, walls and roofs?</p> <ul style="list-style-type: none"> • The required BCA upgrade and any compliance standards? • The required structural upgrade and repair? • The required upgrade to elements of the facades, such as, windows and doors? • The required upgrade to the external finishes and materials? • The new building services and impact on the internal structure and/or the external envelope. This may also have aesthetic implications relating to the plant and equipment? <p>None of the above is clear from the amended DA documentation related to the 1913 wings and the 1892 original building.</p>	<p><i>point in time, such as, the upper floor of the 1892 building which could include stabilization of ongoing deterioration and left in a condition for future owners or occupants to restore and reuse.</i></p> <p>2. Prepare preliminary investigations, research and analysis as a basis for future detailed building documentation and specifications investigating where the impact on existing historic fabric is going to occur based on the proposed building use, internal configuration and where there may be BCA or compliance issues. Investigate and document why more sympathetic options were not adopted.</p> <p>3. The proposed works to the 1892 original building should not result in any further loss of original or early fabric and should reinstate fabric where removed to recover a significantly altered internal spaces.</p>
<p><i>Prepare a Schedule of Conservation Works for all buildings. This detailed document will ensure greater clarity and certainty in the proposed conservation of buildings, rooms and fabric.</i></p>	<p>A Schedule of Conservation Works for each of the heritage buildings has not been prepared as part of the amended DA Documentation. While typically these documents could be prepared prior to commencement on site, the extent of the demolition, reconstruction and adaptive reuse efforts in the building is unclear at this stage.</p> <p>No further detailed investigation and clarification of the proposed conservation work has occurred in recent months.</p> <p>It is important to record and document all existing external and internal elements and fabric as a first step in preparing the required conservation documentation. As referred to in recommendation 1.2 above, the focus of the 1913 buildings</p>	<p>3. The following is recommended:</p> <p>1. As noted above, <i>Prepare a Schedule of Conservation Works for all buildings of significance (ie the original 1892 building, the 1913 wings, the 1905 cottage and the 1936 bungalow). These detailed documents follow the recommendations of the CMP and will ensure greater clarity and certainty in the respective outcomes of the proposed conservation of buildings, rooms and fabric. Ref 1.2 for further details.</i></p>

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	<p>conservation work will be the facades but other original elements may also be included. While the focus of the 1892 building, noted below, will be the facades <u>and</u> the building interiors.</p> <p>The following buildings require a separate, self-contained document addressing the schedules of conservation works:</p> <ul style="list-style-type: none"> • 1892 original Hotel. The entire building. • 1913 later Hotel wings. Extent as noted in 1.2 above • 1905 Federation Cottage. The entire building. • 1936 Californian Bungalow. The entire building. 	
<p><i>Prepare a Schedule of Landscape Conservation Works for all garden areas. The CMP does not include a detailed analysis of the garden plantings throughout the property. There is an analysis of the hard landscaping but not the significant plantings, shrubs and trees that constitute the significant garden setting. It is recommended that a specialist heritage garden consultant, such as Colleen Morris who has had a limited input into the CMP, be commissioned to prepare this analysis. The analysis will document the plantings and set a ranking of significance for each element in a similar way as has occurred with the built elements.</i></p>	<p>In line with the above recommendation to ensure clarity, understanding and certainty for the conservation of buildings there is a similar need for the same approach for the gardens and setting. An addendum to the CMP has not been prepared, as previously recommended.</p> <p>The property comprises a number of significant elements within a significant garden setting, on the edge of two Heritage Conservation Areas, a Period Housing Area, a Tourist Precinct and with a number of heritage items in the vicinity. Council’s State Heritage Inventory Sheet details aspects of that significance. The State Heritage Inventory sheet notes that “<i>The garden and grounds of the Ritz are of historic significance on a local level for their evidence of the principal characteristics of a garden associated with a large Blue Mountains hotel</i>”.</p> <p>The following was recommended in October 2021 relating to the requirements of the LEP2005, DCP and 2021 CMP and the need for a report on the soft landscaping by a</p>	<p>4. The following is recommended:</p> <ol style="list-style-type: none"> 1. Prepare an Addendum to the CMP to address the conservation management objectives for soft landscaping with The Ritz grounds. The addendum should include (i) an analysis of significance of the gardens and soft landscape elements throughout the grounds (ii) a ranking of significance of all trees and soft landscape plantings (iii) conservation policies to manage the landscape and (iv) an implementation strategy. The Addendum should be prepared by a specialist heritage garden consultant, such as Colleen Morris, who is familiar with the grounds but has only had limited input to date. 2. <i>Prepare a Schedule of Landscape Conservation Works for all garden areas. The CMP does not include a detailed analysis of the garden plantings throughout</i>

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	<p>specialist in historic gardens : <i>“The analysis will document the plantings and set a ranking of significance for each element in a similar way as has occurred with the built elements. Also noted above, the document will guide adaptive reuse and form the basis for detailed works and later instructions to builders on site”.</i></p> <p>The CMP includes relevant policies that supports the need for this analysis, such as, on p141 relating to setting, landscape and views <i>“There is significant landscaping on the site and gardens to the northeast, north and west that provide the setting the Ritz and the Manager’s Cottage and provide a very tangible link to the early establishment of the Hotel”</i> (ref CMP p141 para 8.9). Conservation policies have been established to respond to this significance – refer to the following Policies :</p> <ul style="list-style-type: none"> • Policy A27 Preserve the following landscape elements... • Policy A28 Restoration of garden elements – allow the following... • Policy A30 Plantings – allow the following – removal of <u>non-significant</u> landscape elements introduced after 1970; removal of <u>significant</u> landscape elements where they no longer capable of interpretation; and replacement of trees to match those removed if the trees are <u>significant</u>... • NOTE – However, the above objectives require a detailed significance assessment of soft landscaping for the gardens, trees and plantings. Therefore, it is essential that a significance assessment be undertaken by an experienced specialist in historic gardens, as previously recommended. <p>When completed it would also be used to assess the arborist’s recommendations in the DA documentation and the wider proposals for removal of trees and plantings</p>	<p><i>the property.</i> Follow the intent of CMP Policies A7 and A8 as relates to the gardens and their settings. The Schedule for the landscape ‘fabric’ should be set up in a similar way as the recommended schedule of conservation works for the built fabric. The schedule for the landscape works should be prepared by a heritage landscape architect working as part of the project team with the project arborist / horticulturist and be appointed to manage the works on site.</p>
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	<p>throughout the grounds.</p> <p>The CMP also includes policies and procedures to ensure appropriate conservation practices throughout the project. The following relates to the employment of appropriate skills and ensuring adequate documentation:</p> <ul style="list-style-type: none"> • 8.13.1 <i>Conservation Procedures – Guidelines...</i> "treat the place as of high cultural significance and consequently guide activities at the place by the provisions of the Australia ICOMOS Burra Charter (ref p 145) • 8.13.2 <i>Professional Consultant Team – engage personnel skilled in the disciplines of conservation practice at a professional level as appropriate to advise on, and implement, the conservation aspects of the place (ref p145)</i> • 8.13.7 <i>Conservation Practice – Documentation of Works – proposed works to an element should be documented for implementation, in a way that allows scrutiny by others before the work is executed...</i> • 8.13.7 <i>Conservation Practice – Preservation of Fabric and Patina – The documentation should be drawn up to retain the maximum of significant fabric and patina consistent with the preservation and significance of the element. Replacement fabric should be considered of far less heritage value than the original fabric (ref p146)</i> <p>Based on the above, the need for the assessment of the soft landscape, historic gardens, trees, shrubs and plantings is a requirement of the CMP</p>	
c1905(?) Federation Cottage, 225 Leura Mall, (ref 2020 CMP bldg D)	<p>The DA proposals previously intended to demolish the c1905 Federation cottage but the proposals have been amended in line with earlier recommendations to retain,</p>	<p>5. The following is recommended:</p> <p>1. As noted above, <i>Prepare a Schedule of Conservation Works for all</i></p>

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	<p>conserve and adapt the cottage and its garden as part of the ongoing use of The Ritz.</p> <p>The 2021 CMP had recommended conservation of the significant fabric of the cottage in Section 8.5 (ref p129) and had recommended broadly the elements that should be retained, however a detailed fabric assessment had not been completed at that stage. The CMP policies anticipated a detailed analysis and documentation of the external and internal fabric of the building, in particular the following policies need to be followed:</p> <ul style="list-style-type: none"> • <i>Policy A10 – Define significant spaces fabric as shown on Figures 6.8 (error should read Figures 6.9 in the CMP)</i> • <i>Policy A11 Conserve the following : Education Centre (ie 1905 Cottage) – all fabric introduced in 1910...</i> • <i>Policy A12 – Maintain the following : Education Centre (ie 1905 Cottage) – all significant fabric...</i> 	<p><i>buildings of significance (ie the original 1892 building, the 1913 wings, the 1905 cottage and the 1936 bungalow). These detailed documents follow the recommendations of the CMP and will ensure greater clarity and certainty in the respective outcomes of the proposed conservation of buildings, rooms and fabric. Ref 1.2 for further details.</i></p>
<p><i>c1910(?) or earlier Brick Chimney fmr Boiler House (ref CMP landscape elements p6.7 p119 Element S9)</i></p>	<p>The previous heritage assessment and recommendations required the retention, restoration and repair of the c1910(?) brick chimney. The CMP ranks the chimney as being of Moderate significance and it appears in good condition. The brick chimney has been a visible element within The Ritz for over 100 years and is a significant remnant from the early operation of the hotel. It makes a positive contribution to Leura Mall. The SHI inventory sheet referred to its significance and association with other 19th C brick chimneys in the Upper Mountains. The current oblique view aerial from the North of The Ritz (Ref <i>NearMaps</i> image) illustrates the contribution the 1905 cottage and the earlier brick chimney make to the adjacent Leura Mall.</p>	<p>6. The following is recommended:</p> <ol style="list-style-type: none"> 1. Conserve and maintain the brick chimney in line with its ranking of significance stated in Council's SHI sheet and its assessed ranking of Moderate level significance in the CMP. Investigate the number of 'additional' rooms in the south-east corner 'compromised' by retention of the chimney and consider relocating the rooms to a less visually sensitive location. 2. As noted above, <i>Prepare a Schedule of Conservation Works for all elements of significance (ie the c1910(?) brick chimney). These detailed documents</i>

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	<p>The following was previously recommended:</p> <ul style="list-style-type: none"> • <i>Conserve and maintain the brick chimney in line with its ranking of significance stated in Council's SHI sheet and its assessed ranking of Moderate level of significance. The CMP states that elements of Moderate level significance are "Elements with heritage value and which contribute to the overall significance of the item" (ref CMP para 6.2 Gradings of Significance p107).</i> • <i>Prepare a Schedule of Conservation Works as recommended for the other significant buildings.</i> • <i>Carry out further research to clarify construction date. At the time of demolition of the buildings on the southern boundary of the property, such as, Building A5, use the opportunity to investigate and document the footprint of the original boiler house.</i> • <i>Further to the above on site investigation, interpret early use of structure and its lost building(s).</i> <p>The amended DA proposals still propose to demolish the chimney for an increase in new development in an extended south wing. The heritage proposal in March 2022 'The Way Forward' recommended retention and interpretation. Feedback to the Applicant has also pointed to the need to provide a strong visual buffer between the proposed development and Leura Mall to mitigate the visual impact caused by the inappropriate scale, proximity and architectural response of the proposed development to its context and setting. The adjacent c1905 cottage, its garden and the chimney in the south-east corner together provide some of the required visual buffer as well as important historical associations.</p>	<p><i>follow the recommendations of the CMP and will ensure greater clarity and certainty in the respective outcomes of the proposed conservation of buildings, rooms and fabric. Ref 1.2 for further details.</i></p> <p>3. Carry out further research to clarify construction date. At the time of demolition of the buildings on the southern boundary of the property, such as, Building A5, use the opportunity as also recommended in the CMP to investigate and document the archaeology and footprint of the original boiler house and kitchen. Allow to interpret the chimney and boiler house and other associated elements, such as, the original kitchen adjacent.</p>
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	<p>It is unclear in the documentation how many additional rooms are compromised by retaining the chimney. It may only be in the order of 3-4 rooms based on the location of the chimney. Perhaps these rooms could be relocated to an area in the centre of the proposed development away from the street alignment(s) where a minor increase in the maximum permissible height would not result in an impact. Currently there does not appear to be any wider merit in this development exceeding the permissible height in the locality.</p>	
ADAPTIVE REUSE		
<p>In response to the widely recognised high significance values of the property and its historic elements, the issue of sensitive adaptive reuse of the property should be more evident in the available documentation. The spirit and intent of ‘The Way Forward’ prepared in March 2022 was to “<i>Maintain and Adaptive Reuse Approach</i>” to the project.</p> <p>The heritage assessment and recommended outcome tabulation in October 2021 included detailed recommendations which all still apply as no further work has been included in the amended DA documents received recently.</p> <p>The avoid repetition in this document the principles and recommended approach are outlined in this first section and will apply to all the buildings and structures to be retained, conserved, interpreted or adapted. Additional specific recommendations relating to particular buildings have been included in the individual sections below. There may be some overlap with above recommendations for other documents, such as, the recommended schedules of conservation works.</p>	<p>The initial steps in embarking on an adaptive reuse project are typically to (i) document its fabric (ii) assess the rankings of significance of the fabric (iii) align the proposals to retain the significant fabric (iv) prepare detailed schedule of conservation works to inform and guide the conservation and adaptive reuse outcomes.</p> <p>It is important that each of those steps occurs with each of the historic buildings and elements of significance. The general principles are the same for each element. None of the above steps have commenced at this stage and must be completed and approved prior to detailed design and documentation commence, as noted above.</p>	<p>7. The following is still recommended :</p> <ol style="list-style-type: none"> 1. <i>Investigate sympathetic adaptive reuse of the interiors to suit proposed use. This building is a significant element of The Ritz group and therefore requires a carefully considered, well-documented, sympathetically designed adaptive reuse of its interiors and restoration of its exteriors.</i> 2. <i>Investigate and document the condition and detail of the 1892 interiors. This would include careful removal of later wall linings concealing original or early finishes. Record this step photographically and retains material and finishes samples for interpretation. Interpret some finishes and materials insitu.</i> 3. <i>Prepare a Schedule of Conservation Works as recommended above. The schedules for the 1892 building and the 1913 buildings must include documentation on where the fabric is impacted by structural and/or BCA compliance and disabled access issues together with options investigated to conserve the significant fabric.</i>

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		<p>4. <i>Limit the removal of significant fabric generally from the building (ref detailed below) as recommended in the CMP policies regarding the Ritz – Significant Building, Spaces and Fabric as recommended in CMP policies A7 and A8. This would include the more detailed policy recommendations on individual spaces and related fabric in CMP policies A11, A12, A13, A16 and A17.</i></p> <p>5. <i>Investigate sympathetic adaptive reuse options for the interiors as recommended in CMP Para 8.6.1 and 8.6.2 Policies A20 and 21 relating to the “Adaptation of exterior and interior spaces and features – The Ritz” (ref CMP p133-134). This will include retention of original circulation patterns throughout the buildings (ie 1892 and 1913 buildings), recovery and/or restoration of principle rooms and spaces(ie 1892 GF public rooms and 1929 bungalow).</i></p> <p>6. <i>Prepare an archival record of the building prior to any works commencing. The record is to include, but not limited to, the record prepared during the progress of the works and the samples of finishes prepared prior to the commencement as well as those recorded during the progress of the works. The format and methodology to follow the guidelines and recommendations prepared by Heritage NSW in their publications How to Prepare Archival Records of Heritage items and Photographic Recording of Heritage Items Using Film or Digital Capture.</i></p> <p>7. <i>Prepare an interpretation plan for the property prior to commencement. The</i></p>
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		<p><i>format and methodology to follow the guidelines and recommendations prepared by Heritage NSW in their publications Interpreting Heritage Places and Items and Heritage Interpretation Policy.</i></p> <p>8. <i>Include other standard heritage conditions including Use of a Conservation Architect to prepare drawings, plans and specification and to be integrated into the project team, Use of an Archaeologist and Site Diary and Record if works proceed.</i></p>
<p><i>c1892 The Ritz - Original Building (ref 2020 CMP bldg A1)</i></p>	<p>The amended DA documents relating to the original 1892 building do not appear to have been progressed, clarified or further documented as previously recommended. Therefore, there is still uncertainty regarding the works proposed to the interiors and why the extent of internal change proposed does not retain and reinstate more of the significant internal fabric.</p>	<p>8. The following is recommended :</p> <ol style="list-style-type: none"> 1. As above recommendations in section 7.1 - 7.8. 2. As noted above, the stabilization, conservation and ‘moth-balling’ of the upper attic level of the 1892 building, if the current owner is not going to use the rooms, as it appears relatively intact and retains much of its early fabric and finishes. 3. Prepare an initial building services co-ordination drawing that illustrates the key principles that the new building services will follow in the adaptive reuse, design and documentation (i) the horizontal grouping of services at each level and (ii) the vertical services penetrations at each level to ensure that appropriate consideration has been given in this planning stage for the design and layout of the units to efficiently manage the organisation of services horizontally and vertically through the building to their entry or exit at the street. This will result in better control of services; minimising holes and penetrations through floors, walls,

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		ceilings and bounding walls at ground level. The drawing will be used by each of the key services to plan and install their work.
<i>c1913 South and West Wings (ref 2020 CMP bldgs A2 and A3 respectively)</i>	As noted above, the amended DA documents relating to the 1913 buildings have been amended to retain the facades, as noted above, however the amended documents relating to the facades do not appear to have been progressed, clarified or further documented. Therefore, there is still uncertainty regarding the works proposed to the facades and the extent of change proposed.	<p>9. The following is recommended :</p> <ol style="list-style-type: none"> 1. As above recommendations in section 7.1 - 7.8. 2. As recommended in section 1.0 and 2.0 above, identify in the retention of the structural floors and walls any new openings and penetrations required. As noted above, the alteration, penetration and formation of small openings to, say, interconnect adjoining spaces with door openings, in some of the original internal and external structural walls is also acceptable dependant on the extent and location. 3. Prepare an initial building services co-ordination drawing that illustrates the key principles that the new building services will follow in the adaptive reuse, design and documentation (i) the horizontal grouping of services at each level and (ii) the vertical services penetrations at each level to ensure that appropriate consideration has been given in this planning stage for the design and layout of the units to efficiently manage the organisation of services horizontally and vertically through the building to their entry or exit at the street. This will result in better control of services; minimising holes and penetrations through floors, walls, ceilings and bounding walls at ground level. The drawing will be used by each of the key services to plan and install their work.

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<i>c1905(?) Federation Cottage, 225 Leura Mall, (ref 2020 CMP bldg D)</i>	As noted above, the amended DA documents relating to the c1905(?) building have been amended to retain the building, however, the amended DA documents relating to the building do not appear to have been progressed, clarified or further documented. Therefore, there is still uncertainty regarding the works proposed to the building and the extent of change proposed.	10. The following is recommended : 1. As above recommendations in section 7.1 - 7.8.
<i>c1929(?) Californian Bungalow (ref 2020 CMP bldg C)</i>	<p>The amended DA documents relating to the original 1892 building do not appear to have been progressed, clarified or further documented as previously recommended.</p> <p><i>The currently proposed use for the cottage is health centre, however, the extent of intervention in terms of accessibility and building services is unclear. Also, as noted above in this report, the extent of integration and use of the heritage consultant in guiding the design architects and outcomes in unclear. For instance, the recent HIS appears to indicate design options for the Californian bungalow to better reflect the original layout (ref HIS para 9.3.2.2 p48) but these do not appear to have been adopted in the proposals.</i></p> <p><i>It is recommended that a similar investigative approach and exploration of sympathetic options be followed, as that recommended in this report for the 1892 Ritz building.</i></p>	11. The following is recommended : 1. As above recommendations in section 7.1 - 7.8. 2. <i>Integrate the design options proposals developed by the heritage consultant in the HIS to better reflect the original layout and lead to an improved conservation and adaptive reuse outcome.</i>
NEW DEVELOPMENT		
The amended HIS accompanying the DA proposals correctly states in its conclusion that “... <i>the former Ritz is a place of considerable cultural significance that should be conserved. It contains built and landscapes elements of high significance that should</i>	<p>In the intervening year, only the following amendments have occurred relating to the outward character of the proposed new development:</p> <ul style="list-style-type: none"> • <i>Re the building footprint</i> – there has been no substantial change to the overall built 	

<p><i>also be conserved...”. The appropriate design of new development is therefore a critical element in the project in view of the significance of The Ritz and its context and setting in Leura.</i></p> <p>In October 2021 the following was recommended relating to the proposed new development: <i>The proposed new development comprises substantial buildings located immediately adjacent to the highly significant Ritz buildings with frontages to Leura Mall, the Wascoe Street Period Housing Area, the South Leura HCA and the Southern Leura Tourist Precinct. The proposed scale, form and detail of the current buildings will impact on the character and setting.</i></p> <p><i>The following is recommended:</i></p> <ul style="list-style-type: none"> <i>• The proposed built footprint be reduced.</i> <i>• The proposed southern wing be deleted.</i> <i>• The proposed building heights be reduced.</i> <i>• The proposed architectural form, detail and finish of all new buildings be reconsidered</i> 	<p>footprint and the excavation for a proposed basement under the c1913 historic buildings is still proposed.</p> <ul style="list-style-type: none"> <i>• Re deletion of the southern wing</i> – the wing has not been deleted and therefore the proposals will still impact on Leura Mall, Leura South HCA and the Southern Leura Tourist Precinct. A small portion of the southern wing was amended to retain the c1905 Federation Cottage. <i>• Re reduction in building heights</i> – the building heights have not been reduced and still exceed the maximum permissible in the area. Based on the current proposals the impact on Wascoe Street Period Housing Area will be considerable relative to the existing heights. <i>• Re the proposed architectural outcomes</i> – the proposed form, material and finish of the west wing has been reconsidered but has not resolved the bulk, scale, massing and detail of the large structure proposed adjacent to the eastern edge of the Wascoe Street Period Housing Area and the neighbouring heritage items to the south. <p>The issues with any new development proposals in heritage sites must include a sensitive and responsive ‘design in context’. The considerations should relate to the (i) the architectural response to the heritage elements within the property and (ii) the architectural response to the significance and character of surrounding precincts and buildings. The following briefly outlines the key contextual objectives relating to the surrounding streetscapes being <i>South Leura Heritage Conservation Area, Wascoe Street Period Housing Area and Leura Village Precinct</i> - each precinct interacts with the others and each precinct relies on the objectives and controls of</p>	
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<p>Important Urban Design and Planning Considerations Leura Village Precinct R1-LE03</p>	<p>adjoining precincts being enforced to provide a consistent character for Leura. Only relevant objectives have been noted to streamline this section of the assessment.</p> <p>There is no detailed character analysis in the recent DA documents of these precincts or their unique character or how that character has specifically informed the currently amended DA documentation. Note that this requirement for that analysis from the BMLEP 2005 Para 61(1) still remains blank in the recently amended HIS (ref section 11.2.1 p98). Similarly, the requirements and character objectives of Leura Precinct R1-LE03 have not been addressed at all in the amended HIS or in a character analysis to inform the architectural character of the proposed development.</p> <p>Re Leura Village Precinct R1-LE03</p> <ul style="list-style-type: none"> • <i>To promote the tourism role of Leura Village.</i> As regards promotion of tourism - this objective is not achieved by the currently proposed use of The Ritz as an aged care facility - as compared to other uses, say, hotel development; which The Ritz was designed for in 1892 and which was also its dominant historic use until the early 1980s. • <i>To maintain and enhance the historically distinctive pattern of detached cottages that are surrounded by gardens by conserving existing trees that provide visually significant features and ensuring that landscaping complements and extends the established pattern of tall canopy trees that are located primarily alongside property boundaries.</i> As regards this objective – <i>enhancing the historically distinctive pattern of detached cottage</i> - this is not achieved in relation to the impact on the cottages in Wascoe Street, the cottages to the south on Leura Mall and the adjoining heritage-listed cottages on the southern 	
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	<p>boundary on Wascoe Street. The proposed 3 storey development exceeds the permissible height; the proposed form and massing of the west wing has not responded to the streetscape rhythm of existing development without the articulation of roof height and use of smaller building forms which are apparent in the existing distinctive pattern cottages, and if smaller forms had been used, would have allowed for varying the setbacks of the smaller elements along the length of Wascoe Street and breaking up the streetscape façade and responding to the finer grain and rhythm of existing historical development. As regards objective – <i>conserving landscape settings</i> - as noted earlier in this assessment, there is uncertainty that this is achieved as the DA documentation does not include a detailed historical analysis and assessment of the soft landscape and gardens and yet the DA proposals include significant change in the landscape without the benefit of a CMP to guide those proposals. An important related aspect to the gardens and streetscape objectives is the issue of street fencing. The proposed aged care facility requires high security fencing around the perimeter of the property which will reinforce the institutional character and visual impact in the residential area and Leura Mall with 1m high traditional street fencing. The architectural drawings appear to suggest that some security fencing for the property will need to be 2.5m high. The details and extent of fencing is unclear. The Leura Mall elevation suggests a high solid timber fence which, if visible from the Mall will be out of step with the Period Housing Area, the South Leura HCA and the LEP Precinct objectives. This impact needs to be clarified.</p> <ul style="list-style-type: none"> • <i>To promote high levels of residential</i> 	
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<p>Wascoe Street Period Housing Area</p>	<p><i>amenity for both future residents and existing neighbouring properties.</i> As regards residential amenity for existing and future residents – this is not achieved in the current proposals based on the number of public submissions regarding the impact of the proposals on the local character but also on the amenity of neighbouring properties.</p> <ul style="list-style-type: none"> • <i>To promote new buildings that are consistent or compatible with the scale, bulk and architectural character of existing houses and cottages.</i> As noted in the October 2021 report and reiterated again in this assessment – this is not achieved in the current architectural proposals. To achieve the ‘scale’ objective the west wing should be reduced to a footprint more closely aligning with the CMP for new development (ref 2021 CMP p141) and the footprint broken up into smaller interconnected built elements. To achieve the ‘bulk’ objective the proposed building height should be reduced by a storey to within the permissible height and more consistent with the existing development. To achieve the ‘architectural character’ objective the detailed local character study of the various precincts in the immediate vicinity needs to inform the architecture, roof form, materials and finishes. A reduced overall height, a modulation of height along the Wascoe Street elevation, a varied setback along Wascoe Street with smaller inter-linked built forms fronting Wascoe Street, as suggested above, a more locally-responsive, articulated, scaled and massed design outcome could be achieved. With this improved overall form, the external envelopes of the individual built elements could then be treated in slightly different ways along the length of Wascoe Street drawing from the early 20th C character of a streetscape and avoid a large, modern, institutional look to the 	
<p>South Leura HCA (LA106)</p>		

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new development. Thereafter the use of effective landscaping along Wascoe Street, the SW corner and along the southern boundary would further limit the visual impacts.

- *To encourage restoration of traditional architecture forms and details for existing 20th C cottages and houses.* As regards the restoration of the existing 20th C cottages within the precinct – this now can be achieved with the amended DA proposals and retention of the c1905 cottage. There is still the need for certainty in retention of significant fabric and this will be achieved through the schedules of conservation works recommended earlier in this assessment.

Re Wascoe Street Period Housing Area

This precinct is a significant streetscape that has been assessed as part of the overall transfer of Period Housing Areas to Heritage Conservation Areas as recommended by the Department of Planning. The initial consultant review of the Period Housing Areas throughout the Blue Mountains occurred in 2013 and the study addressed period character, consistency, gardens, materials, finishes, architectural form and streetscape values particular to the Blue Mountains. The 2013 study recommended the inclusion of the Wascoe Street PHA within the extended curtilage of the South Leura HCA (LA106). The existing inventory sheet for the South Leura HCA was prepared at that time by consultants as part of the LEP amendments and therefore currently includes the wider character of the extended HCA. The Wascoe Street character is part of that wider South Leura character. However, unrelated town planning issues resulted in some “Deferred Matters” between Council and the Department of Planning for some areas in the Mountains. Leura includes some of these areas and Wascoe Street is included in this group. However, it is important to note that the character of Wascoe Street is consistent with the wider character of South Leura Heritage

Conservation Area and any development proposals should 'respect and enhance' that character.

Re South Leura HCA (LA106)
The following extract from the State Heritage Inventory for the South Leura HCA describes some of the aspects of unique character that defines the HCA and also illustrates the importance of new development responding to existing built form:

Consistency and quality of built forms.

- *The area is characterised by a very good collection of late 19th and early 20th century dwellings, most of which are of very high architectural quality and have survived insubstantially intact condition.*
- *Most properties are good examples of their architectural style and provide evidence of upper-middle-class taste in the community in the late 19th and early part of the 20th century.*
- *Almost all of the houses that existed in 1943 (where known from the fabric or aerial photos) have survived in substantially intact form. A proportion of those that have been demolished were destroyed by bushfire in 1959.*
- *Alterations and additions are generally relatively modest...although some of these changes have been unsympathetic to the original form, most are set well back from the street and have had minimal impact on the heritage values of the town.*

The above architectural qualities and objectives relating to the Leura Village Precinct R1-LE03 and Wascoe Street reinforces the comments and recommendations in this assessment, relating to the need for unsympathetic form of new development being set well back from the streets, building height reduced and then effectively screened with

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	appropriate soft landscaping.	
Key Design Aspects of New Development - Location and Scale	<p><i>Location and Scale Issues</i></p> <p>The general location proposed for the new development falls into 3 areas :</p> <ul style="list-style-type: none"> (i) to the south behind the existing Ritz buildings – this general location is appropriate despite the intensity of the proposed development because the proposed development will be partially screened from the primary views from Leura Mall and Wascoe Street. However, the degree of impact on streetscape and neighbouring buildings occurs as the proposed development extends westwards along the southern boundary towards Wascoe Street and eastwards towards Leura Mall. <p>As the proposed development behind the main Ritz building edges west towards Wascoe Street the level of architectural quality in its design response needs to respond effectively to the local context, setting, place and streetscape. Without an appropriately sympathetic architectural outcome in these areas, the only other alternatives to reduce the visual impact on the character of the Wascoe Street precinct and the neighbouring heritage properties to the south would be (a) to reduce the building height by a storey to within the permissible height (b) to increase the setback of the proposed development located on the southern property boundary from the SW corner of the property and Wascoe Street which would also reduce some of the visual and amenity impacts to the neighbouring heritage items, if the setback for the proposed development was behind the setback of the heritage items on Wascoe Street (c) to provide sufficiently dense soft landscape screening in the SW corner of the site with sufficiently deep soil zone</p>	<p>12. The following is recommended to address the visual and amenity impact issues resulting from location, scale and character of development in the south-western corner of the property:</p> <ol style="list-style-type: none"> 1. Reduce the building height in this area by a storey to within the permissible building height in the area. 2. Increase the setback of the proposed development from the south-western corner, well-behind the front setbacks of the neighbouring heritage properties, to reduce the impact on the streetscape, adjacent heritage items and neighbouring residential amenity within those heritage items. 3. Provide additional trees and plantings to effectively screen the proposed development in the south-western corner from the neighbouring heritage items and the Wascoe Street precinct without further impacting on the amenity for the adjacent residence to the south. The south-western corner should also include sufficient deep soil zones to sustain effective screen trees

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	<p>below this area to sustain mature screen trees and plantings.</p> <p>Similarly, as the proposed development behind the main Ritz buildings edges east towards Leura Mall the level of architectural quality in its design response needs to respond effectively to the local context, setting, place and streetscape. Without an appropriately sympathetic architectural outcome in this area, the alternatives would be similar to those noted above, however, the retention of the 1905 cottage will indirectly provide some effective screening and visual buffer at the low-level with its historic form, soft landscaping and front garden which address the need for (i)(c) above. A reduction in storey height and setback resulting from the retention of the 1890s brick chimney would still be necessary to more effectively reduce the visual impact on Leura Mall. The DA drawing 'DA402 Material Schedule 03 South Elevation' clearly illustrates the incongruity of the proposed development in the south-east corner on Leura Mall, sitting between the historic south wing of the 1913 building and the 1905 Federation cottage which has been obscured in the architectural drawing to minimise the inappropriateness of the proposed development in its historic context.</p> <ul style="list-style-type: none"> • (ii) to the western edge of the property behind the existing pine trees on Wascoe Street and into the existing gardens to the north – the western edge of the property is generally appropriate but the proposed development still extends northwards into the existing gardens and beyond the recommended envelope for new development in the 2021 CMP. The incursion into the gardens to the north results in the loss of some significant established trees and the proposed basement will effectively eliminate the 	<p>and plantings into the future.</p> <p>13. The following is recommended to address the visual impact issues resulting from location, scale and character of development in the south-eastern corner of the property :</p> <ol style="list-style-type: none"> 1. Reduce the building height in this area by a storey to within the permissible height in the area. 2. Slightly increase the setback of the proposed development from the south-eastern corner behind the 1905 cottage and 1890s brick chimney and delete the proposed additions to the gable of the 1913 south wing in view of its significance and visibility from Leura Mall. 3. Provide additional trees and plantings behind and to the sides of the 1905 cottage to effectively screen the proposed development in the south-western corner from Leura Mall and the South Leura HCA.
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	<p>deep soil zone necessary for re-establishing large trees and plantings. The streetscape impact on Wascoe Street is further aggravated by the proposed architecture (ie built height, form, massing and design) which is still out-of-step with the existing residential low-scale, the pattern of individual roof and built forms and the local traditional materials. The immediate impact will also be magnified by the proposed loss of the landmark tree plantings on the western boundary and the uncertain landscape outcomes relating to landmark trees but also significant historic plantings.</p> <p>Without an appropriately sympathetic architectural outcome in this location the alternatives to reduce the visual impact on the character of the Wascoe Street precinct (and the significant buildings of The Ritz immediately to the north and east) would be (a) to reduce the building height by a storey to within the permissible height and (b) to provide effective soft landscape screening along the western boundary to Wascoe Street. A similar approach is necessary to the north and east of the proposed west wing, between the significant 1892 and 1913 buildings, to retain the existing established trees that provide effective screening but also allow sufficient deep soil zones for additional effective screening.</p>	<p>14. The following is recommended to address the visual impact resulting from location, scale and character of development on the western boundary, the impact on the adjacent Ritz buildings to the north-east of the proposed development. Without a setback of the northern extension of the proposed development more in line with the 2021 CMP recommendations the physical impact on the gardens and the established trees to the north is unavoidable :</p> <ol style="list-style-type: none"> 1. Reduce the building height by a storey to within the permissible height in the area. 2. Provide additional trees and other screen plantings to the western boundary to effectively screen the proposed development from the Wascoe Street Period Housing Area and future extension of the South Leura HCA. Also provide additional trees and other screen plantings to the north-east and east of the proposed new development to effectively screen the proposed development from the main approach and point of arrival at The Ritz to the east and the adjacent 1929 Californian Bungalow to the north-east.
Key Design Aspects of New Development – Form and Rhythm	<p><i>Form and Rhythm Issues</i></p> <p>The many reports and studies referred to this assessment, describing the qualities and values of the Blue Mountains villages, the Period Housing Areas and the intact Heritage</p>	<p>Recommendations have already been suggested above to reduce the urban collateral damage resulting from the lack of architectural response in the proposed new development</p>

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	<p>Conservation Areas clearly demonstrate the consistent form of the built environment together with the pattern of buildings and streetscapes. The form and rhythm are outcomes of the bulk and scale mentioned above.</p> <p>As noted above, the amended development proposals are still institutional in character and not reflective of the informal residential nature of period buildings in the area. The high perimeter security fencing around the entire property will only reinforce this institutional character and diminish the qualities of Wascoe Street and Leura Mall where the development and its associated elements are visible.</p> <p>Alternative design approaches taking into consideration the local qualities have not been investigated or explored in detail by the architects over the past 2 years. Initial alternatives could have included design measures to break up the form of the larger buildings, such as the west wing or the southern boundary wing, into two to three storey smaller, building footprints (reflective of the scale of development in the vicinity). The smaller elements could have been discretely interconnected at the rear, and then the pattern begun to respond individually with variations in their setbacks, heights, roof forms, footprint widths, window treatments, external materials and finishes etc to the Leura streetscape character. Built form, rhythm and the pattern of existing development, which are essential components of period streetscapes and historic villages, have not been factored into the architectural intent or considerations of the proposed development. This design and planning approach on Wascoe Street would have been in line with the Applicant's 2020 Urban Design Report (ref p22) "<i>Principle 7 - Respond to the Contextually to Established Street Patterns – Reflect the varied and transitional character of the streetscape with varied setbacks interspersed with landscape elements</i>". Similarly, the recommendations in this assessment to reduce the</p>	to form and rhythm.
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	storey height and effectively screen the new development is also in line with “ <i>Principle 3 -Maintain the Garden Edge Streetscape Character - Utilise the landscape buffer along the Wascoe Street escarpment to protect the informal village streetscape character and minimise visibility of new building elements west of the The Ritz and Manager’s Residence</i> ”.	
Key Design Aspects of New Development - Materials and Finishes	<p><i>Materials and Finishes Issues</i></p> <p>As also referred to above in form and rhythm, each of Council’s reports and assessments outline the range of traditional external finishes that are consistent to the character of the Blue Mountains towns and villages. The 2013 Period Housing Review investigated and analysed that character and recommended establishment of HCA’s to better protect those urban characteristics. Wascoe Street and the South Leura HCA are typical of those valued urban streetscapes with their use of early 20th C materials, colours, window treatments, roof cladding and traditional external finishes.</p> <p>Alternative approaches in the selection of external materials and finishes, taking into consideration those recognised local characteristics, have not been investigated or explored in detail by the architects. As noted above, a detailed character study supporting the current proposals and its selection of external materials and finishes has not been prepared. The recently amended DA proposals have included some changes to the external form and finishes, the most obvious of which is the introduction of what appears to be a large mansard roof over the entire west wing, clad with fibre cement shingle cladding. However, when viewed in more detail the roof form is only a ‘raked’ façade on Wascoe Street with the other elevations and the return side walls still vertical, three-storey in height. The raked façade will appear two-dimensional as opposed to a traditional roof form. A mansard roof is not particularly representative of the period character of Leura, Wascoe</p>	Recommendations have already been suggested above to reduce the urban collateral damage resulting from the lack of architectural response in the proposed new development to materials and finishes.

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	<p>Street or the South Leura HCA; a three-storey building is not representative of Wascoe Street or the South Leura HCA; and vertical fibrous cement shingles are not representative of Leura or the Upper Blue Mountains. As with the architectural renderings of the south-east corner noted above, the drawing for the south-west corner on Wascoe Street and adjoining the neighbouring heritage items appears to have been similarly obscured with trees to mitigate the perceived visual impact in the documentation. Also, the perspective drawing referred to above, illustrating the proposals in the south-west corner, should be clarified as the sketch may not be totally representative of a three storey building adjacent to a single storey cottage. Ref DA drawing 'DA402 Material Schedule 03 South Elevation'.</p> <p>The current proposals have also now included a locally appropriate external finish as previously suggested – weatherboard. However, the location of the proposed cladding also appears similarly two-dimensional in its use between the windows. It is more typical for weatherboard to be used across a wider façade to gain the visual benefit of the material rather than in narrow widths between close-set windows. The setback depth of the windows between the structural piers is very narrow and impractical to return the weatherboard against the window resulting in a two-dimensional appearance.</p> <p>If the architectural response, in its selection of external materials and design of built form, had been more responsive to 'local character' there may have been some consideration of the merit in the architecture versus the existing height controls but based on the current proposals the limiting the development height, as noted above in this assessment, together with intensive and effective soft landscape screening of the new development from Wascoe Street and Leura Mall will go some way in mitigating the extent of the impact of the architectural design.</p>	
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If Council and the SWCPP have determined that, in the best short-term interests of The Ritz, in view of its long-standing unoccupied state, ongoing neglect and deterioration, that a ‘controlled re-activation’ of the property was essential, in spite of the current lack of certainty regarding the full heritage outcomes, then perhaps one way forward may be to consider the following mitigating conditions:

1. *Re the heritage elements generally (ie 1892 building, 1914 buildings, 1890s chimney, 1905 cottage, 1929 bungalow and the landscape and gardens). Conditions to ensure that all the recommended conservation planning, investigation and specification documentation recommended in this assessment be prepared to the approval of Council within a defined time frame and prior to commencement of any works on site.*
2. *Re the 1914 buildings (ie west and south wings). Conditions to the retain but allow some adaptation of the original structural floors, walls and roof structures of both buildings in the proposed adaptive reuse of the buildings.*
3. *Re the new development generally (ie the proposed buildings in the SW corner on Leura Mall, on the southern boundary adjacent to the heritage items and fronting Wascoe Street). (a) Conditions to reduce the proposed building heights by a storey to ensure they are within the permissible height limit in the zone, and introduce sufficient density of screen plantings, soft landscaping and trees to effectively screen that new development from (i) Leura Mall in the SW corner (ii) the neighbouring heritage buildings on the southern boundary and (iii) Wascoe Street and the period housing area to the west. (b) The reduced storey height along the southern boundary will also reduce some of the impact and amenity issues for neighbouring development if combined with increasing the setback of this wing from Wascoe Street behind the front setback of the neighbouring heritage properties. (c) The conditions would include the need for refinement of the proposed roof form to ensure that it was a three-dimensional form rather noted in the above assessment and finalization of the proposed external materials and finishes to Council’s approval.*

The above mitigation measures 1 and 2 will ensure conservation and retention of the significant form, scale and fabric of the heritage elements and measure 3(a) to (c) will ensure a level of protection and reduced environmental impact to the significant streetscapes and neighbouring public amenity. Therefore, the property will be occupied, restored and maintained and the environmental and neighbourhood impact minimised, but also, with a future change of use to the property, the values and fabric of the existing heritage elements will have been retained and the scale of the development introduced through this DA more readily altered, adapted or removed.

Christo Aitken

BMCC Conservation Architect & Heritage Adviser

28/11/22 rev3

BLUE MOUNTAINS LOCAL PLANNING PANEL - ITEM NO. – MEETING DATE