

Clause 4.6 Variation Request

Pathways Leura Village – 203-223 Leura Mall, Leura

Section 87(2)(b) of the Housing SEPP

Submitted to Department of Planning, Housing and Infrastructure
on behalf of Trustee for Skermanic Settlement

5 February 2026

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Acknowledgment of Country



Towards Harmony by Aboriginal Artist Adam Laws

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1. Introduction

This is a formal request that has been prepared in accordance with clause 4.6 of the *Blue Mountains Local Environmental Plan 2015* (BMLEP) to justify a variation to the maximum building height development standard prescribed in section 87(2)(b) of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP). The request accompanies state significant development application (SSDA) (SSD-80068720) which seeks approval for the restoration of the Ritz estate to facilitate the site's continued use as a high-quality residential care facility (RCF) located at 203- 223 Leura Mall, Leura (the site). The project is otherwise known as 'Pathways Leura Village'.

Clause 4.3 of the Blue Mountains Local Environmental Plan 2015 (BMLEP 2015) sets out a maximum building height for the site of 8 metres. Section 87(2)(b) of the Housing SEPP provides a bonus of 3.8 metres above this LEP height standard. Therefore, the maximum permissible building height is 11.8 metres.

It is worth observing that section 107 of the Housing SEPP contains non-discretionary standards for RCFs. S107(2)(a) establishes a non-discretionary height standard of 9.5 metres, excluding servicing equipment on the roof of a building. Therefore, if we were to utilise this as the baseline and add the 3.8 metre bonus set out in s87(2)(c) of the Housing SEPP the maximum permissible building height would otherwise be 13.3 metres.

This Request is an update of the original Clause 4.6 Variation Request (Appendix D dated 4 September 2025) and clarifies the standard to be varied – which remains section 87(2)(b) however is based on LEP height standard of 8 metres + 3.8m bonus, therefore 11.8 metres in total.

The proposed development contains minor height variations in relation to:

a. The existing heritage listed Ritz building

The Ritz has an existing maximum height of 15.5 metres (RL987.80) when measured from the established existing level to the top of the Gothic, pitched dormer on the roof of building A1, and therefore already exceeds the 11.8 metre height standard by 3.7 metres or 31.4% of the standard. We observe there are two existing chimneys on the roof of the Ritz at 15.42 metres (RL987.15) and 15.445 metres (RL987.78) being a 3.62 metre and 3.645 metre variation, respectively. There is no change to the height of the Ritz building, the works merely reflect restoration and conservation works.

b. The proposed new building

The maximum height of the new western wing is below the ridgeline of the existing Ritz, with a maximum height of 16.045 metres (RL983.64) being a 4.245 metre or 35.97% variation of the standard.

It is noted that the site has been subject of a former development application no. X/1436/2021 / NSWLEC proceedings 2023/30525. This former DA similarly retained and restored the Ritz. The new structures similarly sat below the established ridgeline of the Ritz. In the judgement, Commission Dickson C supported the proposed height variation.

The proposed variation to the height development standard is justified because:

- The variation facilitates the achievement of the principles of the Housing SEPP including encouraging development of housing that will meet the needs of more vulnerable members of the community, namely seniors.
- The proposed new structures which project above the height standard sit below the long (established) Ritz ridgeline.
- The variation allows the retention and restoration of the Ritz and the northern façade design of the new building to be complementary of the adjacent Managers Residence, also to be restored.
- The variation causes no adverse environmental impacts.
- The proposal, with its height variation, does not represent an overdevelopment of the site, achieving an FSR of 0.663:1 being 0.183:1 over the 0.48:1 FSR standard (utilising the LEP base) and well below the 1:1 non-discretionary Housing SEPP FSR development standard.

- The unique topography requires flexible application of the HOB standard.

The objectives of clause 4.6 are to provide an appropriate level of flexibility when applying development standards, and to achieve netter outcomes for and from development. In the circumstances of this application, a better outcome is achieved both for and from the development by the flexible application of the height development standard.

This request should be read in conjunction with the documents prepared in support of the SSDA lodged for the project, including the:

- Environmental Impact Statement, as supplemented by the Response to Submissions Report (RtS) and Amendment Report prepared by Gyde;
- Architectural Plans prepared by PBD Architects;
- Site Survey prepared by Geo Survey; and
- Statement of Heritage Impact and Supplementary RtS Material prepared by Weir Phillips Heritage.

2. The site

The site is 203-223 Leura Mall, Leura and is located in the Blue Mountains local government area (LGA). The site is legally known as Lot 20 DP 1076123.

The site is approximately 83km west of Sydney’s Central Business District and 2km east of Katoomba. The Blue Mountains is a mountainous region and borders Sydney’s metropolitan area.

The site has an area of 11,300 sqm. The site’s topography is as follows:

- On Wascoe Street – falls south to north from RL969.37 to RL 962.32 (7.05 metre difference)
- On Megalong Street – falls east to east from RL974.05 to RL962.32 (11.32 metre difference)
- On Leura Mall – falls north to south from RL974.05 to RL969.44 (4.61 metre difference)

Geo Survey’s Site Survey dated 10 March 2025 shows the steep terrain at certain parts across the site namely on the Wascoe and Megalong frontages. This change in level is evident in Figure 5.

The site comprises several buildings of varying typologies and scales including:

- The Ritz
- Manager’s residence
- Laundry building
- Education offices (cottage); and
- Sheds and outbuildings.



Figure 1 Location of existing buildings (Source: Gyde)

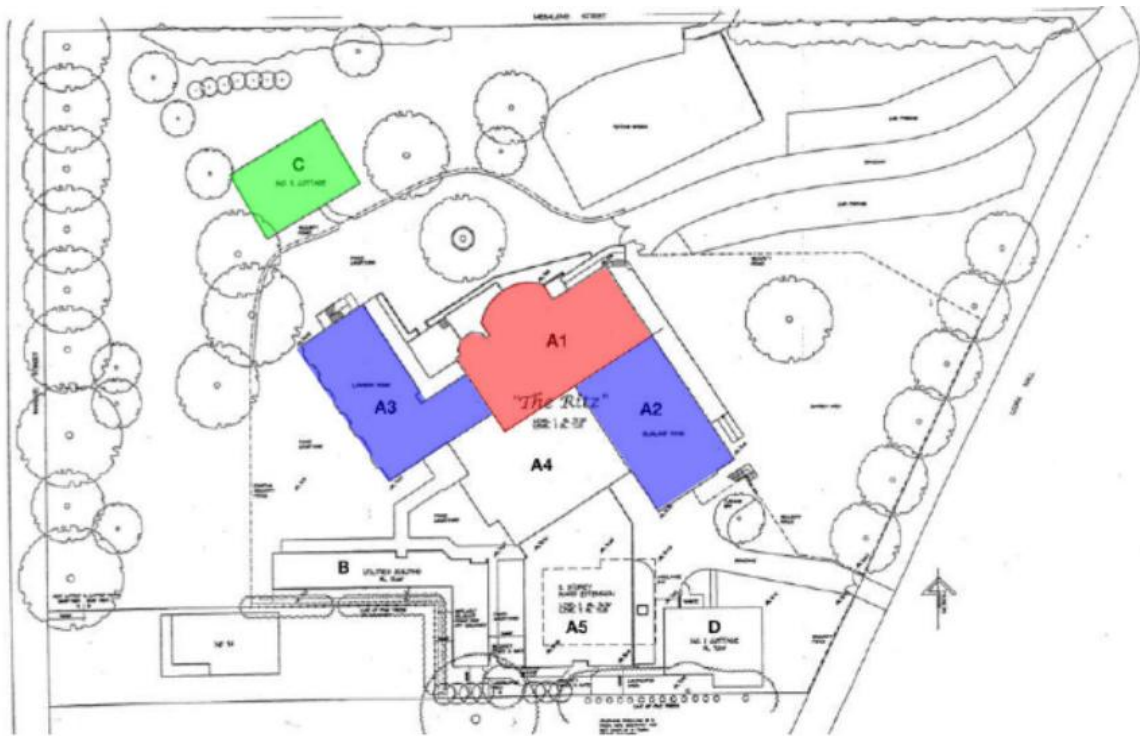


Figure 2 Existing building site plan



Figure 3 Aerial photo of the site, site outlined in red (Source: Gyde)



Figure 4 Regional context map, site identified with marker (Source: Gyde)

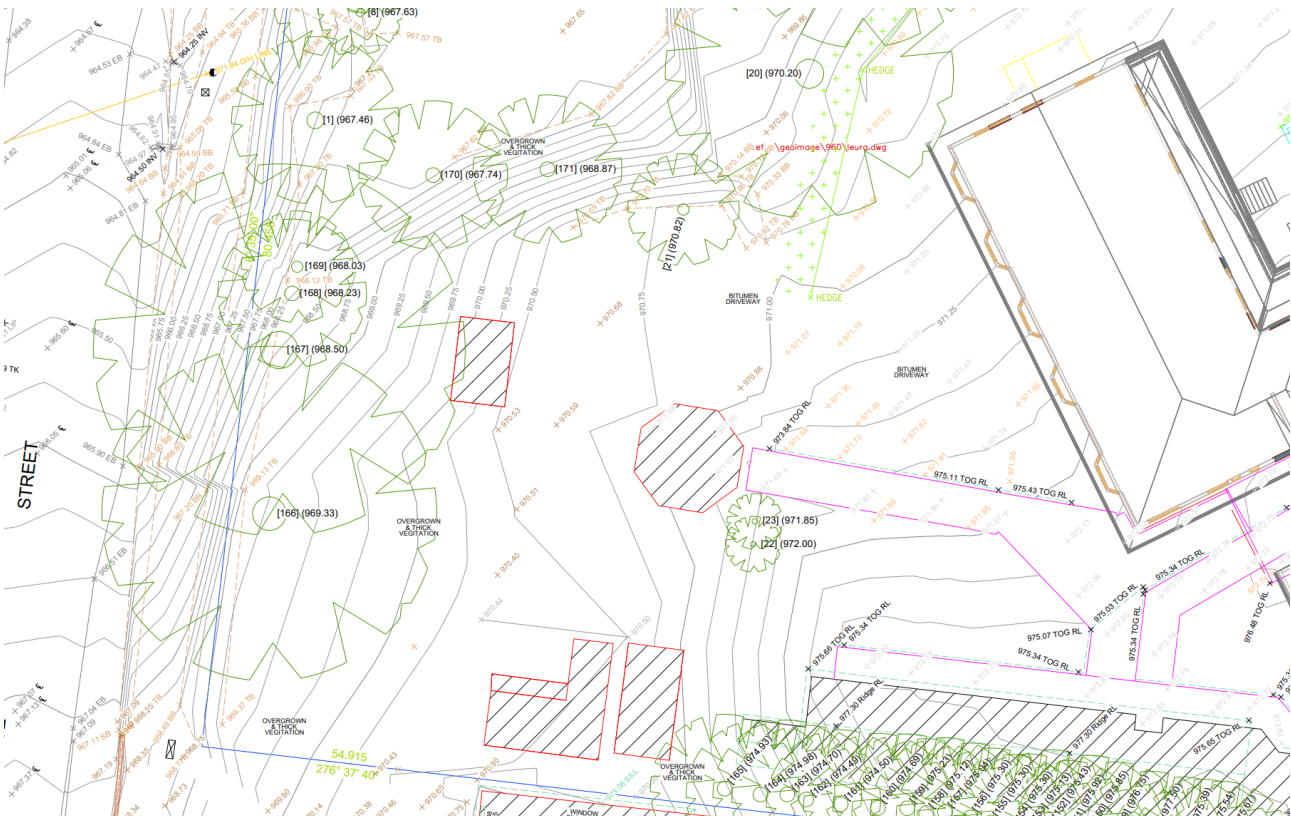


Figure 5 Extract of sheet 3 of the Site Survey (Source: Geo Survey)

3. Standard to be varied

The development standard proposed to be varied is the maximum building height prescribed in s87(2)(b) of Chapter 3, Part 5 of the Housing SEPP.

Section 87 of the Housing SEPP applies to development for the purposes of seniors housing on land to which Chapter 3, Part 5 of the Housing SEPP applies if development for the purposes of a residential flat building (or shop top housing) is permitted on the land in another environmental planning instrument. RFBs are permissible with development consent in the R1 General Residential in the BLEP. Hence, s87 of the Housing SEPP applies.

Section 87(2)(b) says that development consent may be granted for development to which s87 applies if the development will result in a building with a height of not more than 3.8 metres above the maximum permissible building height.

The maximum permissible building height is the height of buildings standard established in Clause 4.3 of the BMLEP 2015 being 8 metres.

Therefore, in applying the bonus in s87(2)(b), the total maximum permissible building height is 11.8m.

Section 87(2)(b) of the Housing SEPP is not excluded from the operation of clause 4.6 of the BMLEP.

4. Extent of variation

Existing Ritz building

The roof structures of the Ritz (building A1), being the existing heritage building on the site, sit above the 11.8 metre height plane. These structures relate to the north-western roof ridge line, Gothic pitched dormer and associated roof structures. The existing height of buildings variations of building A1 as follows:

- western roof parapet – 13.80 metres / RL986.22 being a 2.0 metre or 1.9% variation of the development standard
- eastern roof gable/parapet – 14.15 metres / RL986.22 being a 2.35 metre or 19.9% variation of the development standard
- two chimneys – 15.42 metres / RL987.78 being a 3.62 metre or 30.7% variation and, 15.445 metres / RL987.15 being a 3.645 metre or 30.9% variation of the development standard
- Gothic pitched dormer on the roof – 15.5 metres / RL987.80 being a 3.7 metre or 31.4% variation of the development standard.

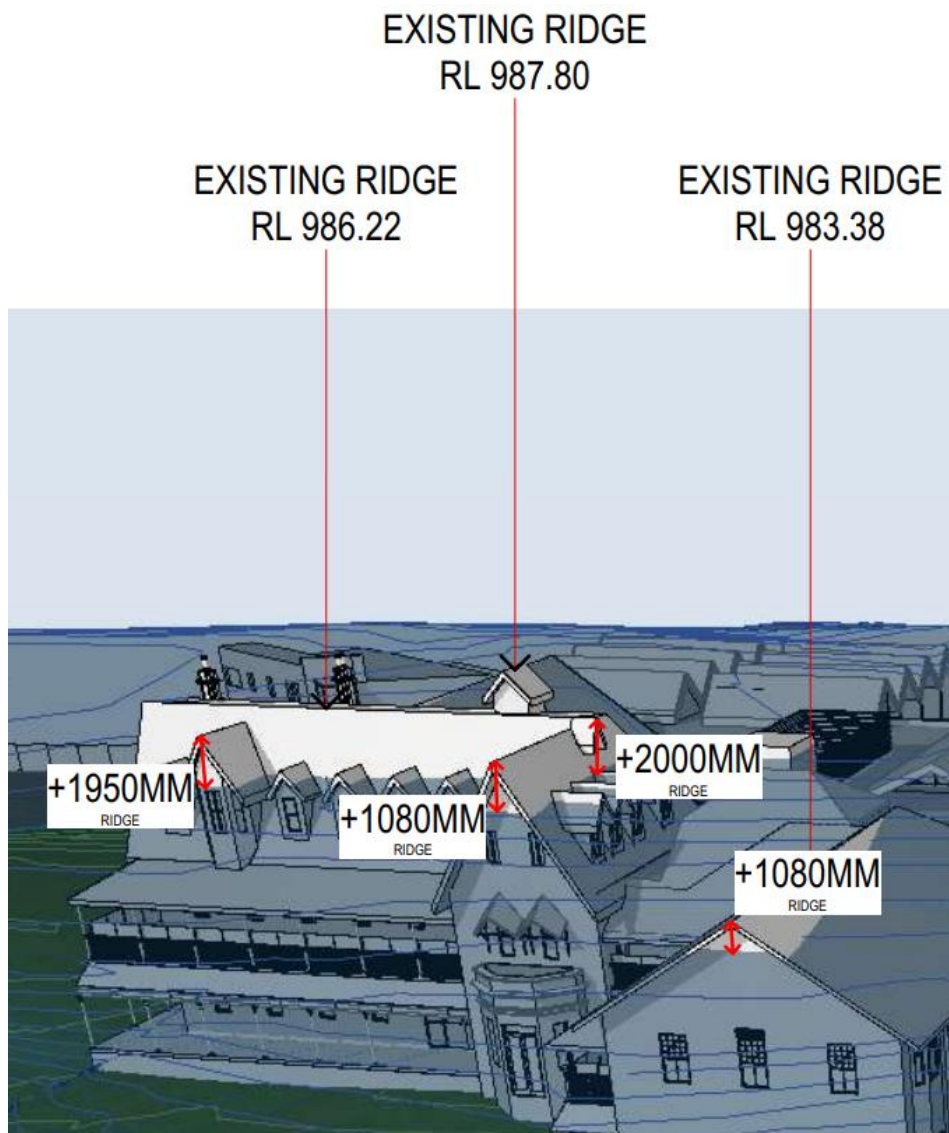


Figure 6 Existing variation on The Ritz building A1 roof (Source: PBD Architects)

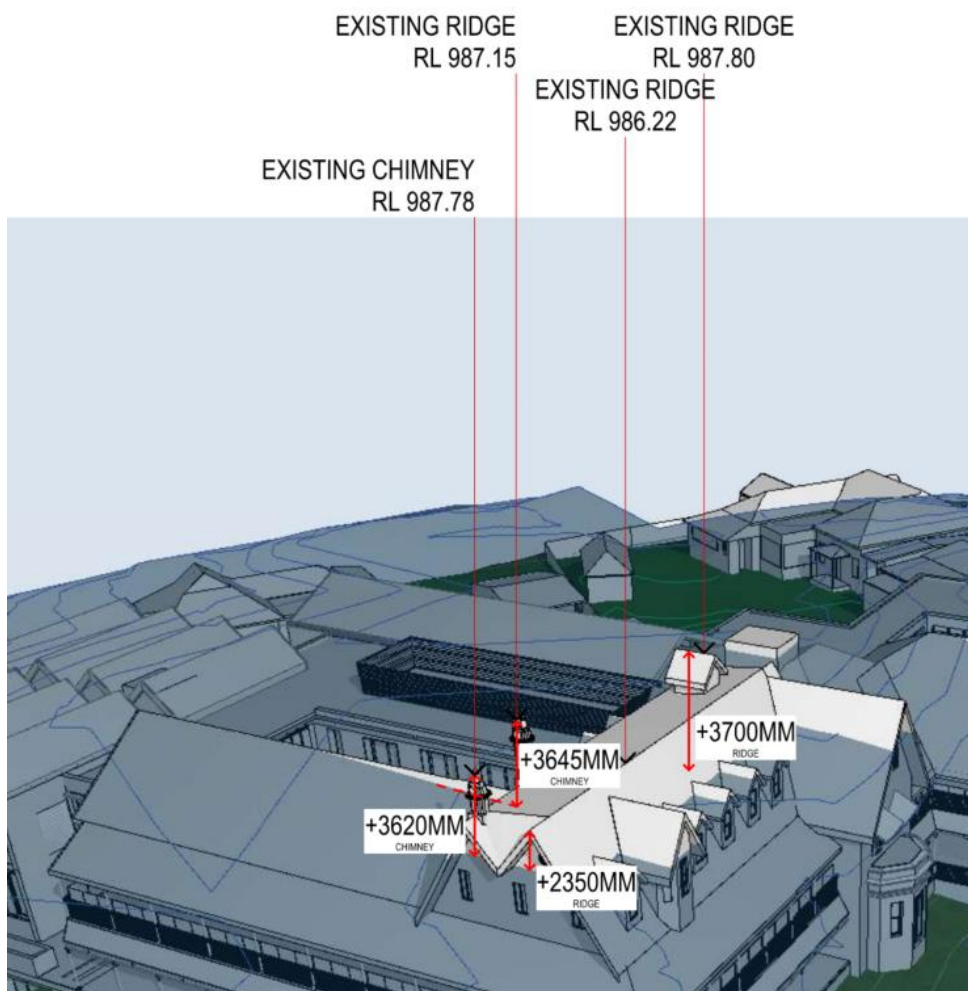


Figure 7 Existing variation on The Ritz building A1 roof (Source: PBD Architects)

New buildings

The proposed new buildings sit below the ridgeline of the Ritz, i.e. lower than RL986.22. This RL is representative of the northern roof gable/parapet; the lower of the two RLs of the Ritz above the height plane. This has been an intentional and prioritised architectural design response.

Most of the proposal, including the new structures, comply with the height standard.

The new roof structures which sit above the height plane are limited to the northern edge of the new western wing as shown in Figure 8. The extent of their variation is the result of the fall of the land in that location, as shown on the sections extracted below. The proposed height variations for the new western wing are as follows:

- top of the north-east roof pitch – 15.89 metres / RL983.64 being a 4.09 metre or 34.7% variation of the development standard
- top of the north-west roof pitch – 16.045 metres / RL983.64 being a 4.245 metre or 35.97% variation of the development standard
- top of the south-east roof pitch – 12.9 metres / RL983.64 being a 1.1 metre or 9.3% variation of the development standard
- top of the south-west roof pitch – 12.85 metres / RL983.64 being a 1.05 metre or 8.9% variation of the development standard.

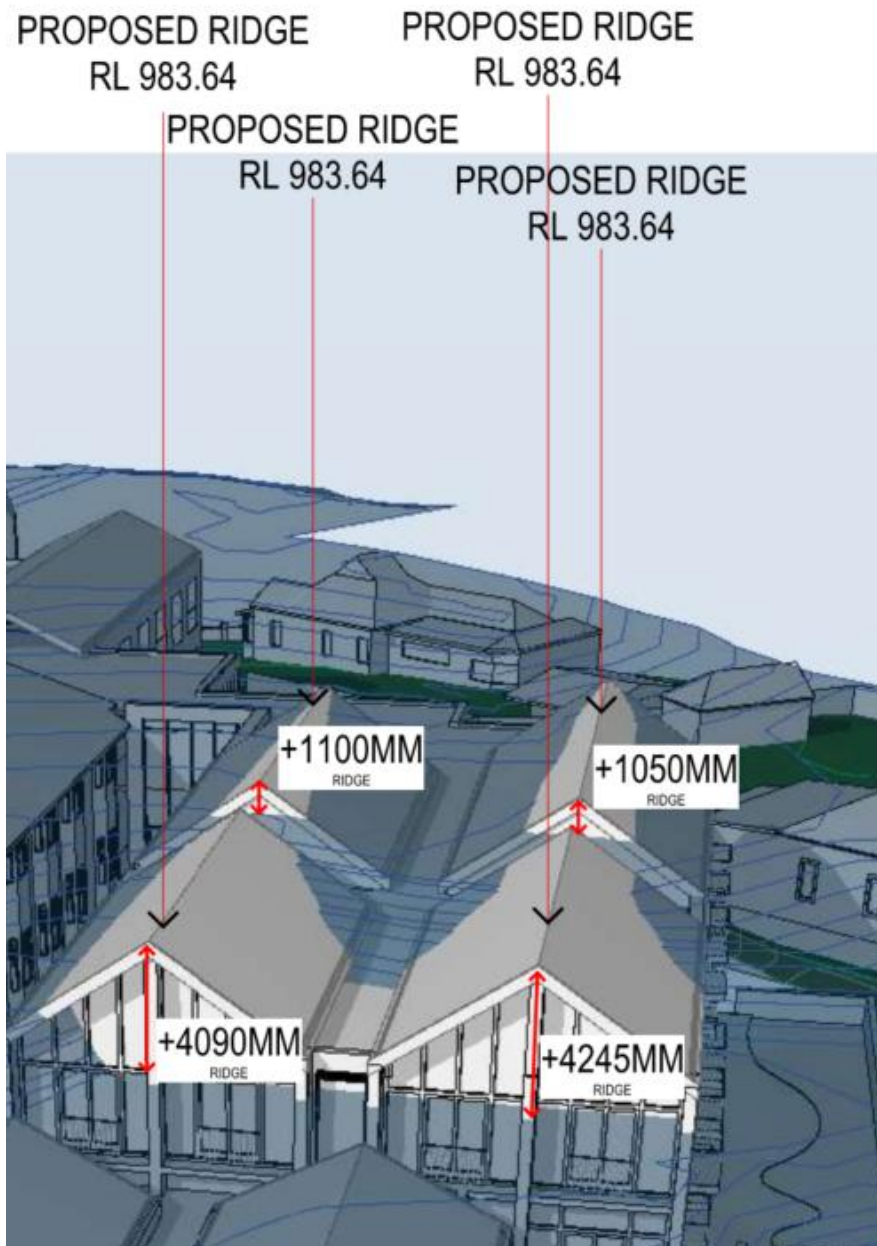


Figure 8 New variation on the northern end of the new western wing roof (Source: PBD Architects)

Summary

- The Ritz is proposed to be retained and restored, meaning the long-established height of this building is unchanged.
- The proposed new buildings, including the western wing, sit below the established ridgeline of the Ritz. The northern roof ridge, two chimneys and associated roof structures on the Ritz building A1 sit above the 11.8 metre height plane.
- The new western wing sits below this established ridgeline of RL986.22.
- The northern two roof pitches on the new western wing sit above the 11.8 metre height plane.

The existing and proposed new variations to the height standard are illustrated in the following height plane diagrams and sections.

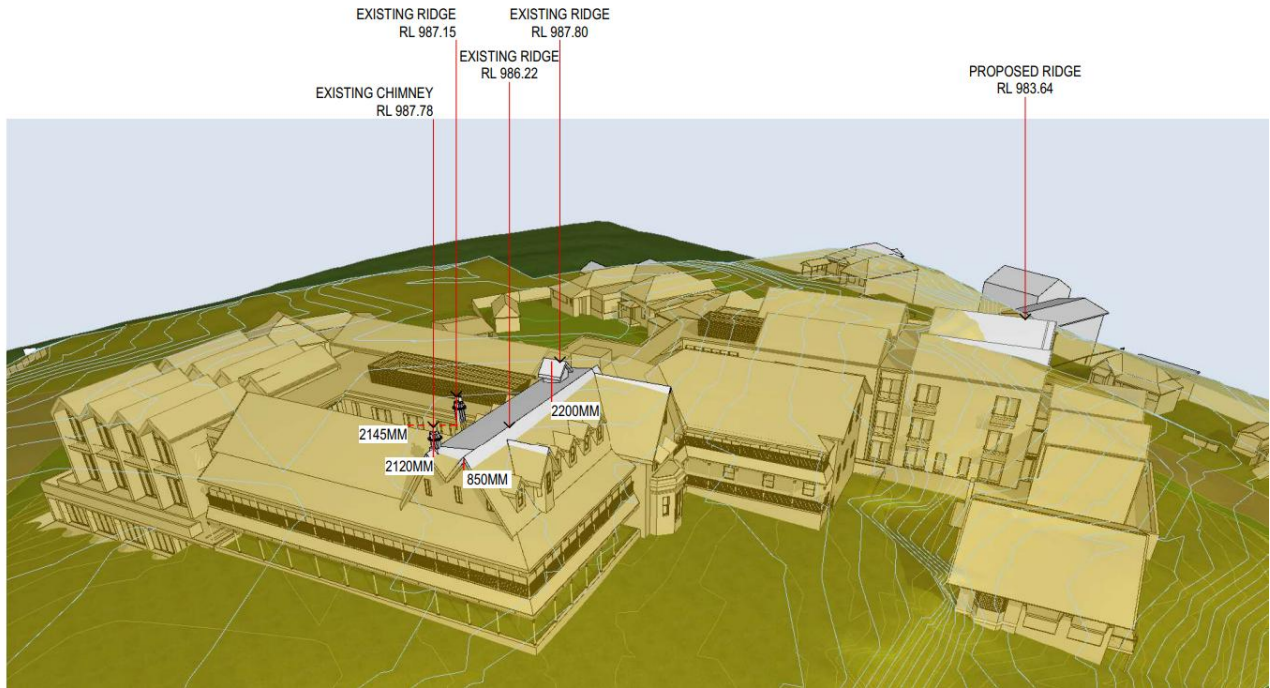


Figure 9 Extract of height plane as viewed from the north-east (Source: PBD Architects)

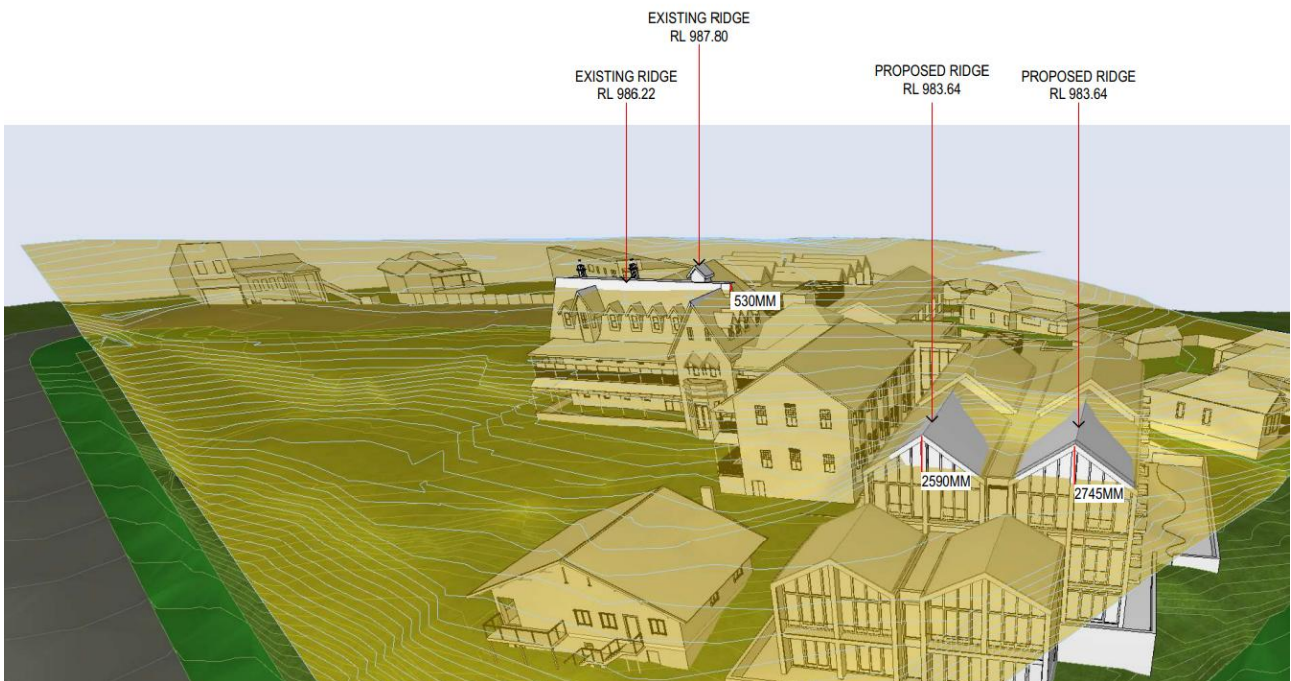


Figure 10 Extract of height plane as viewed from the north-west (Source: PBD Architects)

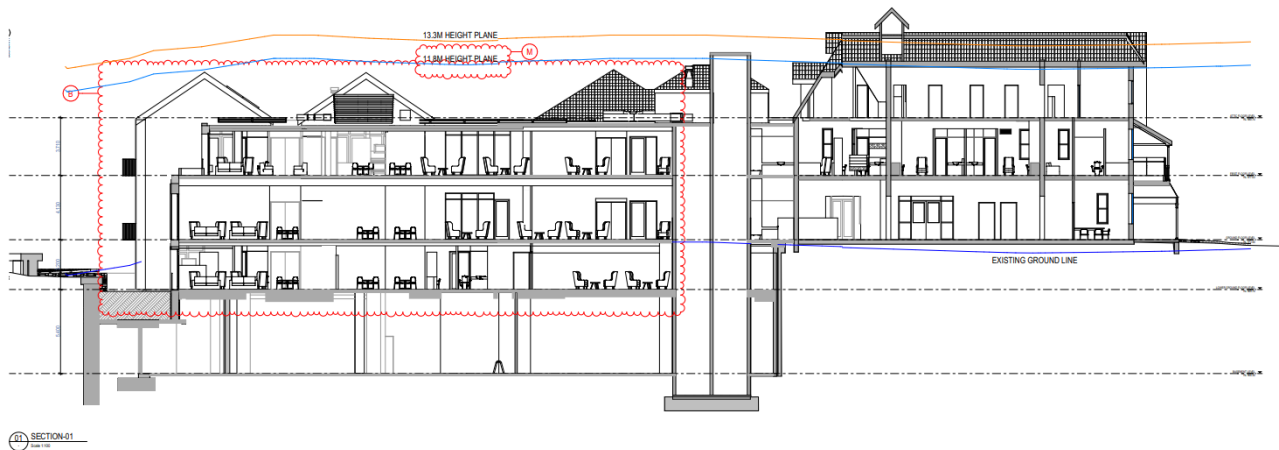


Figure 11 Annotated section 1 showing roof element of the existing Ritz building A1 and dormer sitting above the height plane (Source: PBD Architects)

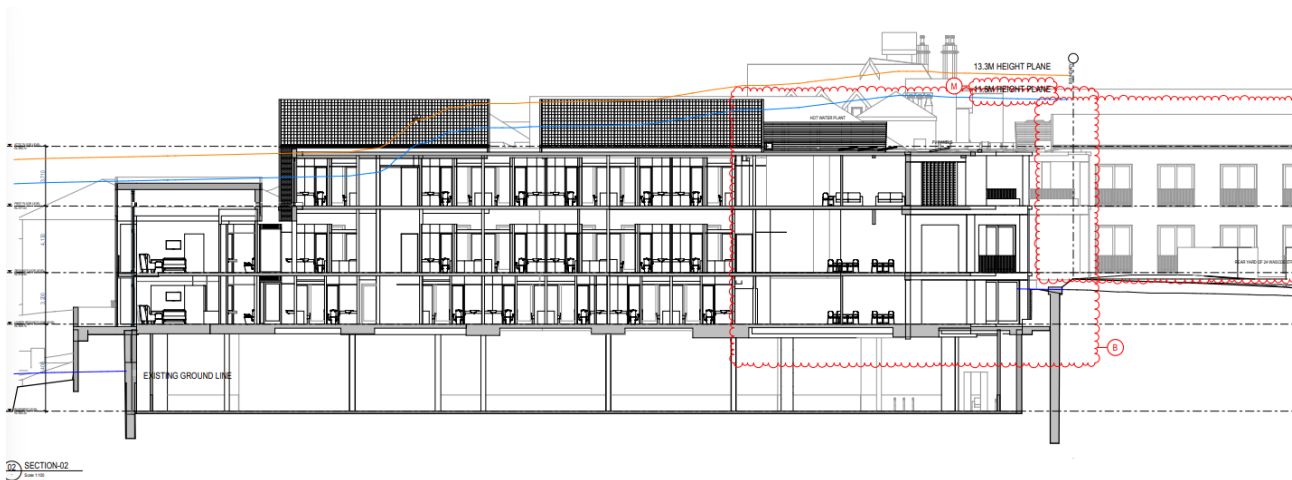


Figure 12 Annotated section 2 showing roof element of the new western wing sitting above the height plane (Source: PBD Architects)

5. Unreasonable or unnecessary

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by section 87(2)(b) of the Housing SEPP.

The Court held that there are at least five (5) different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. See *Wehbe v Pittwater Council [2007] NSWLEC 827 (Wehbe)*.

The five (5) ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard; (first test)
2. The underlying objectives or purpose is not relevant to the development with the consequence that compliance is unnecessary; (second test)
3. The objectives would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable; (third test)
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granted consents departing from the standard hence the standard is unreasonable and unnecessary; (fourth test) and
5. The zoning of the land is unreasonable or inappropriate. (fifth test)

It is sufficient to demonstrate only one of these ways to satisfy Clause 4.6(3)(a) (*Wehbe v Pittwater Council [2007] NSWLEC 827, Initial Action Pty Limited v Woollahra Municipal Council [2018] NSWLEC 118 at [22] and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [28] and SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [31]*).

Nonetheless, we have considered each of the ways as follows.

5.1 The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Section 87(2)(b) of the Housing SEPP sets the maximum permissible building height for development on the site as the site/proposal complies with section 87(1) of the Housing SEPP as:

- In accordance with s87(1)(a) the development for the purposes of a residential flat building is permitted with development consent in the R1 General Residential zone which applies to the land; and
- S87(1)(b) is not applicable.

As set out in section 3 of this request, the additional height afforded under s87(2)(b) of the Housing SEPP is in addition to the base BMLEP height standard of 8 metres in clause 4.3.

Chapter 3 Diverse Housing, Part 5 Housing for seniors and people with a disability does not include any aims or objectives. However, Chapter 1, section 3 of the Housing SEPP sets out the 'principles of the policy' which includes as *relevant* to a seniors housing development:

"The principles of this Policy are as follows—

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) minimising adverse climate and environmental impacts of new housing development,*

(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,”

The proposal is consistent with the principles of the Housing SEPP as:

- The development, as it varies the height standard, delivers much needed seniors housing in the Blue Mountains LGA. Of note, Leura has the highest median age in the Blue Mountain region at 55 years. The 70- 64 years age group in the LGA has grown by 29.1% since 2016, with an additional 1,122 people. The supply of seniors housing in response within the LGA has remained largely unchanged (until now)) (achieving (a) and (b));
- The proposal has been designed to achieve a high level of amenity for the future residents of the RCF and appropriately manages’ impacts to neighbours. The northern roof structures of the new western wing comprise two gable roofs resembling the restored Managers Residence. The restoration of The Ritz involves replacing the roof tiles, including those which sit above the height plane. The new building structures have been purposefully designed to sit below the Ritz ridgeline (achieving (c));
- The site is currently in a very poor and unusable condition. The proposal seeks to deliver new seniors housing in the Blue Mountains which has not be provided in over 20 years and is walking distance from the Leura village. The development also includes various on-site facilities for the future residents (achieving (d));
- The development, as it contravenes the height standard, aims to reduce potential negative impacts by:
 - Enhancing local level of biodiversity through native planting.
 - Reducing the urban heat island effect through large-scale landscape provision.
 - Eliminating stormwater pollutants through the implementation of water sensitive urban design principles.
 - Reducing exposure to indoor pollutants and toxins.
 - Maximising solar energy opportunities through the provision of photovoltaic panels on the rooftop; noting these reside *below* the height standard of 11.8 metres.
 (addressing (e));
- The non-compliant portions of the building have been designed to:
 - Ensure the new elements which sit above the height plane, are below the ridge height of the restored Ritz.
 - Sensitively respond to the historical roof form on the site; both in the way the new building has been planned on the site and how the elevations have been treated with vertical roof forms (i.e. gables) and complementary materials.
 - The development is therefore compatible with the heritage characteristics of the site and is further enhanced by the proposed restoration. The proposal is a high quality ‘village’ at the end of Leura Mall which responds to the heritage charm of the town and delivers a high quality architectural, heritage and landscape outcome.
 - The non-compliant portions of the new building are not visible from the Leura Mall public domain. Those elements of existing building are unchanged and characteristic of the long-standing heritage significant building. The parts of the new western wing which sits above the height plane is in part screened from the views at Wascoe and Megalong Street.



Figure 13 View from Leura Mall (Source: Rock Hunter)



Figure 14 View from Megalong Street (Source: Rock Hunter)



Figure 15 View from Megalong Street (Source: Rock Hunter)

(addressing (f)).

In this respect, the principles of the Housing SEPP are achieved because of (and notwithstanding) non-compliance with the standard.

Compliance with the development standard is unreasonable or unnecessary for this reason.

5.2 The underlying objectives or purpose is not relevant to the development with the consequence that compliance is unnecessary.

The underlying objective or purpose is to provide additional building height to enable the provision of a compatibly designed seniors housing development which restores and enhances the heritage characteristics of the site. The underlying objective or purpose is relevant and therefore is not relied upon in the context of this reason.

5.3 The objective would be defeated or thwarted if compliance was required with the consequent that compliance is unreasonable.

As discussed in section 5.1 and 5.2, the underlying principle of the standard is to provide additional building height to deliver new senior housing and, in the case of the site, a high-quality restoration project. If the maximum building height standard is not varied, an incompatible and inferior built form and heritage outcome would result on the site.

Compliance with the development standard is unreasonable or unnecessary for this reason.

5.4 The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary.

The development standard has not been virtually abandoned or destroyed. Of note, the Ritz building A1 comprises a long-standing variation to the height standard.

5.5 The zoning of the land is unreasonable or inappropriate.

The zoning of the land (R1 General Residential and with seniors housing therefore permissible via Chapter 3, Part 5 of the Housing SEPP) is appropriate.

We do not rely on this reason.

6. Sufficient environmental planning grounds

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Plain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

The environmental planning ground to justify the departure of the height of buildings development standard are as follows:

- **Objects of the Act**

The proposed variation in the subject development is consistent with, and a direct response to, the following objects of the *Environmental Planning and Assessment Act 1979*:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

The proposal provides new senior housing in the Blue Mountains, which contributes to the diversity of housing stock and addresses the significant demand. The Blue Mountains LGA has a significant ageing population with 3,609 people over the age of 80 living in the LGA in 2021, with this number expected to increase to 7,441 people (+ 3,832) by 2035. The predominant dwelling in the LGA is detached dwelling houses. The average number of bedrooms per dwelling in 2021 was 3.3, with an average number of persons per household 2.4.

The Council's Local Strategic Planning Statement and Housing Strategy acknowledges these statistics and characteristics of the LGA. The proposed additional 136 RCF beds will greatly benefit the older age groups that require care and their families. There are added benefits of ageing in place. The proposed RCF seeks to retain and restore the existing heritage building and therefore the design development of the new structures has sought to sympathetically respond to these intrinsic heritage characteristics. The non-compliant portions of the new west wing have been designed to sit sympathetically adjacent to the Managers Residence and below the Ritz ridgeline. The proposal, as it contravenes the standard, promotes the social and economic welfare of the community in delivering seniors housing in the LGA which has not come forward in 20 years.

The state's natural resources are unaffected by the proposal, including its proposed variation.

(c) to promote the orderly and economic use and development of land,

The variation of the height of buildings standard assists in facilitating the orderly and economic use and development of the land as is evident in the restoration of the existing Ritz and how the proposal responds to the relevant principles of the Housing SEPP.

These relevant principles would be undermined if compliance with the height standard were required and, in fact, would not be possible without the demolition of the heritage affected Ritz, which is considered of high significance.

For the sake of completeness, this Request adopts the 11.8 metre height standard. If the 13.3 metre height standard utilising the non-discretionary base of 9.5 metres in s84(2)(c)(iii) of the Housing SEPP were to be adopted, the elements of the building which sit above the height standard would not contain habitable floor space, albeit the variation of the standard promotes the orderly development of the land to deliver a RCF which respects the heritage qualities of the site, through restoration, and providing new elements which are complementary in their design and scale.

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

As set out in section 3 of this request, the existing heritage building A1 contains existing variations to the height standard on the western and northern roof parapets, and the Gothic pitched dormer. An integral component of the proposal is the restoration of the Ritz. At the roof level, this includes replacement of the roof tiles and retention/upgrades of the roof.

During design development of the new buildings, PBD Architects, in close collaboration with Weir Phillips Heritage, tested roofscape alignment and new sympathetic façade designs which mimicked the heritage qualities of the site. The proposed new west wing is a considered and compatible design, where the northern elevation of this wing comprises a pitched roof form representative of the wide angled pitched roof of the adjacent Managers Residence. The extent of the height variation in this location on the site is the result of the topography changing steeply in this location (as discussed further below).

Weir Phillips Heritage conclude in the accompanying Statement of Heritage Impact that the proposal, including its non-compliant components, represents a responsible and considered conservation strategy. The project delivers an adaptive reuse outcome that supports the long-term viability of the Ritz within a respectful, high quality landscape setting. Once completed, the project is anticipated to once again serve as the historic focal point of the Leura township. The variation of the standard is essential to restore the Ritz and deliver compatible new built form elements.

(g) to promote good design and amenity of the built environment,

The non-compliant elements of the proposal assist in the delivery of a high quality RCF. PBD Architects articulate this in their Design Report which outlines the design approach taken to achieve a good level of design and amenity for the future residents on the site, their guests and nearby neighbours:

- The proposal, including its non-compliant elements, has been carefully designed to reflect the operational and spatial needs of a RCF, which are inherently different from a standard residential building. The building form supports efficient care delivery while maintaining a domestic scale and character.
- The architectural language of the new works references the character of The Ritz without mimicking it, resulting in a village-like composition that enhances the prominence of the heritage building.
- The development maximises the provision of landscaping and reinstates the admirable landscape gardens which are characteristics of Leura. This landscaping, particularly the trees on the northern and western frontages, screen the non-compliant portions of the new building.
- The design promotes health and wellbeing through effective cross ventilation, optimised natural sunlight exposure and facilitated social connection. The non-compliant elements do not affect the achievement of this project objective.

(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

While not specifically of relevance to the portions of the building which exceed the height standard, detailed coordination between the architectural team and key technical consultants, including landscape, civil, BCA, fire safety, façade and structural engineer, has been prioritised throughout the SSD preparation process. This integrated approach has ensured the construction methodologies are compatible with heritage retention objectives for the project, and that critical heritage fabric can be preserved in situ without unnecessary intervention or risk. The Proponent will utilise proper construction methods and materials to deliver the project. Refer to the accompanying technical SSD reports for further information.

- **Topography**

As noted in section 2 of this clause 4.6 variation request, the site experiences a step fall from south/south-east to north/north-west as visible on the Survey Plan contours in the north-west corner of the site at the northern end of the new west wing; meaning this northern end of the new west wing sits above the 11.8 metre height plane. The non-compliant (new) roof structures in this location are a result of this change in topography, noting the remainder of the new buildings sit below the existing Ritz height and the 11.8 metre height plane. The non-compliant portion of the new west wing (similar to The Ritz structures) do not comprise any habitable floor space and comprises a sympathetic roof form on the northern elevation which takes cues from the northern elevation of the Managers Residence. While a stepped, flat roof on this northern elevation would result in compliance, it would be a far inferior heritage and design outcome.

- **Environmental impacts**

Overshadowing

PBD has prepared plan and elevation shadow diagrams which accompany this SSD (drawing DA600, DA610 and DA620). These clearly depict the shadow cast by the non-compliant portions at mid-winter.

- **At 9.00am mid-winter** – the roof structures of the new west wing which sit above the 11.8 metre height plane cause minor overshadowing of the Wascoe Street road reserve and a very minor slither onto the front verge of no.23 on the western side of Wascoe Street, as shown in yellow below.

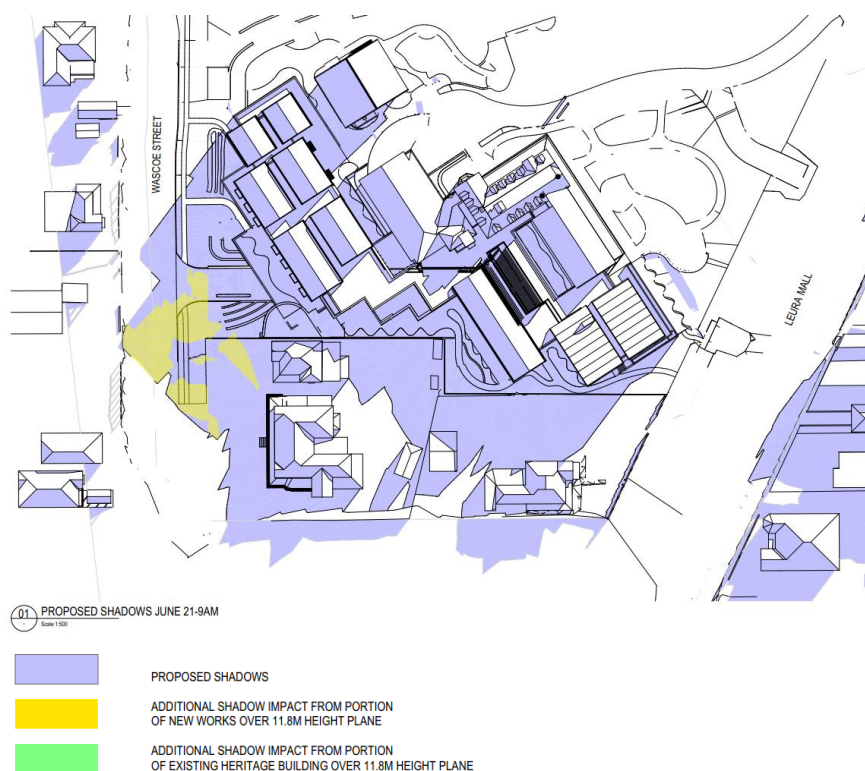


Figure 16 Extract of proposed 9.00am shadow, shadow caused by non-compliant portion of new west wing in yellow (Source: PBD Architects)

- **At 12.00pm mid-winter** – the portions of the building which sit above the 11.8 metre height plane cause no overshadowing at 12.00pm at mid-winter.
- **At 3.00pm mid-winter** – as described earlier in this request, part of the Ritz building A1 already sits above the 11.8 metre height plane. The subject proposal results in no change to this existing

contravention. The shadow is negligible falling onto a small area in the south-east corner of the site and a very minor area of the Leura Mall road verge, see below in green.

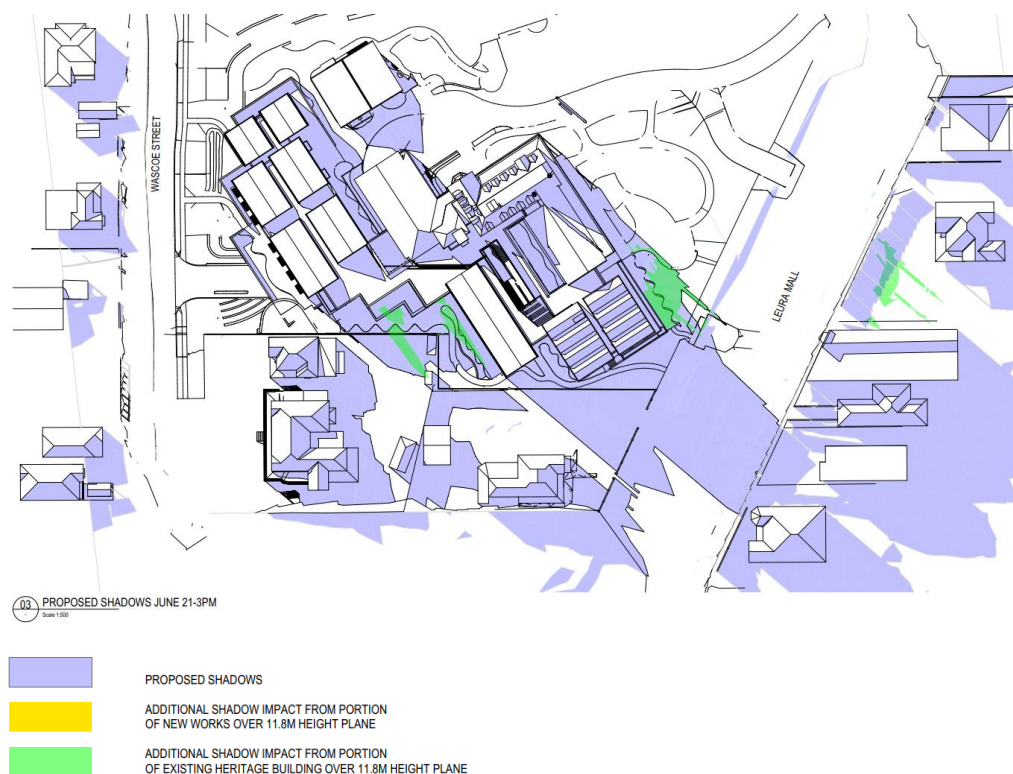


Figure 17 Extract of proposed 3.00pm shadow, shadow caused by non-compliant portion of new west wing in yellow (Source: PBD Architects)

Privacy

The non-compliant roof structures, existing and new, do not contain any habitable space and give rise to no privacy impacts.

Visual impact

The proposed roof structures which reside above the 11.8 metre height plane cause no visual impact as they are located on the northern elevation of the existing and new building, away from neighbouring properties to the south, west and east.

Section 7.1.5 of the EIS undertakes a detailed visual impact assessment. The chapter concludes:

- The investigations and visual impact assessment undertaken conclude that the degree of impact associated with the proposal is low to moderate when viewed from pedestrian vantage points within the immediate context of the site.
- The initial visibility investigations confirm that site visibility is limited due to the local landform and significant canopy coverage. However, given the scenic setting of Leura Village, this analysis also considers impacts to longer distance view lines to determine whether the proposal is likely to interfere with, or detract from, the visual quality of the townscape and the scenic landscape character of the area.
- None of the views considered in this assessment are deemed to deliver significant, severe or devastating impacts as the result of the proposed works. The analysis confirms that the proposal will not substantially alter the character, or composition, of public domain views representative of typical pedestrian views.

- The acceptability of the proposal's visual presentation is linked to the sensitive design approach adopted for the treatment of existing and new building fabric along with the consistent commitment to a high-quality landscape design approach as the dominant design feature.
- The site layout and detailed architectural solutions have been informed by the intent to minimise visual bulk impacts to surrounding areas, incorporating mitigation measures to alleviate bulk and maximise screening to surrounding areas.
- The architectural design and landscape solutions incorporate contemporary and elegant design features to convey a residential character that celebrates the uniqueness of existing heritage fabric. Through skilful design, the design has embraced the opportunity to renew the site through a faithful continuation of the historic use, incorporating innovative landscape motifs to improve the site's presentation to surrounding areas while also celebrating the identity of the landmark building and its contribution to local history.
- Leura is a lively village community and a well-known destination for local and international visitors, and a degree of change to the existing visual environment is considered acceptable, providing it is sympathetic to the local character. The proposal meets this principle.

Heritage

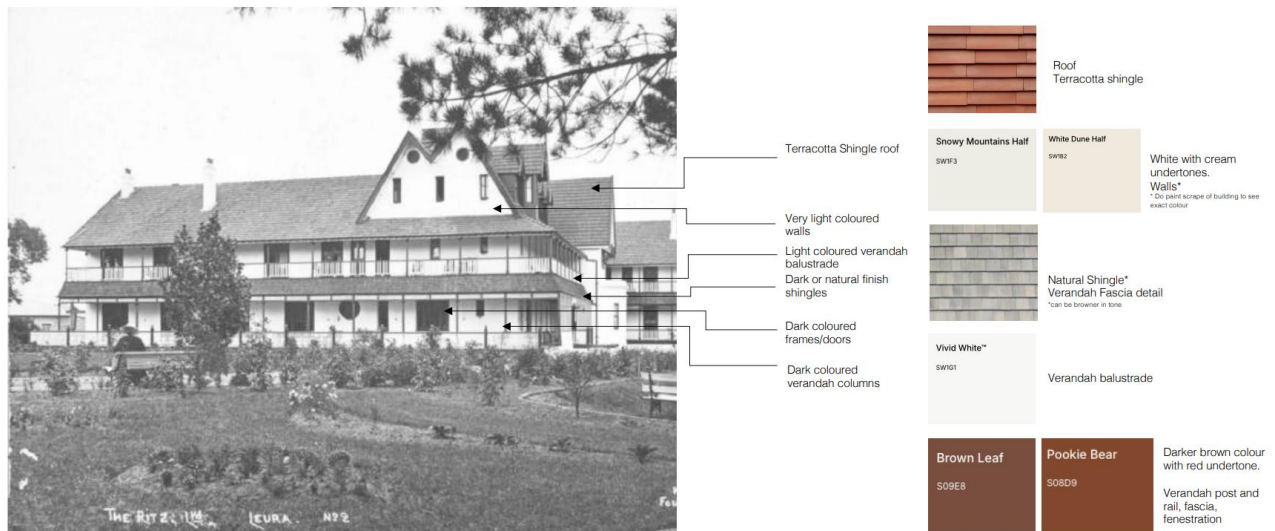
The non-compliant roof structures result in a positive heritage outcome whereby the Ritz building A1 is retained and restored and the new building design complements the heritage qualities of the Ritz. This takes the form of:

- Architecturally, the new additions adopting a roofscape inspired by the varied forms of the Ritz. The northern end of the new west wing which sits above the height plane and takes cues from the adjoining roof pitch of the Manager's Residence, see Figure 18.



Figure 18 How the varied roof pitches of the existing building were used to influence the form of the new additions (Source: PBD Architects)

- PBD Architecture propose sympathetic materials and finishes to reinstate the significance and quality of the Ritz building.



Colour Scheme inspired by 1914-15 imagery

Figure 19 The Ritz colour scheme (Source: Weir Phillips Heritage)

- In doing so, the design establishes an overall built form which is a cohesive ‘campus’/‘village’ within the finer-grained Leura townscape, while reinforcing the prominence and landmark qualities of the Ritz, the most substantial and historically significant building in central Leura.



Figure 20 Campus/village like style of the development looking south-east (Source: PBD Architects)

The existing roof, currently clad with Porter & Galbraith Marseilles-styles glazed terracotta tiles, believed to have been installed during renovations in the 1940s, which is now beyond its serviceable life. These will be replaced with new, matching tiles installed above a ventilated and drainage cavity, including a continuous sarking later to improve thermal performance and condensation control, see Figure 21. This replacement is for the whole roof, not just isolated to the roof components which sit above the 11.8 height standard.

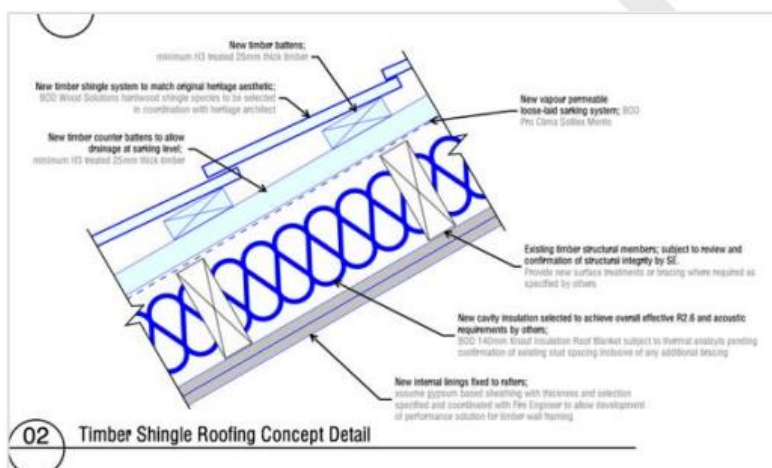


Figure 21 Proposed insulation approach to the roof showing new tiles

The design of the new west wing, particularly is northern end where it varies the height standard, adopts a restrained and respectful architectural language which complements rather than competes with the Ritz, ensuring a clear hierarchy of built form and enhancing the overall presentation of the site/proposal.

- **Acceptability of previous height variation**

In September 2021, a regionally significant development application (RSDA) (ref. X/1436/2021) for the continued use and restoration of ‘The Ritz’ estate as a high-quality RCF was submitted to Blue Mountains Council. The RSDA was refused by the Sydney Western City Planning Panel and became subject of NSW Land and Environment Court (NSWLEC) proceedings 2023/00030525.

The Commissioner was satisfied that the proposal was consistent with the objectives of the zone and the proposed height (and floor space for that matter), which varied the respective standards, were acceptable. The former proposal similarly restored the heritage building and proposed new building. The proposed height variations of the former new buildings were below the established Ritz ridgeline. This approach has been continued in this SSD with the new design and as described in this request.

For completeness, the size of the variation is not in itself a material consideration as whether the variation should be allowed. There is no constraint on the degree to which a consent authority may depart from a numerical standard under clause 4.6: *GM Architects Pty Ltd v Strathfield Council* [2016] NSWLEC 1216 at [85].

7. Conclusion

This request for variation to the height of buildings development standard is made pursuant to clause 4.6 of the BMLEP and demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of the proposed development; and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

Importantly, the variation facilitates the achievement of the principles of the Housing SEPP (section 3) which is to enable the development of diverse housing types including for seniors, provide a reasonable level of amenity and design it in such a way that it reflects and enhances its locality.

For the reasons set out in this request, it is appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.