

Our Ref:230879

10 November 2023

Chief Executive Officer
Shoalhaven City Council
36 Bridge Road
NOWRA NSW 2535

Email: council@shoalhaven.nsw.gov.au

ATTN: Rebecca Lockart

Dear Sir,

Objection to Development Application - RA23/1002 (77 – 83 Princess Street & 120-122 Queen Street, Berry)

1. Introduction

This submission has been prepared by Barker Ryan Stewart on behalf of the Berry Forum (community consultative body for the Berry Region). The submission is in response to the notice of proposed development application issued by Shoalhaven Council for the properties at 77 – 83 Princess Street & 120-122 Queen Street, Berry (RA23/1002).

The proposed development comprises alterations and additions to the Berry Hotel at 120 Queen Street, Berry, expansion of the Berry Hotel onto 122 Queen Street, construction of new hotel accommodation at 79-83 Princess Street, consolidation of 4 lots and associated parking and landscaping at 120-122 Queen Street and 79-83 Princess Street, Berry, together with works on the adjoining Council owned land (Lot 1 in DP 209665) at 77 Princess Street. A swimming pool and communal area is proposed to be accommodated on the roof of the new accommodation building on Level 3. The development also includes tree removal and the transplantation of two existing trees elsewhere on site.

An extract from the proposed Site Plan is reproduced in Figure 1 below which provides an overview of the development proposed on the site.

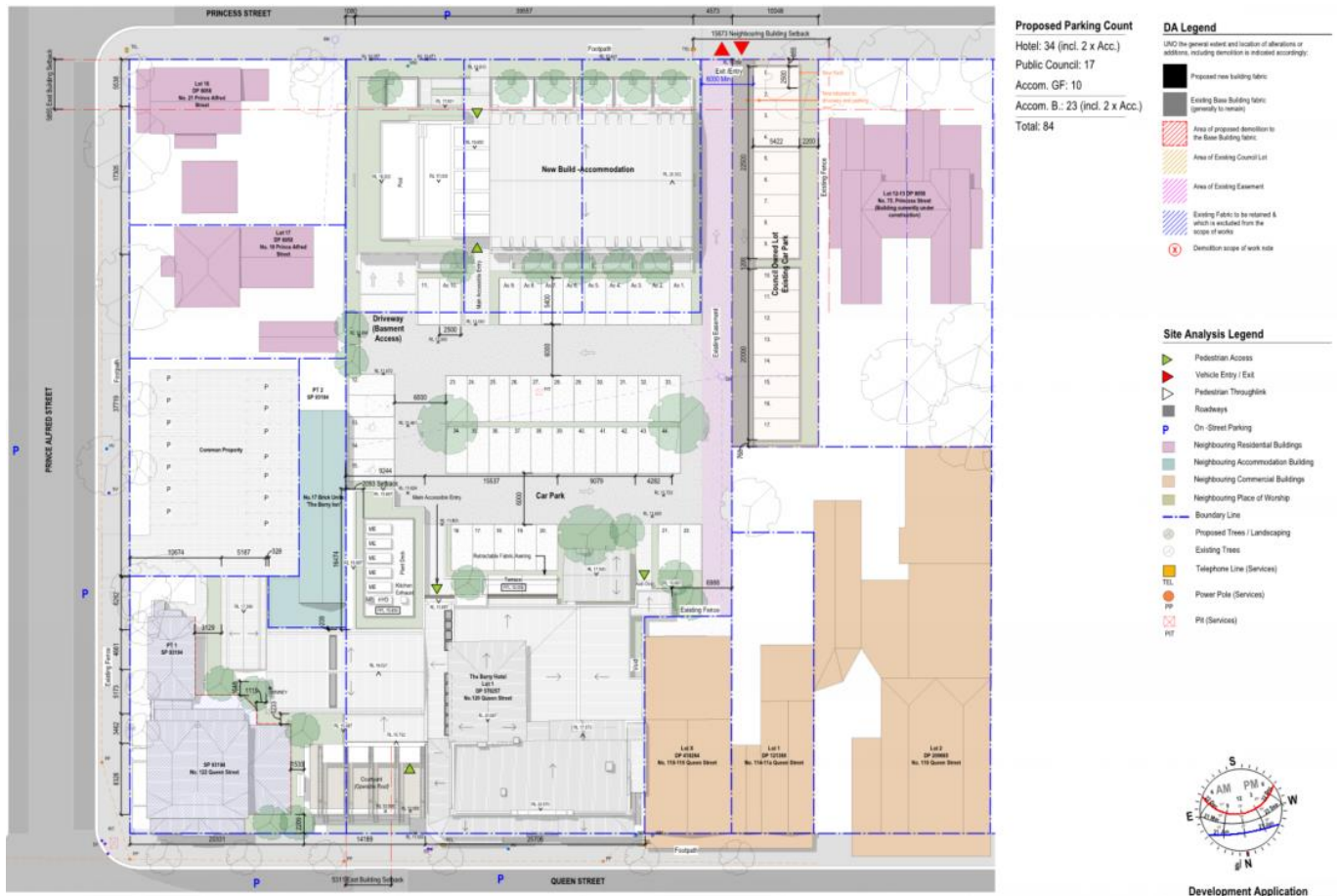


Figure 1: Extract from Site Plan submitted with the DA (H&E Architects, 2023)

2. Site Analysis

The greater site area is strategically located between Queen Street in the north and Princess Street in the south. Queen Street, Prince Alfred Street and Princess Street are local collector roads under the care and control of Council.

The site is currently occupied by the following development:

- Berry Hotel at 120 Queen Street (Lot 1 DP 578257);
- a two storey commercial (former bank) building at 122 Queen Street and the Berry Inn at 17 Prince Alfred Street (SP 93194);
- a dwelling house at 79-81 Princess Street (Lot 2-3 DP 342913); and
- A driveway access point and unmarked public car park at 77 Princess Street (Lot 1 DP 209665) owned by Council.

No. 83 Princess Street (Lot 1 DP 342913) appears to be largely vacant with two outbuildings located along the northern boundary.

Figure 2 below is an aerial view of the site and surrounding locality.

Queen Street provides pedestrian pathways on both sides and functions as the main commercial centre of Berry. It should be noted that there are no pedestrian pathways on either side of Princess Street, thus pedestrian safety is an existing and widely discussed issue.



Figure 2: Aerial view of site and surrounding development (Nearmap, 2023)

3. Heritage

The northern portion of the site and surrounding development exhibit mapped heritage item and conservation area significance as shown in the map extract in Figure 3. For context, the intersection of Queen Street and Prince Alfred Street was historically the main commercial area of Berry. Accordingly, this area is critical to the heritage values of Berry and the existing development provides a historical focal point for persons entering the township from the east.

The Berry Hotel (item 87) is listed under Schedule 5 of Shoalhaven Local Environmental Plan 2014 and encompasses development at No 120 Queen Street.

The former CBC Bank Building (No 122 Queen Street) is listed (item 88) under Schedule 5 of Shoalhaven Local Environmental Plan 2014 as a local heritage item. This heritage listed site also includes the former stables to the rear which are currently used for tourist accommodation.

The northern development lots are also located opposite the State-listed *Berry Museum, former ES&A Bank and garden* (Item 90) located at 135 Queen Street.

The northern lots (No 120 and 122) are located within the Berry Town Centre Heritage Conservation Area with recommended management measures derived from the State Heritage Inventory for the HCA as follows:

The Berry Core Area Precinct should be managed so as to retain its historic, aesthetic and social values. These values are implicit in the continuing use of Queen Street as the main commercial area and the perceptual values of the precinct, both historic and aesthetic.

As evident in Figure 4, the new accommodation building will be sited adjacent to a heritage listed dwelling

on the corner of Princess and Prince Alfred Street (item 545 – Federation weatherboard cottage) and immediately opposite St Luke's Anglican Church and associated rectory and garden (items 67 and 68). Further, Figure 4 confirms the surrounding locality accommodates a significant number of heritage items that all contribute to the character of Berry.

Of note, the 'recommended management' actions for St Luke's Church derived from the State Heritage Inventory (refer to Figure 3) confirm that Council should include this site 'in a Conservation Area within the LEP'. Noting that the HCA has not yet been extended to address the SHI recommendations, these comments clearly identify the significance of this eastern fringe of Princess Street and should establish a benchmark for the architectural design, scale and siting of development in this area.

Recommended Management	
Recommended Management	
Records Retrieved 3	
Management Type ▲	Date Updated
Recommended Management - Produce a Conservation Management Plan (CMP)	
Statutory Instrument - Include in a Conservation Area within an LEP	

Figure 3: Extract from NSW State Heritage Inventory – Recommended Management (St Luke's Anglican Church)

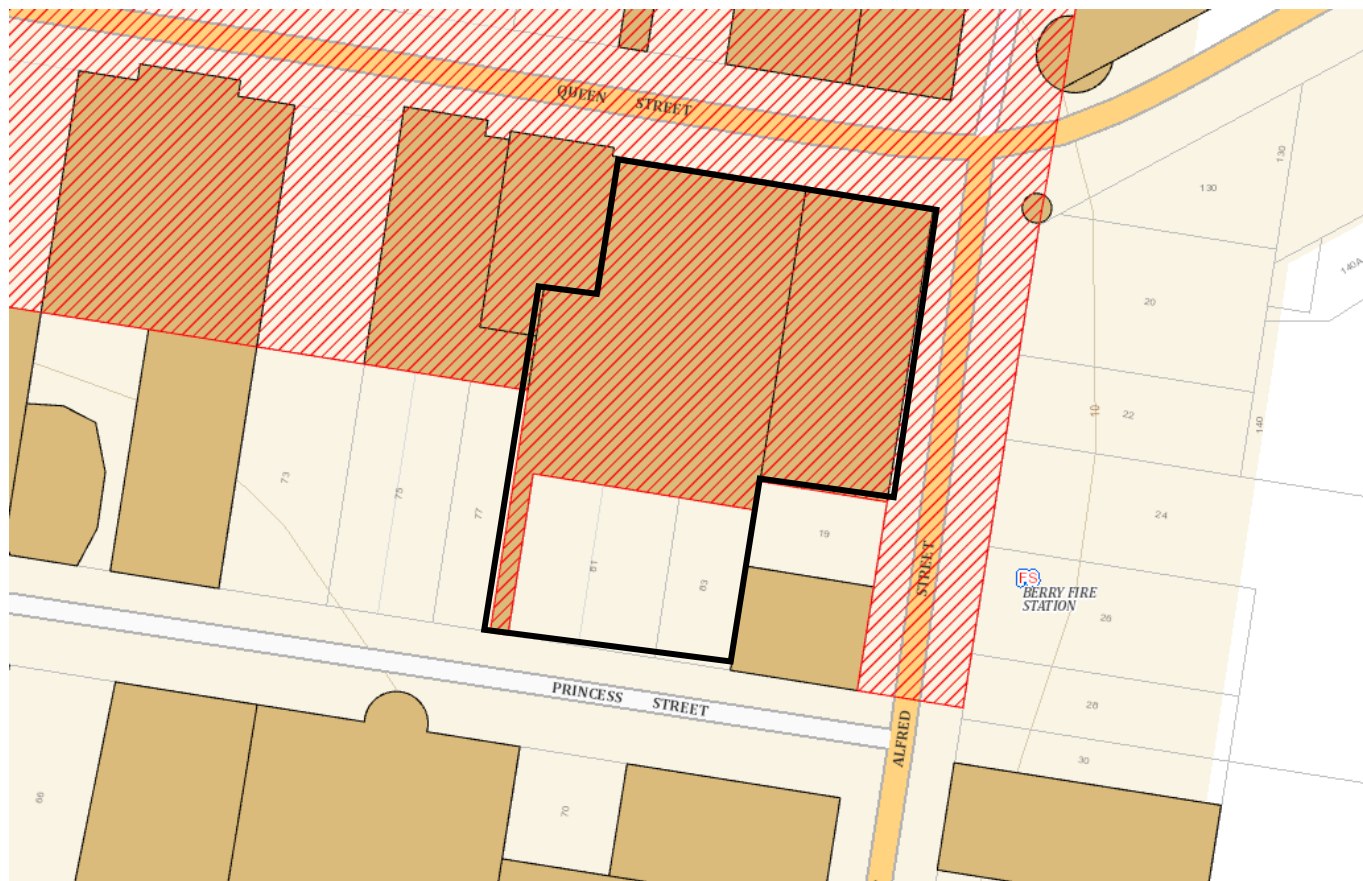


Figure 4: Extract from ePlanning Heritage Map (2023)

The extract from the existing survey/ Site Plan (Figure 5) and proposed Roof Plan (Figure 6) can be used to identify the scale of additional development for the Pub proposed in the curtilage of two heritage items

and within a Heritage conservation Area. A benchmark of built form separation was traditionally set around historical buildings. This established the heritage curtilage and facilitated an understanding of heritage form and landscaping.

The works to the Berry Hotel include an extension on the eastern side of the existing built form fronting Queen Street that is described as a contemporary pavilion style building. The addition will result in a building separation of just 1.25m to the former CBC Bank on the corner of Prince Alfred Street. Evident in Figures 6 and 7, this inadequate separation will significantly alter the appearance of the Queen Street frontage and impact the understanding of the two buildings that have always stood independently in the streetscape.

Ultimately the established curtilage between the Berry Hotel and former CBC Bank building should be preserved to ensure these buildings can be appropriately understood. Existing lot boundaries should form an integral consideration in the assessment of this matter given the new pavilion is proposed to extend into the Bank site. Lot layout clearly established the curtilage of historical buildings and should be used as a guide for development of heritage sites. In this instance, the extension of the new built form into the former CBC Bank site results in an unnecessary crowding of both the bank building and the Pub to the detriment of the streetscape.

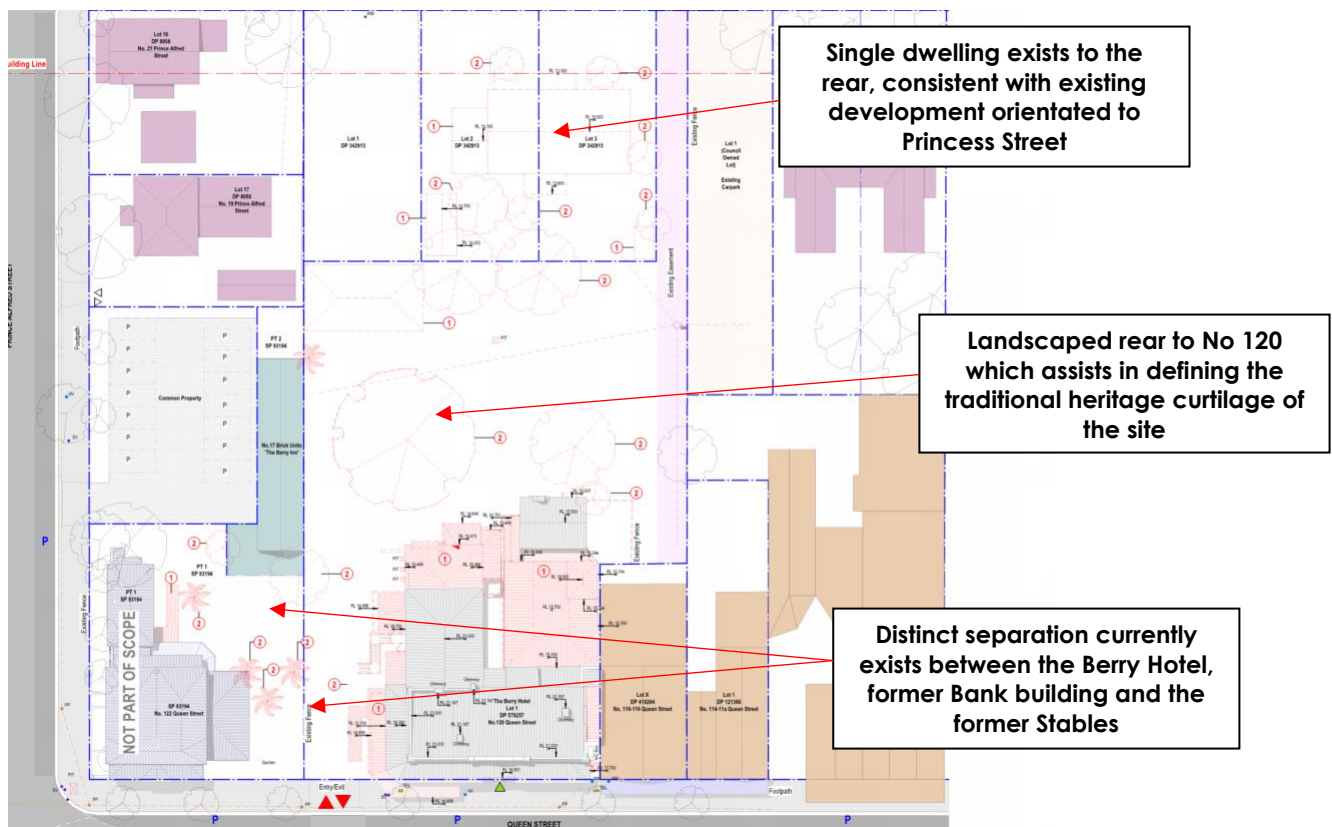


Figure 5: Extract from Existing Site/ Survey Plan which can be used to identify the curtilage of the items (H&E Architects, 2023)

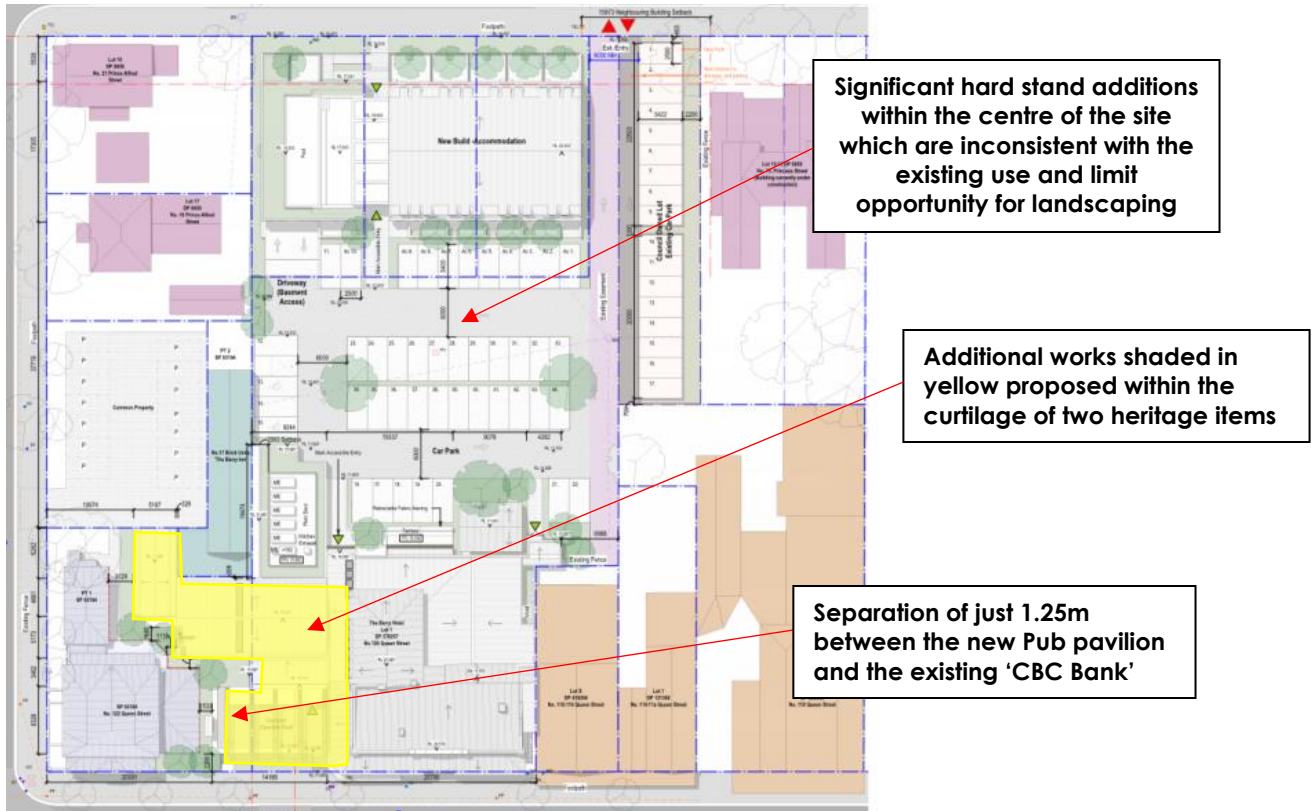


Figure 6: Extract from proposed Site Plan identifying the level of development proposed to Queen Street frontage (H&E Architects, 2023)

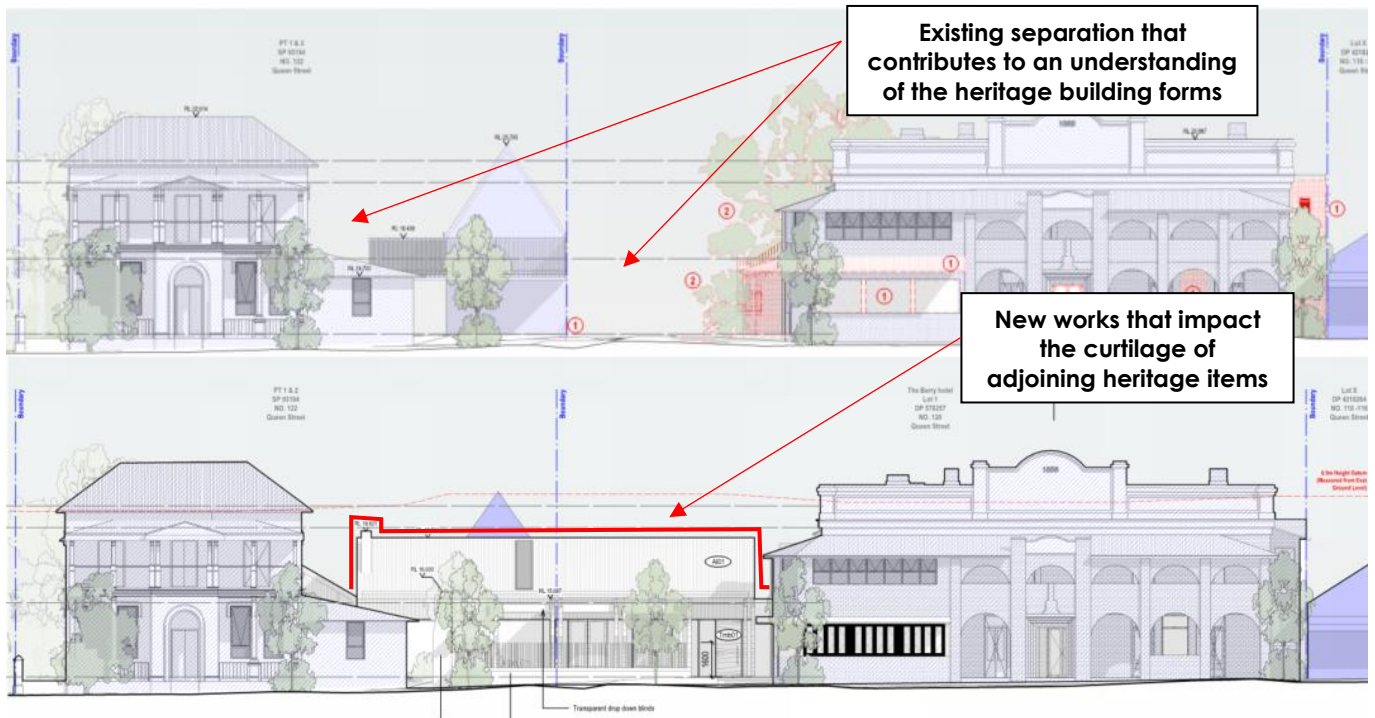


Figure 7: Extract from Existing (upper) and Proposed (lower) Elevations – Hotel and Bank Building (H&E Architects, 2023)

The hotel accommodation building orientated to Princess Street is proposed with a non-compliant height of 9.3m which facilitates three levels of development. The proposed mansard style roof design is inconsistent with the traditional federation style of Berry and overwhelms a streetscape that is characterised by single and two storey dwellings or dual occupancies and the heritage listed St Luke's

Church. The built form design seeks to maximise yield through a non-compliant third level which will be directly visible from St Luke's Church (two heritage items) and the adjacent heritage listed weatherboard cottage.

In heritage areas and near heritage items, it is generally not recommended for proposed infill and new built form to replicate heritage form, it should however be sympathetic to it. The proposed building is modern and bulky in form and does not reflect the general light weight rural village character of the residential areas of Berry, where the building is proposed to be located.

The scale and form of the proposed accommodation building will result in a streetscape that will become visually dominated by a hotel accommodation building that is not compliant with the LEP height control. This is an unacceptable result for new development within an area that is already part of and earmarked to become an expanded heritage Conservation Area as per recommendations in the State heritage Inventory listing for St Luke's Church. Further, prior to lodgement of the subject application (RA23/1002), Council resolved to finalise the Princess Street Heritage Conservation Area (MIN23.451, MIN23.496, MIN23.621). Whilst the finalisation has not been completed, due consideration should be given to this by Council in their assessment of heritage impact.

4. Acoustic Impacts

An Acoustic Report (Koikas, 2023) was prepared in support of the proposed development and BRS draw to the attention of Council the following recommendations that are necessary for the development to comply with legislative acoustic requirements:

- *All windows and doors to the sports bar, dining pavilion, lounge room and kids' play area should remain closed except as used for entry and exit.*
- *The outdoor dining area should not be occupied by more than 80 people during daytime or evening hours.*
- *The outdoor dining area should not be occupied by more than 40 people after 10 pm.*
- *The Sports Bar Terrace terrace should not be occupied by more than 20 people during the daytime or evening hours.*
- *The Sports Bar Terrace terrace should not be occupied after 10 pm.*
- *The outdoor lounge dining area should not be occupied by more than 15 people at any time*

It is queried whether a redevelopment of the scale proposed has been designed to comply with the relatively conservative recommendations highlighted above. Most concerning is the requirement for the windows and doors to the sports bar, dining pavilion, lounge room and kids' play area to be closed at all times except for entry and exit. It is expected that Council provide a realistic assessment of recommendations to determine if these are likely to be implemented. If these recommendations are unlikely to be implemented, particularly the closure of all windows and doors in the facilities identified above, a significant reduction in development scale should be enforced to ensure the facilities can comply with legislative noise requirements without the majority of the built form being sealed up.

Of more concern are the Koikas Acoustic recommendations associated with the accommodation terraces and rooftop terrace/ pool area at Level 3 of the development as follows:

- *The rooftop terrace/pool area should not be occupied by more than 12 people during the daytime and evening [0700 – 2200 hours].*
- *The rooftop terrace/pool area should not be occupied during the nighttime [2200 – 0700 hours].*
- *The accommodation room terraces should not be occupied after 10 pm.*

The development proposes to construct a hotel accommodation building containing 33 accommodation rooms, some of these as large as 40m², and per discussion in the Statement of Environmental Effects, will accommodate up to 4 persons, not inclusive of minors. The acoustic recommendations limit the use of the rooftop pool to 12 people at a time, even in the daytime period. Operationally this equates to the pool facility and rooftop terrace being accessible to approximately 2-3 rooms out of 33 in the daytime which is

completely unrealistic. The pool and rooftop terrace incorporate an area of approximately 140m² based on dimensions derived from the Architectural plans. It is highly unlikely this area is going to be limited to use by 12 persons and Council can be afforded no certainty that this proposal will comply with legislative acoustic requirements. The costs associated with a rooftop pool and terrace on level 3 are likely to ensure this element of the development will be used to market the hotel therefore demand for use the facilities is likely to be significant.

Ultimately the pool and terrace facilities can accommodate less than 20% of the projected daily occupant numbers in the hotel. This indicates the proposal represents an overdevelopment of the site and a poor design outcome, given the pool is required to be located on the roof as the remainder of the site at ground level has to accommodate pub facilities, hard stand car parking or vehicle driveways.

Further to the above it is queried whether the scale of development and provision of 33 rooms in such a condensed location is suitable if the accommodation room terraces must not be occupied after 10pm in order for the development to comply with noise regulations. Noting there are reasonable expectations for noise to cease or be moderated in most land uses at 10pm, the accommodation is associated with a licensed premise that will operate until 2 am Monday to Saturday and 12am Sundays. An expectation that all patrons staying at the hotel accommodation would not use outdoor terraces after 10pm is therefore unrealistic and the achievability of these recommendations should be considered further by Council.

Inconsistencies are also identified in the Acoustic report where it is stated that "*Koikas Acoustics has been advised that the hotel will not operate past midnight*". The hotel is licensed to operate until 2am therefore noise assessment (and restrictions) should be calculated to the fullest extent to ensure the acoustic amenity is maintained for neighbouring development.

In addition to the above, the errors in the Traffic report have been applied to the acoustic report, rendering the **Operational Use Noise Assessment** sections to do with noise emissions from the new car parking area/loading dock/deliveries unreliable.

5. Traffic and Parking Impacts

The development is supported by a Traffic Impact Assessment (TIA) Report (Traffix, v05 – 14/9/23) that details the proposal and provides an assessment of traffic and parking impacts. The TIA does not clearly identify the number of existing parking spaces within the site however it is inferred on Page 7 that the existing ground floor parking provision on the site is 23 spaces. This is confirmed in the Statement of Environmental Effects where it is indicated that there are 'some 23 informal spaces'.

The description of proposed development (Page 8) identifies that the proposal incorporates '+18 accommodation rooms' in the new building fronting Princess Street. It is assumed this is attempting to account for the 10 rooms that are being repurposed within the first floor of the existing Berry Hotel for office space. It is unclear where the +18 rooms is derived from however if there are 33 new rooms and 10 rooms are to be repurposed?

The submitted architectural plans confirm the building will accommodate 33 rooms with the existing 10 accommodation rooms in the Pub to be repurposed as eight (8) offices, storage, reception and staff room facilities. Given the Pub operation is unlikely to create the demand for use of eight offices and some of these offices are likely to be used by others in a fashion that would not be ancillary to the Pub, the TIA greatly underestimates the requirement for parking in the DCP assessment on Page 9 of the report.

BRS calculate the DCP parking requirements as follows:

	<u>Existing</u>	<u>Additional</u>	<u>Total</u>
Pub Floor Area	1,034m ²	349m ²	1,388m ²
Parking - DCP Requirement			
> Pub	13	70	83
> Staff, offices, manager	0	7	7
> Accommodation	10	23	33
	23	100	123
Parking provided	23	44	67
Shortfall			-56

- 70 additional spaces required for the GFA increase to the Pub (1 space/ 5m² of Licensed Floor Area);
- 23 additional spaces required for the proposed hotel accommodation containing 33 rooms (1 space per room noting there were 10 rooms existing that will be repurposed).
- An estimated 7 additional spaces that are required to address staff/ office/ management personnel.

A DCP compliant development would therefore require around 98 -100 additional spaces. This equates to a shortfall of 56 spaces noting that the existing development provides 23 spaces only. Council should also acknowledge that if the same DCP requirement was applied to the existing pub floor that is being redeveloped, the parking shortfall would be around 250 spaces.

In an attempt to reduce the parking requirement for the site, the proponents traffic engineers have undertaken a parking survey/ questionnaire and interview process to arrive at a site specific parking rate. The rate ultimately proposed by Traffix is 1 space/ 65m² of Licensed Floor Area which is a significant variation to the DCP control of 1 space/ 5m² Licensed Floor Area. Council cannot support a variation of this scale given the existing parking issues that plague the Berry Town Centre in peak times.

With respect to the parking rate derived by the proponents traffic engineer, Council must acknowledge that the rate derived was based on a survey in Winter (19/20 August) when visitor numbers would have been limited due to bad weather. The Bureau of Meteorology data confirms the following weather conditions for the weekend that the survey took place:

- Friday August 18 had a maximum temperature of 16 degrees with showers and winds of 46km/hr gusting up to 85km/hr.;
- Saturday August 19 had a maximum temperature of 16 degrees with winds up to 67km/ hr; and
- Sunday August 20 had a maximum temperature of 21 degrees with winds up to 48km/ hr.

The data above confirms the traffic survey was not necessarily undertaken on a 'typical weekend' as stated in the traffic report. Further this analysis is inconsistent with Section 7.13 of the DCP – Chapter G21 Car Parking and Traffic which states the following:

Given the nature of seasonally variable traffic and parking demands in the Shoalhaven, consistent with Transport for NSW guidelines and AUSTRROADS, any surveys and assessments undertaken should be seasonally adjusted to recognised annual benchmarks for the purpose of the traffic analysis

This has not been addressed in the traffic report and it is anticipated that seasonally adjusted surveys would result in a markedly different outcome in the preparation of an appropriate site specific parking rate.

At Page 16 of the TIA Traffix propose that the additional pub floor area and accommodation facility will require the following parking:

- 6 additional spaces to accommodate increase to Licensed Floor Area of the pub; and
 - 18 additional spaces for the motel based on DCP requirements.
- TOTAL** – 24 additional spaces required for the redevelopment of the site.

BRS contend that this is a gross underestimate of the additional parking needed to service the proposed development.

Discussion on Page 20 the TIA includes the provision of 17 Council parking spaces on Lot 77 which are not part of this development. Despite the commitment of the proponent to seal the public car park, these car parks are not for the exclusive use of the Hotel and cannot be used to justify the parking provisions on site. These spaces are regularly used by worshippers from St Luke's Church and should be retained as public spaces.

The TIA confirms the development will provide 44 additional parking spaces 'above existing levels' which is deemed to be a surplus of 20 spaces. The site will ultimately accommodate 67 spaces at grade and within the new basement car park. This calculation is incorrect and the inclusion of 17 Council car park spaces in the existing calculation is unacceptable. Further, the TIA fails to identify that the DCP also requires 1 space to be provided per employee and/ or manager for the Hotel accommodation. Refer to the extract from the DCP (Chapter G21 – Car Parking and Traffic) confirming this requirement below.

Hotel and motel accommodation	1 space per room; plus 1 space per employee and/or manager.
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Our assessment of the Traffic Impact Assessment confirms the following:

- The TIA does not accurately identify existing parking spaces on the site;
- The TIA does not appropriately factor in that Council parking spaces (17) are not on the site and are not for the exclusive use of Hotel users;
- The TIA incorrectly states that the accommodation building will include 18 rooms instead of 33 rooms which results in a flawed and inaccurate parking assessment;
- The TIA omits the requirement for staff/ management parking entirely even where it is clearly identified in Chapter G21 of the DCP;
- The TIA fails to address service vehicles on site and fails to consider safe path of travel for pedestrians through the site as per requirements of 6.4 Service Areas in Chapter G21 of the DCP; and
- The TIA proposes a significant variation to the DCP parking rate for Licensed Floor Area which does not factor in the major redevelopment works and the broader likelihood for additional patronage and potential alternate transport methods) that come with new facilities.
- Buses carrying tour groups and chartered buses for guests attending weddings can be expected. No provision is made for safe drop off and pick up of guests and the TIA does not consider safety implications in this regard.

The TIA does not provide an accurate assessment of the site or proposed development, and the on-site parking is inadequate for the number of persons that will be accessing the site.

Further to this the development proposes vehicular ingress/ egress from Princess Street only, with the removal of the existing driveway from Queen Street required to facilitate additional built form development. This will channel all vehicles through Princess Street rather than dispersing trip movements through Queen Street and Princess Street as per existing circumstances. The impact of this on the distinctly residential character and amenity of Princess Street will be significant, resulting in unacceptable traffic and parking strain within an already saturated environment at peak times.

The conservative assessment of additional vehicle trips (+20 vehicles per hour in peak times) provided in the Traffic Impact Assessment is queried given the report indicates only 16% of patrons at midday on a Sunday arrived by a private vehicle (drove and parked or were dropped off). Considering the substantial increase in visitor numbers from outside the local area that Berry and surrounds attract each weekend, this assessment appears to be flawed. Like many of the other metrics used in the traffic report to justify the development, this trip generation appears to be significantly underdone and should be queried by Council.

Of note also, the former owners of the subject site (Berry Hotel) submitted an objection letter detailing concerns over on site parking associated with a DA for Gabby's Function Centre proposed at Prince Alfred Street in 2019. The objection letter detailed concerns in relation to provision of on site parking for a significant intensification of the use and confirmed existing Council and on street parking provision was "already teetering at a point of congestion". Whilst it is acknowledged the Berry Hotel is now under different ownership, the comments should provide Council with an understanding of the parking issues that plague Berry throughout the year.

6. Non Compliance with Building Height Control

The proposed Hotel accommodation building incorporates a maximum building height of 9.3m which represents an 800mm or 9.4% variation to the 8.5m numerical standard. The 8.5m building height facilitates the achievement of two storeys of development. Minimum 2.7m floor to ceiling heights and associated services and topographical changes mean that the provision of three storeys of development in an 8.5m height limit is usually unachievable.

As evident in streetscape images in Figure 9, Princess Street exhibits a distinctly residential character. The established character is moulded largely by residential dwellings of one to two storeys in height. The site located to the west of the development footprint, No 73-75 Princess Street, accommodates an attached dual occupancy of two storeys in height. Apart from a single storey heritage listed building used as a cafe fronting Prince Alfred Street on the SE corner, the majority of development on Princess Street is single dwelling design of single storey in height

The development contravenes Clause 4.3 of SLEP 2014 – Height of buildings. The objectives of Clause 4.3 are reproduced as follows:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- (c) to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

With respect to objective (a), the design is clearly not compatible with the bulk, scale and height of existing and desired future character of Princess Street, including the heritage listed dwelling adjacent and St Luke's Church opposite. All development in the street is of single or two storey height which is inconsistent with the proposal, and the bulk associated with the three storey building in this location has not been appropriately articulated resulting in a large rectangular form that reduces only to two storeys where the rooftop pool is sited in the east.



Figure 8: Extract from 3D Render – Princess Street Elevation (H&E Architects, 2023)

With respect to objective (b), the three storey form results in a level of visual impact from the streetscape that is not commensurate with surroundings and the nearby Heritage Conservation Area. The bulk and height of the building is exacerbated by a mansard roof form that is incompatible with the established federation character of Princess Street and the development will fundamentally alter the appearance of the streetscape.

With respect to objective (c), the height variation contributes to the provision of a third storey which does not respect the heritage significance of the northern portion of the site and surrounding HCA. The height, form and largely unarticulated elevation to Princess Street will visually dominate the streetscape and significantly alter the character of the area. Views to the Berry Hotel in the north will be visually obscured from Princess Street and heritage listed properties opposite.

Clause 4.6 requires that sufficient environmental planning grounds must be demonstrated to justify the contravention of the development standard. We do not believe that sufficient environmental planning grounds have been demonstrated to justify this non-compliance within a proposed/ future Heritage Conservation Area site and provide comments as follows:

- The three storey built form does not complement the character of the proposed/ future Heritage Conservation Area or Princess Street in general. The third level of development facilitates the inclusion of seven (7) additional large rooms up to 40m² in size and a terrace which are at odds with the established character of Princess Street.
- The height breach facilitates additional accommodation rooms within a third level that act to exacerbate the non-compliance with DCP parking controls. The additional rooms are unnecessary and represent an overdevelopment of the site.
- Elevation Plans indicate the roof structure providing weather protection above the rooftop terrace contravenes the maximum building height. This rooftop terrace will function as the primary entertainment area for the hotel accommodation adjacent to the rooftop swimming pool. Given the Acoustic Report confirms the rooftop terrace area can comply with noise regulations only if the space is limited to a maximum of 12 persons, there are significant concerns over impacts to the acoustic amenity of neighbouring development in this regard. Should the terrace area be used by more than 6 rooms at a time (12 persons), the development is likely to contravene legislative noise guidelines and create amenity impacts that are unacceptable. This terrace area accommodates a variation to the building height control and sufficient planning grounds have not been demonstrated to justify the height breach.

It is considered that strict compliance with the height control should be applied in this case given the non-compliant third storey results in unnecessary building bulk and additional yield (7 rooms) that exacerbate the non-compliance with the DCP parking requirements. Further the height breach will generate unacceptable impacts to the heritage significance of the site, surrounding heritage listed items and the

Heritage Conservation Area. The built form orientated to Princess Street represents an unnecessarily large architectural design form that seeks to maximise yield at the expense of amenity, parking and heritage.

Sufficient environmental planning grounds have not been demonstrated and the development should be redesigned to comply with the maximum height control.



Figure 9: Google streetview images identifying the established low density largely single dwelling character of Princess Street

7. Development Inconsistencies with the Shoalhaven Character Assessment Report

Council recently adopted the Shoalhaven Character Assessment Report on 28/8/23 prior to the lodgement of the subject application (RA23/1002). At Page 7 the Character Assessment Report confirms that 'the character assessments will form a key part of future planning in Shoalhaven, and will ensure that any proposed changes and future development consider the place character and local values'.

Despite Council's endorsement of the character assessments, the submitted Statement of Environmental Effects incorrectly identified that 'there are no "desired future character" controls for the town centre' and relied solely on the objectives and controls of the Berry Town Centre in Chapter N2 of the Shoalhaven DCP

2014. Of note, the Character Statement for Berry (Part 3 in the Shoalhaven Character Assessment Report) includes the following statements that define the existing character of the town:

Leafy and surrounded by rolling countryside, Berry is a charming historic town, set within a rural landscape and undulating terrain that oozes sophistication. It is a predominantly residential town with an established retail and commercial core, centered around a vibrant and busy main street. Newer development is located on the settlement edges, to the south and west. Formal and traditional buildings and high quality landscaping contribute to the rural village character of this town. It is highly accessible by road and train and is a destination for visitors. Berry is the gateway to Shoalhaven, and delights and welcomes with its unique and local offer of boutique shops, heritage hotels, cafes, galleries, and restaurants.

Well-known destinations, such as the Donut Van, Berry Hotel, and the Great Southern Hotel, act as landmarks, attract visitors and create 'Insta-moments'.

The town is characterised by one storey, heritage style building such as Federation-style cottages. Buildings are predominantly weatherboard and brick, and include wood, metal, handpainting and traditional typography detailing. The colour palette includes white, grey, light blue and yellow.

Some larger 1970s cottages and new brick, contemporary homes on the edges of the town add variety to the built form appearance but are not all in keeping with Berry's heritage character.

The grid pattern structure of the heritage core, consistency of the built form, moderate setbacks, colours and materials contribute to the streets' rhythm and add to the formal and traditional character.

Berry's rich colonial history is reflected in its buildings, many of which are heritage listed, which include houses, hotels, churches and community facilities.

Consideration of Character Assessments in the design of new development will ensure Berry can retain its 'consistent heritage style buildings, materials, colour palette and formal and well kept landscaping'. The proposed development does not facilitate the retention of either, with the heritage listed Berry Hotel and former Bank building to be visually impacted by an extension over the established lot boundary that totally disregards the setbacks and consistency of the heritage built form discussed above, and historical landscaping is to be removed to make way for contemporary built form additions and car parking.

The non-compliant three storey hotel building is at odds with the Character Assessments' confirmation that Berry exhibits a 'rural village character'. The scale and proximity of new building elements to established heritage items is also inconsistent with the 'Elements to Improve' in the Statement for Berry which identifies that 'new developments are to be sympathetic to heritage, rural and fine-grain character, ensuring cohesiveness to the heritage core's-built form attributes'. A non-compliant three storey hotel with a rooftop swimming pool is not a sympathetic response to heritage, character or community cohesiveness in the rural village of Berry.

8. Access Design

The Access Report has been reviewed and queries raised around the availability of access between the Pub and the Hotel accommodation building. It appears that a person would be required to use the car park aisle to exit the 'Main Accessible Entry' at the Pub and travel through the car park aisle to reach the 'Main Accessible Entry' in the Hotel accommodation building.

Further consideration of the Ground Floor plan and access via the central carparking reveals

- The only path of travel denoted on the map is through the pub building.
- No pedestrian pathway 1200mm is provided as per recommendations for best practice in the ccess Report.
- The Main Accessible Entry (Accommodation) to Main Accessible Entry (Pub) continuous accessible

- path is not marked.
- Main Accessible Entry to Main Accessible Entry is not direct but involves dog legs along the traffic movement aisles which:
 - cross the EW traffic movement aisle;
 - face oncoming traffic in the NS traffic movement aisle;
 - move behind the two accessible carparks (where drivers might reasonably be expected to have reduced capacity to see a pedestrian);
 - obstruct vision of oncoming cars along WE traffic movement aisle at the next dogleg;
 - cross the traffic movement aisle immediately in front of the loading dock where all deliveries are made and from where all waste is collected, further obstructing view of oncoming traffic

It does not appear that a suitable accessible path of travel is provided by way of a pedestrian path between the Pub and new accommodation building which will impact the safety of persons using the site that require accessible path of travel. We note this is at odds with the 'Best Practice Options for Consideration' provided in the Access Report submitted with the DA that identifies the following

We recommend a best practice approach to accessibility that goes beyond minimum standards and embraces the intent of the DDA. The following measures will promote inclusion and participation for all users.

Accessways

We recommend that the accessible path of travel be a minimum 1200mm wide to comply with AS1428.2. Wider pathways will allow easy access for more people who have a permanent disability, people with a temporary disability, people pushing prams and elderly people using walking frames and the like. This is in keeping with the principles of Universal Design. For or a wheelchair and a pram to pass 1500mm is required and for two wheelchair to pass requires 1800mm.

9. Built Form Impacts to Princess Street

The Acoustic report provides a number of recommendations that must be implemented in order to achieve legislative compliance with the 'relevant noise controls guidelines'. In addition to requirements for accommodation guests to vacate terraces by 10pm which is unrealistic, the report requires the front setback treatment of hotel accommodation terraces to be achieved to Princess Street as follows:

- *The solid barriers surrounding the accommodation room terraces should be at least 1.8m high.*
- *The solid barriers should be constructed out of the following materials:*
- *15 mm compressed fibre cement panels with no air gaps at the joints; 6 mm compressed fibre cement panels on either side of a 50mm steel frame with fibreglass insulation batts (14 kg/m) to the cavity; or*
- *Double-lapped 15 mm thick timber fence palings offset so that there are no air gaps. This equates to a total barrier thickness of 30 mm;*
- *Solid concrete block work/solid 110 mm brick; or*
- *12.38 mm laminated glass ($R_w \geq 36$); or*
- *15 mm solid polycarbonate;*
- *An approved equivalent wall type*

This will result in front fencing/ walls to Princess Street of 1.8m in height with double lapped fencing or solid concrete block work. This is entirely inconsistent with the SEE, refer extract below, which indicates the Princess Street setback will benefit from 'perforated brick walls, plantings and palisade style, timber fences':

The building has gardens to Princess Street with perforated brick walls, plantings and palisade style, timber fences to provide privacy to the ground floor rooms. The detail here has been changed from higher brick walls to reflect previous comments to provide a more relaxed frontage to the street.

The preparation of architectural and landscape design and the SEE have not been undertaken with due consideration of the acoustic recommendations imposed. The design is not achievable given the development will not comply with legislative noise guidelines and a development that implements the acoustic recommendations will not provide a 'relaxed frontage to the street'. Should the acoustic recommendations be implemented, the built form impacts already impacting the streetscape through integration of a three storey non-compliant rectangular building will be exacerbated by 1.8m solid front fencing. This is inconsistent with the DCP control for front fencing and will not facilitate a welcoming or attractive frontage. Additionally the planting described in the SEE will be entirely obscured by a 1.8m solid fence which creates cumulative impacts to the heritage listed church opposite and the future Heritage Conservation Area.

The acoustic recommendations cannot be achieved without detrimental impact on the character of the locality and cannot be supported. Further, Council cannot support a reduction in fence height or permeability given the development will not comply with legislative noise control guidelines.

10. Conclusion

The Berry Hotel and surrounding development lots are located within a sensitive village environment that supports a diverse range of recreational, cultural and community facilities. The heritage listed development lots orientated to Queen Street are historically important for their significant contribution to the eastern entry to the Berry Town Centre, and the development proposed will generate irreversible impacts to the streetscape, surrounding development, lot layout and existing development within the site.

The development does not provide sufficient parking for the significant intensification of the site and the traffic assessment does not accurately assess the proposal. The development will exacerbate parking issues in the Berry Town Centre and completely alter the character of Princess Street through the channelling of all vehicles into and out of the site from the south only. Princess Street exhibits a distinctly residential character and the projected traffic, parking and amenity impacts are unacceptable. Further the development does not provide a suitable accessible path of travel between the Pub and the new accommodation building and there are genuine safety concerns raised in relation to pedestrian safety through the site.

The development proposes the extension of the Berry Hotel and new buildings into No 122 Queen Street which is the subject of a strata plan (SP 93194). It is unclear how this is to be achieved and the SEE does not provide any clarity around modifications of the strata plan and existing strata parking provisions.

The development will generate unacceptable acoustic impacts through the provision of a rooftop swimming pool at level 3 of the new accommodation building. In order to comply with legislative noise regulations the Acoustic Report limits the use of the swimming pool and terrace area to 12 people at any one time. Given the SEE confirms the 33 rooms can accommodate 4 people per room (not inclusive of minors), this is considered to be a significant design flaw that will result in a very small portion of guests being able to use the pool and terrace area. It is seriously questioned how this 12 person maximum could be enforced unless a staff member is available to permanently monitor the pool area. Ultimately the development has the capacity to generate significant breaches of the legislative noise regulations which is not acceptable.

The proposed development exhibits an inappropriate size, scale and design and does not reflect the context of the site or the strategic vision for the area. Sufficient environmental planning grounds have not been provided to justify the LEP height non compliance directly opposite a number of heritage items and the architectural design of the three storey building and mansard roof are not compatible with the prevailing federation character of Princess Street.

The heritage listed allotments within the north of the site cannot accommodate the development proposed without impact to the significance and understanding of these buildings and the existing lot layout. The established heritage curtilage and built form separation should be respected, particularly given the prominence of the Berry Hotel and former Bank building in Queen Street and the location of these

buildings which act as the historical entry to the Berry Town Centre. Further the new three storey accommodation building orientated to Princess Street will completely overwhelm St Luke's Church opposite and impact the established character of a distinctly residential area.

Queen Street is the commercial main street of Berry and a former highway through the region. Accordingly the Queen Street vehicle crossover should be maintained for access to the hotel premises for both emergency vehicles and deliveries, commercial vehicles and construction. Noting that Princess Street doesn't even exhibit pedestrian pathways on either side of the road, the significant intensification of this street must be avoided to ensure the safety of local residents, worshippers from the church opposite and visitors to the area.

The development comprises an intensification of the site which is completely unnecessary. The traffic report indicated the maximum of a hundred people in the pub on the weekend of the survey was typical of the maximum throughout the year, yet the proposed capacity will be increased to 470 in the pub and approximately 100 in the accommodation building. This is significant and completely unjustified. Ultimately, we query why the pub facility needs to accommodate an increase of more than four (4) times the current capacity in a village locality like Berry?

If the extremely large increase in customer numbers is required to recoup the capital investment and the numbers fail to materialise, there is a real risk that, like many other pubs and clubs, gambling revenue will be substituted which in turn can create social impacts to an established village community. This avenue would be easily facilitated by the proposed Sports Bar which has a large capacity of 120.

For the myriad of reasons discussed throughout this letter, the proposal represents an overdevelopment of the site, is not supported by the Berry Forum and cannot be supported by Council.

Yours faithfully,



Ben Miller | Senior Town Planner
Barker Ryan Stewart Pty Ltd