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28 March 2024

**PP ref:** J002470

Muswellbrook Shire Council  
Attn: Hamish McTaggart  
Via: NSW Planning Portal

Dear Hamish,

**Re: DA - 2023/100 - Further Information Request | 37 Ogilvie Street Denman (LOT: 102 DP: 1178581)**

In relation to the Further Information Request (FIR) (**APPENDIX 1**) dated 7 November 2023, relating to the proposed development of 37 Ogilvie Street Denman (LOT: 102 DP1178581) please see a response to each of the matters in **TABLE 1** below. The application is supported by the following documentation contained under separate cover:

- **Appendix 1** – Further Information Request dated 7 November 2023
- **Appendix 2** – Revised Architectural Plans prepared by CAD Design and Draft (ref: 23-024, issue: C and dated 26-2-24)
- **Appendix 3** – Building Code of Australia Review prepared by Perception Planning (ref: J003270, V1 and dated 5/12/23)
- **Appendix 4** – Heritage Response Letter prepared by Architelle Architecture & Interiors dated 8 March 2024
- **Appendix 5** – Section J Report prepared by Evergreen Energy (ref: 0008795090)
- **Appendix 6** – Revised Access Report prepared by Purple Apple Access (ref: LP\_22420, rev: 3 and dated 19 March 2024)
- **Appendix 7** – Conductor Clearance Assessment Report prepared by Power Solutions (Version B and dated 20/032024)

Revised plans have been prepared and are provided at **APPENDIX 2**. The dwelling(s) above the commercial premises and hotel / motel accommodation elements have been removed from the proposed development. As part of this response, a request under Section 37 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) is made, to amend the description of the development to:

*Demolition of existing structures, construction of commercial premises (comprising two units) and serviced apartments (comprising 9 units), and strata subdivision.*

**Table 1** - Summary of FIR and associated response

<b>No.</b>	<b>Council request</b>	<b>Response</b>
<b>Strata Subdivision/motel accommodation</b>		
<b>1</b>	<p>Further consideration is required in relation to the proposed strata subdivision of the motel accommodation. Council Officers view the strata subdivision and independent ownership of the seven (7) motel rooms as being incompatible with the motel accommodation land use. Once subdivided and individually owned it is not clear how the Council could be confident that the motel rooms would be used for short term accommodation on a commercial basis.</p> <p>It is also anticipated that any subdivision of the motel would present an issue for the classification of the Building Class and demonstrating compliance with the Building Code of Australia. This issue would need to be explored through a BCA Report should you intend to move forward with the application as submitted.</p> <p>Given the complications arising from the strata subdivision it is Council's recommendation that further consideration be given to this issue and the strata subdivision removed from the proposal where it is intended to move forward with the seven (7) rooms as motel accommodation. Alternatively, it may be relevant to revisit the intended land use of the seven (7) rooms and consider whether they are more aptly identified as dwellings within a residential flat building or serviced apartments.</p>	<p>A BCA Report has been prepared and is provided at <b>APPENDIX 3</b>.</p> <p>The Report assessed two shops (class 6) and nine serviced apartment units (class 3). Each unit will be strata subdivided, with a strata / stratum management plan prepared for each separate use accordingly at the relevant stage. A strata plan can be provided at request.</p>
<b>Motel accommodation operation</b>		
<b>2</b>	<p>Where the motel remains part of the proposed development Council Officers are interested in further information related to how the motel operation will be managed. Council Officers</p>	<p>The proposed motel accommodation has been removed from the proposed DA; thus, preparation of a motel Plan of Management is no longer required.</p>

	<p>have noted that the proposal does not currently include an administration/site office for check ins etc.– how the site is proposed to be managed in the absence of a site office is of particular interest. To respond to this item a Plan of Management for the motel operation is to be prepared and submitted. The Plan of Management should have regard to management strategies related to:</p> <ul style="list-style-type: none"> <li>- Administering bookings.</li> <li>- Administering check in and key collection in the absence of a site office.</li> <li>- Administering check outs and key returns.</li> <li>- Cleaning and maintenance.</li> <li>- Parking allocations.</li> <li>- Complaint Management</li> <li>- How management/emergency contact information is to be provided to room occupants.</li> <li>- Responsibilities related to managing waste disposal/collection.</li> <li>- Information related to how potential operational issues between motels and other land uses operating at the site is intended to be managed.</li> <li>- Any other relevant information.</li> </ul>	
<b>Unit 1 Design and heritage impact</b>		
<b>3</b>	<p>Council Officers including Council's Heritage Officer do not have significant reservations with the overall external building design and appearance from a visual and heritage impact perspective, except for bulk and location of proposed unit 1.</p> <p>It is the view of Council Assessing Officers that proposed unit 1 presents as a very square building element highly visible at both Palace and Ogilvie Street streetscapes. The strong blocky appearance of the unit is uncharacteristic of the conservation area. Council Officers are interested in whether a design solution could be explored to cut back</p>	<p>Architelle completed a design review, which has resulted in further changes being made to Unit 1's Paxton Street facade, specifically to minimise bulk and scale. Amongst a range of design mechanisms employed, the design moves forward with the adoption of Council's suggestions to employ shade devices such as eaves and cantilevered window shades, breaking up the first-floor bulk etc. A response to this request has also been prepared by Architelle and is provided at <b>APPENDIX 4.</b></p>

	the mass of the unit or its location to be shifted and whether shade devices such as eaves and cantilevered window shades could be added break up the first-floor bulk.	
<b>BASIX Certificate</b>		
<b>4</b>	The BASIX Certificate prepared in relation to the development application appears to identify the proposal as a nine (9) unit residential flat building. Rather proposal lodged with Council seeks consent for two (2) residential units and seven (7) motel units. This should be reviewed and clarified.	A Section J Report is provided at <b>APPENDIX 5</b> .
<b>Access Report</b>		
<b>5</b>	The access report refers to the Motel Rooms as seven (7) units. Once the intended classification of this element of the development is resolved the Accessibility Report should be reviewed/revisited and the report prepared on their final classification as either individual unit/dwellings or motel rooms as part of a motel development. It is Councils preliminary view that the re-evaluation of this point may have consequential design outcomes. From a preliminary view of the Building Code of Australia it is the impression of Council Building Surveyors that where the proposed development is comprised of seven (7) motel units and two (2) sole occupancy units (shop top housing) the motel units would be a Class 3 building and the shop top housing Class 2. An accessible motel unit would need be provided (proposed motel room No7 is an accessible unit which may achieve this requirement) and accessible access would need to be provided to the common area and the entrance doorway of each sole occupancy on that level (see deemed to satisfy provisions D4D2(4)). The outcome being that where the application is progressed in the manner proposed the Building Code of Australia appears to require accessible access to the first floor, this Page 3	<p>The Access Consultant has been involved in the modifications to the design of the proposed development and has provided an updated report to reflect the amendments made, at <b>APPENDIX 6</b>.</p> <p>The proposed development provides an accessible Unit 4 on the ground floor.</p>

	of 5 is not currently proposed, and a solution should be put forward as part of the development application.	
<b>BCA Report</b>		
<b>6</b>	Depending on decisions and solutions put forward related to clarifying the scope of the development and resolving accessibility and BCA considerations it may be in your interest to engage a suitably qualified person to prepare a Building Code of Australia Report in relation to the proposed development to inform the building design. This would be useful informing the development design where the multiple classes and uses remain part of the development and may have assessment efficiencies when it comes to the Construction Certificate stage should the development application be supported.	A BCA Report has been prepared and is provided at <b>APPENDIX 3</b> .  This has guided the changes, altering the scope of the development, resolved all outstanding issues including accessibility.
<b>Unit 1 and 2 Building Code of Australia Deemed to Satisfy Laundry Facilities</b>		
<b>7</b>	<p>To inform the assessment of the development application council Officers are interested in substantiating that the two proposed units will be provided with residential facilities consistent with the deemed to satisfy provisions of the Building Code of Australia or get an overview of any alternate solution proposed. Reviewing the proposed plans, Council Officers could not identify laundry or clothes drying facilities for the proposed units. Council Officers are interested in understanding where any washing and clothes drying facilities required for the proposed units will be provided.</p> <p>Laundry facilities for the use by the units should be reserved for their use and not made available for use by motel visitors or cleaners. While a Building Code issue this information is being requested at DA stage to avoid necessitating a later modification to amend the development design to adjust room sizes or building design to include laundry facilities.</p>	Unit 1 & 2 have been deleted and replaced as serviced apartments (Class 3). The development provides a generous shared laundry on the ground floor, satisfying BCA requirements for development.

<b>Waste Management</b>		
<b>8</b>	<p>Additional information is required to determine the volume of waste storage bins to be provided for the proposed development.</p> <p>A considered analysis is to be prepared for the anticipated operational waste requirements of all aspects of the proposed development to determine the number of general wastes, recycling waste and green waste bins.</p> <p>Information is to be provided to demonstrate that the bin storage area is suitably sized for the bin storage required. The five (5) bins proposed are unlikely to have a suitable storage volume to meet the waste demand of the two (2) shops, two (2) dwellings and seven (7) motel units proposed.</p> <p>Consideration should also be given to how any shared waste management arrangement would be managed and the point of collection identified. Section 24 Waste Minimisation and Management of the Muswellbrook DCP has some guidance in relation to estimated waste volumes for various types of development which should be reviewed and can be used to inform operational waste calculations related to the proposal.</p>	<p>Considered Analysis of anticipated operational waste requirements has been conducted determining the general waste, recycling waste and green waste bins needed for 2 shops and 9 serviced apartments. The original five bins proposed has been doubled to ten bins. Design consideration also invested on how shared waste can be managed and the point of collection clearly identified on the new plans. Access is via the development's rear driveway and closely located to Ogilvie Street frontage.</p>
<b>Standard of Accommodation/Open Space/landscaping</b>		
<b>9</b>	<p>In reviewing the proposed development Council Officers have noticed that no outdoor open space areas are currently proposed for the development and that each of the residential units is proposed as single room studio type units. This has raised some interest in the standard of the proposed residential accommodation given the small size proposed on Page 4 of 5 and the availability of any outdoor space for the units. It is requested that consideration is given to this point in the preparation of a response. While SEPP 65 does not directly apply to the proposed development it would be in your interest to give some consideration to the</p>	<p>The two individual studio units (upper level, Class 2) have been deleted from the design. Nevertheless, design adjustments have been made and now incorporates a significantly increased open space/landscaped space for all nine serviced apartments. Please refer to the architectural plans.</p>

	<p>Department of Planning and Environment Apartment Design Guide related to Studio Apartments and provide updated design plans/information to demonstrate that the proposed shop top houses will comply with the related design criteria for this type of housing. The submission of a design or information demonstrating consistency with this Guide would be important in informing Council Officers of the suitability of the standard of residential accommodation proposed for the two studio units.</p> <p>As a related point Council Officers also note that the Section 9 Local Centre Section of the Muswellbrook DCP references the Residential Flat Design Code (a document which is understood to have preceded the current design guide).</p>	
<b>AUSGRID referral</b>		
<b>10</b>	<p>The development application has been referred externally to AUSGRID. A response to this referral was received 6 November and is attached. This response should be reviewed and any feedback that may affect the development design or the location of existing infrastructure taken under consideration and accounted for in updated plans and information submitted.</p>	<p>A Conductor Clearance Assessment Report is provided at <b>APPENDIX 7</b>, for referral to Ausgrid. Early discussions have been held with Jeffrey Lyons at Ausgrid relating to this report.</p>
<b>Roads and Drainage Referral</b>		
<b>11</b>	<p>The development application was referred to Council Roads and Drainage comments at the time of this correspondence this referral had not been completed. Council Roads and Drainage Officers will provide feedback on matters related to stormwater management, traffic, parking, and the location/installation of supports in the Road Reserve. Feedback from our Roads and Drainage Team will be communicated once provided. It is possible that an additional information request may be issued once their advice is received.</p>	<p>Noted.</p>

Should you have any questions or require any clarification following review of this response, please contact me on 0428 883 911 or [erin@perceptionplanning.com.au](mailto:erin@perceptionplanning.com.au).

Kind Regards,

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