

7 August 2012

Dear Councillor/Sir/Madam

You are invited to attend an **ORDINARY MEETING** of Ashfield Council, to be held in the Council Chambers, Level 6, Civic Centre, 260 Liverpool Road, Ashfield on **TUESDAY 14 AUGUST 2012** at **6:30 PM**.

SEE ATTACHED AGENDA

ORDINARY MEETING - 14 AUGUST 2012

AGENDA

- 1. OPENING**
- 2. ACKNOWLEDGEMENT OF LOCAL INDIGENOUS COMMUNITY**
- 3. APOLOGIES/REQUEST FOR LEAVE OF ABSENCE**
- 4. CONDOLENCE AND SYMPATHY MOTIONS**
- 5. MOMENT OF PRIVATE CONTEMPLATION**
- 6. DISCLOSURES OF INTEREST**

Disclosures to be made by any Councillors who have a pecuniary / non-pecuniary interest in respect of matters that are before Council at this meeting.
(14/08/2012)

- 7. CONFIRMATION OF MINUTES OF COUNCIL/COMMITTEES**

ORDINARY MEETING - 24/07/2012

BUDGET & OPERATIONS REVIEW COMMITTEE – 17/07/2012

ENVIRONMENTAL COMMITTEE – 17/07/2012

STRATEGIC PLANNING & ECONOMIC DEVELOPMENT COMMITTEE – 17/07/2012

CIVIC CENTRE REDEVELOPMENT STEERING COMMITTEE – 17/07/2012

ASHFIELD YOUTH COMMITTEE – 16/07/2012

PRATTEN PARK ADVISORY COMMITTEE – 07/06/2012

- 8. MAYORAL MINUTES**

MM20/2012 CAMPAIGN TO IMPROVE FUNDING FOR PALLIATIVE CARE IN
NSW

MM21/2012 RESIDENT PARKING SCHEME IN ASHFIELD TOWN CENTRE

- 9. NOTICES OF MOTION**

NM33/2012 LEWISHAM ESTATE PROPOSAL CONCEPT APPROVAL
MP08_0195 78-80 OLD CANTERBURY ROAD LEWISHAM

NM34/2012 DEPARTMENT OF EDUCATION AND COMMUNITIES INTENDING
TO RESTRICT THE ACTIVITIES OF THE ARTS UNIT

NM35/2012 ASHFIELD SKATE PARK EXPANSION

NM36/2012 INDUCTION OF REVEREND ALAN LUKABYO

10. STAFF REPORTS

- 10.1 DEVELOPMENT APPLICATION: 10.2012.019.1
4 BLACKWOOD AVENUE, ASHFIELD
- 10.2 DEVELOPMENT APPLICATION: 10.2012.132.1
202 HOLDEN STREET, ASHFIELD
- 10.3 DEVELOPMENT APPLICATION: 10.2012.134.1
4/95 EDWIN STREET NORTH, CROYDON
- 10.4 DEVELOPMENT APPLICATION: 10.2010.301.3
2A Brown Street, Ashfield
- 10.5 YASMAR - DRAFT PLAN OF MANAGEMENT
- 10.6 COMMUNITY GARDENING POLICY
- 10.7 AMENDMENTS TO COUNCILLOR EXPENSES AND FACILITIES
POLICY
- 10.8 SECTION 449 RETURNS - PECUNIARY INTEREST RETURNS FOR
PERIOD 1 JULY 2011 - 30 JUNE 2012
- 10.9 SPONSORSHIP PROPOSAL - Westfield Burwood
- 10.10 PROPOSED CHANGES TO COMMITTEE STRUCTURE
- 10.11 ASHFIELD RESPONSE TO THE INDEPENDENT LOCAL
GOVERNMENT REVIEW PANEL CONSULTATION PAPER

11. GENERAL BUSINESS

12. CLOSED (PUBLIC EXCLUDED) COMMITTEE

13. CLOSE

MAYORAL MINUTE

CAMPAIGN TO IMPROVE FUNDING FOR PALLIATIVE CARE IN NSW

I am in receipt of an email from Dr Yvonne McMaster a retired palliative care doctor who is seeking support for the campaign to improve NSW government funding for palliative care services in northern Sydney.

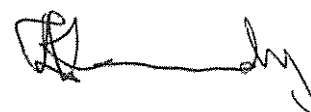
The support includes signing a petition by 24 October 2012, asking for the return of the funds and also to improve palliative care throughout NSW.

ATTACHMENTS

Attachment 1	Email dated 24 July 2012 from Dr Yvonne McMaster	2 Pages
Attachment 2	Petition	1 Page

RECOMMENDATION

That Council assist the campaign by placing petitions in our libraries and at the Customer Service Counter.



COUNCILLOR L KENNEDY
Mayor

Mayor Lyall Kennedy
Ashfield Council
ASHFIELD

Dear Councillor Kennedy,

I am writing to ask whether your Council could find a way to support our campaign to improve NSW government funding for palliative care services.

I am a retired palliative care doctor who has recently started to advocate for palliative care. I ran a successful campaign last year to have funding returned to palliative care in northern Sydney. This included a petition asking for the return of the funds but **also to improve palliative care throughout NSW**. The community just rose up en masse. The petition collected 24,000 signatures and the State Government responded by restoring the funds and promising to improve services throughout NSW (see attached media release). In the June 2012 Budget the NSW Government gave only \$5M to palliative care. This is less than a tenth of what it will take to provide equitable services throughout NSW.

Whilst people in rural areas are suffering most the entire community requires better funding for palliative care. Due in part to our ageing population the demand for palliative care has increased greatly. Over the ten year period 1999 - 2009, the number of admissions for palliative care increased by 56%. Yet state funding has not increased since 2007, until the tiny boost of \$5M this year. The wonderful palliative care doctors and nurses are stretched to the limit and there are too few community nurses. We also need better community supports to help people to be looked after at home, which is where most people prefer to be and they need 24/7 PC cover. Specialist doctors and nurses must be able to visit acute hospitals and nursing homes to give symptom control and support. We have to persuade the State Government to commit more funds for the care of people with life-limiting illnesses like cancer, motor neurone disease, heart and kidney failure. And we need better bereavement care.

So now we need a big, fast campaign to culminate early in November to convince Treasury that the community really cares about the issue.

The Premier has said that anyone who collects more than 10,000 signatures on a petition will have the problems they raise debated in Parliament. This is how we had the funding restored for northern Sydney, that is how we will get better funding for all of NSW. A huge number of signatures will convince Treasury to release the funds that are needed.

I am hoping that you will help by collecting signatures in libraries and community centres, and anywhere you think appropriate. Can you think of anyone you could FORWARD this email on to who might be prepared to help in the same way? Any contacts you can give me will help and what we do will be so greatly appreciated by those who have so little help as they approach the end of their lives.

I need to find committed people in every suburb and every council area who will help.

I will also contact local papers and local radio stations and Local Members & go & see them. I am writing to you to ask you if you can help, at least just print the petition and sign it and

get some others to sign or think who else or how else we could get more signatures.

I am asking people to print out several copies of the attached petition and collect signatures wherever they can.

PETITIONS are only valid if signatures are on the **FRONT OF EACH PAGE** with the Petition Statement and Request at the top. Signatures on extra BLANK sheets are INVALID (as are photocopies, faxes & Scanned or emailed copies of the signed sheets). So it is always best to leave extra copies with each collector and at each site. They must be POSTED back, not faxed or scanned. Petitions should be returned by 24 October 2012.

Anything at all that you can do to help will be greatly appreciated.

The following link gives people an insight into palliative care problems in Tasmania. However the situation in many parts of NSW is far worse than that.

<http://www.abc.net.au/news/2012-06-15/health-injection/4074226>

I also attach a brief explanation (double clic on this to print it) of why we have to do it all again which can be freely used or adapted.

Here too is our new website which shows the current signature count. It will be exciting to watch how it grows:

http://morefundsforpalliativecare.wordpress.com/?blogsub=confirmed#blog_subscription-2

Warmest regards

Dr Yvonne McMaster

PS: Double-click on each attachment below to open and print it as a separate document.

PALLIATIVE CARE FUNDING AND SERVICES

The Honourable the Speaker and Members of the Legislative Assembly of NSW.

The petition of residents of New South Wales brings to the attention of the House:

- Gross deficiencies exist in the availability of palliative care services for adults and children in many parts of the State, particularly in regional and rural areas but also in acute hospitals, aged-care facilities and for patients in their own homes.
- There are inadequate funds available to support the training of sufficient palliative care workers (nursing, medical and allied health) to service the existing & rapidly increasing need.

The undersigned petitioners therefore ask the Legislative Assembly to:

- provide for sufficient palliative care services to meet the existing and anticipated future demands for such services in all areas of the State and in all types of institutions or other places where such services are required; and
- Provide additional funds to support training of palliative care workers.

[illegible]

Please post signed petitions to: Dr Yvonne McMaster 66 Carrington Road, Wahroonga NSW 2076

MAYORAL MINUTE

RESIDENT PARKING SCHEME IN ASHFIELD TOWN CENTRE

At the last Council meeting, 24 July 2012, Council considered an application by Ashfield Mall to introduce controlled parking in the shopping centre car park.

A number of residents from surrounding streets attended the meeting and expressed their concerns that if the proposal was approved there would be increased pressure on surrounding streets for long term (commuter) parking.

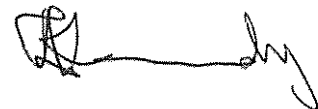
Both the residents and Councillors expressed frustration at the slow progress of Council's traffic and parking study. It is encouraging that Council has engaged consultants to progress the study. However, there is a need to move quickly on measures around Ashfield Mall to alleviate the expected negative impacts on the amenity of local resident.

ATTACHMENTS

There are no supporting documents for this report.

RECOMMENDATION

That the General Manager, as a matter of urgency, provide a report to Council on the options for managing parking in residential streets around Ashfield Mall



COUNCILLOR L KENNEDY
Mayor

Development Applications

NOTICE OF MOTION OF WHICH DUE NOTICE HAS BEEN GIVEN BY

COUNCILLORS ALEX LOFTS, LUCILLE MCKENNA, MARK DRURY AND JEANETTE WANG

LEWISHAM ESTATE PROPOSAL CONCEPT APPROVAL MP08 0195
78-80 OLD CANTERBURY ROAD LEWISHAM

To move Notice of Motion No. NM33/2012

Councillors will have noted that The Department of Planning and Infrastructure has approved a modified concept proposal for the Lewisham Estate, at 78-90 Old Canterbury Road, Lewisham.

Council has supported notices of motions, on a number of occasions, establishing Council and community concerns related to the combined impact of the Lewisham Estate and Summer Hill Flour Mill proposals. These developments are the largest and most significant proposals in this area for decades. While the community does seem to accept that some development on these sites is inevitable, the process of approval has been muddled and, in combination, may lead to very poor planning outcomes, for both the surrounding suburbs and future residents and tenants of these sites.

Council's concerns, amongst other issues, have focused on:

- The overall density of these proposals.
- Lack of adequate transport studies.
- The lack of any workable solutions to traffic issues regarding the surrounding road network, which is already at capacity in peak periods.
- Lack of any genuine active open space.
- Inadequate open space in general.
- Lack of affordable housing.
- Inadequate consideration of the impact on the facilities of surrounding communities.
- Lack of parking and drop off provisions around the proposed light rail stop

ATTACHMENTS

There are no supporting documents for this report.

Accordingly, we move:-

- 1/3 That Council draws Minister Hazzard's attention to our continuing concerns regarding the Lewisham Estate and Summer Hill Flour Mill proposals, as listed and above and gained through amendment.**

**LEWISHAM ESTATE PROPOSAL CONCEPT APPROVAL MP08_0195
78-80 OLD CANTERBURY ROAD LEWISHAM**

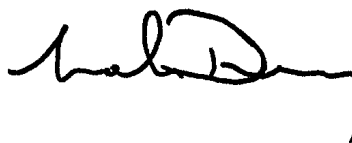
- 2/3 That we call on the Minister to engage agencies such as Roads and Maritime Services, City Rail and Sydney buses, to ensure that transport and infrastructure needs, particular to these sites and on a more regional basis, are properly planned for and implemented.
- 3/3 That correspondence regarding the above be sent to The Hon Brad Hazzard MP, Minister for Planning and infrastructure, The Honourable Linda Burney MP, Shadow Minister for Planning, the Honourable Carmel Tebbutt MP Member For Marrickville and David Shoebridge MLC .



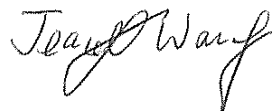
Alex Lofts



Lucille McKenna



Mark Drury



Jeanette Wang

Education

NOTICE OF MOTION OF WHICH DUE NOTICE HAS BEEN GIVEN BY

COUNCILLOR LUCILLE MCKENNA

**DEPARTMENT OF EDUCATION AND COMMUNITIES INTENDING TO RESTRICT THE
ACTIVITIES OF THE ARTS UNIT**

To move Notice of Motion No. NM34/2012

It has recently become apparent that the Department of Education and Communities is intending to restrict the activities of the Arts Unit.

This unit has provided unique opportunities for public school students who excel at: music, debating, drama, dance, public speaking, and the visual arts to join with others of similar talent to produce exceptional work and performances. There are very few offerings of this kind for public school students. The Unit is located close to our council area and many children from the local area attend.

The Arts Unit is a key resource within the public school system that equals and surpasses equivalent endeavours in the independent schools sector. Without such a unit, the attractiveness of the public school system to parents of talented students will be seriously diminished. This is a program that has exposed countless students to extraordinary works of art and offered them the incredible opportunity to participate in their production and performance.

This unit has provided public school students with the chance to hone their skills, to experience excellence in their chosen field, and has significantly impacted on the lives of those current and former students who now occupy leading positions in the Arts throughout NSW, Australia and internationally. This is particularly the case for students in our area who would have no equivalent opportunities to join such a talented programme with a wide range of students. For example, these students have been able to participate in the annual State Music Camp, as well as student tours in NSW, within Australia, and across the globe. We understand that these programs and programs of a similar nature are under threat.

Restricting activities of the Arts Unit will diminish the focus on the Arts and Arts education throughout NSW for a seemingly short-term gain in cost savings.

ATTACHMENTS

There are no supporting documents for this report.

**DEPARTMENT OF EDUCATION AND COMMUNITIES INTENDING TO RESTRICT THE
ACTIVITIES OF THE ARTS UNIT**

Accordingly, I move:-

That the Mayor writer to the Premier and the Minister For Education Mr Piccoli, requesting that they reverse the decision for the sake of current and future students throughout the NSW public school system.



Lucille McKenna

Parks & Reserves

NOTICE OF MOTION OF WHICH DUE NOTICE HAS BEEN GIVEN BY

COUNCILLOR PATRICK KELSO

ASHFIELD SKATE PARK EXPANSION

To move Notice of Motion No. NM35/2012

After representations from the community, and discussion with the Ashfield Youth Committee, I feel that it is time Ashfield Council expanded the skate park in Darrell Jackson Gardens.

ATTACHMENTS

Attachment 1 Email

1 Page

Accordingly, I move:-

- 1/2 That Council forms a committee of interested Councillors, representatives from Ashfield Police & Ashfield Youth Committee, to investigate community interest in expanding the skate park and potential partnerships with local businesses.**
- 2/2 That local sporting clubs, including all Netball clubs, and local schools be invited to participate to ensure that any unbooked use of the Netball courts is captured.**



Patrick Kelso

From: Simon Morris
Subject: Summer Hill skate park
To: patrickkelso@gmail.com

Dear Cllr Kelso,

My sons, aged eight and 12, both skate frequently at Summer Hill skate park. As a skate park it's very limited but there is a large area right next to it which is currently pretty much unused - except by skaters and scooterers.

It seems obvious to suggest developing the skatepark further into that area. As a first step I'd like to ask you what your view is, what planning, policy and financial issues that might raise and how they could be dealt with. I've suggested to my sons that we should think about approaching potential business sponsors who might be interested in supporting the idea, but it would obviously need a fair wind from the council.

I'd appreciate your response.

Regards,

Simon Morris

Public Relation Congratulations

NOTICE OF MOTION OF WHICH DUE NOTICE HAS BEEN GIVEN BY

COUNCILLOR LUCILLE MCKENNA

INDUCTION OF REVEREND ALAN LUKABYO

To move Notice of Motion No. NM36/2012

Last Thursday 26th July I was a guest of the Church Wardens and Parish Council of the Anglican parish of Croydon for the induction of Rev Alan Lukabyo as the senior minister to St James Croydon.

Rev Alan Lukabyo was introduced to the congregation and many friends and visitors by Rev Dr Hugh Cox, Assistant to the Bishop of South Sydney.

Alan comes to St James with his wife Ruth and children Hayley, Lucy and Calvin, following eight years as a minister at Dundas Telopea parish.

ATTACHMENTS

There are no supporting documents for this report.

Accordingly, I move:-

That the Mayor send a letter of welcome to Rev Alan Lukabyo and his family.



Lucille McKenna

Subject	DEVELOPMENT APPLICATION: 10.2012.019.1 4 BLACKWOOD AVENUE, ASHFIELD
File Ref	10.2012..019.1
Prepared by	Philip North - Specialist Planner
Reasons	Council determination
Objective	Determine Application

Overview of Report

1.0 Description of Proposal

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent for alterations and additions to an existing boarding house and its change of use to a residential flat building comprising 9 dwellings, car parking and strata subdivision.

Plans of the proposal are included as **Attachment 1**.

2.0 Summary Recommendation

The proposal, being a conversion of a heritage item to a residential flat building, is significantly constrained by elements of the built form which cannot be altered without negatively impacting upon the heritage significance of the built form. As a consequence, the proposal contains a number of non-compliances with Council's Development Control Plan 2007. These include the following:

- Excess FSR (all associated with the existing building);
- A lack of 2 visitor car parking spaces;
- Inadequate landscaped area (due to an existing non-compliance); and
- Undersized private open space.

In respect of the first two non-compliances, the applicant has invoked clause 37A of Ashfield LEP 1985 which allows them to be disregarded in the interest of the conservation of the heritage item. Despite this, these, as well as the other non-compliances, are relatively minor and do not hinder the adequate functional performance of the proposal or its impact on neighbour amenity. In particular, the parking provision allows for an increase of the parking available on site from 4 to 9 with a commensurate drop in bedroom numbers (and theoretically residents and their vehicles) from 20 to 10. As a result, the parking impacts in the immediate vicinity should be improved over the current situation.

The applicant, however, has not fully resolved stormwater issues and as a result Council's engineer requires that these be addressed prior to finalisation of any consent by way of a deferred commencement condition.

Given these considerations, the development is recommended for deferred commencement conditional approval.

Background

3.0 Application Details

Applicant	:	Mr M Wohlfiel
Owner	:	Mr M J Wohlfiel
Value of work	:	\$650,339.42
Lot/DP	:	LOT: 8A DP: 444835
Date lodged	:	19/01/2012
Date of last amendment	:	06/07/2012
Building classification	:	2 and 10b
Application Type	:	Local
Construction Certificate	:	No
Section 94 Levy	:	Yes

4.0 Site and Surrounding Development

The subject site is located on the southern side of Blackwood Avenue, bounded by Milton Street to the west and Liverpool Road to the west. The site area is approximately 856 square metres. An existing boarding house and detached outbuilding(Heritage Item) is located on the site. Surrounding development comprises residential flat buildings to the east, west and north with Cecil Herman reserve to the south . Refer to **Attachment 2** for a locality map.

5.0 Development History

Previous building and development applications submitted to Council for the subject site include:

NO.	DATE	PROPOSAL	DECISION
B/A 1979/218	25/6/1979	Fire Stairs	Approved

The previous building approval is relevant to the current application to the extent that it shows that a fire stair was approved to the existing building on the site.

On the 13 December 2011 a letter was sent to the applicant advising that there were a number of issues which needed to be addressed prior to the lodgement of a development application.

On 19 January 2012 Council officer advised the applicant verbally that there were outstanding issues that needed to be addressed prior to the development application being lodged. The applicant said he would address the issues after the Development application is lodged. The development application was lodged on 19 January 2012.

On the 5 March 2012 a letter was sent to the applicant requesting him to submit stormwater drainage plans. The applicant advised that the owner did not want to submit stormwater drainage plans to Council. See **Attachment 4** for Council's Stormwater Drainage Engineer's comments.

Although the Heritage Item on the property is proposed to be restored by the development and Council's Heritage Advisor is satisfied with the development on heritage grounds there were numerous issues which were of concern regarding non compliance with Council's development controls.

The main issues of concern with the proposed development are as follows:

- Insufficient car parking spaces on the property.
- Lack of car washing bays on the property.
- Insufficient private open space.
- Insufficient landscaping.
- Inadequate and poorly located communal open space.
- Loss of privacy.
- Inadequate solar access to living rooms of the units.
- Loss of 20 affordable rental boarding house rooms.
- Eviction of low income boarders.
- Inadequate clothes drying area.
- Inadequate stormwater drainage.
- Loss of amenity to surrounding properties
- The proposed ground floor units except for the adaptable unit do not comply with the Universal Accessible Design requirements as required Part C1 of ADGP.

The application was duly referred to the Council meeting of 8 May 2012 with a recommendation for refusal. At this meeting Council resolved as follows:

1. That Development Application No. 2012.19 for alterations and additions to a boarding house to convert it to a residential flat building on Lot 8A in DP 444835, known as 4 Blackwood Avenue, Ashfield, be deferred for 2 weeks to allow the applicant an opportunity to address heritage and other matters as addressed by Council officers.
2. The matter is to be reported back to Council first meeting in June 2012.

The applicant subsequently engaged in further discussions with Council officers and, although no amended plans were submitted to enable reporting to Council by the first week in June, amendments followed on 6 July 2012 which included:

- A reduction in the number of units from 10 to 9;
- An increase in the parking provision from 5 to a total of 9 resident parking spaces;
- Improvements to private open space provision including balconies and courtyards;
- Disabled access improvements;
- Amendments to improve privacy; and
- Other minor design refinements.

It is this scheme which is the subject of this report.

Assessment

6.0 Zoning/Permissibility/Heritage

- The site is zoned 2(c) - Residential under the provisions of Ashfield LEP 1985.
- The property is not located within a Conservation Area.
- The property is a heritage item.
- The property is located within the vicinity of heritage item at Brunswick Parade and the Park Avenue Heritage Conservation Area.
- The proposed works are permissible with Council consent.

The proposed works are permissible with Council consent.

7.0 Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

The proposed use as a residential flat building is permissible in the zone with consent.

The proposal seeks to rely on the provisions of Clause 37A conservation Incentives of ALEP 1985 as follows:

(2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the consent authority may, for the purpose of determining:

(a) the floor space ratio, and

(b) the number of parking spaces to be provided on the site,

exclude the floor space of the building from its calculation of the floor space of the buildings erected on the land but only if the consent authority is satisfied that the conservation of the building depends on it making the exclusion.

FSR and car parking controls applicable to the development are contained in ADCP 2007.

The proposal fails to comply with the FSR controls (only because the existing building already exceeds the FSR for the site). If the FSR were required to comply, demolition of some of the significant historical fabric would be required. It is thus considered that proper conservation of the building requires the exclusion of the FSR from the calculation of the FSR for the site.

The proposal also fails to comply with the parking controls of ADCP 2007 (8 viable spaces are proposed while 12 are required – 9 resident + 2 visitor + 1 car washing). Given that it is not possible to provide the required amount of car parking without compromising the historical fabric of the item (ie demolition of the significant fabric associated with the outbuilding at the rear or some rooms of the building), it is considered that the proper conservation of the building is dependant upon the exclusion of the full number of car parking spaces required on the site.

Given these considerations, in this and in all other respects, the proposal is considered to comply with the provisions of the Ashfield LEP 1985.

7.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 1 – Development Standards

The proposal does not seek to vary any development standards applicable to the site.

State Environmental Planning Policy No. 55 – Remediation of land

The property has a history of residential use therefore remediation of the site is not required prior to the carrying out of the proposed development.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The proposal is not defined as a residential flat building under the provisions of the SEPP and as such is not subject to its provisions.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The existing building operates as a 20 room boarding house which is defined by the SEPP as a low-rental residential building. As such, it is subject to the provisions of the SEPP.

State Environmental Planning Policy (Affordable Rental Housing) 2009 Assessment Table			
Clause No.	Provisions of clause	Proposed	Comment
50	Reduction of availability of affordable housing		
(1)	<i>A person must not do any of the following in relation to a building to which this Part applies except with development consent:</i>		
(1) (a)	<i>demolish the building</i>	No demolition proposed	N/A
(1) (b)	alter or add to the structure or fabric of the inside or outside of the building	The application proposes alterations and additions	Development consent required.
(1) (c)	change the use of the building to another use (including, in particular, a change of use to backpackers accommodation)	Change of use to a residential flat building is proposed	Development consent required.
(1) (d)	if the building is a residential flat building, strata subdivide the building.	The building will be subdivided.	Development consent required.
(2)	In determining a development application referred to in subclause (1), the consent authority is to take into account the guidelines and each of the following:		
(2)(a)	whether there is likely to be a reduction in affordable housing on the land to which the application relates,	The proposal will result in the loss of a 20 room boarding house and its replacement with a 9 unit/10 bedroom residential flat building.	Given that the number of bedrooms is reduced, there would be a reduction in the availability of affordable housing of at least 10 bedrooms.
(2)(b)	whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,	The vacancy rate is 1.4% in Sydney for private residential accommodation. For the purposes of subclause (2) (b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation less than 3%.	There is insufficient comparable accommodation to satisfy the demand.
(2)(c)	whether the development is likely to cause adverse social and economic effects on the general community		Unlikely.
(2)(d)	whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation	There are no arrangements made to assist the current residents find alternative comparable accommodation.	
(2)(e)	the extent to which the development contributes to any cumulative loss of affordable housing in the local government area	The proposed change of use and strata subdivision of the units will result in the loss of 20 boarding rooms.	
(2)(f)	the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the	The applicant has not submitted any information on the structural soundness of the building or information on the costs to comply with fire safety requirements.	It is considered likely that there would be significant costs to upgrade the fire safety of the building.

DEVELOPMENT APPLICATION: 10.2012.019.1**4 BLACKWOOD AVENUE, ASHFIELD**

	fire safety requirements		
(2)(g)	whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development	It is considered that a monetary contribution could adequately mitigate the reduction of affordable housing resulting from the development.	
(2)(h)	in the case of a boarding house, the financial viability of the continued use of the boarding house	<p>The applicant has provided information that the annual income from rent is \$165,844 and that the annual expenses are \$184,390, resulting in a loss of \$18,546 and a current negative rental yield of minus 1.25%.</p> <p>The continued use as a boarding house is financial viability if the rent yield determined under clause 51(5) is not less than 6 percent. As the rent yield is under 6 per cent the boarding house is not financially viable.</p>	The applicant has not given a breakdown or provided documentation detailing the extremely high expenses used to justify the negative rental yield. It is also not clear if this is a one-off anomaly due to a particular item of expenditure or a regular operating loss. Further details and documentation would be required before confirmation of any lack of financial viability.
51	Contributions for affordable housing		
(1)	For the purposes of section 94F (1) of the Act, this Policy identifies a need for affordable housing on land within the Sydney region and on land within the local government area of Newcastle or Wollongong City.		
(2)	For the purposes of section 94F (3) (b) of the Act, this Policy authorises a condition to be imposed under section 94F of the Act if:		
(2)(a)	the consent authority, when determining a development application referred to in clause 50 (1), is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, and	The proposed development would result in a loss of the availability of affordable housing units.	A condition may be imposed.
(2)(b)	the condition is imposed in accordance with the scheme for dedications or contributions set out in subclauses (3) and (4).		The contribution has been calculated in accordance with the scheme for dedications or contributions set out in subclauses (3) and (4)
(3)	<p>If a condition is to be imposed under this clause, the amount of the contribution is to be calculated in accordance with the following formula:</p> $C = L \times R \times 0.05$ <p>where:</p> <p>C is the contribution payable.</p> <p>L is the total number of bedrooms in a low-rental dwelling and boarding</p>	The Department of Planning online calculator has been applied to the figures provided by the applicant.	The resultant contribution figure is: \$198,660.

	rooms that will be lost by the proposed development. <i>R</i> is the replacement cost calculated as the average value of the first quartile of sales of strata properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the <i>Rent and Sales Report</i> .		
(4)	Despite subclause (3), where the development application relates to a boarding house that the consent authority has assessed as not being financially viable:		
(4)(a)	if the rental yield is 3 per cent or less, no contribution can be sought	The applicant has provided information that the annual income from rent is \$165,844 and that the annual expenses are \$184,390, resulting in a loss of \$18,546 and a current negative rental yield of minus 1.25%.	The applicant has not given a breakdown or provided documentation detailing the extremely high expenses used to justify the negative rental yield. It is also not clear if this is a one-off anomaly due to a particular item of expenditure or a regular operating loss. Further details and documentation would be required before confirmation of any lack of financial viability.
(4)(b)	if the rental yield is more than 3 per cent and less than 6 per cent, the contribution payable is to be reduced by being calculated in accordance with the following formula: $C = \frac{X \times (100RY - 3)}{3}$ where: <i>C</i> is the contribution payable. <i>X</i> is the contribution that would be payable under subclause (3). <i>RY</i> is the rental yield.	N/A	N/A

Given the lack of documentary information provided to facilitate a conclusion that the existing boarding house is not financially viable, a condition will be applied should the application be approved requiring a monetary contribution of \$198,660 for the purposes of affordable housing to adequately mitigate the reduction of affordable housing resulting from the development.

7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Draft Ashfield Local Environmental Plan 2012 (Draft ALEP 2012) was placed on public exhibition on 27 June 2012 and is a matter for consideration. The following table summarises the compliance of the application.

Draft Ashfield Local Environmental Plan 2012 Summary Compliance Table				
Clause No.	Clause	Standard	Proposed	Compliance
2.2	Zoning	Zone B3 Medium Density Residential	Residential Flat Building	Yes
4.1	Minimum subdivision lot size	500m ²	856m ²	Yes
4.3	Height of buildings	12.5m	10.85m	Yes
4.4	Floor space ratio	0.7:1	0.63:1	Yes
5.10	Heritage Conservation	Listed as: <ul style="list-style-type: none"> Heritage Item no. 132 under Schedule 5, Part 1 		
5.10(4)	Effect on heritage significance	The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	Heritage management document has been submitted. Assessed as satisfactory by Council's Heritage Advisor.	Yes

It is considered that the proposal complies with the provisions of Draft ALEP 2012.

7.3 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield Development Control Plan (DCP) 2007:

C1	ACCESS AND MOBILITY	<i>Generally complies. See discussion below.</i>
C5	MULTI-UNIT DEVELOPMENT IN RESIDENTIAL FLAT ZONES	<i>Generally complies. See discussion below.</i>
C10	HERITAGE CONSERVATION	Satisfactory (see heritage advisor's comments).
C11	PARKING	<i>Does not comply. See discussion below.</i>
C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	Notified in accordance with the DCP provisions.

Part C1 Summary:

One adaptable unit for every 10 units is required and this has been provided by Unit 5.

In addition, all the ground floor units must comply with Universal Accessible Design requirements. All ground floor units are accessible in compliance with this.

The proposed development consequently complies with this Part.

Part C10:

Council's Heritage Advisor supports the proposed development from a heritage conservation perspective. See **Attachment 3** for his report.

Part C11 Summary:

Part C11 requires one onsite car space per unit and one visitor's car space per 5 units. One carwash bay is also required per 5 units. One car parking space is required for the adaptable unit.

The proposed development contains 9 units therefore a total of 12 car spaces are required (9 resident spaces, 2 visitor spaces and 1 car wash bay).

The proposed development has allowed for 9 onsite car parking spaces (one is not viable and will be conditioned for bicycles and motorbikes only while another, proposed as a wash bay, will be conditioned for allocation as resident parking).

There is thus a shortfall of 2 visitor spaces and one carwash bay.

It is noted that the applicant has invoked the provisions of Clause 37A conservation Incentives of ALEP 1985 as follows:

(2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the consent authority may, for the purpose of determining:

(a) the floor space ratio, and

(b) the number of parking spaces to be provided on the site,

exclude the floor space of the building from its calculation of the floor space of the buildings erected on the land but only if the consent authority is satisfied that the conservation of the building depends on it making the exclusion.

Given that it is not possible to provide the required amount of car parking without compromising the historical fabric of the item (ie demolition of the significant fabric associated with the outbuilding at the rear or some rooms of the building), it is considered that the proper conservation of the building is dependent upon the exclusion of the full number of car parking spaces required on the site and that the proposed provision of parking is satisfactory under the circumstances.

Notwithstanding this, the application increases the number of parking spaces on site from 4 to 9 while reducing the overall occupancy of the building from 20 units to 9. As a result, the overall potential demand for parking on the street should be significantly reduced.

ADCP 2007 Compliance Summary:

It is considered the application complies with the parts as indicated and ultimately achieves the aims and objectives of the Ashfield DCP.

7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

These matters have been considered in the assessment of this application.

7.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts upon the locality.

7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. The proposed development is considered suitable in the context of the locality.

7.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified to all adjoining and nearby affected property owners and occupants, and Councillors from 24 January 2012 until 17 February 2012.

7.7.1 Summary of submissions

Two submissions (**Attachment 5**) were received during the notification of the development application:

Submissions
Katherine Rowe 2 Blackwood Avenue Ashfield (submission of support sent following amendments to the plans)
Ron Morris 3 Blackwood Avenue, Ashfield

Another submission was received from one of the original objectors (Katherine Rowe) subsequent to amendments made to the application by the applicant. She is now supportive of the application.

Public Submissions	
Issue Raised	Assessment Officer Response
<i>Insufficient parking</i>	<p>The amended development will result in 8 studio/one bedroom units and one two bedroom unit.</p> <p>The application will result in one car parking space for each unit but will be deficient by two visitor spaces.</p> <p>Notwithstanding this, the application increases the number of parking spaces on site from 4 to 9 while reducing the overall occupancy of the building from 20 units to 9. As a result, the overall potential demand for parking on the street should be reduced.</p>
<i>Potential for inappropriate residents</i>	<p>The potential for “inappropriate” residents by the proposed development would be lesser than that of the current boarding house use.</p>
<i>Loss of housing for current low income residents</i>	<p>There is currently a 20 bedroom boarding house on the site and the proposal is to convert the boarding house into a 9 unit Residential Flat Building consisting of 8 studio/1 bed units and 1 two bedroom unit. The development will result in a reduction in the number of bedrooms from 20 to 10. The proposed strata subdivision will allow the units to be sold individually.</p> <p>All the current boarders will need to move out and find other accommodation. At present there is a shortage of similar available accommodation in Sydney.</p> <p>To address this, a monetary Affordable Housing contribution under State Environmental Housing</p>

	Policy (Affordable Rental Housing) 2009 will be payable to contribute to the provision of affordable housing in other locations.
Noise	<p>The objector is concerned about noise from both building work and noise from the proposed use of the property.</p> <p>A condition could be imposed should the application be approved to minimise building noise. It is unlikely, however, that there would be any greater level of noise from the proposed development, particularly given that the number of units is significantly less than existing (9 rather than 20) and the no of persons resident could drop from 20 to as few as 9.</p>
Privacy	<p>The proposed development will result in four new bedroom windows on the western side which have sill heights of 1m. These windows are about 1.2m from the side boundary and face the balcony and windows of the units at 5 Blackwood Avenue. These proposed windows are proposed to be fitted with translucent glass to their bottom panes and as such should adequately protect the privacy of the adjacent residents.</p> <p>The objector is concerned about loss of privacy from windows on the eastern side particularly the windows at first floor level. There are existing windows on the eastern side at first floor level and the proposed development does not involve any addition to the glazed area of the existing windows on this level of the building. There is an external stairway that is proposed to be removed from the eastern side which will improve privacy.</p>

7.7.2 Mediation

Not applicable.

7.8 The public interest

The proposal is not inconsistent with the public interest.

8.0 Referrals

8.1 Internal

Internal Referrals	
Officer	Comments
Building Surveyor	Support subject to conditions.
Stormwater Engineer	<p>The proposed submission does not meet Council's Storm water design standards, for the following reasons:</p> <ol style="list-style-type: none"> 1. Section 4.9 "Site Discharge & Connection to Council's System". The site's storm water discharge does not comply with Council's Storm water Code for this type of development. 2. Section 4.7 "Storm water Drainage Concept Plans": No stormwater concept plan has been submitted to Council that meets the requirements as outlined in Section 4.7 of Council's Stormwater Management Code. <p>Note: Council's Stormwater Engineer subsequently consented to the application of a deferred commencement condition of consent to address these issues.</p>
Traffic Engineer	<p>Support subject to conditions.</p> <p>Normally small vehicle car spaces are provided in public car parks rather than unit developments, and would prefer nominal size vehicle length parking spaces (i.e min 5.4 long). In this particular situation car spaces 4 and 5 would be acceptable for small vehicle use in near conformity to AS standards for a small car length (i.e. 5 metres). However I cannot concede to the smaller space of vehicle 4.2 metres (car space 6) which is well below the AS standard for a small vehicle, limiting use only to the very small vehicle spectrum (e.g. Yaris - 3.8 metres long with 0.2 clearance between wall and roller door). Any larger vehicle will be jammed up against the wall or roller door or extrude out into the roadway, which is not acceptable.</p> <p>Accordingly no objection is made to the car park layout in providing car parking spaces 1-5 and 7 to 9 with the turntable arrangement in the car park on condition that:</p> <ol style="list-style-type: none"> 1. The car park space 6 (being well below acceptable AS standards for a small vehicle) be used for other needs as deemed more appropriate (e.g. motorbike or bicycle parking). 2. A parking space be assigned to the car wash bay area, and under this particular situation, to do away with the car wash bay. 3. The turntable be made to handle manually in the case of a mechanical breakdown. 4. That appropriate measures be undertaken (e.g. mirrors, signs, traffic lights) at the entry to give way to vehicles entering and exiting the site. No vehicle should be made to park or stand for longer than necessary on the turntable. 5. The door opening out to the entry from car space 4 should be made to see through to avoid obstructing any passing vehicle or person passing through the entry. Alternatively a slide door arrangement should be considered.
Environmental Health	Support subject to conditions.
Heritage Architect	Support.

8.2 External

N/A

9.0 Other Relevant Matters

N/A

10.0 Building Code of Australia (BCA)

A Construction Certificate will be required to be applied for by condition of consent.

Financial Implications

Section 94 Contributions of \$87,160.35 are applicable should the application be approved by council.

Other Staff Comments

See Section 8.1 of this report.

Public Consultation

See Section 7.7 of this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposal is acceptable and is recommended deferred commencement consent to allow the applicant to address stormwater drainage issues.

ATTACHMENTS

Attachment 1	Plans of the Proposal	4 Pages
Attachment 2	Locality Map	1 Page
Attachment 3	Heritage Advisor Comments	1 Page
Attachment 4	Conditions	17 Pages
Attachment 5	Submissions (Circulated under separate cover)	6 Pages

RECOMMENDATION

That Council as the consent authority pursuant to Clause 80(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) grant deferred commencement consent to Development Application No. 10.2012.19 for alterations and additions to an existing boarding house and its change of use to a residential flat building comprising 9 dwellings, car parking and strata subdivision on Lot 8A in DP 444835, known as 4 Blackwood Avenue, Ashfield, subject to the attached conditions

COMPLIANCE TABLE - ASHFIELD LOCAL ENVIRONMENTAL PLAN 1985	
CLAUSE 2 Aims, objectives etc. This plan aims to: (a) promote the orderly and economic development of the local government area of Ashfield in a manner consistent with the need to protect the environment; and (b) retain and enhance the identity of the Ashfield area derived from its role as an early residential suburb with local service industries and retail centres; and containing the first garden suburb of Haberfield (now listed as part of the National Estate).	Complies. It is considered that the carrying out of the proposed development will meet the aims and objectives of Ashfield LEP 1985.
CLAUSE 10 Zoning	Complies. The property is zoned 2(C) and the proposal is permissible with Council consent.
CLAUSE 10A Development consent required for change of building use and subdivision	Complies. The proposal requires development consent and this has been sought in the appropriate manner.
CLAUSE 17A Height of residential flat buildings (1) This clause applies to land within Zone No. 2(b) or 2(c). (2) In this clause – “height” in relation to a building, means the greatest vertical distance (expressed in metres) between any level of the natural surface of the site area on which the building is, or is to be, erected and the ceiling of the topmost habitable floor of the building; “natural surface”, in relation to a site area, means the level determined by the council to be the natural surface of the site area. (3) The maximum height to which a residential flat building may be erected on land to which this clause applies shall be – (a) in the case of a building within Zone No. 2(b) – 6 metres; and (b) in the case of a building within Zone No. 2(c) – 9 metres. (4) This clause does not apply to land within Zone No. 2(c) shown edged heavy black and lettered “2(c)” on the map marked “Ashfield Local Environmental Plan 1985 (Amendment No. 79)”.	Complies. Proposed Height = 8.5m Allowable Height = 9m .
CLAUSE 29 Provision for public amenities and services	The demand for public amenities and public services is likely to increase as a result of this proposal. Section 94 contributions will be applicable in accordance with the relevant section 94 contributions plan.
CLAUSE 30	It is considered that the carrying out of the proposed development will meet the aims of the heritage

Ashfield Council – Report to Ordinary Meeting held on Tuesday 14 August 2012 **CM10.1**
DEVELOPMENT APPLICATION: 10.2012.019.1
4 BLACKWOOD AVENUE, ASHFIELD

Heritage provisions – aims The aims of this Part are: (a) to retain the identity of Ashfield by conserving its environmental heritage, which includes the first garden suburb of Haberfield now listed as part of the National Estate; and (b) to integrate heritage conservation into the planning and development control processes; and (c) to provide for public involvement in the conservation of Ashfield's environmental heritage; and (d) to ensure that any development does not adversely affect the heritage significance of heritage items and heritage conservation areas and their settings as well as landscapes and streetscapes and the distinctive character that they impart to the land to which this plan applies.	provisions of Ashfield LEP 1985. .
CLAUSE 32 Protection of heritage items, heritage conservation areas and relics	
1. <i>Requirement for development consent</i>	Complies. The proposal requires development consent and this has been sought in the appropriate manner.
2. <i>Development consent not required</i>	Not applicable.
3. <i>Assessment of impact on heritage significance</i>	Complies. It is considered that the carrying out of the proposed development will not have an adverse impact upon the heritage significance of the Heritage Item .
4. <i>Requirement for conservation plan or heritage impact statement</i>	Complies. A heritage impact report has been submitted and has been used in the assessment of the application.
5. <i>Assessment criteria for development of land within heritage conservation areas.</i>	Not applicable.
CLAUSE 36	Not applicable.
Development of known or potential archaeological sites	.
CLAUSE 37 Development in vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Complies. It is considered that the carrying out of the proposal will have no adverse impact upon the heritage significance of any heritage items, conservation areas, archaeological sites in its vicinity.
CLAUSE 37A Conservation incentives	See Clause 37A Report at 7.1.1 above .
MODEL PROVISIONS	
5(1) - Aesthetic appearance of proposed development from waterway, main or arterial road, railway, public reserve or land zoned for open space.	Complies. The proposed development will not have a negative visual appearance when viewed from any public place.

COMPLIANCE TABLE – ADCP PART C5 – MULT-UNIT DEVELOPMENT	
PART 1 Objectives	Complies.
PART 2 Residential Design Process	Complies.
PART 3 Preferred development	Ashfield's Housing Character Complies. It is considered that the carrying out of the proposal will

	<p>be in keeping with the existing residential character of Ashfield Municipality.</p> <p>Streetscape and Landscape</p> <p>Complies. Although an assessment of the streetscape has not been provided with the development application, it is considered that the proposal has given appropriate regard to the provisions of this part.</p> <p>Building Appearance and Character</p> <p>Complies</p> <p>Fences and Walls</p> <p>Complies. It is considered that the proposed front fence/wall is compatible with the streetscape and in keeping with directly adjoining neighbouring properties.</p> <p>Heritage Conservation</p> <p>Complies. Council's Heritage reports that he is satisfied with the proposed development in regards to heritage conservation.</p>
<p>PART 4 Housing Density</p>	<p>Floor Space Ratio</p> <p>Does not comply. Site Area Gross Floor Area </p>

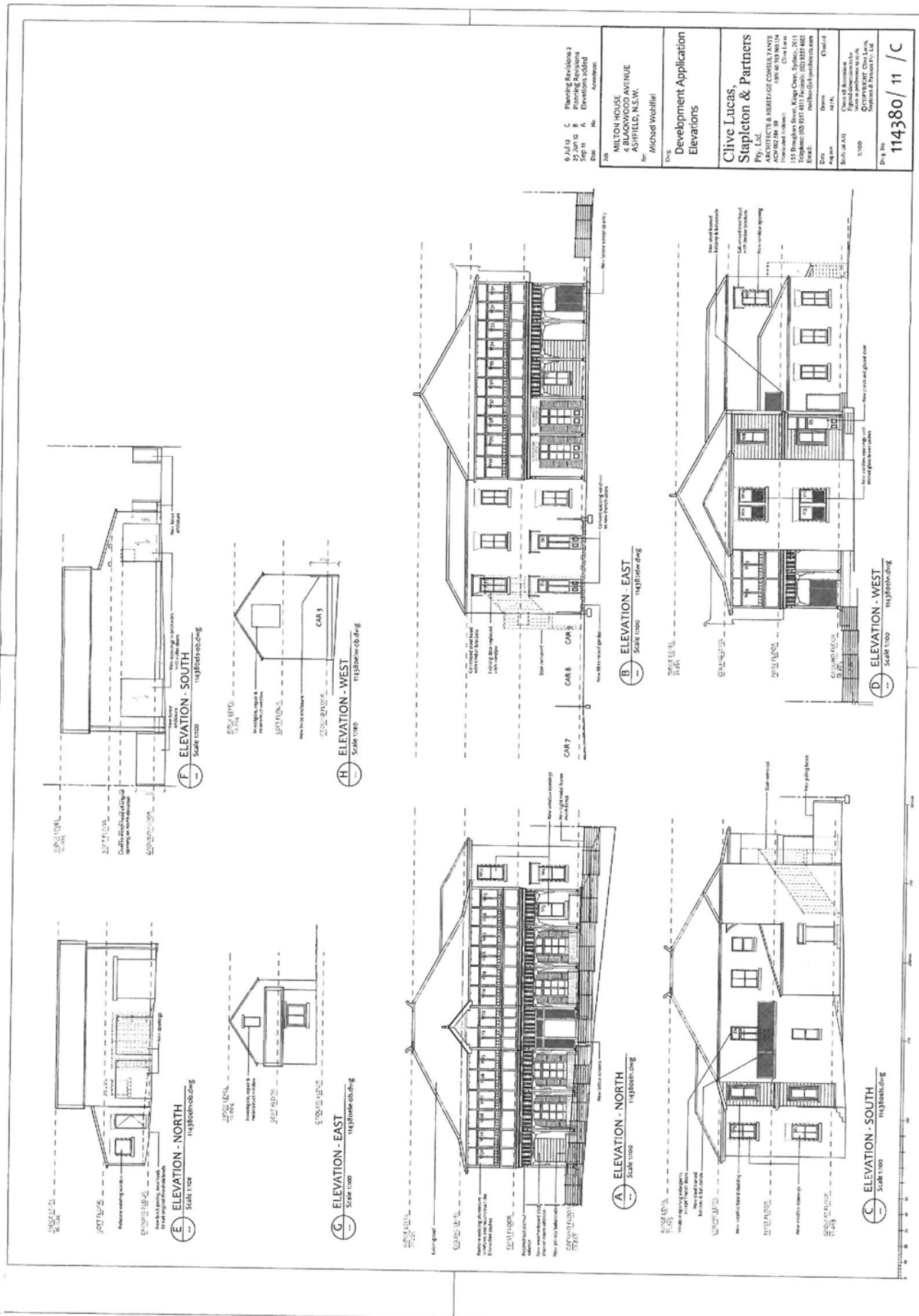
	<p>Sunlight will reach 50% of the private open spaces (incl winter gardens) on the site for 3 hours between 9am – 3pm on 21 June.</p> <p>Complies. Existing solar access is maintained to at least 40% of the glazed area of north facing windows of the dwellings on adjoining sites.</p>									
<p>PART 6 Privacy, views & outlook</p>	<p>Visual privacy</p> <p>Complies. Windows fitted with translucent glass where facing other properties to the side</p> <p>Screening is required, as openings are non-translucent below 1.7m. This will be a condition of development consent should the application be approved.</p> <p>Acoustic privacy</p> <p>It is considered that the level of acoustic privacy within the development generally satisfies the provisions of this part.</p> <p>Views and Outlook</p> <p><i>Complies. The principles of view sharing have been adhered to in the design of the development. All dwellings within the new residential development have an open outlook to an area of landscaping or open space.</i></p>									
<p>PART 7 Car-parking</p>	<p>Numerical requirements</p> <p>Does not comply.</p> <table><tr><td>Number of proposed dwellings</td><td>=</td><td>9</td></tr><tr><td><i>Minimum number of car-parking spaces</i></td><td>=</td><td>12</td></tr><tr><td><i>Proposed number of car-parking spaces</i></td><td>=</td><td>9</td></tr></table> <p>The applicant has invoked the provisions of cl. 37A of ALEP 1985 and as such, the deficiency in car parking is considered negated by the requirement to conserve the heritage item.</p> <p>Notwithstanding this, the application reduces the number of units from 20 to 9 and increases the parking available on site from 4 spaces to 9 resident spaces (ie an increase of 1 space per 5 units to 1 space per unit (with no visitor spaces). As such, it is considered that the application significantly improves the parking situation and is satisfactory despite the minor numerical non-compliance.</p> <p>Design and location</p> <p>Complies. Council’s traffic engineer has reviewed the design and is satisfied that the that design and layout would perform satisfactorily.</p>	Number of proposed dwellings	=	9	<i>Minimum number of car-parking spaces</i>	=	12	<i>Proposed number of car-parking spaces</i>	=	9
Number of proposed dwellings	=	9								
<i>Minimum number of car-parking spaces</i>	=	12								
<i>Proposed number of car-parking spaces</i>	=	9								
<p>PART 8 Open Space and Landscaping</p>	<p>Private and Communal Open Space</p> <p>Does not comply.</p> <p>The private open areas proposed do not meet the minimum requirements outlined in this clause.</p> <p>The proposed development has not provided at least 35m2 of private open space per ground floor dwelling and 10m2 of balcony for first floor dwellings as required by this part.</p> <p>The communal open space provided is at the front of the property.</p>									

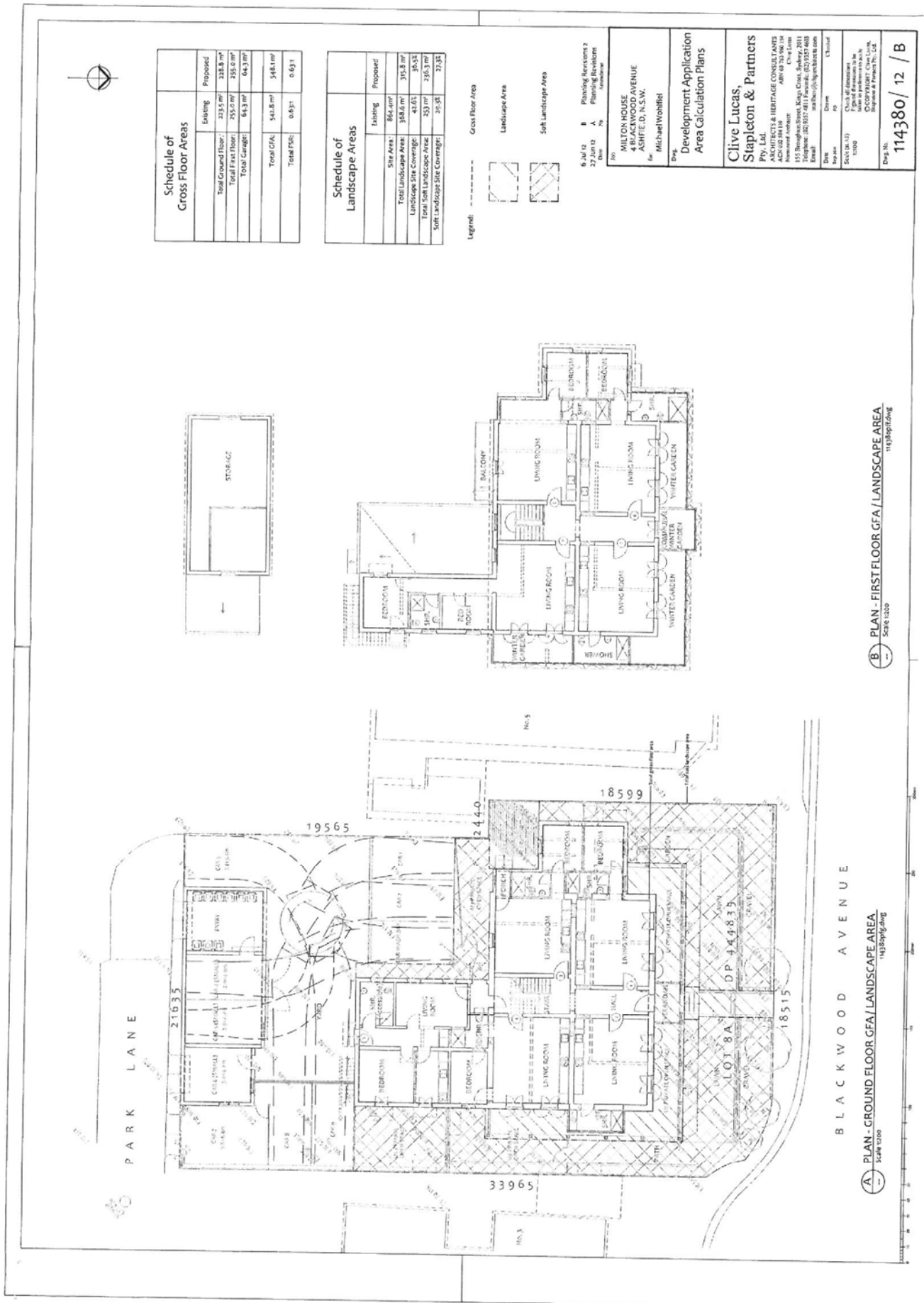
	<p>lacks privacy and does not meet the minimum dimensions of 10x 12m required by this part.</p> <p>Notwithstanding the non-compliance of the private open space areas with the minimum requirements of this Part, this is entirely due to the constraints presented by the existing heritage item fabric and, despite this, the spaces are considered functional for resident purposes, notwithstanding that some do not accord with current standards.</p> <p>Landscaping</p> <p style="text-align: right;">Does not comply.</p> <p style="text-align: right;">Site Area = 856m²</p> <p>Proposed landscaping = 363.5m² (42% of the site)</p> <p>Proposed soft landscaping = 244.9m² (28.3% of the site)</p> <p>Proposed deep planting = 180m² (20.8% of the site)</p> <p>The ADCP requires 50% of the site be landscaped with 35% being soft landscaping and 29.75% being deep soil planting.</p> <p>The proposed development falls short of all of the above minimum requirements.</p> <p>Nevertheless, this is due to an existing non-compliance and cannot be altered without interfering with the significant fabric of the existing heritage item.</p> <p>Tree Preservation</p> <p>Complies.</p> <p>The proposal development does not involve the removal of any trees covered by Council's Tree Preservation Order.</p>
PART 9 Safety and Security	<p>Complies.</p> <p>It is considered that the proposed development satisfies the provisions of this part.</p>
PART 10 Design for climate	<p>Energy Conservation</p> <p>An external clothes line is proposed.</p> <p>Does not comply.</p> <p>Less than 80% of units have a living area with windows with a northerly aspect and 3 hours solar access to at least 40% of their area.</p> <p>The remaining 20% have a habitable room with 2 hours solar access between 9 am – 3pm on 21 June.</p> <p>This is a result of the existing conditions relating to the existing heritage item and cannot be changed without impacting the heritage significance of the heritage item.</p> <p>Water conservation</p> <p>A Basix Certificate has been submitted for the proposed development however the Basix commitments are not shown on the plans as required by the Basix Certificate..</p> <p>Air movement</p> <p>Complies.</p> <p>Services, lighting and appliances</p> <p>Complies.</p> <p>Noise on traffic routes</p> <p>Generally complies.</p>
PART 11 Stormwater drainage	<p>Does not comply.</p> <p>A plan shows stormwater discharging to Park Lane</p> <p>Council's Stormwater Engineer requires stormwater to drain to</p>

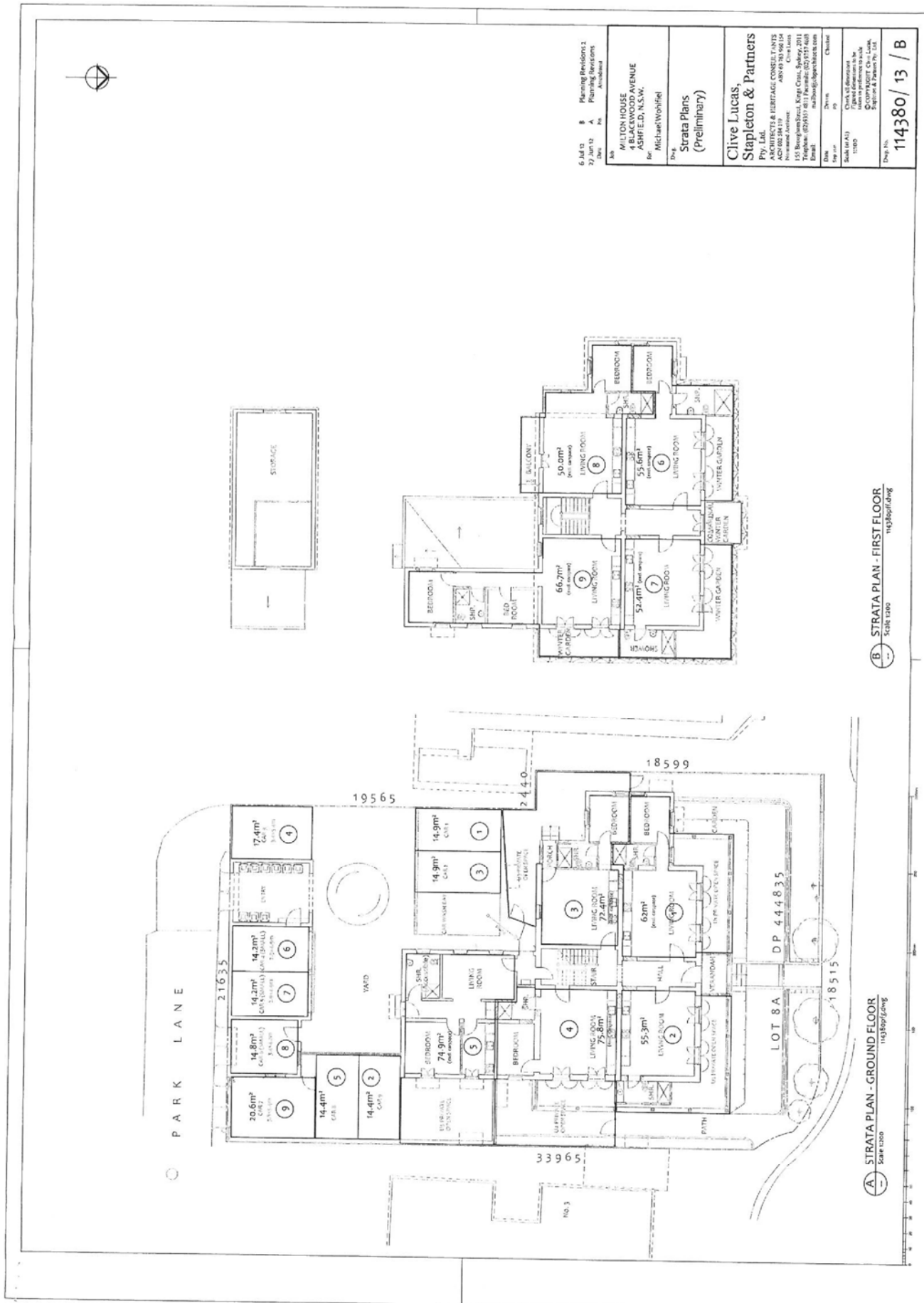
	Blackwood Avenue. A stormwater drainage concept plan is required to be submitted. This will be required by way of a deferred commencement consent.
PART 12 Site Facilities	<p>Waste management</p> <p>Complies. The proposed location of the garbage collection storage area satisfies the provisions of this part.</p> <p>No. of bins proposed = 10 x 120 litre bins for general wastes</p> <p>No. of bins required =5 x 240 litre bins for recycling</p> <p>Contaminants</p> <p>The property has a history of residential use. There is no evidence to suggest that the site contains contaminants. Remediation of the site is not required prior to the carrying out of the proposed development.</p> <p>Storage</p> <p>Complies. Suitable storage is provided in each unit</p> <p>Mailboxes</p> <p>Complies. Details of the location and number of mail boxes have been shown on the plans.</p> <p>Clothes Drying</p> <p>Does not comply. Part 12.11 requires 1.5m² of clothes drying area per dwelling x 10 dwellings = 15m². The proposed development has only provided 12m².</p> <p>Television aerials</p> <p>No details of television aerial/s have been submitted with the application. Only one television reception device will be permitted as part of the strata title development. This will be a condition of development consent should the application be approved.</p> <p>Car wash bays</p> <p>Satisfactory: Given that resident parking spaces are at grade above ground, these can be satisfactorily used for car washing purposes..</p>

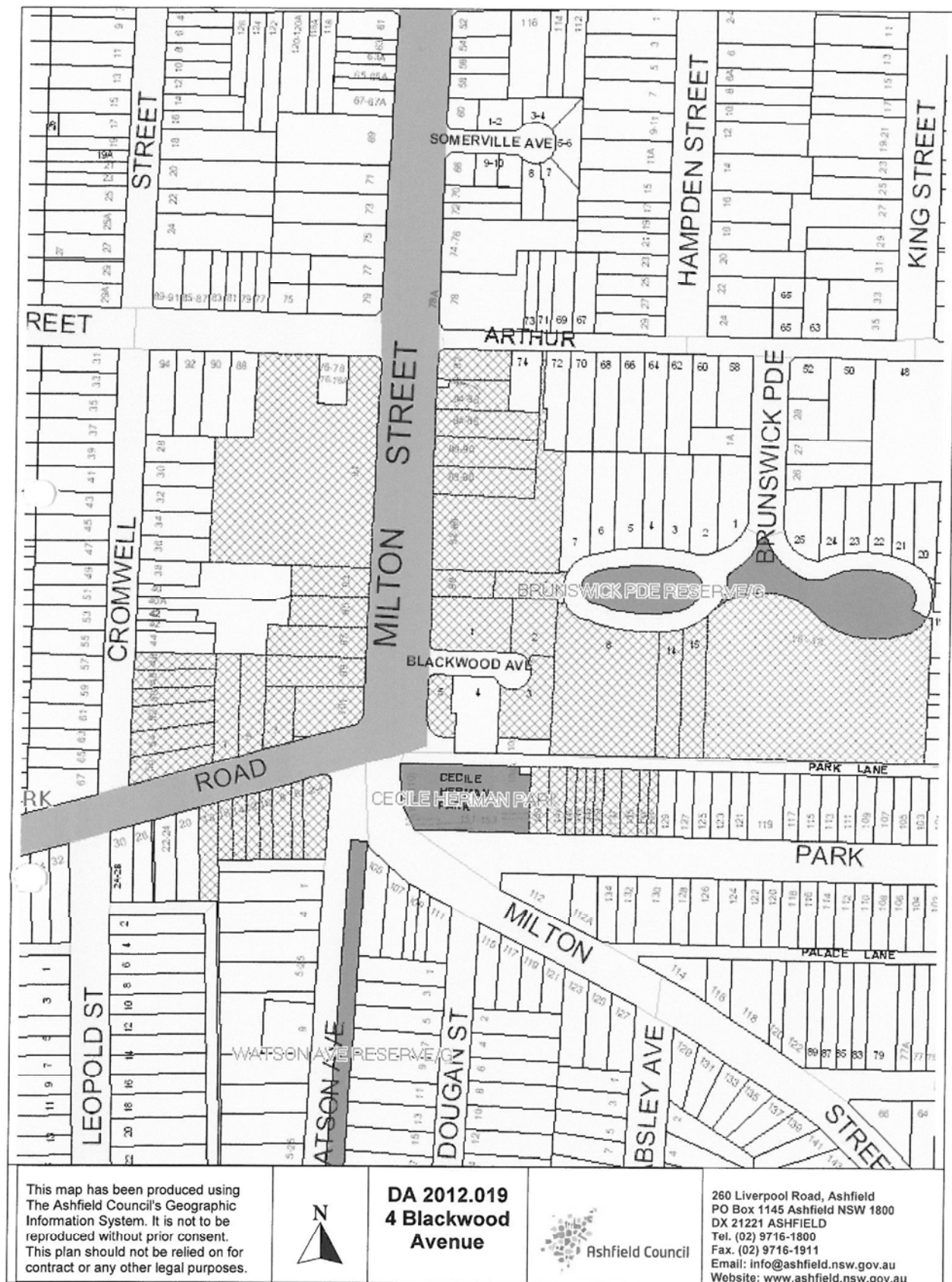
PHIL SARIN
Director Planning and Environment














**DEVELOPMENT SERVICES
HERITAGE ADVISOR'S REFERRAL COMMENTS**

ADDRESS:	4 Blackwood Avenue, Ashfield	File No: 17.2012.
ADVISOR	Robert Moore	
DATE:	2 July 2012	
STATUS	HI	
DESCRIPTION	Conversion of boarding house to RFB	
PREVIOUS COMMENTS		

The application has been reviewed in respect of heritage issues and has been assessed as follows:

<input checked="" type="checkbox"/>	Acceptable as lodged
<input type="checkbox"/>	Acceptable with the following Conditions of Consent Applied:
<input type="checkbox"/>	Acceptable with the following amendments to the application:
	<input type="checkbox"/> Application to be returned to Heritage Advisor for review after amendments
	<input type="checkbox"/> Planner may assess amendments
<input type="checkbox"/>	Additional information is required as follows:
<input type="checkbox"/>	Not acceptable
Discussion:	


 Robert Moore

CONDITIONS

DA 2012.19.1

4 Blackwood Avenue ASHFIELD 2131

Description of Work as it is to appear on the determination:

Alterations and additions to existing boarding house and change of use to a residential flat building comprising 9 dwellings, car parking and strata subdivision.

PART A

Deferred Commencement conditions to be satisfied prior to activation of consent:

This consent shall not operate until such time as the following additional/revised information is provided to the satisfaction of Council:

(1) Storm water Drainage

Stormwater drainage is to be carried out in accordance with Ashfield Stormwater Management Code. For the Deferred Commencement Consent to become operational, a stormwater Drainage Concept Plan demonstrating the proposed stormwater drainage system is to be submitted to, and approved by, Council.

This information is required to be provided and approved by Council within 12 months of the date of the approval. Failure to satisfy the above requirements by the specified date will result in lapse of consent.

The correspondence issued by Council, once the above conditions are satisfied, and any associated documents submitted to satisfy the deferred commencement condition are to form part of this consent.

Providing the above matters are satisfied by Council by the specified date, general conditions of consent are:

PART B

A General Conditions

(1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications set out in the table below and stamped as approved by Council, and in any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Dwg. No.	Title	Prepared by	Amendment Date
114380/10/D	Floor Plans	Clive Lucas, Stapleton & Partners Pty Ltd	06.07.2012
114380/11/C	Elevations	Clive Lucas, Stapleton & Partners Pty Ltd	06.07.2012
114380/13/B	Strata Plans	Clive Lucas, Stapleton & Partners Pty Ltd	06.07.2012

B Design Changes**(1) Strata Plan Changes**

The following amendments are to be made to the proposed strata plan and these changes are to be shown on any draft strata plan lodged with an application for a strata subdivision certificate:

- Parking space no. 4 is to be allocated to common property and is to be used for the purposes of bicycle and motor bike parking;
- The car wash bay is to be allocated to Lot 8 and used for resident parking.

(2) Privacy

In order to preserve the privacy of adjoining properties, the following amendments are necessary:

- (a) The eastern side of the Unit 8 balcony is to be fitted with a privacy screen of 1.65m in height.

Details of the above privacy measures are to be submitted with the application for a Construction Certificate.

(2) Car Parking

The opening and roller door to the southern wall of the area marked Car 6 (small) is to be narrowed to 1.2m.

The door opening out to the entry from car space 4 should be made see-through to avoid obstructing any passing vehicle or person passing through the entry. Alternatively a slide door arrangement should be installed.

These amendments are to be shown on the plans submitted with the application for a Construction Certificate.

C Conditions that must be satisfied prior to issuing/releasing a Construction Certificate**(1) Erosion & sedimentation control-management plan**

Prior to issue of a construction certificate the applicant shall prepare an erosion and sedimentation control plan in accordance with Part 4 of the guidelines titled "*Pollution Control Manual for Urban Stormwater*", as recommended by the Environmental Protection Authority.

Any stormwater runoff collected from the site must be treated in accordance with the Guidelines, before discharge off the site to comply with the *Protection of the Environment Operations Act 1997* or other subsequent Acts.

Where sedimentation control basins are provided discharge shall be to the requirements of the Environmental Protection Authority.

Applicants are further advised to refer to the following publications for additional information:

- (a) "*Sedimentation and Erosion Control*" - Department of Conservation and Land Management.
- (b) "*Soil and Water Management for Urban Development*" - Department of Housing.

The plan must be submitted with the application for a construction certificate.

Further information may be obtained from:

Environment Protection Officer
Environment Protection Authority
Inner Sydney Region
Locked Bag 1502
BANKSTOWN NSW 2200

(2) Long service levy

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building works in excess of \$25,000.00 are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.

(3) Home Building Act 1989 Insurance

Compliance with Part 6 of *Home Building Act 1989* is required. A copy of either the Builder's Indemnity Insurance OR a copy of the Owner-Builder's Permit shall be submitted to Council.

(4) Access management plan for people with a disability

An Access Management Plan shall be submitted to Council or the accredited certifier before the issue of a Construction Certificate. Details for the Access Management Plan shall include:

- (a) Access to the building for people with disabilities in accordance with the provisions of AS4299 and AS 1428 Part 1 and the Ashfield Development Control Plan for Access and Mobility.
- (b) Sanitary facilities accessible to people with disabilities. Such facilities shall be accessible to all persons working in or using the building.

(5) Damage deposit/footpath, road, kerb and gutter

A Damage Deposit of \$4,000 is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc. Note: Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

Bank Guarantees are accepted in lieu of any Council security deposit/bond subject to the following:

It must be an **original with no end date** and issued in favour of Council, details of the proponent's address shall be included.

A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

(6) Footpath/laneway – photographs to be submitted

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway and footpath both in Blackwood Avenue and in Park Lane at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage, which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard. Failure to do this will result in the applicant being held accountable for the cost of all repair works in the area near / at the site.

(7) Services adjustment or relocation

The applicant shall meet the full cost for Telstra, Sydney Electricity, Sydney Water or Natural Gas Company to adjust/relocate their services as required. The applicant shall make the necessary arrangements with the service authority. (For information on the location of these services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the public utility authorities confirming that all of their requirements have been satisfied shall be submitted to council with the Construction Certificate under Section 68 of the *Local Government Act, 1993*, for construction of the development

(8) Stormwater disposal – calculations and details

- (a) Calculations and details of the proposed method of stormwater disposal shall be prepared by a suitably qualified professional civil engineer in accordance with **Council's Stormwater Management Code** and submitted to, and approved by, Council prior to the release of the Construction Certificate.

The Construction Certificate plan to be submitted to Council must consist of the following items:

Separate catchment areas within the site draining to each collection point or surface pit classified into the following categories:

- (i) Roof areas.
- (ii) Paved areas.
- (iii) Grassed areas.
- (iv) Garden areas.
- (v) The percentages of Pre-development and Post-development impervious areas

- (b) At each pit and or bend, a level of pipe is to be shown (the minimum grade for pipes is 1%).

- (c) All flowpaths both internal and external, which pass through or around the proposed development site, are to be shown on the Construction Certificate plan
- (d) Calculations and details are to be provided to Council showing that provisions have been made to ensure runoff from all storms up to the 100 year ARI, which cannot be conveyed within the piped drainage system (including pits and including overflows from roof gutters) is safely conveyed within formal or informal overland flow paths to the detention storage facility. Where it is not practicable to provide paths for overland flows the piped drainage system should be sized to accept runoff up to and including the 100-year ARI.
- (e) All garbage and waste areas must drain to the sewer and not the stormwater system.
- (f) All stormwater drainage lines including lines which connect to rainwater tanks are to be via gravity means.

(9) Stormwater detention storage facility

- (a) On-site Stormwater Detention storage shall be provided in conjunction with the stormwater disposal. This storage shall be designed in accordance with Council's Stormwater Management Code. Details of the storage shall be submitted to and approved by Council prior to the release of the Construction Certificate.
- (b) All on-site stormwater detention pits must be located on areas classified as Common Property within the site.
- (c) Prior to the release of the Construction Certificate, a maintenance schedule is to be prepared which clearly outlines the routine maintenance necessary to keep the OSD system working, this information is to be included in the Positive Covenant required for this development. Some of the issues that will need to be addressed are:
 - where the storage and silt arrestor pits are located
 - which parts of the system need to be accessed for cleaning and how access is obtained
 - description of any equipment needed (such as keys and lifting devices) and where they can be obtained
 - the location of screens and how they can be removed for cleaning
 - who should do the maintenance (i.e. commercial cleaning company)
 - how often should it be done

The abovementioned maintenance schedule is to be submitted to and approved by Ashfield Municipal Council prior to the release of the Occupation Certificate.

(10) Section 94 Contributions

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction Certificate to cater for the increased demand for community infrastructure resulting from the development:

	CONTRIBUTIONS (NEW DEVELOPMENT)			ALLOWANCE FOR EXISTING DEVELOPMENT		TOTAL
	Residential Accommodation less than 60sqm GFA	Residential Accommodation between 60-84sqm GFA	Sub-Total	Boarding Schools/ Colleges/ Hostels/ Boarding Houses/ Hospitals	Sub-Total	
Number of Dwellings / Beds or GFA	4	5	N/A	20	N/A	N/A
Local Roads	\$554.95	\$693.69	\$1,248.64	\$924.92	\$924.92	\$323.72
Local Public Transport Facilities	\$1,775.24	\$3,421.74	\$5,196.98	\$6,775.72	\$6,775.72	-\$1,578.74
Local Car Parking Facilities	\$0.00	\$0.00	\$0.00	N/A	N/A	\$0.00
Local Open Space and Recreation Facilities	\$31,218.57	\$60,173.20	\$91,391.78	\$0.00	\$0.00	\$91,391.78
Local Community Facilities	\$1,928.42	\$3,717.00	\$5,645.42	\$7,360.40	\$7,360.40	-\$1,714.97
Plan Preparation and Administration	\$1,418.43	\$2,734.00	\$4,152.43	\$5,413.85	\$5,413.85	-\$1,261.43
TOTAL	\$36,895.62	\$70,739.63	\$107,635.24	\$20,474.89	\$20,474.89	\$87,160.35

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$C}_c = \frac{\text{\$C}_p \times \text{CPI}_c}{\text{CPI}_p}$$

Where:

$\text{\$C}_c$ is the amount of the contribution for the current financial quarter

$\text{\$C}_p$ is the amount of the original contribution as set out in this development consent

CPI_c is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.

CPI_p is the Consumer Price Index for the financial quarter at the time of the original consent.

Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9716 1800. Payment may be made by cash, money order or bank cheque.

Council's Development Contributions Plan may be viewed at www.ashfield.nsw.gov.au or a copy may be inspected at Council's Administration Centre.

(11) Redundant crossing removal fee

Council will need to remove any redundant crossings and replace with kerbing and other ancillary works where necessary. Contact Council on 9716 1983 and you will be advised as to the estimate of cost of this work. **Note: Cost of this work to be borne by the applicant.**

(12) Sydney Water - Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone Sydney Water 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of an occupation or subdivision certificate.

(13) Strata subdivision certificate to be obtained from Council

Prior to the issue of a strata certificate under Section 37 of the *Strata Titles Act 1973*, the applicant is to submit an application for a Section 37 certificate together with a survey plan prepared by a registered surveyor, and at least six copies for certification by an accredited certifier, the General Manager of Council or authorised person of Council.

(14) Plan of subdivision - Council signature

A final plan of subdivision, prepared by a registered surveyor, and six (6) paper copies, are to be submitted to Council for signature, prior to registration at the Land Titles Office.

(15) Subdivision Certificate issue requirements

A subdivision certificate will not be issued until:

- The Section 94 contributions and relevant fees and bonds are paid.
- A Compliance/Occupation Certificate is issued.
- The property has been developed in accordance with plans approved by Development Application No. and documentary evidence of compliance (or a compliance certificate) with conditions of consent has been submitted to Council.

(16) Traffic Control

Appropriate measures be undertaken (e.g. mirrors, signs, traffic lights) at the entry to give way to vehicles entering and exiting the site. No vehicle should be made to park or stand for longer than necessary on the turntable. Details of these measures are to be submitted to, and approved by, Council prior to release of any Construction Certificate.

(17) Colours and Finishes

A schedule of colours and finishes is to be submitted to Council and approved by Council's Heritage Advisor prior to the issue of a Construction Certificate.

(18) Landscape Plan

A landscape plan, showing details of species, pot size, mature height, no of plants as well as type of hard paved surfaces, is to be submitted to, and approved by, Council prior to the issue of a Construction Certificate.

D Conditions that must be complied with before work commences

(1) Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and

- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

Note: If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

(2) Inspections required by Principal Certifying Authority

Inspections shall be carried out at different stages of construction by Council or an accredited certifier. If Council is selected as the Principal Certifying Authority (PCA) the inspection fees must be paid for in advance which will be calculated at the rate applicable at the time of payment.

(3) Sydney Water approval

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site: www.sydneywater.com.au, see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

(4) Structural Engineering Details

Structural engineer's details prepared and certified by a practising structural engineer for all reinforced concrete and structural members is to be submitted to the Principal Certifying Authority for approval.

(5) Support for neighbouring buildings and notice to adjoining owners

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (a) must preserve and protect the building from damage, and
 - (b) if necessary, must underpin and support the building in an approved manner, and
 - (c) must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Notes:

- (i) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works.
- (ii) allotment of land includes a public road and any other public place.

(6) Demolition work plan

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

(7) Site Controls

Temporary measures shall be provided during construction e.g. bunding, shade cloth to prevent dust leaving the site, sandbags around Council/private stormwater pits etc. in order to prevent sediment, dust, topsoil and polluted waters discharging from the site. Plans showing such measures shall be submitted to Council and approved prior to the release of the Construction Certificate.

(8) BASIX Requirements

The new works shall be constructed in accordance with, and comply with the undertakings given on the BASIX (Building Sustainability Index) Certificate as obtained from the Department of Infrastructure, Planning and Natural Resources. For more information visit www.basix.nsw.gov.au.

E Conditions that must be complied with during construction or demolition**(1) Signs to be erected on building and demolition sites**

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.

- (2) Any-sign shall be maintained and not removed until work has been finished.

(2) Demolition/excavation/construction - hours of work

Demolition, excavation and construction work, including loading and unloading of materials and machinery, shall be restricted to between the hours of 7.00 am to 6.00 pm, Monday to Friday and from 7:00 am to 1.00 pm on Saturday. Work is prohibited on Sundays, and on public holidays.

(3) Demolition requirements/standards

Demolition of is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.

- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (eg; ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.
- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

(4) Termite treatment

Treatment for the protection of the building from subterranean termites shall be carried out in accordance with AS 3660.1:2000 'Protection of Buildings from Subterranean Termites'.

On completion of the installation of the barrier the Principal Certifying Authority shall be furnished with a certificate from the person responsible, stating that the barrier complies with AS 3660.1.

A durable notice shall be permanently fixed to the building in a prominent location, such as the meter box or the like indicating:

- the method of protection;
- the date of installation;
- where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- the need to maintain and inspect the system on a regular basis.

Due to the present limited effective life of soil chemical treatments, Council does not permit hand spraying as a stand alone method of termite protection. It is recommended that any soil chemical treatment should embrace a reticulation system.

(5) Waterproofing materials/installation – BCA/Australian Standards

Approved products that are impervious to water shall only be used as a substrate or as a lining and as a finish to floors and walls of wet areas (i.e. bathroom/shower room, WC compartment and laundry). Floors and cubicles shall be properly graded and drained to approved outlets.

The wet areas in the building shall be impervious to water as required by Part 3.8.1 of the Building Code of Australia (BCA). The junction between the floor and wall and the construction of the bath shower recess, basin, sink or the like shall be in accordance with the BCA & AS 3740:2004 'Waterproofing of wet areas within residential buildings'.

On completion of the waterproofing of the wet areas, the Principal Certifying Authority shall be furnished with a certificate from the person responsible. This is to state that the materials are suitable for the situation and that the application and/or installation has been carried out in accordance with the manufacturer's instructions, the BCA and AS 3740.

(6) Safety Glazing - BCA

Safety glazing complying with B1 of the Building Code of Australia (BCA) is to be used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with AS 1288:2006 'Glass in Buildings – Selection and Installation'.

Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with AS 1288 and Part 3.6.4 of the BCA.

(7) Footpath, kerb and gutter protection

The applicant is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath must be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense

(8) Footpath, kerb and gutter reconstruction

The public kerb and gutter outside the site in Park Lane shall be completely reconstructed to the requirements of Council's Works & Infrastructure Department at the applicant's expense. This work shall be carried out prior to the release of the Occupation Certificate.

(9) Vehicle access driveways

All vehicular access driveways shall be constructed in accordance with Council's standard drawing and specifications. Driveways shall be located a minimum of 1.0m clear of any existing stormwater pits, lintels or poles and 2m clear of any trees within the road reserve. Driveways shall also be located a minimum of 0.5m clear of any utility service opening such as Telstra, Sydney Electricity, Sydney Water or Natural Gas Company.

The vehicular access shown for Car spot 6 as indicated on DWG. 114380/10/D by Clive Lucas, Stapleton & Partners shall have a maximum width of 1.5m that being the required width for motor cycle entry.

This work shall be carried out prior to the release of the Occupation Certificate.

(10) Engineering staff to inspect roadworks/drainage

An inspection by Council's staff will be required for at the following stages:

- (i) after excavation
- (ii) after the erection of formwork and placement of reinforcement and prior to pouring of concrete
- (iii) after placement of road base course
- (iv) after completion of any pits
- (v) after pipes have been laid and prior to backfilling
- (vi) on completion of the works

A minimum of 24 hours notice is required to be given to Council to obtain an inspection. Work is not to proceed until the works or activity covered by the inspection is approved.

(11) Spoil and building materials on road and footpath

Spoil and building materials shall not be placed or stored within any public roadway or footpath.

(12) Stormwater runoff – collection/discharge

Stormwater runoff from all roof and paved surfaces shall be collected and discharged by means of a gravity pipe system to the street gutter at a maximum discharge of 15 L/sec for the 1:100 ARI.

(13) Surface run-off

Allowance shall be made for surface run-off from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other properties.

(14) Surface overflow paths – storm recurrence event

Surface overflow paths shall be provided to allow for the 1 hour 1 in 100 year storm recurrence event, and any more intense events.

Should it not be possible to provide an overland escape route for excessive stormwater an increase of 50 % in the required volume of stormwater storage will be required.

(15) Laundry facilities - BCA

Clothes washing facilities to be provided on the premises in accordance with the relevant requirements of Clause F2.1 of the *Building Code of Australia*.

(16) Materials and colour schemes

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

(17) Adaptable housing construction

Dwellings that are nominated as ***adaptable and accessible dwellings*** on the approved plans must be constructed to comply with *Adaptable House Class A* of AS 4299, AS 1428.1 and the requirements Section 5.2.2 of the Ashfield Development Control Plan for Access and Mobility (Tel. 9716 1800 for a free copy).

(18) Accessible paths of travel

A lift or a continuous path of travel not exceeding 1:14 grade or is to be constructed between the main street entrance to the development, all nominated adaptable units, accessible car parking spaces, letter boxes, garbage storage area, common recreation area and clothes drying areas.

(19) Pipes/conduits - sealing

All service pipes, condensate pipes and electrical conduits shall be sealed into the walls, floor or plinths.

(20) Road opening permit – Council controlled lands

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is *separate* from a Damage Deposit as listed elsewhere in these Conditions of Consent.

(21) Compliance with the Conservation Management Strategy

All construction work must be consistent with the provisions of the Conservation Management Strategy dated September 2011 and prepared by Clive Lucas, Stapleton and Partners Pty Ltd..

F Conditions that must be complied with prior to installation of services

nil

G Conditions that must be complied with before the building is occupied**(1) Approval to use/occupy building**

The building or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

(2) Boundary fencing replacement

The existing boundary fencing along the boundaries is to be replaced with fencing at the applicant's/owner's cost. Fencing between the building and the street alignment shall match the height of similar adjacent fences.

(3) Engineering conditions to be satisfied prior to issue of occupation certificate

When the on-site building works are completed there are three (3) conditions that must be satisfied before Council's Engineering Department will recommend that an Occupation Certificate be issued:

They are:

(a) *Work-As-Executed Plans*

A "Work-as-Executed" plan prepared and signed by a registered surveyor is to be submitted to Council's Engineering Department at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's drainage system, is to be shown together with the following information:

- location
- pipe diameter
- gradient
- pipe material ie. PVC or EW etc
- orifice size (if used)
- trash screen at orifice

(b) *Engineer's Certificate*

A qualified practising Civil Engineer shall certify on the completion of drainage works in respect of:

- * the soundness of the storage structure;
- * capacity of the detention storage;
- * the emergency overflow system being in place;
- * works being constructed in accordance with the Council approved plans; and
- * the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's *Stormwater Management Code*.

(c) *Restriction-As-To-User*

Prior to the release of the strata or subdivision plan for a development a "Restriction-as-to-User" is to be placed on the title of the subject property to indicate the location and dimensions of the detention area. This is to ensure that any works which could affect the function of the stormwater detention system shall not be carried out without the prior consent in writing of the Council.

Such restrictions shall not be released, varied or modified without the consent of the Council.

(4) Positive Covenant – stormwater detention/surface flow paths - occupation certificate

A Positive Covenant under Section 88E of the *Conveyancing Act* shall be created on the title of the property providing that during the lifetime of the building constructed pursuant to this consent:

- (i) the stormwater detention facility as described in the approved plan and the conditions of consent shall not be altered or removed in whole or in part without the written approval of Ashfield Municipal Council;

- (ii) the registered proprietor at its expense is to maintain, renew and repair the stormwater detention facility so that it functions in a safe and efficient manner and keep it clean and free of silt, rubbish and debris;
- (iii) Ashfield Municipal Council employees are to be entitled upon reasonable notice to access the land to inspect the facility;
- (iv) the registered proprietor is to comply with any notices issued by Ashfield Municipal Council regarding maintenance, renewal and repair of works (and, in default of same, Council and/or its authorised agents may enter and carry out the specified work and recover the costs from the registered proprietor);
- (v) the registered proprietor shall not modify or permit modification of finished ground and/or pavement levels within the flow path in whole or in part without the written approval of Ashfield Municipal Council; and
- (vi) the registered proprietor shall ensure that at all times the stormwater surface flow path is kept unobstructed by fences or any physical structures or barriers.

The wording in the Instrument shall be submitted to and approved by Ashfield Municipal Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate. The Instrument shall be registered prior to the completion of development.

In order to ensure that the on-site detention system is properly maintained the owner of the site shall each year provide Council with a Certificate from a practicing civil engineer stating that the on-site detention system is functioning correctly and has not been compromised in any manner.

(5) Car Parking Turntable

The turntable is to be configured to handle manually in the case of a mechanical breakdown.

(6) Affordable Housing Contribution

A monetary contribution of \$198,660.00 (the 'Contribution'), for the purpose of 'affordable housing', shall be paid to a registered community housing organisation providing affordable housing within the Ashfield Council Local Government Area and shall be realised as follows:

1. The Owner shall enter into a Deed of Agreement ('Deed') with the said registered community housing organisation, at the Owners' expense;
2. The terms of the Deed shall be met prior to Council issuing any form of occupation certificate;
3. The Deed shall specify the following terms:
 - (i) The Contribution is to be paid by the Owner to the said registered community housing organisation; and
 - (ii) The Contribution shall be paid by the Owner to the said registered community housing organisation in one complete payment.
4. The Owner shall provide documentation to Council by way of Signed correspondence from the registered community housing organisation on its letterhead and receipts that:
 - (a) The Deed has been entered into between the registered community housing organisation and the Owner; and
 - (b) The terms of the Deed have been met.

(7) External Painting

Prior to occupation of the building and issue of any occupation certificate (including an interim occupation certificate), the external surfaces of the building intended to be painted must be repainted in accordance with the approved colour scheme.

(8) Landscaping

Prior to occupation of the building and issue of any occupation certificate (including an interim occupation certificate), the landscaping must be undertaken in accordance with the approved landscape plan.

H Conditions that are ongoing requirements of development consents

nil

I Advisory Notes**(1) Other approvals**

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.
- an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.

(2) Works and requirements of other authorities

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.
- Telstra has requirements concerning access to services that it provides.

(3) Application for a Construction Certificate

The required application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited private certifier for a Construction Certificate.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result action in the Land and Environment Court and orders for demolition.

(4) Modifications to your consent - prior approval required

Works or activities other than those authorised by the approval including changes to building configuration or use will require the submission and approval of an application to modify the consent under Section 96 of the *Environmental Planning & Assessment Act 1979*. You are advised to contact Council immediately if you wish to alter your approved plans or if you cannot comply with other requirements of your consent to confirm whether a Section 96 modification is required.

Warning: There are substantial penalties prescribed under the *Environmental Planning and Assessment Act 1979* for breaches involving unauthorised works or activities.

(5) Compliance with the Disability Discrimination Act - liability

This decision does not ensure compliance with the Disability Discrimination Act. The owner, lessee, operator and/or manager of the premises is advised that under the *Disability Discrimination Act 1992*, it is illegal to discriminate against a person with a disability by means of restricting access to or within the building. If access is restricted the owner, lessee, operator and/or manager of the premises may be liable for prosecution and/or a successful appeal to the Human Rights and Equal Opportunities Commission. You should therefore investigate your liability under that Act. Australian Standard 1428 - Design for Access and Mobility, Parts 2, 3 and 4 may assist in determining compliance with the *Disability Discrimination Act 1992*.

Subject **DEVELOPMENT APPLICATION: 10.2012.132.1**
202 HOLDEN STREET, ASHFIELD

File Ref 10.2012.132.1

Prepared by Luma Araith - Development Assessment Officer

Reasons Called up by Councillor

Objective Determine Application

Overview of Report

1.0 Description of Proposal

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent to undertake the construction of a first floor extension to accommodate a bathroom.

Plans of the proposal are included as **Attachment 1**.

2.0 Summary Recommendation

The proposal involves the construction of a bathroom to serve existing two upstairs bedrooms. The proposed extension is a minor addition extending the southern slope of the first floor roof. The extension does not excessively add to the visual intrusion of the first floor extension and complies with the requirements of Clause 3.5 of Part C15 of the Ashfield DCP which requires extensions to the upper parts of a house to respect the scale and aesthetics of the existing context including the streetscape. The proposed development in this instance is considered to be acceptable and as such is recommended for Conditional Approval.

Background

3.0 Application Details

Applicant	:	Ms L Brichta
Owner	:	Dr A M Brichta
Value of work	:	\$50,000.00
Lot/DP	:	LOT: 3 SEC: 2 DP: 529
Date lodged	:	05/07/2012
Date of last amendment	:	23 July 2012
Building classification	:	0
Application Type	:	Local
Construction Certificate	:	No
Section 94A Levy	:	No

4.0 Site and Surrounding Development

The subject site is located on the eastern side of Holden Street, bounded by Ashford Street to the north and Hanks Street to the south. The site area is approximately 501 square metres. An existing two storey dwelling house is located on the site. Surrounding development comprises residential development. Refer to **Attachment 2** for a locality map.

5.0 Development History

Previous building and development applications submitted to Council for the subject site include:

NO.	DATE	PROPOSAL	DECISION
6.1986.401.1	11/11/1986	Amendments to Ba 187/86	Approved
6.1986.187.1	01/07/1986	First floor addition	Approved
6.1975.22.1	09/01/1976	New front windows	Approved
6.1939.8848.1	25/07/1939	Garage	Approved

Previous consents have been noted in the assessment of this application.

Assessment

6.0 Zoning/Permissibility/Heritage

- The site is zoned 2(a) - Residential under the provisions of Ashfield LEP 1985.
- The property is not located within a Conservation Area.
- The property is not a heritage item.
- The property is not located within the vicinity of a heritage item or a heritage conservation area.

The proposed works are permissible with Council consent.

7.0 Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

It is considered that the proposal complies with the provisions of the Ashfield LEP 1985.

7.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 1 – Development Standards

Not applicable.

State Environmental Planning Policy No. 6 – Number of Storeys in a Building

Noted.

State Environmental Planning Policy No. 55 – Remediation of land

Given the residential history of the site remediation is not required prior to the carrying out of the proposed development.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Not applicable.

7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Draft Ashfield Local Environmental Plan 2012 (Draft ALEP 2012) was placed on public exhibition on 27 June 2012 and is a matter for consideration.

Draft Ashfield Local Environmental Plan 2012 Principal Development Data Table				
Clause No.	Clause	Standard	Proposed	Compliance
2.2	Zoning	Zone R2 Low Density Residential	First floor addition to accommodate a bathroom.	Yes
4.3	Height of buildings	8.5m	6.52m the wall height of the proposed extension.	Yes
4.4	Floor space ratio	0.7:1	0.38:1	Yes
5.10	Heritage Conservation	The property is not located in a proposed conservation area		
5.10(4)	Effect on	The consent authority may,	N/A	N/A

	heritage significance	before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.		
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As indicated by the above table, the proposal generally complies with the provisions of Draft ALEP 2012.

7.3 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield Development Control Plan (DCP) 2007:

C1	ACCESS AND MOBILITY	Not applicable to single dwelling houses and dual occupancy development.
C11	PARKING	The proposal does not alter parking arrangements on site.
C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	The proposal was notified in accordance with Council's Notification Policy. See Part 7.7 of this report.
C15	HOUSES & DUAL OCCUPANCIES	See comments below.

Ashfield DCP 2007 – Part C15 – Houses and Dual Occupancies

Compliance Table			
Standard	Required	Proposed	Does proposal comply?
F S R	0.55:1	0.38:1 Based on an area of 189m²	Yes
Landscaped area	50%	Not altered by the proposal	N/A
Height	Maximum permitted height 2 storeys (6m)	Approximately 6.52m the wall height of the proposed extension.	No. A minor variation can be considered and is further discussed below, under the heading of scale and bulk.
Setbacks	Side setback 900mm for houses	660mm	Side setback will not be altered by the proposal.

Carparking	one space per dwelling preferably two	An existing garage	Yes
Solar access	-At least 50% (or 35m² with minimum dimension 2.5m , whichever is the lesser area) of the “principal private area” of ground level open space of adjacent properties is not reduced to less than three hours between 9am and 3 pm on 21 June. - 40% of glazed area shall be maintained	There will be no additional over shadowing impacts on Number 204 Holden on 21 June at 9am, 12 noon and 3pm. However the proposal expects to cast minor additional shadows in March and September.	Yes

Scale and Bulk:

As outlined in the compliance table above, the proposal complies with the FSR control providing 0.38:1 FSR (based on a gross floor area of approximately 189m²) which is below the maximum permissible FSR of 0.55:1.

The resulting bulk and scale is considered acceptable as it is not visually intrusive.

The maximum allowable wall height in Council’s DCP for dwelling houses is 6 metres measured from the existing ground level. The proposed wall height of the extension is 6.52 metres which exceeds the maximum height limits. However, Clause 2.3 of Council’s DCP states that a minor variation to the 6.0 metres wall height can be considered *where additions are being made to existing houses, where, dwellings have traditional elevated floors off the ground and high existing ceilings, providing the design/ streetscape objectives of Part C15 are met* . In this instance the existing dwelling house is elevated and the proposal does not adversely affect the streetscape.

Aesthetics:

Clause 3.5 of the Houses and Dual Occupancies DCP requires extensions to the upper parts of a house to respect the scale and aesthetics of the context including the streetscape. In this regard the proposed bathroom is set within an extended sloping roofline of an existing first floor addition of the dwelling house. Being a minor extension to an existing first floor and owing to its location to the rear, the proposed extension is visually appropriate to the scale of the existing house and sympathetic to the architectural style of the dwelling house. Materials and colours have been selected to match existing.

Landscaped area

The proposal will not alter existing landscaped area of the site.

Amenity for neighbours:

The proposed minor extension is within the existing wall edge and does not protrude beyond the existing walls of the dwelling. Due to the orientation of the proposed extension there will be no increase in overshadowing in mid winter and minor additional overshadowing around equinox in late afternoon on number 204 Holden Street.

The proposal does not include additional windows to south elevation. The proposed skylight will face neighbour's roof. The window which is proposed to the west will be facing Holden Street. It is not expected that the proposal will have privacy impact on adjoining neighbour to the south being No 204 Holden Street.

Ecologically Sustainable Development:

A BASIX Certificate, detailing thermal and energy conserving requirements, has been submitted with the application. BASIX commitments have been indicated on the plans.

It is considered the application complies with the parts as indicated and ultimately achieves the aims and objectives of the Ashfield DCP.

7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

These matters have been considered in the assessment of this application.

7.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts upon the locality.

7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. The proposed development is considered suitable in the context of the locality.

7.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified to all adjoining and nearby affected property owners and occupants and Councillors from 09 July 2012 until 25 July 2012.

7.7.1 Summary of submissions

No submissions were received during the notification of the development application.

7.7.2 Mediation

Mediation is not required for this application.

7.8 The public interest

The public interest would not be served by the refusal of this application.

8.0 Referrals

8.1 Internal

Building

No objections subject to conditions.

Engineering

No objections subject to conditions.

8.2 External

Not applicable.

9.0 Other Relevant Matters

Stormwater Pipes

Council's stormwater map does not indicate that the subject property is burdened by any Council or Sydney Water stormwater pipes.

10.0 Building Code of Australia (BCA)

A Construction Certificate will be required to be applied for by condition of consent.

Financial Implications

Section 94A Contributions is not applicable due to the estimated cost of work being under \$100,000

Other Staff Comments

See Section 8.1 of this report.

Public Consultation

See Section 7.7 of this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposal is acceptable and is recommended for conditional approval.

ATTACHMENTS

Attachment 1	Attachment 1 - Plans of the Proposal	15 Pages
Attachment 2	Attachment 2 - Locality Map	1 Page
Attachment 3	Attachment 3 - Conditions	8 Pages

RECOMMENDATION

That Council as the consent authority pursuant to Clause 80(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No.10.2012.123.1 for the construction of a first floor extension to accommodate a bathroom on Lot 3 in DP: 529, known as 202 Holden Street, Ashfield, subject to the attached conditions.

COMPLIANCE TABLE - ASHFIELD LOCAL ENVIRONMENTAL PLAN 1985	
CLAUSE 2 Aims, objectives etc. This plan aims to: (a) promote the orderly and economic development of the local government area of Ashfield in a manner consistent with the need to protect the environment; and (b) retain and enhance the identity of the Ashfield area derived from its role as an early residential suburb with local service industries and retail centres; and containing the first garden suburb of Haberfield (now listed as part of the National Estate).	Complies. It is considered that the carrying out of the proposed development will meet the aims and objectives of Ashfield LEP 1985.
CLAUSE 10 Zoning	Complies. The property is zoned 2(a) Residential and the proposal is permissible with Council consent.
CLAUSE 10A Development consent required for change of building use and subdivision	Not applicable.
CLAUSE 11 Dwelling houses – residential allotment size (1) Except as provided by subclause (2), the council shall not consent to development for the purposes of a dwelling-house on an allotment of land within Zone No. 2(a), 2(b) or 2(c) unless-	The allotment was in existence on the appointed day.

Ashfield Council – Report to Ordinary Meeting held on Tuesday 14 August 2012 **CM10.2**
DEVELOPMENT APPLICATION: 10.2012.132.1
202 HOLDEN STREET, ASHFIELD

<p>(a) where the allotment is hatchet shaped – it has an area of not less than 700 square metres; or</p> <p>(b) in any other case –</p> <p>(i) the allotment has an area of not less than 500 square metres; and</p> <p>(ii) the allotment is not less than 15 metres wide at the front alignment of the proposed dwelling house.</p> <p>(2) The council may not consent to the erection of a dwelling-house on an allotment of land which does not comply with subclause (1) where the allotment was in existence as a separate allotment on the appointed day.</p> <p>(3) For the purposes of subclause 1(a), in calculating the area of a hatchet-shaped allotment, the area of any access corridor shall be disregarded.</p>	
<p>CLAUSE 12: Number of floors in dwelling-houses</p> <p>(1) In this clause, “floor” means any separate level within a building but does not include a level used exclusively for car parking.</p> <p>(2) A person shall not erect a dwelling house which contains more than –</p> <p>(a) in the case of land within Zone No. 2(a) or 2(b) – 2 floors; or</p> <p>(b) in the case of land within Zone 2(c) – 3 floors, except with the consent of the council.</p>	<p>Complies.</p> <p>No. of floors =Two (2) storeys</p>
<p>CLAUSE 13 Dwelling houses – dual occupancy</p>	<p>Not applicable.</p>
<p>CLAUSE 17 Floor space ratios</p> <p>(1) In this clause “building” does not include a building used exclusively as a dwelling- house or residential flat building, but includes a building or buildings comprising 2 dwellings only on the same allotment.</p> <p>(2) A person shall not, upon an allotment of land within a zone specified in Column I of the Table to this clause, erect a building with a floor space ratio that exceeds the ratio set out opposite the zone in Column II of that Table.</p>	<p>Not applicable.</p>

<p>CLAUSE 17A</p> <p>Height of residential flat buildings</p> <p>(1) This clause applies to land within Zone No. 2(b) or 2(c).</p> <p>(2) In this clause –</p> <p>“height” in relation to a building, means the greatest vertical distance (expressed in metres) between any level of the natural surface of the site area on which the building is, or is to be, erected and the ceiling of the topmost habitable floor of the building;</p> <p>“natural surface”, in relation to a site area, means the level determined by the council to be the natural surface of the site area.</p> <p>(3) The maximum height to which a residential flat building may be erected on land to which this clause applies shall be –</p> <p>(a) in the case of a building within Zone No. 2(b) – 6 metres; and</p> <p>(b) in the case of a building within Zone No. 2(c) – 9 metres.</p> <p>(4) This clause does not apply to land within Zone No. 2(c) shown edged heavy black and lettered “2(c)” on the map marked “<i>Ashfield Local Environmental Plan 1985 (Amendment No. 79)</i>”.</p>	<p>Not applicable.</p>
<p>CLAUSE 17B</p> <p>Development of Ashfield Business Centre - Zone No. 3(a) floor space ratio</p> <p>(1) This clause applies to land within Zone No 3(a) that is shown edged with an unbroken (or, if fronting Elizabeth Avenue, a broken) heavy black line on Sheet 2 of the map marked “<i>Ashfield Local Environmental Plan 1985 (Amendment No 72)</i>”.</p> <p>(2) The Council must not grant consent for buildings on land to which this clause applies if the floor space ratio of the building would exceed the base floor space ratio shown for the land on Sheet 2 of the map marked “<i>Ashfield Local Environmental Plan 1985 (Amendment No 72)</i>”, except as provided by subclause (3).</p> <p>(3) The Council may consent to a building on a site of land to which this clause applies which is also land shown edged with a broken or unbroken heavy black line on Sheet 3 of the map marked “<i>Ashfield Local Environmental Plan 1985 (Amendment No 72)</i>” that will result in the gross floor area of the buildings on the site being greater than that allowed by that base floor space ratio by no more than an amount equivalent to the site area, subject to subclause (4).</p> <p>(4) The Council may grant consent pursuant to subclause (3) only if it is satisfied that the additional floor area will be developed as referred to on Sheet 3 of that map in relation to the land concerned and only if the Council is satisfied that the additional development will not result in an adverse impact on any of the following:</p> <p>(a) the scale and character of the streetscape,</p> <p>(b) the amenity of any existing or potential residential units on neighbouring land,</p> <p>sunlight access to surrounding streets, open space and nearby properties,</p> <p>(d) wind flow pattern to surrounding streets, open space and nearby properties.</p>	<p>Not applicable.</p>
<p>CLAUSE 18</p> <p>Development for the purpose of advertisements</p>	<p>Not applicable.</p>
<p>CLAUSE 20</p> <p>Clubs</p>	<p>Not applicable.</p>
<p>CLAUSE 21</p>	<p>Not applicable.</p>

Motor showrooms	
CLAUSE 22	Not applicable.
Industrial uses 4(b)	
CLAUSE 23	Not applicable.
Setbacks 4(b)	
CLAUSE 24	Not applicable.
Parking in Zone 4(b)	
CLAUSE 25	Not applicable.
Development of land within Zone No. 6(a)	
CLAUSE 27	Not applicable.
Acquisition of land	
CLAUSE 28	Noted.
Suspension of certain laws	
CLAUSE 29	The demand for public amenities and public services is not likely to increase as a result of this proposal.
Provision for public amenities and services	
CLAUSE 29A	Not applicable.
Classification and reclassification of public land as operational	
CLAUSE 30	Not applicable.
Heritage provisions – aims The aims of this Part are: (a) to retain the identity of Ashfield by conserving its environmental heritage, which includes the first garden suburb of Haberfield now listed as part of the National Estate; and (b) to integrate heritage conservation into the planning and development control processes; and (c) to provide for public involvement in the conservation of Ashfield's environmental heritage; and (d) to ensure that any development does not adversely affect the heritage significance of heritage items and heritage conservation areas and their settings as well as landscapes and streetscapes and the distinctive character that they impart to the land to which this plan applies.	
CLAUSE 32 Protection of heritage items, heritage conservation areas and relics	Not applicable.
1. <i>Requirement for development consent</i>	
2. <i>Development consent not required</i>	
3. <i>Assessment of impact on heritage significance</i>	
4. <i>Requirement for conservation plan or heritage impact statement</i>	
5. <i>Assessment criteria for development of land within heritage conservation areas.</i>	

CLAUSE 34 Notice to Heritage Council	Not applicable.
CLAUSE 35 Haberfield Heritage Conservation Area	
(1) The Council must not grant a consent required by clause 32 for land within the Haberfield Heritage Conservation Area unless: (a) where the application proposes to add accommodation to a dwelling, the Council is satisfied that, in addition to the other requirements of this Part, such accommodation will be: (i) if in a level above the main floor, contained wholly within the existing roof form of the dwelling; and (ii) if arranged as an attic room within part of an extension to an existing dwelling, contained wholly within the roof form of the extension, and	Not applicable.
(1) The Council must not grant a consent required by clause 32 for land within the Haberfield Heritage Conservation Area unless: (b) where it is proposed to use the natural slope of the land to add habitable accommodation in a level below that of an existing house, the Council is satisfied that such basement accommodation: (i) does not require major excavation of the site to achieve the accommodation or access; and (ii) does not change the setting of the existing house; and (iii) does not have doors and windows visible from a public place, whether or not alternative means are used to screen the accommodation; and	Not applicable.
(1) The Council must not grant a consent required by clause 32 for land within the Haberfield Heritage Conservation Area unless: (c) the Council is satisfied that in all respects the existing house retains the appearance of a single storey dwelling when seen from any public place; and	Not applicable.
(1) The Council must not grant a consent required by clause 32 for land within the Haberfield Heritage Conservation Area unless: (d) where the application applies to a shop or a commercial building, the Council is satisfied that such development: (i) is sympathetic to, and does not detract from, the form and character of the building and its setting; and (ii) retains the original features of facade, including all details above and below the awning level; and	Not applicable.
(1) The Council must not grant a consent required by clause 32 for land within the Haberfield Heritage Conservation Area unless: (e) the Council has made an assessment of whether the building or work constitutes a danger to its users or occupiers, or to the public.	Not applicable.
(2) The Council shall not grant consent to the alteration, extension or erection of a dwelling-house within the Haberfield Heritage Conservation Area where: (a) the floor space ratio exceeds 0.5:1; or	Not applicable.
(2) The Council shall not grant consent to the alteration, extension or erection of a dwelling-house within the	Not applicable.

Ashfield Council – Report to Ordinary Meeting held on Tuesday 14 August 2012 **CM10.2**
DEVELOPMENT APPLICATION: 10.2012.132.1
202 HOLDEN STREET, ASHFIELD

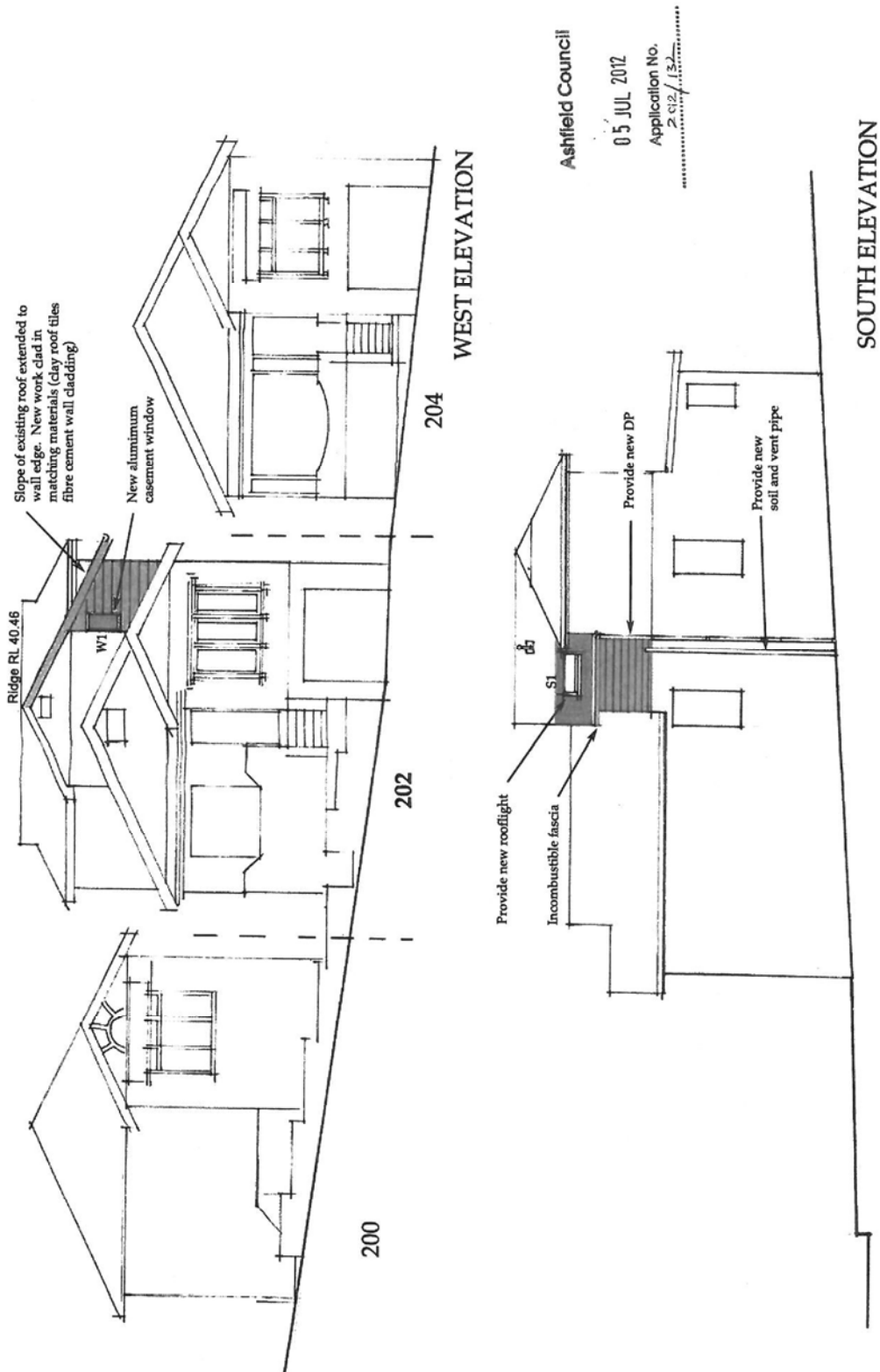
Haberfield Heritage Conservation Area where: (b) the landscaped area of the site of the dwelling house is less than 50% of the total area of the allotment on which it is situated; or	
(2) The Council shall not grant consent to the alteration, extension or erection of a dwelling-house within the Haberfield Heritage Conservation Area where: (c) the landscaped areas located at the front, side and rear of the house are not compatible with the character of the garden setting of the site and of other properties within its vicinity; or	Not applicable.
(2) The Council shall not grant consent to the alteration, extension or erection of a dwelling-house within the Haberfield Heritage Conservation Area where: (d) the dwelling house is not visually compatible in height to other houses; or	Not applicable.
(2) The Council shall not grant consent to the alteration, extension or erection of a dwelling-house within the Haberfield Heritage Conservation Area where: (e) the development proposed would create a new room partly above a room in the dwelling house that existed when this paragraph commenced, unless: (i) the development consists of no more than two habitable rooms; and (ii) the development is contained within the existing roof form and the existing eaves line is retained; and (iii) in the case of alterations and additions, the construction of any attic room is contained within the roof form of the addition which in all respects complies with the aims and objectives of this Part; and (iv) all requirements for health, daylight and ventilation for any attic room involved can be provided by in-plane roof lights facing the rear of the property; and (v) all requirements for health, daylight and ventilation do not entail the use of more than one in-plane roof light per roof face; or	Not applicable.
(2) The Council shall not grant consent to the alteration, extension or erection of a dwelling-house within the Haberfield Heritage Conservation Area where: (f) the application includes dormer or gablet windows.	Not applicable.
CLAUSE 36 Development of known or potential archaeological sites	Not applicable.
CLAUSE 37 Development in vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Not applicable.
CLAUSE 37A Conservation incentives	Not applicable.
CLAUSE 38 Development of land known as 476 Parramatta Road Ashfield	Not applicable.
CLAUSE 38A Multiple dwellings on certain land	Not applicable.

Ashfield Council – Report to Ordinary Meeting held on Tuesday 14 August 2012 **CM10.2**
DEVELOPMENT APPLICATION: 10.2012.132.1
202 HOLDEN STREET, ASHFIELD

CLAUSE 38B Development of land known as Lot 1 (adjacent to Brown Street and Markham Avenue Ashfield)	Not applicable.
CLAUSE 39 Development of land known as 4 Parramatta Road, Summer Hill and 47 Dover Street, Summer Hill	Not applicable. This clause has been superceded by LEP amendment no. 76 that rezones the properties to General Business 3(a).
CLAUSE 39A Temporary car park–Liverpool Road and Elizabeth Avenue, Ashfield	Not applicable.
CLAUSE 39B Mixed development in commercial zones – generally	Not applicable.
CLAUSE 40 Mixed development on certain land – floor space concessions	Not applicable.
CLAUSE 41 Development of land known as No. 91A Smith Street, Summer Hill	Not applicable.
CLAUSE 42 Development of land adjacent to Liverpool Road and railway line, Ashfield	Not applicable.
CLAUSE 43 Development of community centre at Smith Street, Summer Hill	Not applicable.
CLAUSE 44 Development of land known as No. 60 Dalhousie Street, Haberfield (Haberfield Post Office)	Not applicable.
CLAUSE 45 Development of land adjacent to Liverpool Road and railway line, Ashfield	Not applicable.
CLAUSE 48 Development of land known as the Ashfield Public School Playing Fields Site, 3 Orchard Crescent and 209 Liverpool Road, Ashfield	Not applicable.
CLAUSE 49 Development of land known as 191 Ramsay Street, Haberfield	Not applicable.
CLAUSE 51 Development of land known as 93 Milton Street, Ashfield	Not applicable.
CLAUSE 52 Development of land known as 412–416 Liverpool Road, Croydon	Not applicable.

CLAUSE 53 Development of land known as 3 Carlton Crescent, Summer Hill	Not applicable.
CLAUSE 54 Development at 11–13 Hercules Street, Ashfield	Not applicable.
CLAUSE 55 Development of certain land at Milton Street and Park Avenue, Ashfield	Not applicable.
CLAUSE 56 Development of certain land at Queen Street, Ashfield	Not applicable.
CLAUSE 57 Development of certain land known as 55–75 Smith Street, Summer Hill	Not applicable.
MODEL PROVISIONS	
5(1) - Aesthetic appearance of proposed development from waterway, main or arterial road, railway, public reserve or land zoned for open space.	The appearance of the dwelling house is satisfactory in the context of the streetscape.

PHIL SARIN
Director Planning and Environment



Ashfield Council

05 JUL 2012

Application No.

202HOL/132

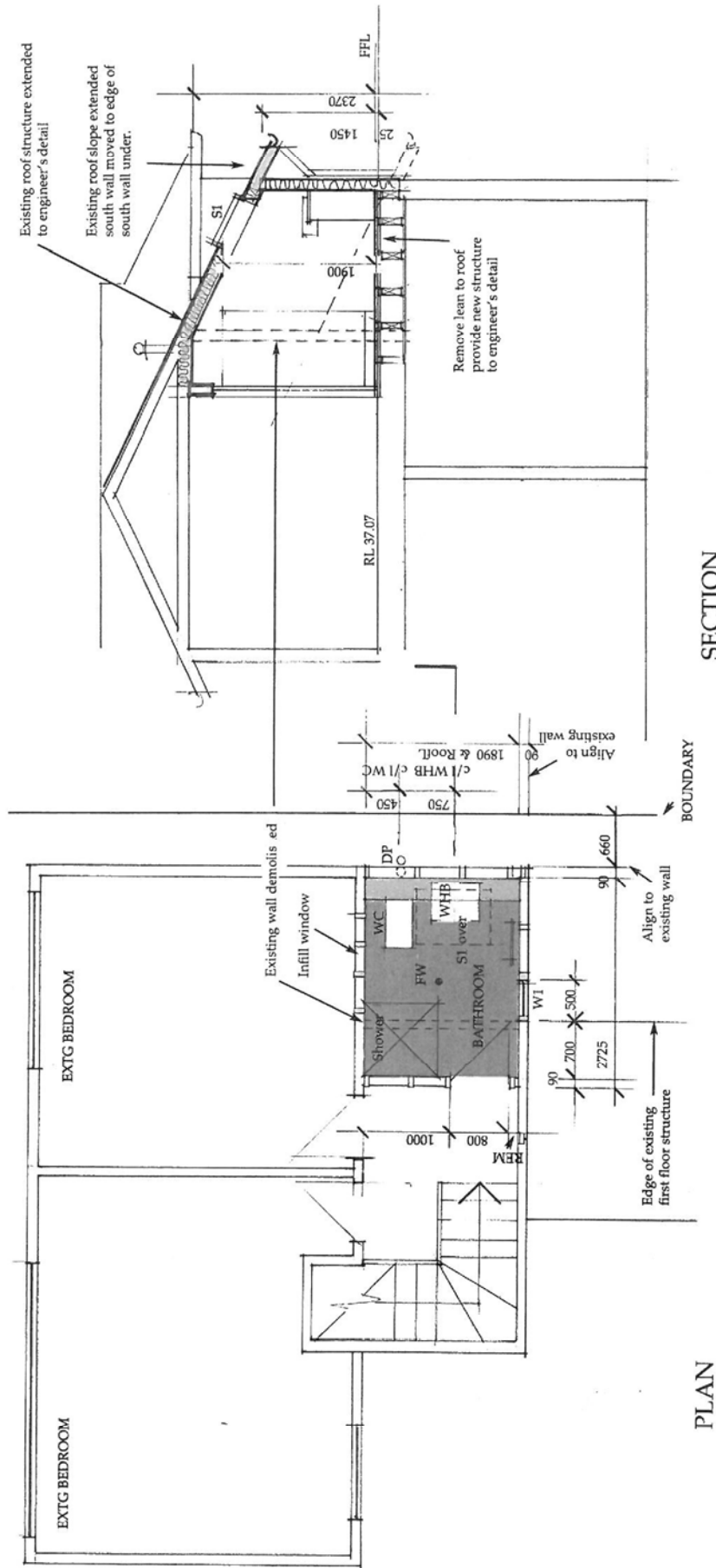
SOUTH ELEVATION

Drawing:
Proposed Elevation
Date: May 2012
Scale: 1:100
Drawing Number: 202HOL 01
Issue A

Prepared by:
Long Blackledge Architects
tel 0410 401 390
nominated architect: Elisha Long Reg No 6938

Project:
202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS

for
Lydia Brichta



Ashfield Council

20 JUL 2012

Application No.
2012/21132

Project:
**202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS**

for
Lydia Brichta

Prepared by:
Long Blackledge Architects
tel 0410 401 390
nominated architect: Elisha Long Reg No 6938

Revision
South Boundary Corrected

Issue
BDate
18/07/2012

Drawing:

Proposed First Floor Plan and Section

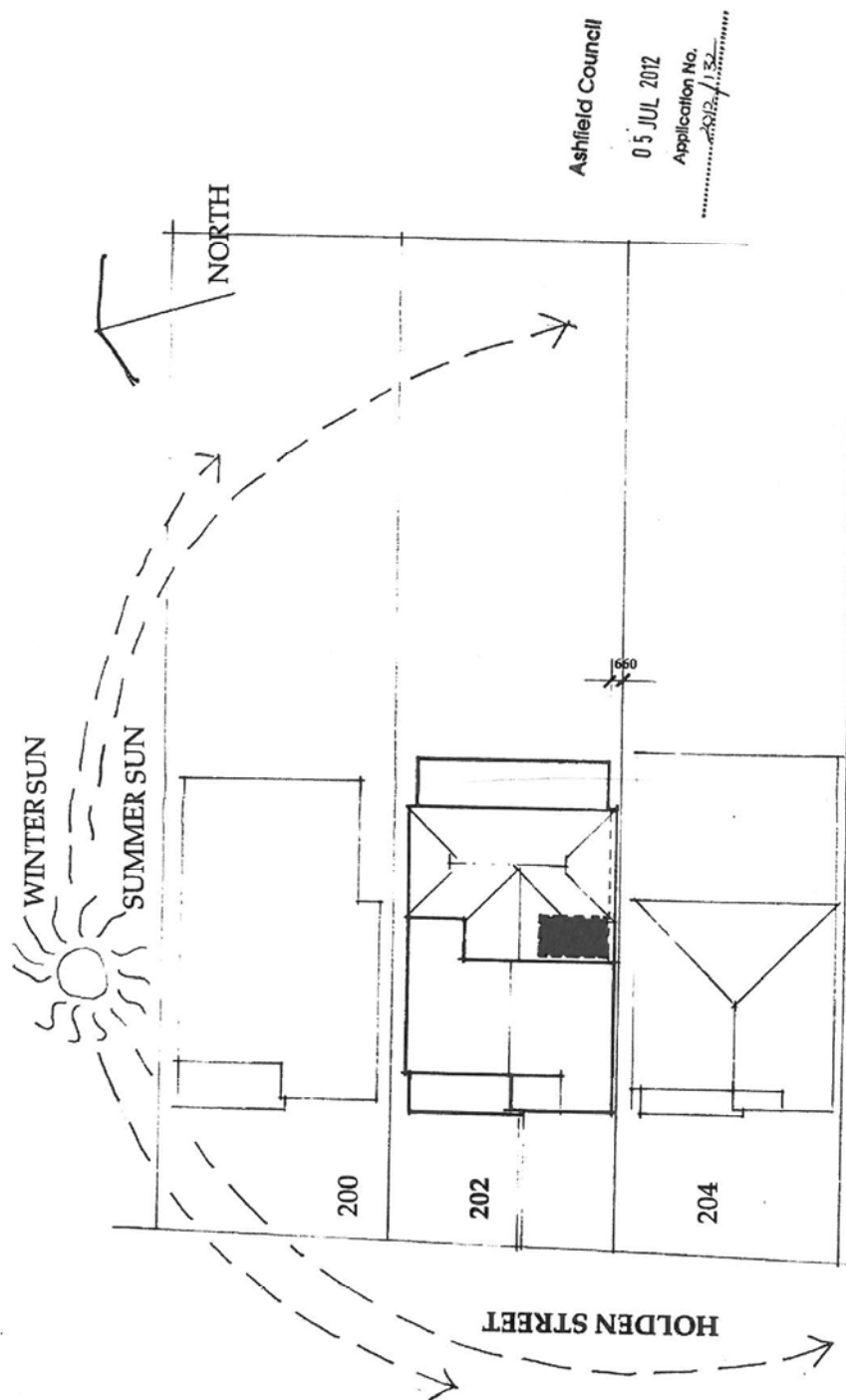
Date: May 2012

Scale: 1: 50

Drawing Number: 202HOL 02 Issue B

Basic Undertakings:

40% of new light fittings shall be energy efficient
Showerhead shall have max rate of 9 litres per minute, all
new taps and cistern shall be 3 star water rating
Wall insulation Min R 1.7 (including construction)
Roof insulation Min R 1.74 (up)
Rooflight is U-value 2.5 SHGC: 0.456 min

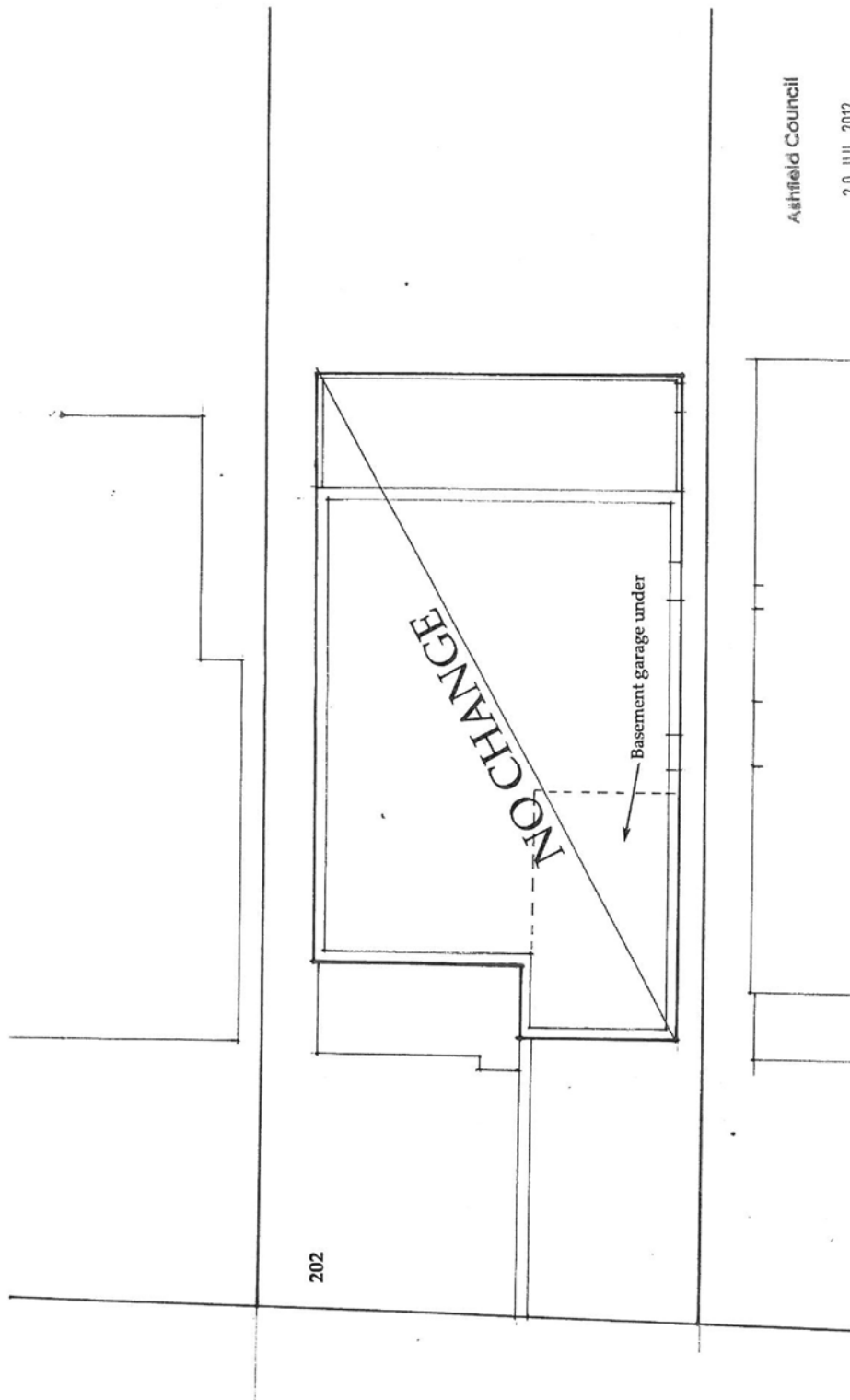


Drawing:
 Site Plan and Site Analysis
 Date: June 2012 Scale: 1:200
 Drawing Number: 202HOL 03 Issue A

Prepared by:
 Long Blackledge Architects
 tel 0410 401 390
 nominated architect: Elisha Long Reg No 6938

Project:
 202 HOLDEN STREET, ASHBURY
 ALTERATIONS AND ADDITIONS

for
 Lydia Brichta



Ashfield Council

20 JUL 2012

Application No.

2012.132

Drawing:

GF Plan

Date: July 2012

Scale: 1:100

Drawing Number: 202HOL 05

Issue A

Prepared by:

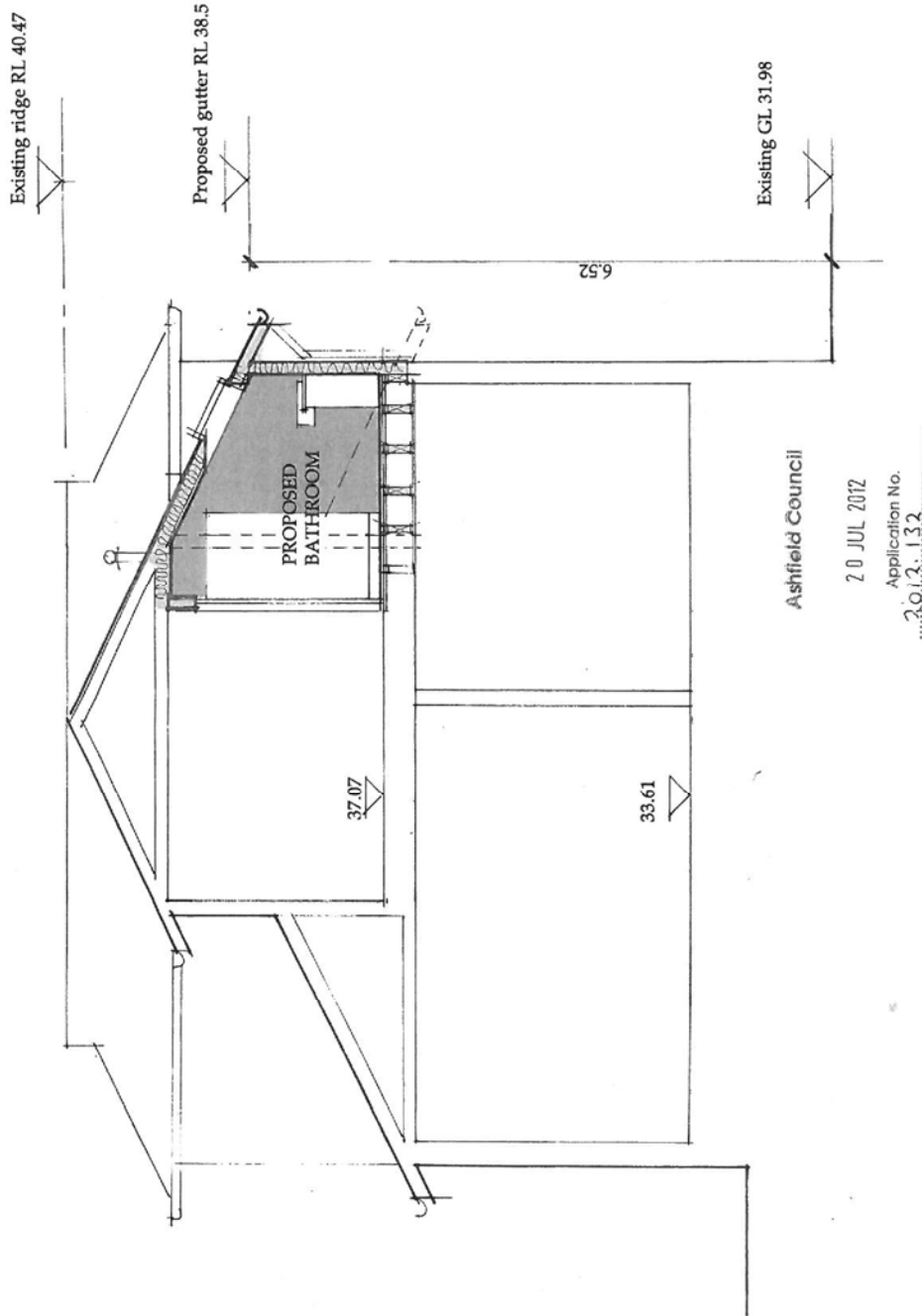
Long Blackledge Architects

tel 0410 401 390

nominated architect Elsha Long Reg No 6938

Project:
**202 HOLDEN STREET, ASHBURY
 ALTERATIONS AND ADDITIONS**

for
Lydia Brichta



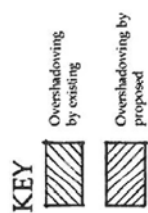
Drawing:
Proposed Section
 Date: **July 2012** Scale: **1:50**
 Drawing Number: **202HOL 06** Issue **A**

Prepared by:
Long Blackledge Architects
 tel 0410 401 390
 nominated architect: Elisha Long Reg No 6998

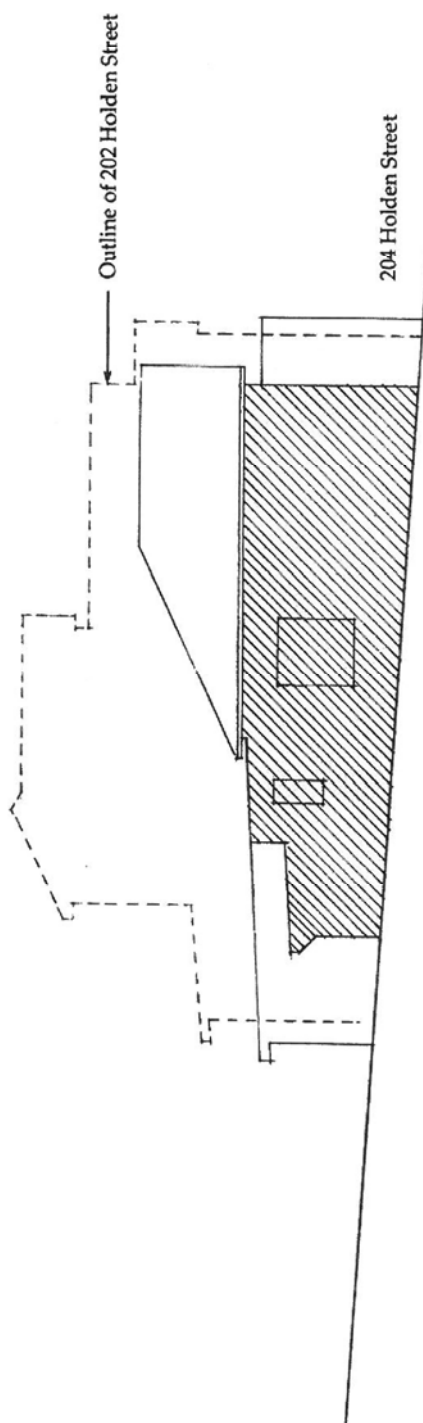
Project:
202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS

for
Lydia Brichta





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Ashfield Council

05 JUL 2012

Application No.
2012/132

Drawing:

Shadow Diagram 9.00 21 June

Date: May 2012 Scale: 1:100

Drawing Number: 202HOL SD 01 Issue A

Prepared by:

Long Blackledge Architects

tel 0410 401 390

nominated architect: Elisha Long Reg No 6938

Project:
202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS

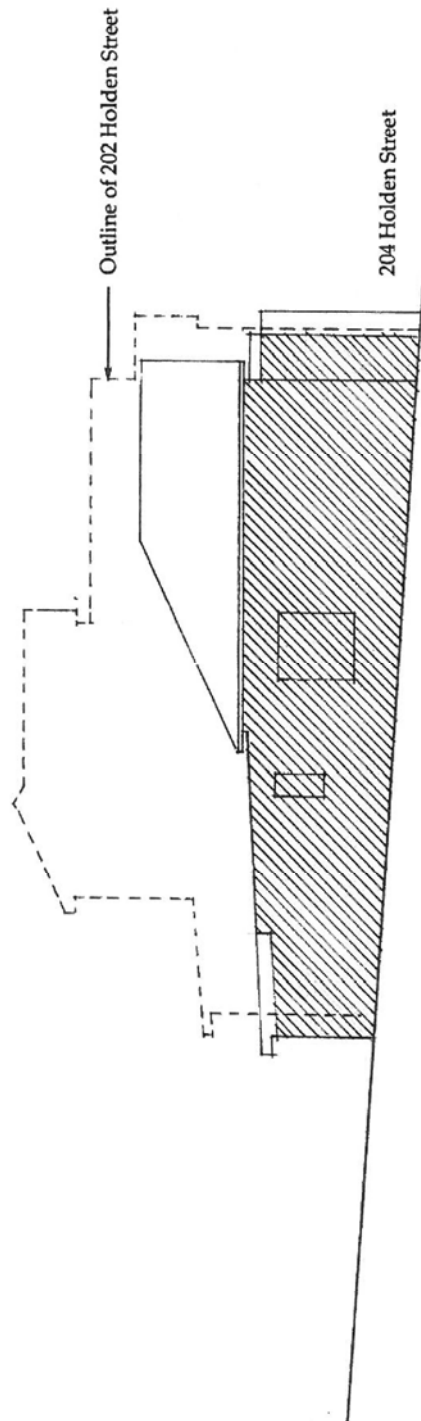
for
Lydia Brichta

KEY

Overshadowing
by existing

Overshadowing by
proposed

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Ashfield Council

05 JUL 2012

Application No.

2012/132

Prepared by:
Long Blackledge Architects
te: 0410 401 390
nominated architect: Elisha Long Reg No 6938

Project:
**202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS**

for
Lydia Brichta

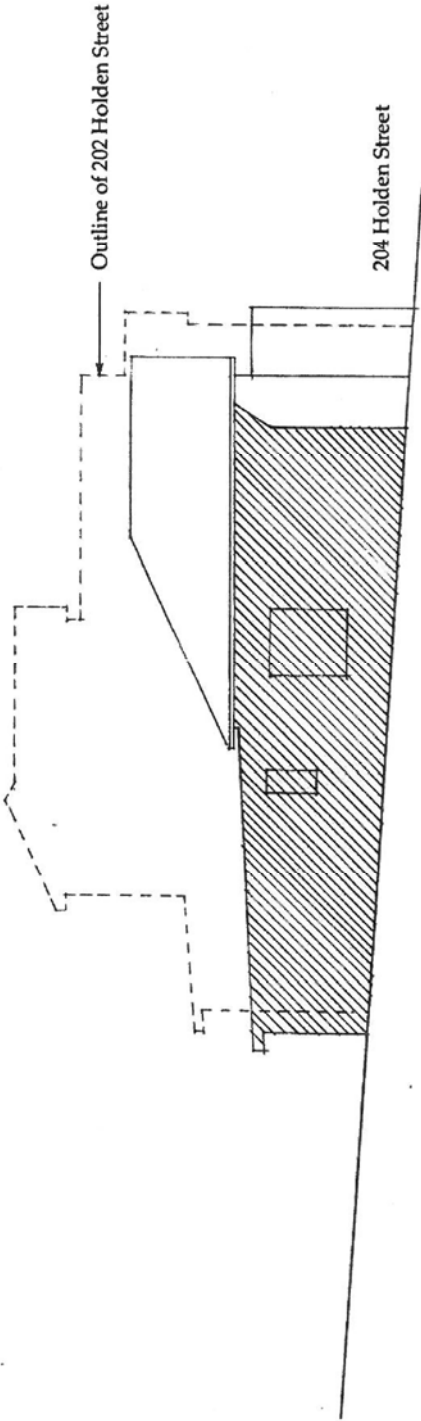
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Date: May 2012 Scale: 1:100
Drawing Number: 202HOL SD 02 Issue A

KEY

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by existing

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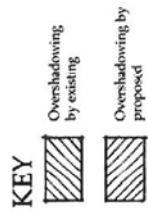
05 JUL 2012

Application No.
2012/132

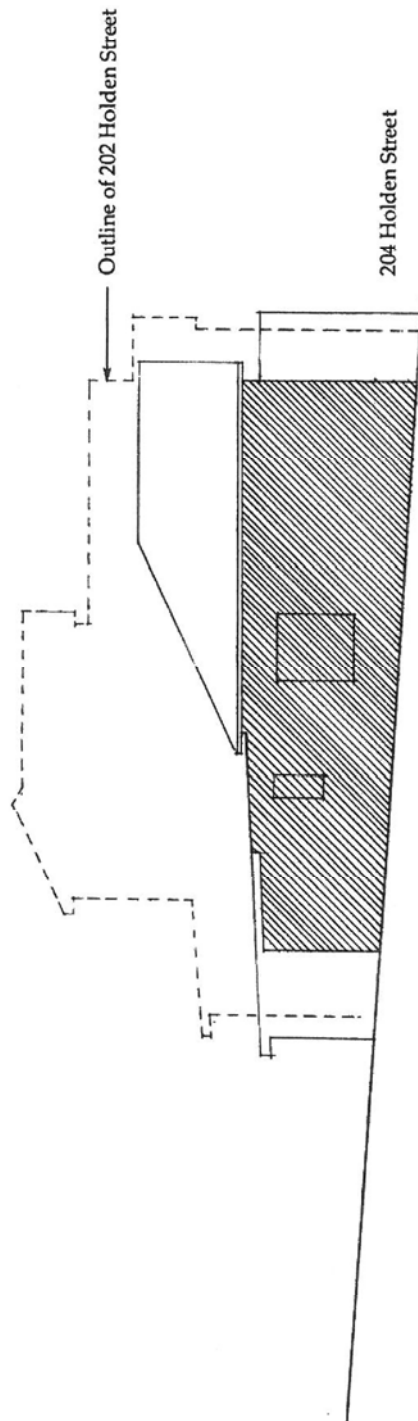
Drawing:
Shadow Diagram 15.00 21 June
Date: May 2012 Scale: 1:100
Drawing Number: 202HOL SD 03 Issue A

Prepared by:
Long Blackledge Architects
tel 0410 401 390
nominated architect: Elisha Long Reg No 6938

Project:
202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS
for
Lydia Brichta



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05 JUL 2012

Application No.

202/132

Drawing:

Shadow Diagram 9.00 21 Sept

Date: May 2012 Scale: 1:100

Drawing Number: 202HOL SD 04 Issue A

Prepared by:

Long Blackledge Architects

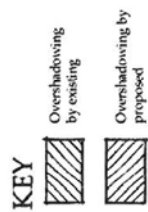
tel 0410 401 990

nominated architect: Elialha Long Reg No 6938

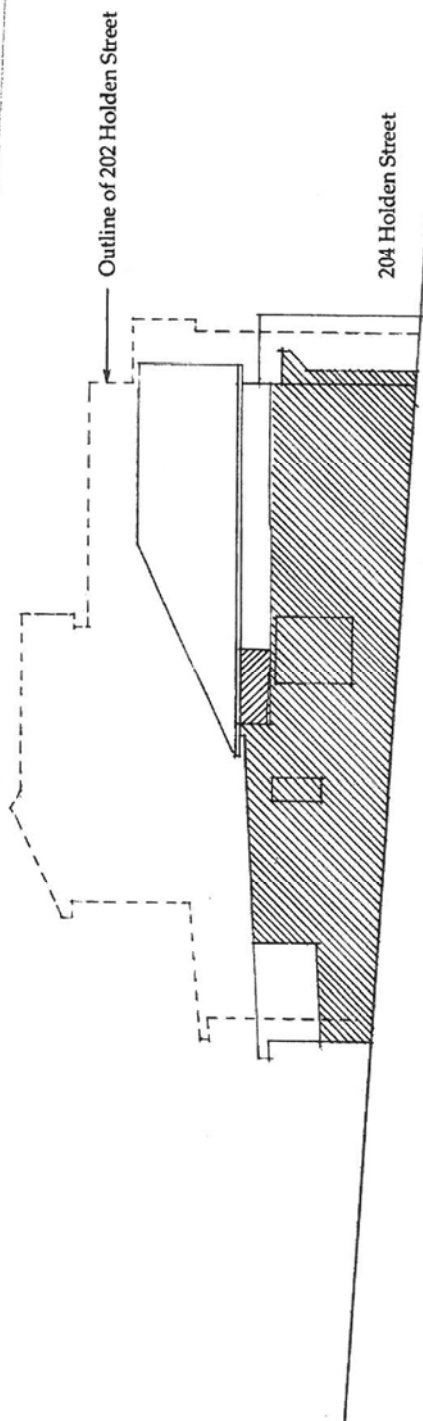
Project:
**202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS**

for

Lydia Brichta



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Ashfield Council

05 JUL 2012

Application No.

2012/132

Drawing:

Shadow Diagram 12.00 21 Sept

Date: May 2012 Scale: 1:100

Drawing Number: 202HOL SD 05 Issue A

Prepared by:

Long Blackledge Architects

tel 0410 401 390

nominated architect: Elisha Long Reg No 6938

Project:

**202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS**

for

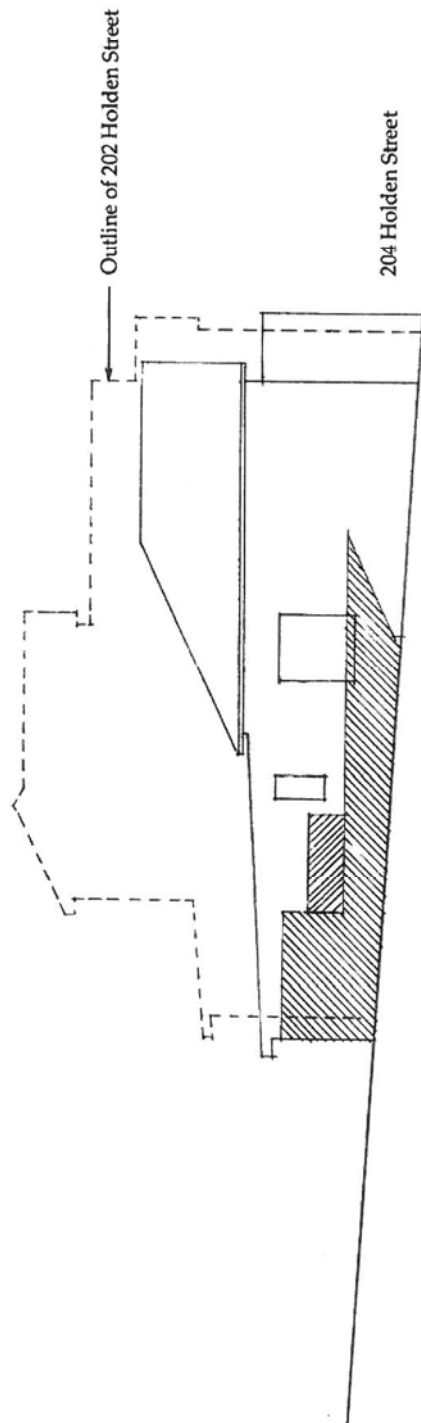
Lydia Brichita

KEY

Overshadowing
by existing

Overshadowing by
proposed

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Ashfield Council

05 JUL 2012

Application No.

2012/132

Drawing:

Shadow Diagram 15.00 21 Sept

Date: May 2012

Scale: 1:100

Drawing Number: 202HOL SD 06

Issue

A

Prepared by:

Long Blackledge Architects

tel 0410 401 390

nominated architect: Elisha Long Reg No 6938



Project:

202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS

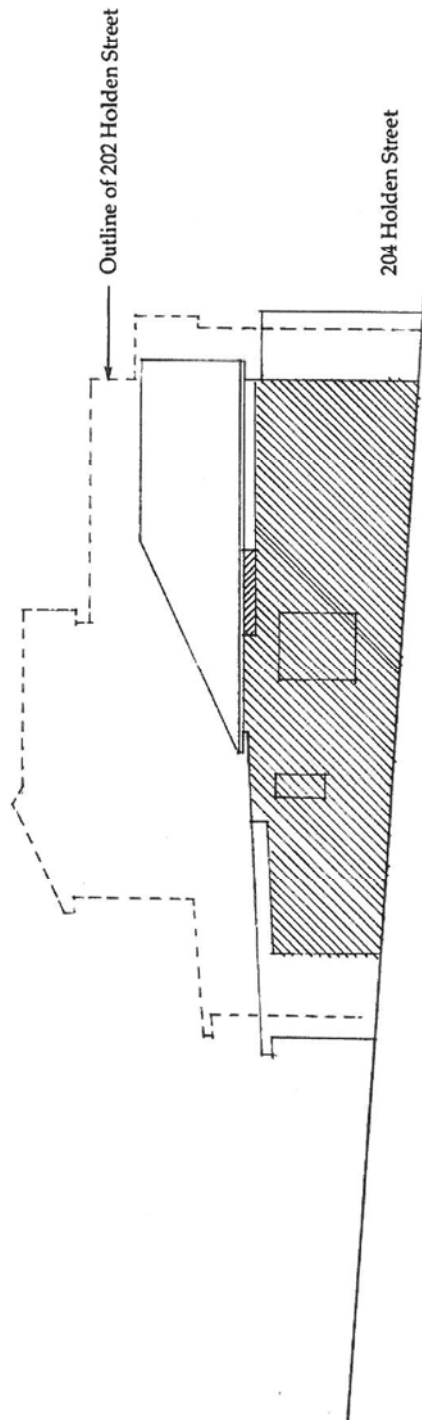
for

Lydia Brichta

KEY

	Overshadowing by existing
	Overshadowing by proposed

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Ashfield Council

04 JUL 2012

Application No.

2012/32

Drawing:

Shadow Diagram 9.00 21 March

Date: May 2012 Scale: 1:100

Drawing Number: 202HOL SD 07 Issue A

Prepared by:

Long Blackledge Architects

tel 0410 401 390

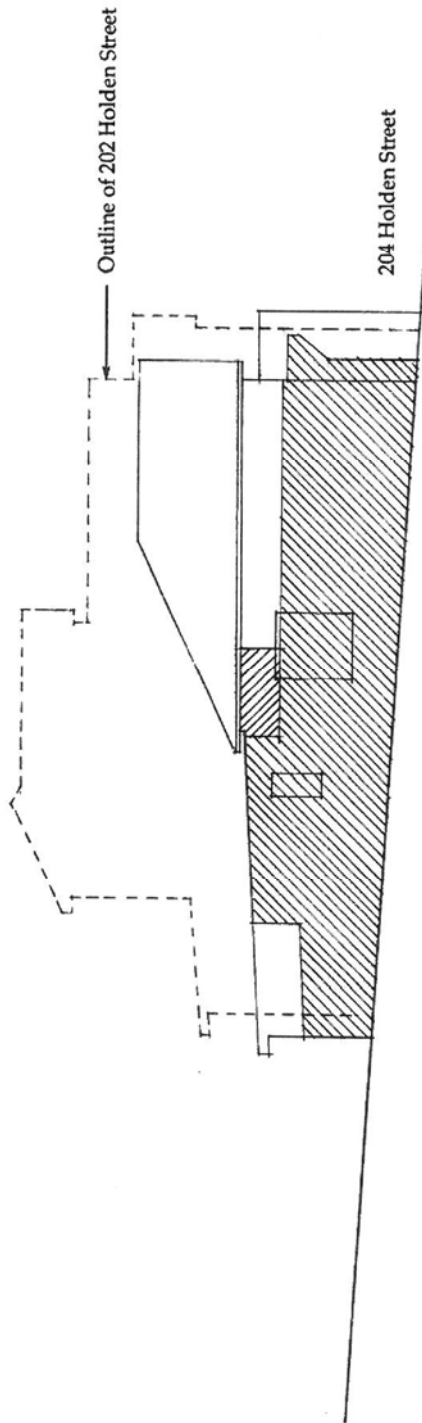
nominated architect: Elisha Long Reg No 6938

Project:
202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS

for
Lydia Brichta

KEY
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by existing
Overshadowing by
proposed

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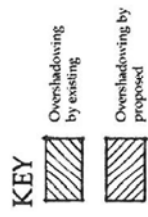
Ashfield Council

05 JUL 2012
Application No. 2012/132

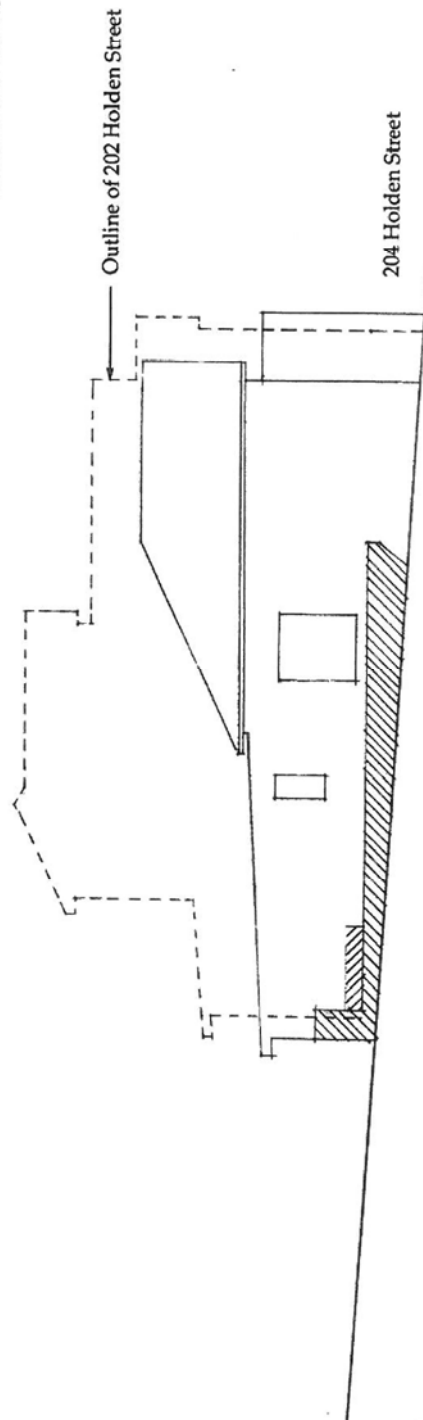
Drawing:
Shadow Diagram 12.00 21 March
Date: May 2012 Scale: 1:100
Drawing Number: 202HOL SD 08 Issue A

Prepared by:
Long Blackledge Architects
tel 0410 401 390
nominated architect: Elisha Long Reg No 6938

Project:
202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS
for
Lydia Brichta



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Ashfield Council

05 JUL 2012

Application No.
2012/132

Drawing:

Shadow Diagram 15.00 21 March

Date: May 2012 Scale: 1:100

Drawing Number: 202HOL SD 09 Issue A

Prepared by:

Long Blackledge Architects

tel 0410 401 390

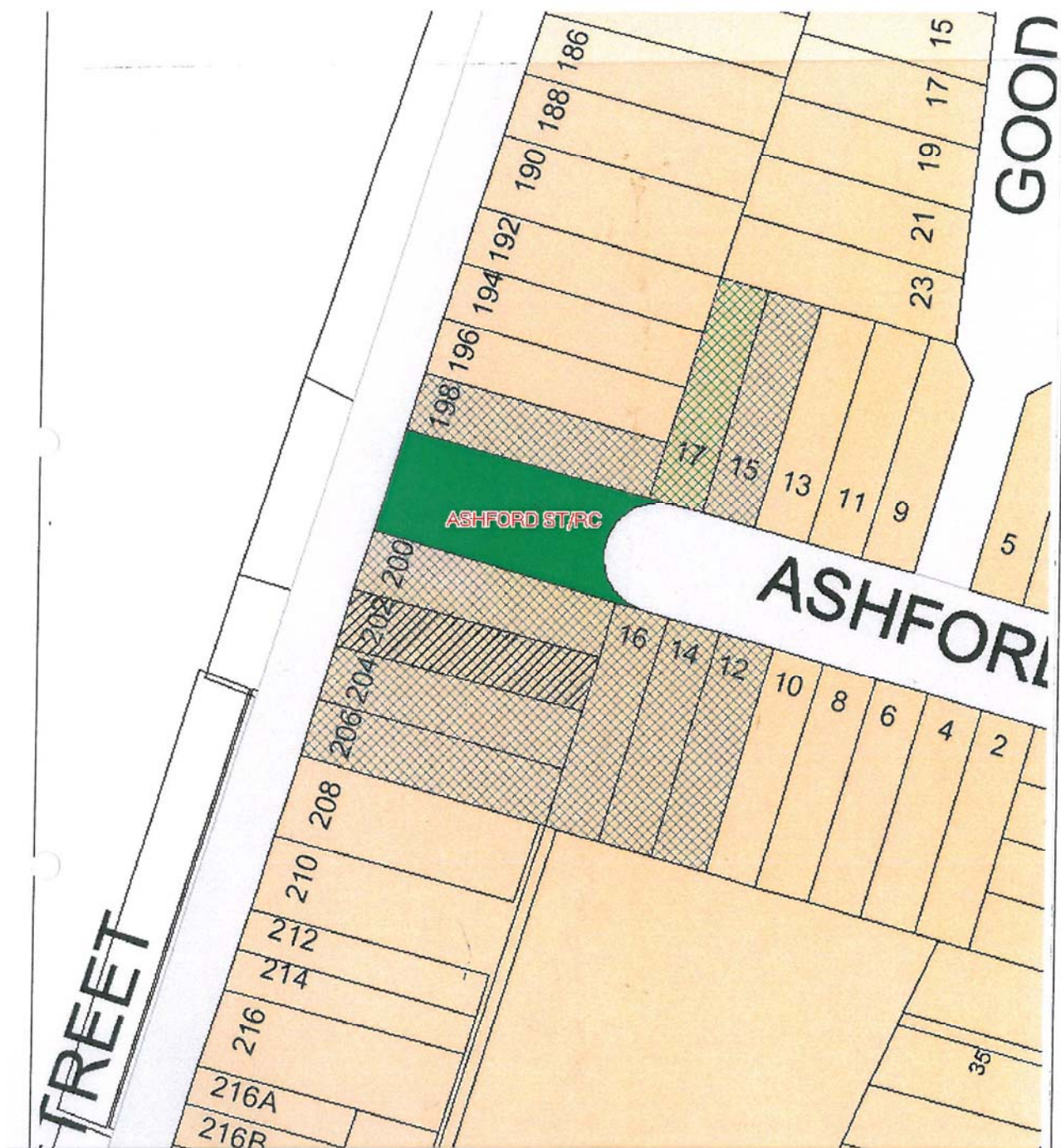
nominated architect: Elisha Long Reg No 6938

Project:

**202 HOLDEN STREET, ASHBURY
ALTERATIONS AND ADDITIONS**

for

Lydia Brichta



Location Plan

Site Notification Area Objectors 

CONDITIONS

DA 2012.132.1

202 Holden Street ASHFIELD 2131

Description of Work as it is to appear on the determination:

The construction of a first floor extension to accommodate a bathroom

A General Conditions

(1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers and date stamped by Council:-

202HOL 01 issue A	05 July 2012
202HOL 02 issue B	20 July 2012
202HOL 03 issue A	05 July 2012
202HOL 06 issue A	20 July 2012

prepared by Long Blackledge Architects and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

(2) Compliance with BCA

All works are to comply with the Building Code of Australia and relevant Australian Standard requirements.

B Design Changes

Nil

C Conditions that must be satisfied prior to issuing/releasing a Construction Certificate

(1) Construction and Site Management Plan

Prior to the issue of a Construction Certificate the applicant shall submit to Council or the accredited certifier a construction and site management plan that clearly sets out the following:

- (a) what actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like,
- (b) the proposed method of loading and unloading excavation machines, building materials, formwork and the erection of any part of the structure within the site,
- (c) the proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period,
- (d) how it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways,

- (e) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a chartered Civil Engineer or an accredited certifier.

Where it is proposed to:

- pump concrete from within a public road reserve or laneway, or
- stand a mobile crane within the public road reserve or laneway, or
- use part of Council's road/footpath area,
- pump stormwater from the site to Council's stormwater drains, or
- store waste and recycling containers, skip, bins, and/or building materials on part of Council's footpath or roadway,

An Activity Application for a construction zone, a pumping permit, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee shall be submitted to Council and approval obtained before a Construction Certificate is issued.

Note: A separate application to Council must be made for the enclosure of a public place (hoarding).

(2) Damage deposit/footpath, road, kerb and gutter

A Damage Deposit of **\$3000** is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc. Note: Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

Bank Guarantees are accepted in lieu of any Council security deposit/bond subject to the following:

It must be an original with no end date and issued in favour of Council, details of the proponent's address shall be included.

A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

(3) Long service levy

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building works in excess of \$25,000.00 are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.

(4) Home Building Act 1989 Insurance

Compliance with Part 6 of *Home Building Act 1989* is required. A copy of either the Builder's Indemnity Insurance OR a copy of the Owner-Builder's Permit shall be submitted to Council.

(5) Footpath/laneway – photographs to be submitted

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway, footpath and/or laneway at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard.

(6) Erosion, dust, topsoil and sediment control

Temporary measures shall be provided during construction e.g. bunding, shade cloth to prevent dust leaving the site, sandbags around Council/private stormwater pits etc. in order to prevent sediment, dust, topsoil and polluted waters discharging from the site. Plans showing such measures shall be submitted and approved by Council prior to the release of the Construction Certificate.

D Conditions that must be complied with before work commences**(1) Notice of Commencement – Notification of Works**

Work must not commence until the Principal Certifying Authority or the person having the benefit of the development consent has given Notification in Writing to Council no later than two days before the building work commences.

(2) Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and

- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

Note: If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

(3) Inspections required by Principal Certifying Authority

Inspections shall be carried out at different stages of construction by Council or an accredited certifier. If Council is selected as the Principal Certifying Authority (PCA) the inspection fees must be paid for in advance which will be calculated at the rate applicable at the time of payment.

(4) Sanitary facilities - demolition/construction sites

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(5) Structural engineer's certificate - superimposed loads

A practicing structural engineer's certificate to be submitted to the Principal Certifying Authority with the Construction Certificate application certifying that the existing dwelling is structurally capable of supporting the superimposed loads of the addition prior to commencement of any building work.

(6) Structural Engineering Details

Structural engineer's details prepared and certified by a practising structural engineer for all reinforced concrete and structural members is to be submitted to the Principal Certifying Authority for approval.

E Conditions that must be complied with during construction or demolition

(1) Spoil and building materials on road and footpath

All building materials shall be stored wholly within the property boundaries and shall not be placed on the footpath, grass verge or roadway without prior written approval of Council.

Bulk refuse bins shall not be placed on the grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council's Customer Service telephone 9716 1800.

(2) Signs to be erected on building and demolition sites

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.
- (2) Any-sign shall be maintained and not removed until work has been finished.

(3) Demolition/excavation/construction - hours of work

Demolition, excavation and construction work, including loading and unloading of materials and machinery, shall be restricted to between the hours of 7.00 am to 6.00 pm, Monday to Friday and from 7:00 am to 1.00 pm on Saturday. Work is prohibited on Sundays, and on public holidays.

(4) Demolition requirements/standards

Demolition is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (h) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (i) Any existing accumulations of dust (eg; ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (j) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not be allowed to enter the street gutter and stormwater systems.
- (k) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.

- (l) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (m) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.

(5) Materials and colour schemes

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

(6) Road opening permit – Council controlled lands

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Infrastructure Services Department for details.

(7) Roof guttering and drainage system/disposal of stormwater

The roof shall be provided with a complete guttering and drainage system. Roofwater shall be disposed of by approved drainage lines discharging into the street gutter.

(8) Termite treatment

Treatment for the protection of the building from subterranean termites shall be carried out in accordance with AS 3660.1:2000 'Protection of Buildings from Subterranean Termites'.

On completion of the installation of the barrier the Principal Certifying Authority shall be furnished with a certificate from the person responsible, stating that the barrier complies with AS 3660.1.

A durable notice shall be permanently fixed to the building in a prominent location, such as the meter box or the like indicating:

- the method of protection;
- the date of installation;
- where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- the need to maintain and inspect the system on a regular basis.

Due to the present limited effective life of soil chemical treatments, Council does not permit hand spraying as a stand alone method of termite protection. It is recommended that any soil chemical treatment should embrace a reticulation system.

(9) Waterproofing materials/installation – BCA/Australian Standards

Approved products that are impervious to water shall only be used as a substrate or as a lining and as a finish to floors and walls of wet areas (i.e. bathroom/shower room, WC compartment and laundry). Floors and cubicles shall be properly graded and drained to approved outlets.

The wet areas in the building shall be impervious to water as required by Part 3.8.1 of the Building Code of Australia (BCA). The junction between the floor and wall and the construction of the bath shower recess, basin, sink or the like shall be in accordance with the BCA & AS 3740:2004 'Waterproofing of wet areas within residential buildings'.

On completion of the waterproofing of the wet areas, the Principal Certifying Authority shall be furnished with a certificate from the person responsible. This is to state that the materials are suitable for the situation and that the application and/or installation has been carried out in accordance with the manufacturer's instructions, the BCA and AS 3740.

(10) Safety Glazing - BCA

Safety glazing complying with B1 of the Building Code of Australia (BCA) is to be used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with AS 1288:2006 'Glass in Buildings – Selection and Installation'.

Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with AS 1288 and Part 3.6.4 of the BCA.

(11) Fire Detection/Alarm System installation and certification

Smoke alarms must be installed in dwellings in accordance with Clause 3.7.2.3 of the Building Code of Australia (BCA) and AS 3786 on or near the ceiling in -

- (a) any storey containing bedrooms -
 - between each area containing bedrooms and the remainder of the dwelling, including any hallway associated with the bedrooms
- (b) any storey not containing bedrooms.

Smoke alarms must be connected to the consumer mains power and have a stand-by power supply.

The licensed Electrical Contractor shall on completion of the installation of the smoke alarm system, submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786:1993.

(12) BASIX Requirements

The new works shall be constructed in accordance with, and comply with the undertakings given on the BASIX (Building Sustainability Index) Certificate as obtained on 12 June 2012 from the Department of Infrastructure, Planning and Natural Resources. For more information visit www.basix.nsw.gov.au.

F Conditions that must be complied with prior to installation of services

Nil

G Conditions that must be complied with before the building is occupied

(1) Approval to use/occupy building

The building or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

H Conditions that are ongoing requirements of development consents

Nil

I Advisory Notes**(1) Modifications to your consent - prior approval required**

Works or activities other than those authorised by the approval including changes to building configuration or use will require the submission and approval of an application to modify the consent under Section 96 of the *Environmental Planning & Assessment Act 1979*. You are advised to contact Council immediately if you wish to alter your approved plans or if you cannot comply with other requirements of your consent to confirm whether a Section 96 modification is required.

Warning: There are substantial penalties prescribed under the *Environmental Planning and Assessment Act 1979* for breaches involving unauthorised works or activities.

Subject	DEVELOPMENT APPLICATION: 10.2012.134.1 4/95 EDWIN STREET NORTH, CROYDON
File Ref	10.2012.134.1
Prepared by	Daisy Younan - Development Assessment Officer
Reasons	Council determination
Objective	Determine Application

Overview of Report

1.0 Description of Proposal

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent for the change of use of the ground floor front tenancy to a therapeutic massage clinic and replacing existing curtains screening treatment areas with stud walls.

(Plans of proposal are included in **Attachment 1**)

1.1 Background

1. On 14/06/2011, a deferred commencement consent, being 10.2011.63, has been granted for the use of the ground floor front tenancy as a remedial massage clinic with the following deferred commencement condition:

- 1. The applicant shall submit to Council written confirmation from Australian College of Massage that all the required subjects to obtain the qualification to practice therapeutic massage have been completed successfully.*

Upon Council's written approval of satisfactory compliance with the deferred commencement matter listed in Part A above, the development consent will become operative, subject to the conditions in Part B below and including the conditions recommended in the Ashfield Police Report.

The requirement stated in 1 above shall be completed within 6 months of the date the deferred commencement being issued.

2. A site inspection carried out on 26/07/2012 has revealed that the proposed use has already commenced. Council records indicate that, up to date, the deferred commencement consent has not been activated by the stipulated time frame and hence has lapsed on 13/12/2011 which makes the current use in breach of the deferred commencement condition and also unauthorised (no valid consent is currently in place).

3. An order, dated 03/04/2012, has been issued to the applicant requiring the unauthorised use of the subject tenancy as a remedial massage to cease.
4. The current application is seeking Council's consent for the permanent use of the ground floor front tenancy as a therapeutic massage clinic. A certificate from Discover Massage Australian has been submitted as part of the application.

On 30/07/2012, Council Officer has checked the applicant's qualifications with the Discover Massage Australian. It was revealed that the applicant has to undertake further advanced course to be qualified to provide the proposed service.

5. The proposal also involves the construction of new internal walls which can facilitate the use of those rooms for other unlawful purposes. The proposed construction of the internal walls is not supported given the unauthorised use of the subject tenancy in breach of previous consent.

2.0 Summary Recommendation

The proposed development is permissible in accordance with the provisions of Clause 10 of Ashfield LEP 1985 however is recommended for refusal for the reasons included in the report.

3.0 Application Details

Applicant	:	Mr R He
Owner	:	Owners Of Strata Plan 74482
Value of work	:	\$1,500
Lot/DP	:	LOT: 0 SP: 74482
Date lodged	:	06/07/2012
Date of last amendment	:	N/A
Application Type	:	Local
Construction Certificate	:	No
Section 94A Levy	:	No

4.0 Site and Surrounding Development

The subject site is located on the eastern side of Edwin Street, bounded by Edwin Street to the north and Hennessy Street to the south. The site area is approximately 164.5 square metres. An existing two storey mixed use development is located on the site. Surrounding development comprises commercial and residential establishments. Refer to **Attachment 2** for a locality map.

5.0 Development History

Previous building and development applications submitted to Council for the subject site include:

NO.	DATE	PROPOSAL	DECISION
10.2011.63	14/06/2011	Use of ground floor front tenancy as a remedial massage clinic.	Deferred commencement consent
10.2004.202	15/10/2004	Strata Subdivisions of existing mixed use development	Approved
10.2001.327	08/05/2002	Alterations and additions to existing building	Approved

The previous deferred commencement consent granted on 14/06/2011 providing an opportunity to applicant to submit to Council the necessary qualifications required to provide remedial massage services. The applicant has failed to submit the required proof of qualifications to activate the deferred commencement consent within the stipulated time frame and operated the premises in breach of the deferred commencement conditions and despite lapsing of consent all without the necessary qualifications.

Assessment

6.0 Zoning/Permissibility/Heritage

- The site is zoned 3(a) - General Business under the provisions of Ashfield LEP 1985.
- The property is located within a proposed Heritage Conservation Area.
- The property is located within the vicinity of a number of heritage items located at 105, 107 & 109 Edwin Street North.

The proposed works are permissible with Council consent.

Under Ashfield Draft LEP 2012, the subject site will have its zone changed to B2 zone, its heritage status changed to a heritage conservation area with the subject site located in the vicinity of four heritage items being 105, 107, 109 & 111 Edwin Street North.

The proposed development will classify the premises as “commercial premises” which is permissible with Council consent under the Ashfield Draft LEP 2012, refer to compliance table under Clause 7.2 of this report.

7.0 Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

Clause No. 37 of Ashfield LEP 1985 requires Council to assess and take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological

site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

The proposed development involves minor alterations to the shop front which is located in the vicinity of a number of heritage items located at 105, 107 & 109 Edwin Street North. No details have been provided as to the type or colours of the new tile proposed to be installed on the front walls on either side of the shop front window/door. No further details are required as the proposed development is recommended for refusal in this instance.

7.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 55 – Remediation of land

Remediation of the site is not required prior to the carrying out of the proposed development.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed signs are considered compatible with the desired amenity and visual character of the area, Council is satisfied that the proposed signs are consistent with the objectives of this Policy as set out in clause 3 (1) (a), and satisfies the assessment criteria specified in Schedule 1. However, the proposed development is not supported in this instance for the reasons indicated in the report.

- 7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Ashfield Local Environmental Plan 2012

Table 3

Draft Ashfield Local Environmental Plan 2012 Summary Compliance Table				
Clause No.	Subject	Standard	Proposed	Compliance
1.2	Aims of Plan	<p>(1) This Plan aims to make local environmental planning provisions for land in Ashfield in accordance with the relevant standard environmental planning instrument under section 33A of the Act.</p> <p>(2) The particular aims of this Plan are as follows:</p> <p>(a) promote the orderly and economic development of the local government area of Ashfield in a manner consistent with the need to protect the environment,</p> <p>(b) retain and enhance the identity of the Ashfield area derived from its role as an early residential suburb with local service industries and retail centres; and containing the first garden suburb of Haberfield,</p> <p>(c) to identify and conserve the environmental and cultural heritage of Ashfield,</p> <p>(d) to provide increased housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities,</p> <p>(e) to strengthen the viability and vitality of the Ashfield Town Centre as a primary centre for investment, employment, cultural and civic activity, and to encourage a majority of future housing opportunities to be located within and around the centre,</p> <p>(f) to protect the urban character of the Haberfield, Croydon and Summer Hill urban village centres whilst providing opportunities for small scale, infill development that enhances the amenity and vitality of the centres,</p> <p>(g) to encourage the revitalisation of the Parramatta Road corridor in a manner that generates new local employment opportunities,</p>	The use of the ground floor front tenancy as a therapeutic massage clinic.	The proposed development is not considered contrary to the aims or objectives of the Draft Ashfield LEP 2012 however is not supported in this instance for the reasons included in the report.

DEVELOPMENT APPLICATION: 10.2012.134.1**4/95 EDWIN STREET NORTH, CROYDON**

Draft Ashfield Local Environmental Plan 2012 Summary Compliance Table				
Clause No.	Subject	Standard	Proposed	Compliance
		improves the quality and amenity of the streetscape, and does not adversely impact upon adjacent residential areas, (h) to ensure that development has proper regard to environmental constraints and minimises any off and on site impacts on biodiversity, water resources and natural landforms, (i) to require that new development incorporates the principles of ecologically sustainable development and water sensitive urban design.		
2.2	Zoning	Zone B2 Local Centre	No changes to the zone is proposed.	Massage Clinic classify the premises as "Commercial premises" which is defined as being any of the following: (a) business premises, (b) office premises, (c) retail premises. Refer to comments below table 3 for further details.
Heritage Conservation				
5.10 (2)	Requirement for consent	Development consent is required for any of the following: (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance): (ii) a heritage item, (iii) an Aboriginal object, (iv) a building, work, relic or tree within a heritage conservation area,	The subject site is located in a proposed heritage conservation area under Ashfield LEP 1985 which will become a heritage conservation area if an when Ashfield LEP 2012 is gazetted. The proposed development involve minor modifications to the shop front.	Refer to comments under Clause 7.1.1 of this report for further details.
5.10(4)	Effect on heritage significance	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area	Refer to comments on Clause 5.10(2) of this table for further details.	Refer to comments under Clause 7.1.1 of this report for further details.

Draft Ashfield Local Environmental Plan 2012 Summary Compliance Table				
Clause No.	Subject	Standard	Proposed	Compliance
		concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).		
6.6(1)	Accessibility and universal accessible design	(1) The objectives of this clause are as follows: (a) to provide equitable access within all new development, and ensure that substantial alterations to existing development, or an intensification of an existing land use, provides for an improved level of access for all people, (b) to protect existing accessible features within the public domain, residential development, and non-residential development, and (c) to raise awareness and understanding of access issues for people with a disability through investigation and promotion of best-practise through the design, construction and operation of development.	No improvement to the accessibility level is proposed as part of this application.	As the proposed change of use does not involve substantial alterations to existing building, or an intensification of an existing land use, improvement to the accessibility level is not required in this instance. However, the proposed development is recommended for refusal in this instance for the reasons included in the report.

The proposed massage clinic does not fall under the definition of office or retail premises, however, it is believed to fall under the definition of “Business Premises” which is defined as follows:

“Business Premises” means a building or place at or on which:

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or

(b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, **without limitation**, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

7.3 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield Development Control Plan (DCP) 2007:

C1	ACCESS AND MOBILITY	<p>The proposed development does not involve the construction of new development, substantial alterations to existing building or an intensification of an existing land use and hence is not required to improve the accessibility level. However, the proposed development is recommended for refusal in this instance for the reasons included in the report.</p>
C2	ADVERTISEMENTS	<p>The proposal incorporates a fascia sign reading “Croydon Remedial Massage”, which is to be painted onto the existing fascia above the front entry door, and two window sticker signs, which are to be attached to the fixed glazing panels on either side of front entry door.</p> <p>Table2 of Part C2 of Ashfield DCP 2007 requires that window/glass door signs require Council approval if they are to be placed externally on the window/glass door or coverage exceeds 30% of window/glass door area.</p> <p>The two window signs are proposed to be attached externally to the fixed glazing panels located on either side of the front entry door which will not result in any adverse impact on the heritage significance of the heritage items in the vicinity or on neighbour’s amenity. They cover approximately 3m² (approximately 22%) of the glazing area of the shop front which is approximately 13.54m² and hence comply with the above requirements.</p>
C11	PARKING	<p>On 08/05/2002, a development consent being 10.2001.327 was granted for alterations and additions of existing building to create a new two-bedroom unit above existing retail shop and new addition to rear comprising a one-bedroom unit and a two-bedroom unit with split level basement carpark.</p> <p>As part of the previous consent, a condition has been imposed requiring the payment of car-parking contributions of \$1,400 under S94 of the EPA Act 1979 for a development the subject of the previous application.</p> <p>The proposed development does not involve any additional floor area or intensification of the subject site.</p> <p>Being in the Croydon Urban Village Business Area, it does not require any additional car-parking space to be provided on site in accordance with the controls of Part C11 of Ashfield DCP 2007 which provide that “no additional parking is required within the Croydon Urban Village for development that involves existing gross floor area or comprises a change of use of existing gross floor area”. This applies irrespective of the type of use proposed and appendix 5 of this part shows the Croydon Urban Village as one of the areas where this concession applies.</p> <p>As such, no additional car parking spaces are required.</p>

C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	See Clause No. 7.7
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It is considered the proposed change of use complies with Ashfield DCP requirements as indicated above. However, the proposed development is not supported in this instance for the reasons included in the report.

7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

These matters have been considered in the assessment of this application.

7.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

The proposed hours of operation are from 10.00am to 8.30pm seven (7) days per week. It is also proposed that there will be a total of two (2) employees on site at any one time.

The applicant has indicated that the proposal is for therapeutic massage services, a certificate from Discover Massage Australian has been submitted as part of the application.

On 30/07/2012, Council Officer has checked the applicant's qualifications with the Discover Massage Australian. It was revealed that the applicant has to undertake further advanced course/s to be qualified to provide the proposed service.

The previous deferred commencement consent granted on 14/06/2011 providing an opportunity to applicant to submit to Council the necessary qualifications required to provide remedial massage services. The applicant has failed to submit the required proof of qualifications to activate the deferred commencement consent within the stipulated time frame and operated the premises in breach of the deferred commencement conditions and despite lapsing of consent all without the necessary qualifications.

Further, as part of this application, it is proposed to replaced the existing curtains screening the two treatment areas with stud walls resulting in two treatment rooms which may facilitate intensification of an unapproved use.

The applicant does not have the required qualifications to provide therapeutic massage services and Council officers are not satisfied that the required qualifications will be obtained hence cannot support the proposed use.

7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. The proposed development is considered suitable in the context of the locality however is not supported in this instance for the reasons included in the report.

7.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified to all adjoining and nearby affected property owners and occupants and Councillors from 10 July 2012 until 26 July 2012.

7.7.1 Summary of submissions

No submissions were received during the notification of the development application

7.7.2 Mediation

Not required

7.8 The public interest

The proposal, given the reasons included in the report, is not considered to be in the public interest.

8.0 Referrals

8.1 Internal

Environmental Health

The proposed development has been referred to Council's health and environment officer, no issues have been raised to the proposed development subject to conditions of consent.

8.2 External

Not required

9.0 Other Relevant Matters

Council's stormwater map does not indicate that the subject property is burdened by any Council or Sydney Water stormwater pipes.

10.0 Building Code of Australia (BCA)

A Construction Certificate will not be required in this instance as the proposed development is recommended for refusal.

Financial Implications

The proposed development will not attract contribution levies under S94 of the Environmental Planning and Assessment Act 1979 as the estimated work value is below \$100,000 (Part A of Ashfield Section 94A Contributions Policy) and the proposed development is recommended for refusal.

Other Staff Comments

See Section 8.1 of this report.

Public Consultation

See Section 7.7 of this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposal is unacceptable and is recommended for refusal.

ATTACHMENTS

Attachment 1	Attachment 1 - Plans of the Proposal	5 Pages
Attachment 2	Attachment 2 - Locality Map	1 Page
Attachment 3	Attachment 3 - Certificate of Qualification	1 Page

RECOMMENDATION

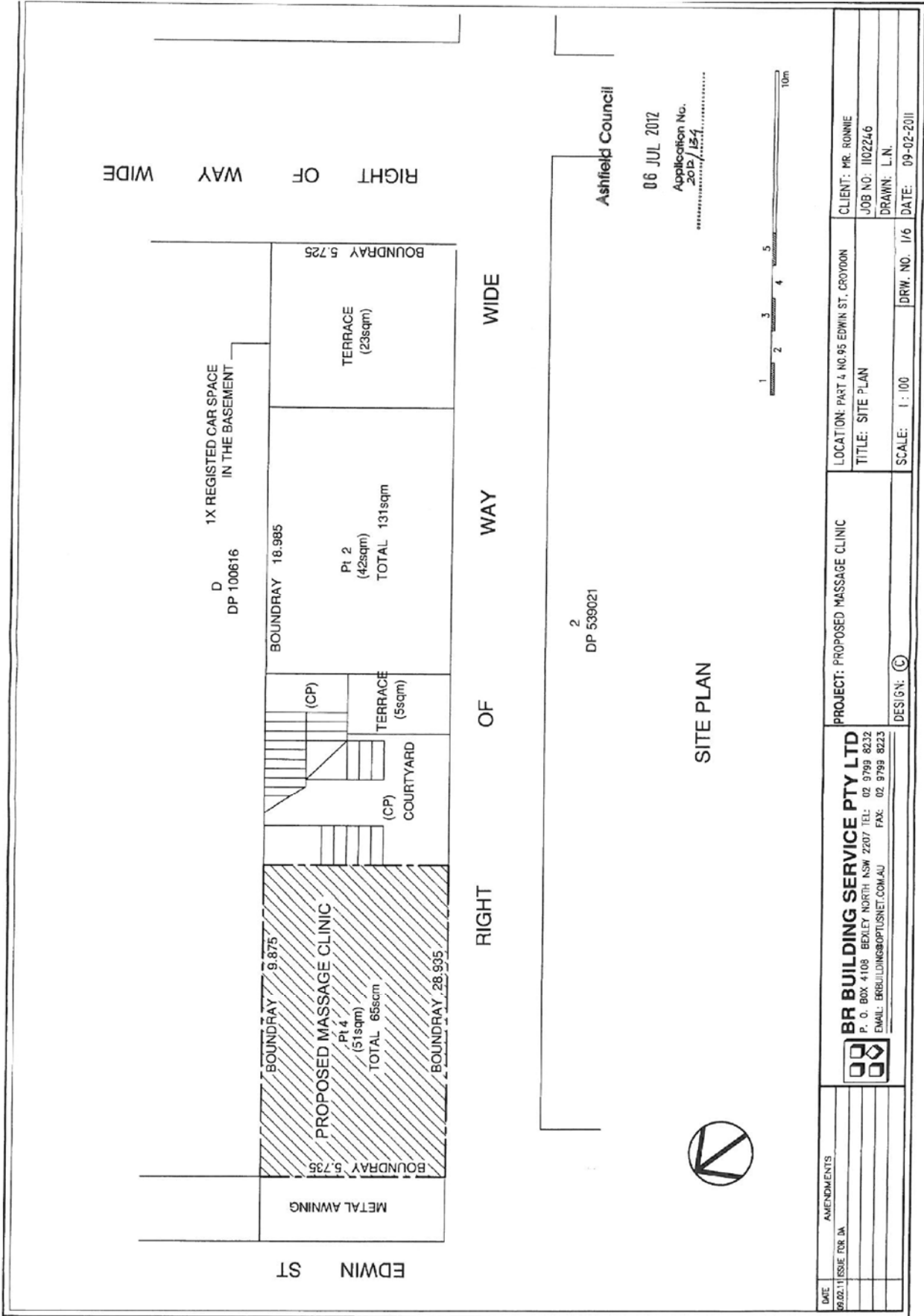
That Council as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) refuse Development Application No. 10.2012.134 for the change of use of the ground floor front tenancy to a therapeutic massage clinic and replacing existing curtains screening treatment areas with stud walls on Lot 0 in DP: 74482, known as 4/95 Edwin Street, Croydon, for the reasons given in the report.

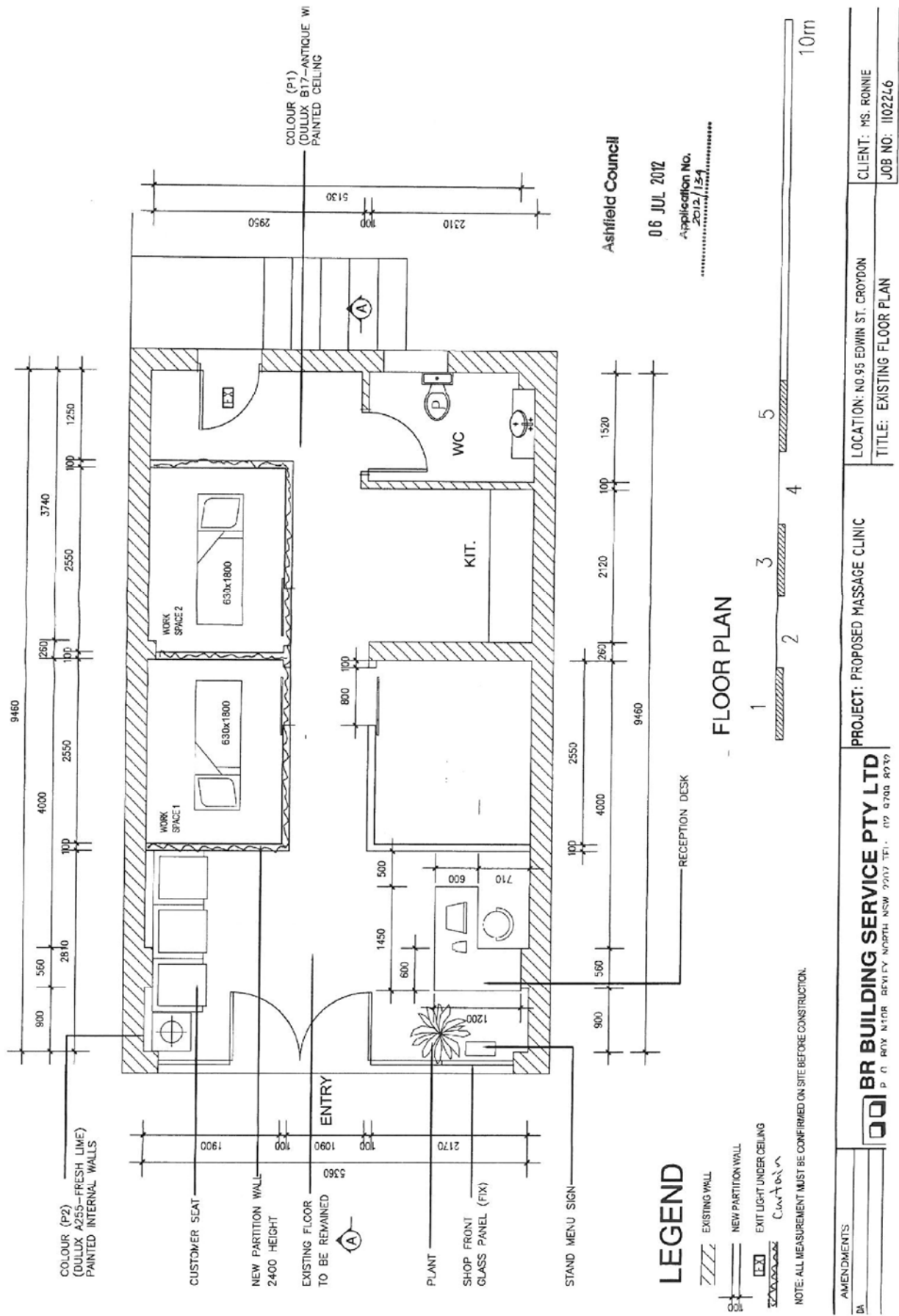
Reasons for Refusal

- 1. Certificate submitted does not qualify applicant to provide therapeutic massage services;**
- 2. Insufficient information submitted which does not enable proper assessment of development application;**
- 3. The change of use, proposed to be carried out without required qualifications being available to operate is not in the public interest.**

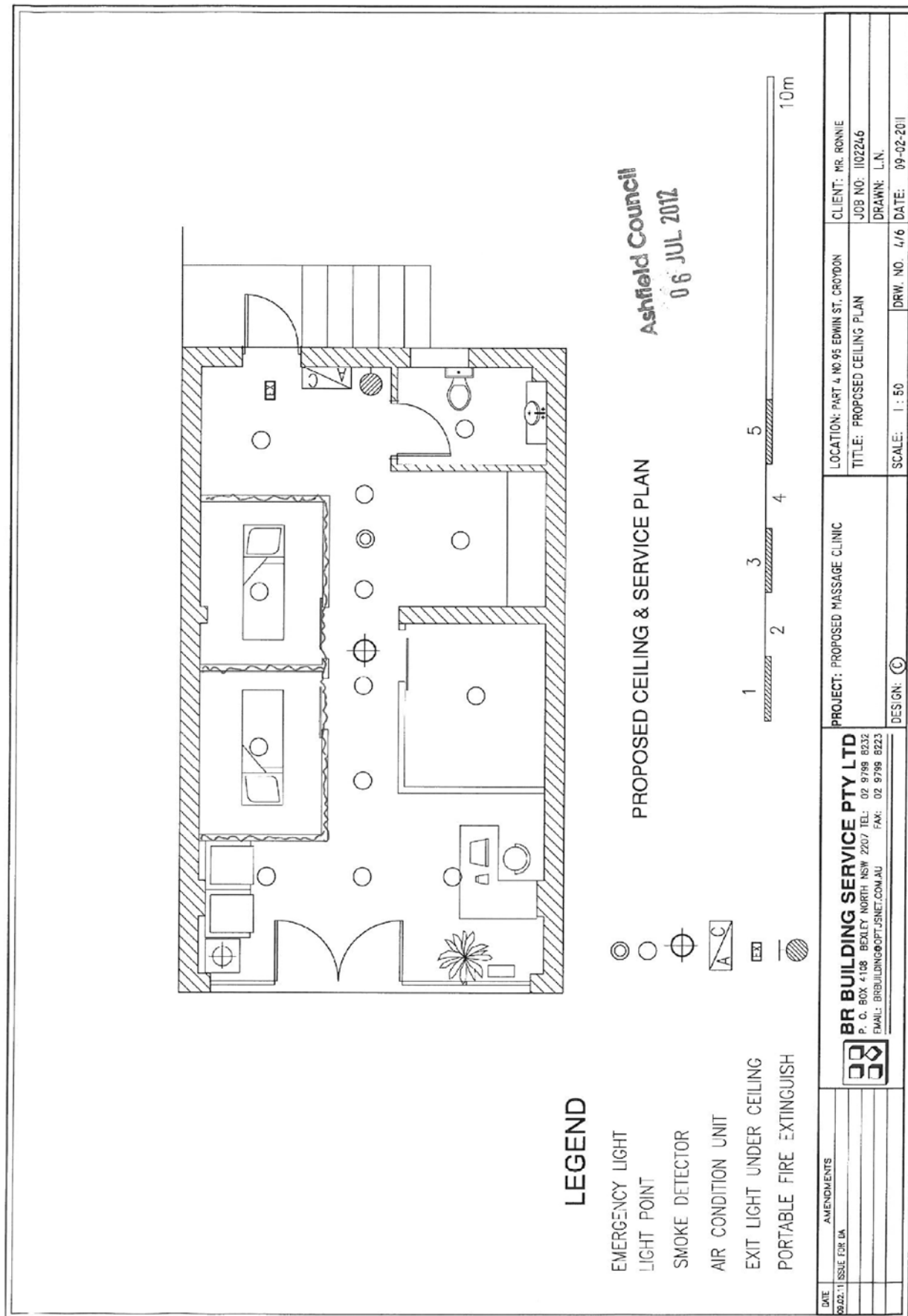
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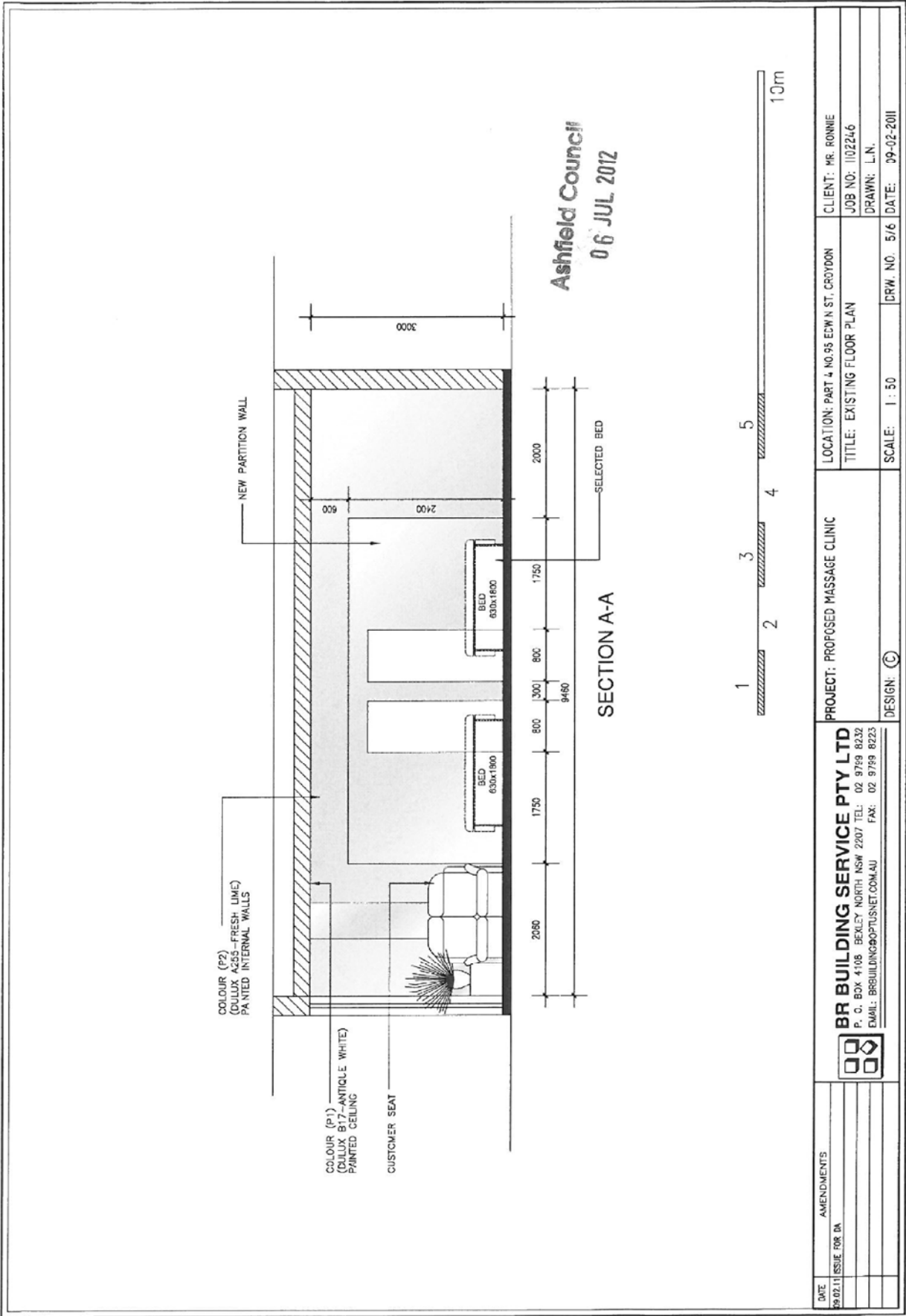
Director Planning and Environment

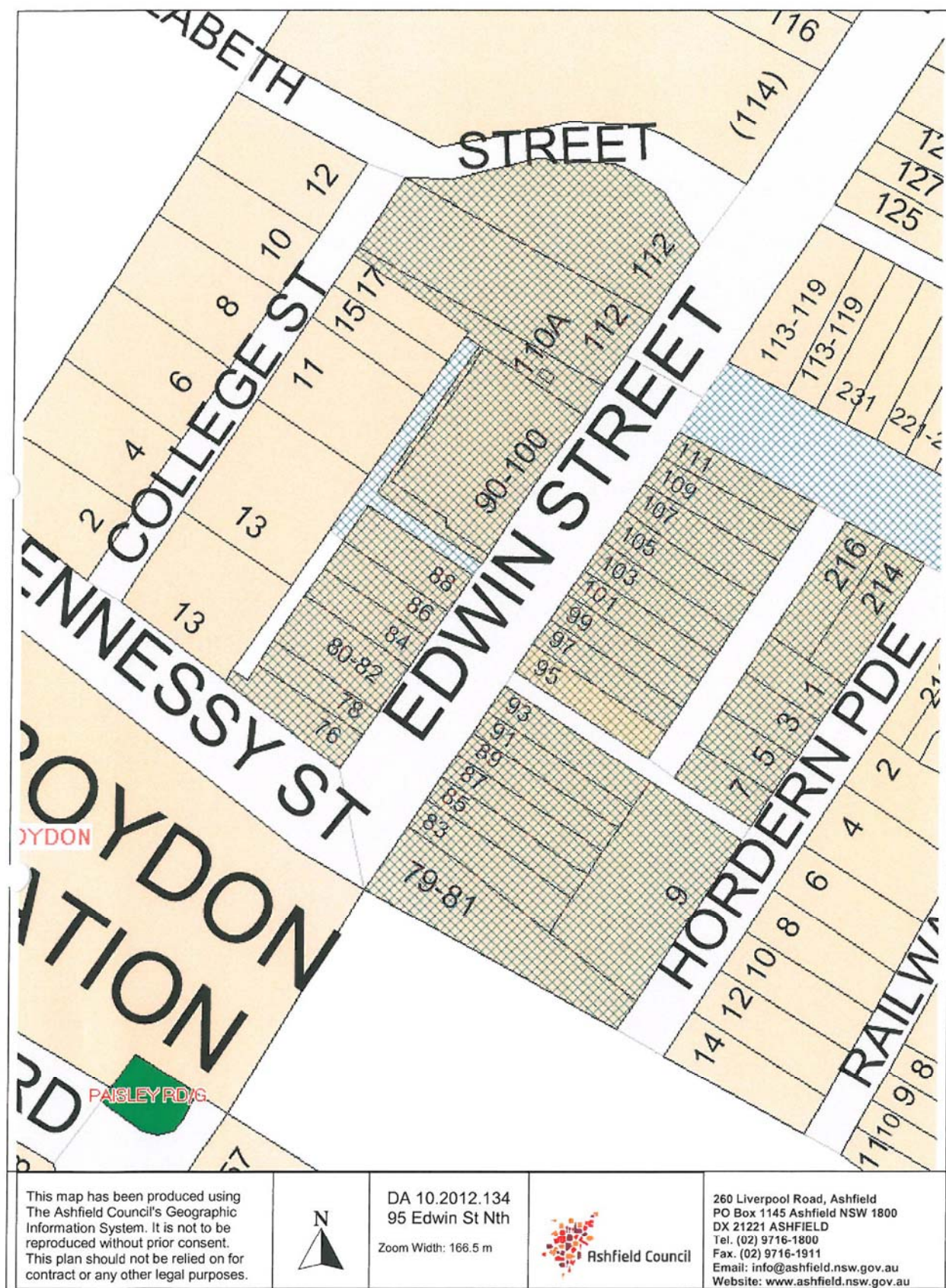




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CERTIFICATE WHOLE BODY MASSAGE

DISCOVER MASSAGE AUSTRALIA HEREBY STATES THAT

RONNIE HE

HAS SUCCESSFULLY COMPLETED THE WHOLE BODY MASSAGE COURSE
ON THE 14TH AUGUST, 2011

- RELAXATION MASSAGE
- DEEP TISSUE MASSAGE
- HEADACHE TREATMENT
- BASIC SPORTS MASSAGE
- ASTHMA TREATMENT
- SINUS TREATMENT

PLUS THE CONTRAINDICATIONS AND BENEFITS OF MASSAGE

Ashfield Council

06 JUL 2012

COUNCIL COPY



MEMBER ID: 18146

Your Pathway
to Massage Excellence

CAMERON AUBREY
COURSE DIRECTOR

Subject	DEVELOPMENT APPLICATION: 10.2010.301.3 2A BROWN STREET, ASHFIELD
File Ref	DA.10.2010.301
Prepared by	Atalay Bas - Manager Development Services
Reasons	Matter requires Council determination
Objective	Council to determine the application

1.0 DESCRIPTION OF PROPOSAL

An application pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979*, as amended, seeks Council's approval to delete the lowest approved basement car parking level and to amend the remaining basement levels so as to provide the required number of car parking spaces. The original approval Incorporated a total of five (5) basement car parking levels where as the proposed modification will have a total of four (4) car parking levels. The proposed break down of the basement levels are:-

- Basement level B1 – Retail, providing a total of 57 car spaces;
- Basement level B2 – Public, providing a total of 84 car spaces;
- Basement level B3 – Residential, providing a total of 79 car spaces; and
- Basement level B4 – Residential, providing a total of 76 car spaces;

2.0 BACKGROUND

On 1 July 2011 the Sydney East Joint Regional Planning Panel granted approval for demolition of existing commercial building, tree removal and construction of two (2) x 8 storey mixed use buildings comprising of:-

- Building "A" 8 storey predominantly fronting Brown Street;
- Building "B" 8 storey located behind building A and predominantly fronting Drakes lane;
- Three (3) retail & one (1) supermarket tenancy at the ground floor;
- Five (5) basement parking levels accommodating 282 vehicles inclusive of two levels of public car parking spaces on basement levels B2 and B3 that will be dedicated to Council for sole use by the general public;
- Loading/unloading & waste room on ground level;
- One hundred twenty (120) residential apartments comprising of 26 x 1 bed, 79 x 2 bedroom, 4 x 2 bedroom + mezzanine, 6 x 3 bedroom and 5x 2 bedroom self office/home office apartments;
- A public through-site link from Brown Street to Drakes Lane via a lift and stairway access; and
- Colonnade along Brown Street elevation.

On 29 November 2011 the applicant filed a Class 1 appeal with the Land and Environment Court of NSW. The applicant contended that condition C(11) requiring the payment of a Section 94 contribution was unreasonable in the particular circumstances of the case and should be deleted to offset the cost of providing the public car park.

In the alternative, the applicant contended that the amount of monetary contribution required to be paid pursuant to condition C(11) was not in accordance with the S94 plan and should be reduced. This was because the applicant claimed that no allowance was made for the existing commercial floor space on the subject site.

On 28 March 2012 Commissioner Morris of the Land and Environment Court gave her written decision in this matter. The appeal was upheld in part. The Commissioner refused the applicant's appeal to delete condition C(11) in its entirety, however, granted a reduction of \$555,000.00 in the total quantum of the Section 94 contribution with the contribution being reduced to a total of \$1,555,504.96.

On 30 March 2012 the applicant lodged a Section 96 application seeking approval to stage the phasing of the construction certificate approvals into three (3) specific stages and deferring the payment of the Section 94 contribution payment. Council approved this Section 96 application on 24 April 2012.

3.0 SUMMARY OF MODIFICATION

The applicant has stated that the deletion of the fifth basement car park level is being sought in an effort to reduce the costs of construction and to reduce the environmental impacts of the development.

The original approved scheme incorporated the following breakdown in respect to car parking spaces:-

- Basement B1 - Retail level providing a total of 38 car parking spaces;
- Basement B2 - Residential and public level providing a total of 9 residential and 48 public car parking spaces;
- Basement B3 – Residential and public level providing a total of 8 residential and 51 public car parking spaces;
- Basement B4 - Residential level providing a total of 62 car parking spaces; and
- Basement B5 - Residential level providing a total of 67 car parking spaces.

A total of 283 car parking spaces was proposed throughout basement levels B1 to B5 in the original approval. The proposed modifications will have a total of 299 car parking spaces throughout basement levels B1 to B4.

The proposed modification, despite being one basement level less, provides more car parking spaces overall. The reason for this is that the modified basement car parking levels incorporate a more efficient layout and removes unnecessary ramps thus freeing up more usable area to be utilised for car parking spaces.

The original approved scheme incorporated one (1) lift and a travelator from the supermarket level to the car parking level. The proposed modification deletes the travelator however replaces it with an extra lift thus now providing a total of two lifts servicing the future supermarket.

The original scheme provided a total of 99 public car parking spaces over levels B2 and B3. A total of 84 public car parking spaces was required, however the applicant provided an extra 15 public car spaces. The reason being that, the design of the original basement could not accommodate the entire 84 public spaces on one level rather the applicant provided these spaces over 2 basement levels. Therefore the additional spaces was provided as public car parking as it was difficult to physically separate these spaces from the public level and incorporate them into the retail level. The proposed modifications to the basement car parking now enables the entire 84 public car parking spaces to be accommodated on one level.

During the Land and Environment Court appeal held in March 2012 the applicant sought credit from Council in respect to the 15 extra public car parking spaces. During the appeal Council indicated that the extra 15 spaces was not requested or conditioned by Council rather the applicant provided these spaces. During the appeal Council informed the court that only 84 public car parking spaces is required and that the applicant could allocate the additional 15 spaces to the retail component if they wish to.

The proposed modified basement level B1 does not provide the required 18 bicycle storage spaces as approved in the original scheme, in this regard a condition will be imposed requiring the provision of 18 bicycle storage space on the retail level.

In addition the proposed modified basement level B3 and B4 does not provide the required 5 motorcycle parking and 20 bicycle storage spaces, in this regard a condition will be imposed requiring the provision of 5 motorcycle parking and an additional 5 bicycle storage space on the residential levels.

The proposed modification only relates to the basement car parking levels and will therefore not create any visible external changes to the building as originally approved. From an ESD point of view the removal of the fifth basement level will have benefits in that there will be reduced excavation and truck movement.

The modification will not alter the external appearance of the approved building and as such considered that the proposed amendment does not substantially alter the nature of the original proposal. In addition the proposal complies with the *Ashfield Local Environmental Plan 1985* (as amended) and the applicable development control plans.

4.0 APPLICATION DETAILS

Applicant	Mr F Nassif
Owner	Mercland Ashfield Pty Ltd
Lot/DP	Lot 2 DP 1111574
Date lodged	04 July 2012
Application Type	Local
Construction Certificate	Not submitted as part of the DA
Section 94 Levy	Applies

5.0 SITE AND SURROUNDING DEVELOPMENT

The subject site with a site area of 3,687m² is located within the street block bounded by Brown Street, Hercules Street and Liverpool Road and is located diagonally opposite Ashfield Railway Station.

The subject site is also located within the core of the Ashfield Town Centre. The site has its main frontage to the western side of Brown Street and secondary frontage to Drakes Lane. The land falls towards the northern end of Brown Street, where it levels off opposite the Ashfield Railway Station.

The site abuts a 7 storey commercial building to the south east and an existing electricity substation to the south. To the east of the site is an 8 storey mixed use development. To the west of the site is Hercules Street commercial strip, with those shops fronting Hercules Street.

Refer to **Attachment 1** for a locality map.

6.0 ZONING/PERMISSIBILITY/HERITAGE

The development site is zoned 3(a) - General Business under the provisions of ALEP 1985, which permits the proposed development.

7.0 SECTION 79C and 96(2) ASSESSMENT

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C and 96(2) of the Environmental Planning and Assessment Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

The proposal does not alter compliance with the LEP.

7.1.2 Regional Environmental Plans

Not applicable.

7.1.3 State Environmental Planning Policies

The proposal does not alter compliance with the relevant SEPPs.

7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

The subject site is proposed to be zoned B4 Mixed Use pursuant to Draft Ashfield Local Environmental Plan 2012. The proposed modification is permissible with consent.

The proposed modification to the basement levels is compliant with the provisions of the Draft Ashfield Local Environmental Plan 2012

7.3 The provisions of any Development Control Plan.

The proposal does not alter compliance with relevant DCPs.

7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

Not applicable.

7.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

These matters have been considered as part of the assessment of the development application. It is considered that the proposed alterations will have no significant adverse environmental impacts in the locality.

7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development.

7.7 Any submissions made in accordance with this Act or the regulations.

Clause 2.26 (c) of Council's notification policy exempts notification of applications where the proposed works will not be visible externally and there will be little or no impact on the amenity of the locality and/or traffic safety.

7.8 The public interest

The public interest would not be served by refusal of this proposal.

8.0 REFERRALS

Council's traffic engineer has not raised any issues with the proposed modification to the basement levels.

9.0 FINANCIAL IMPLICATIONS

There is no negative financial implications for Council in approving this application.

10.0 BUILDING CODE OF AUSTRALIA (BCA)

The proposed changes do not alter compliance with the Building Code of Australia. The applicant is required to lodge a Construction Certificate.

11.0 CONCLUSION

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 as amended with all matters specified under Section 79C (1) Clauses (a) to (e) and Section 96(1a) have been taken into consideration. The proposal is considered to be acceptable and is therefore recommended for approval.

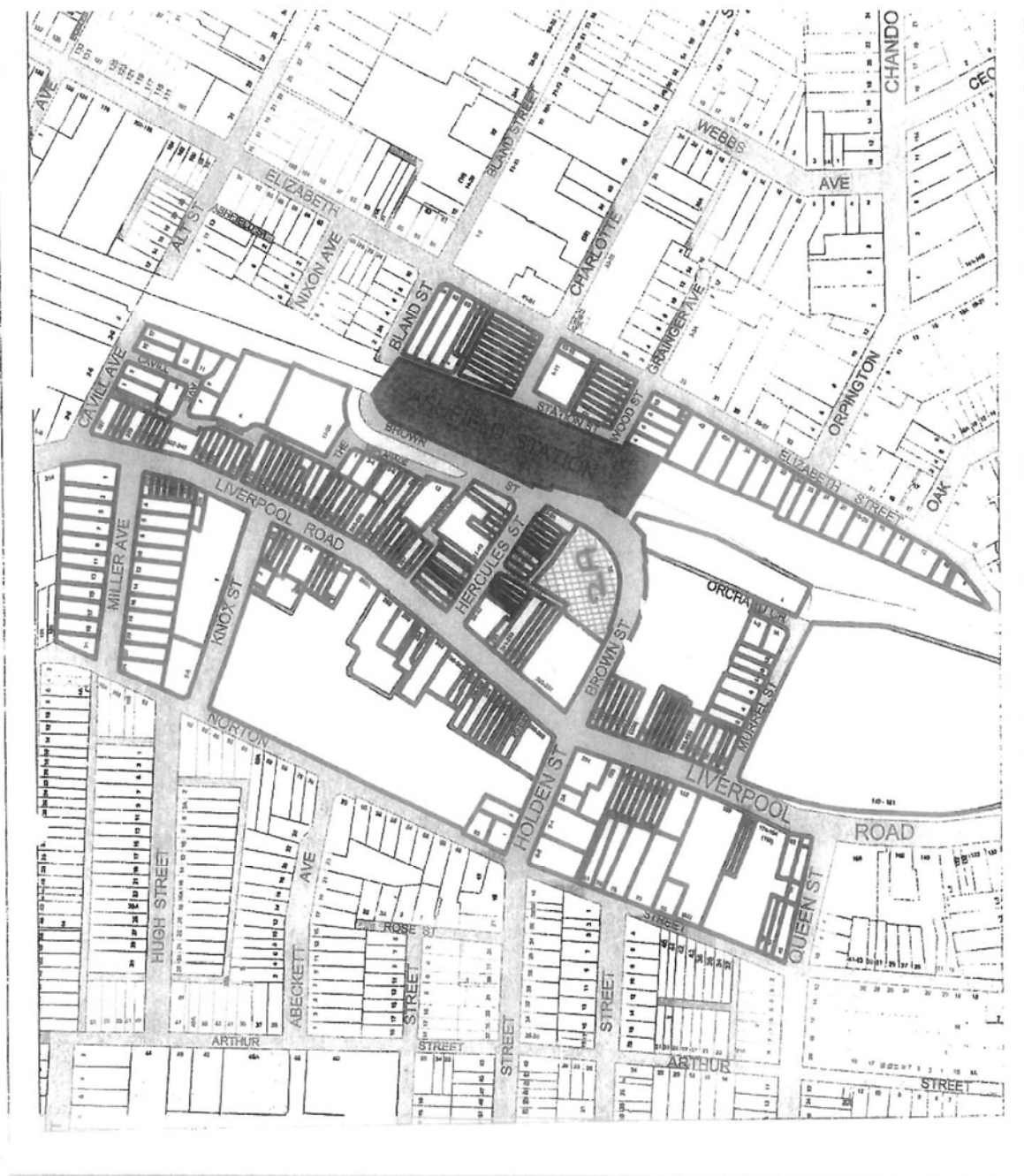
ATTACHMENTS

Attachment 1	Locality Map	1 Page
Attachment 2	Plans of Proposal	8 Pages
Attachment 3	Conditions	42 Pages

RECOMMENDATION:

That Development application No. 10.2010.301.3 be approved subject to the attached conditions.

PHIL SARIN
Director Planning and Environment



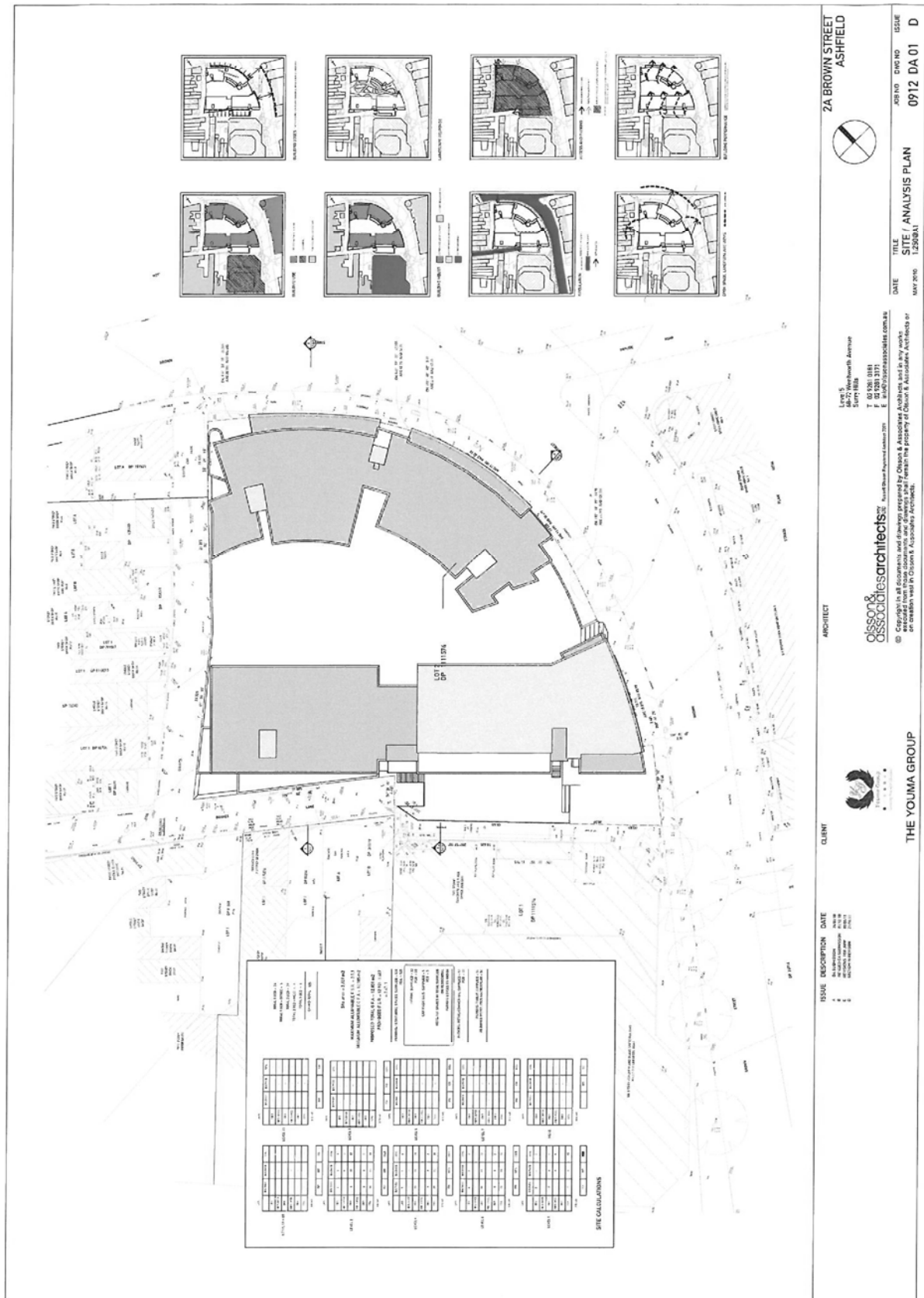
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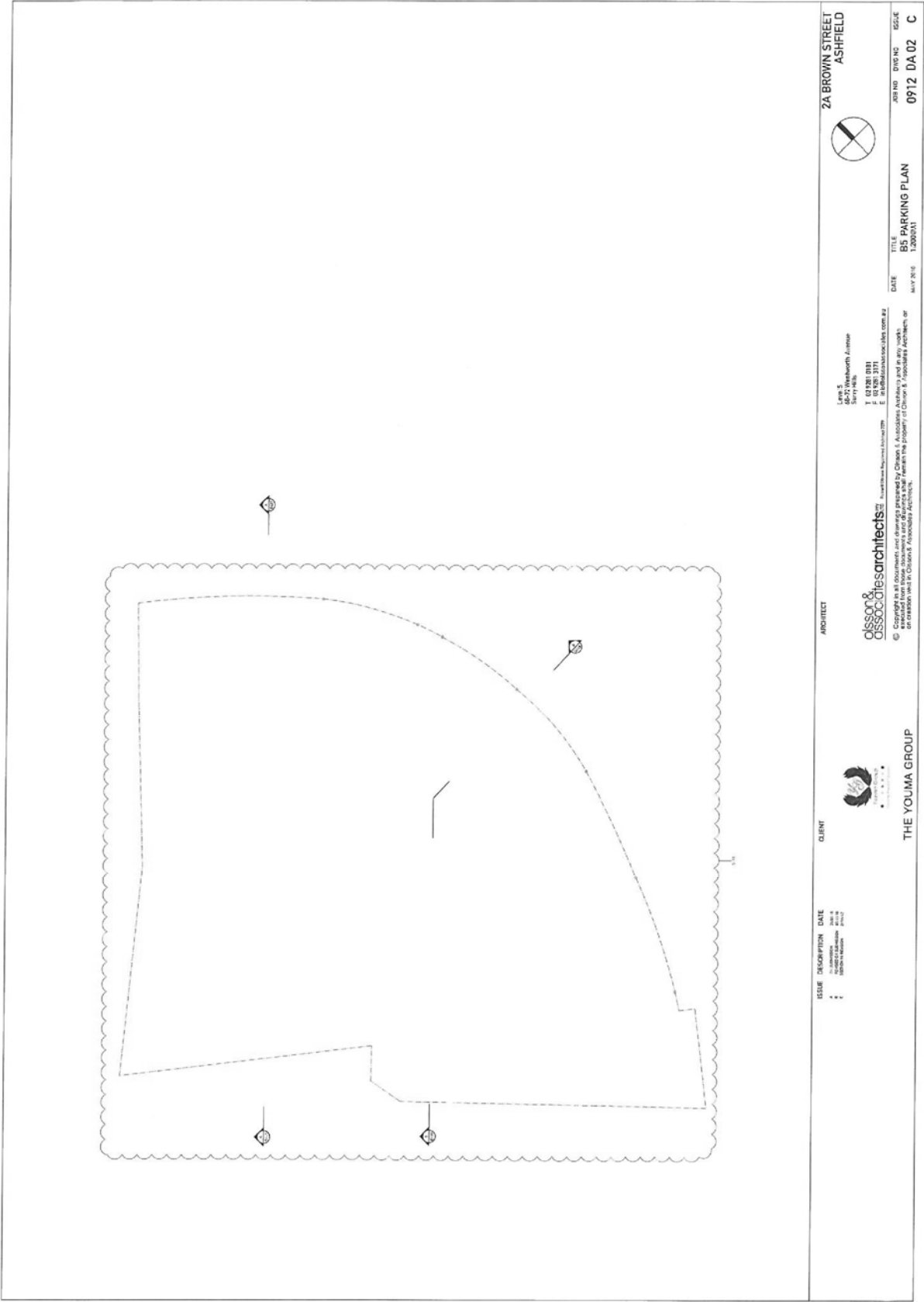
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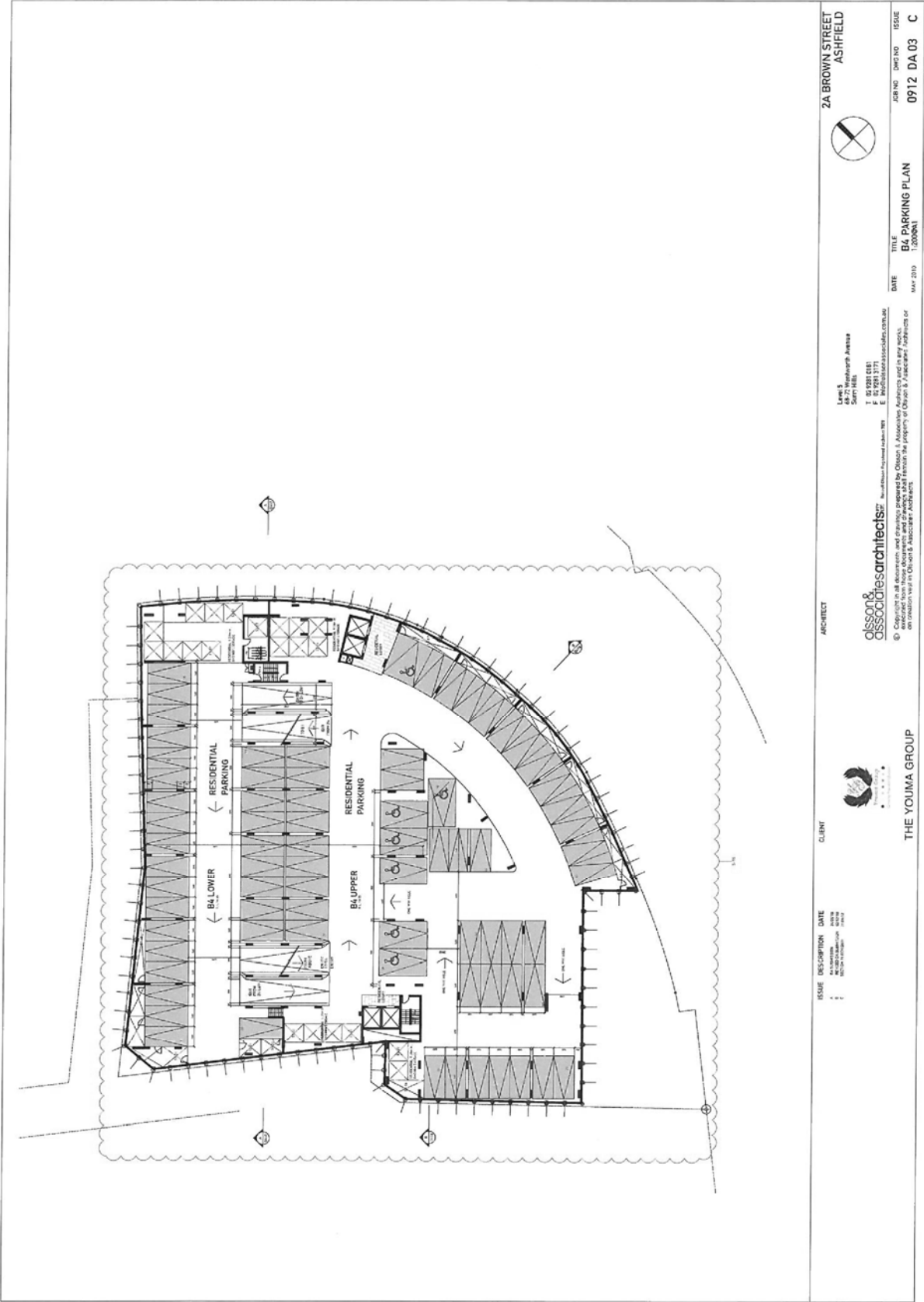
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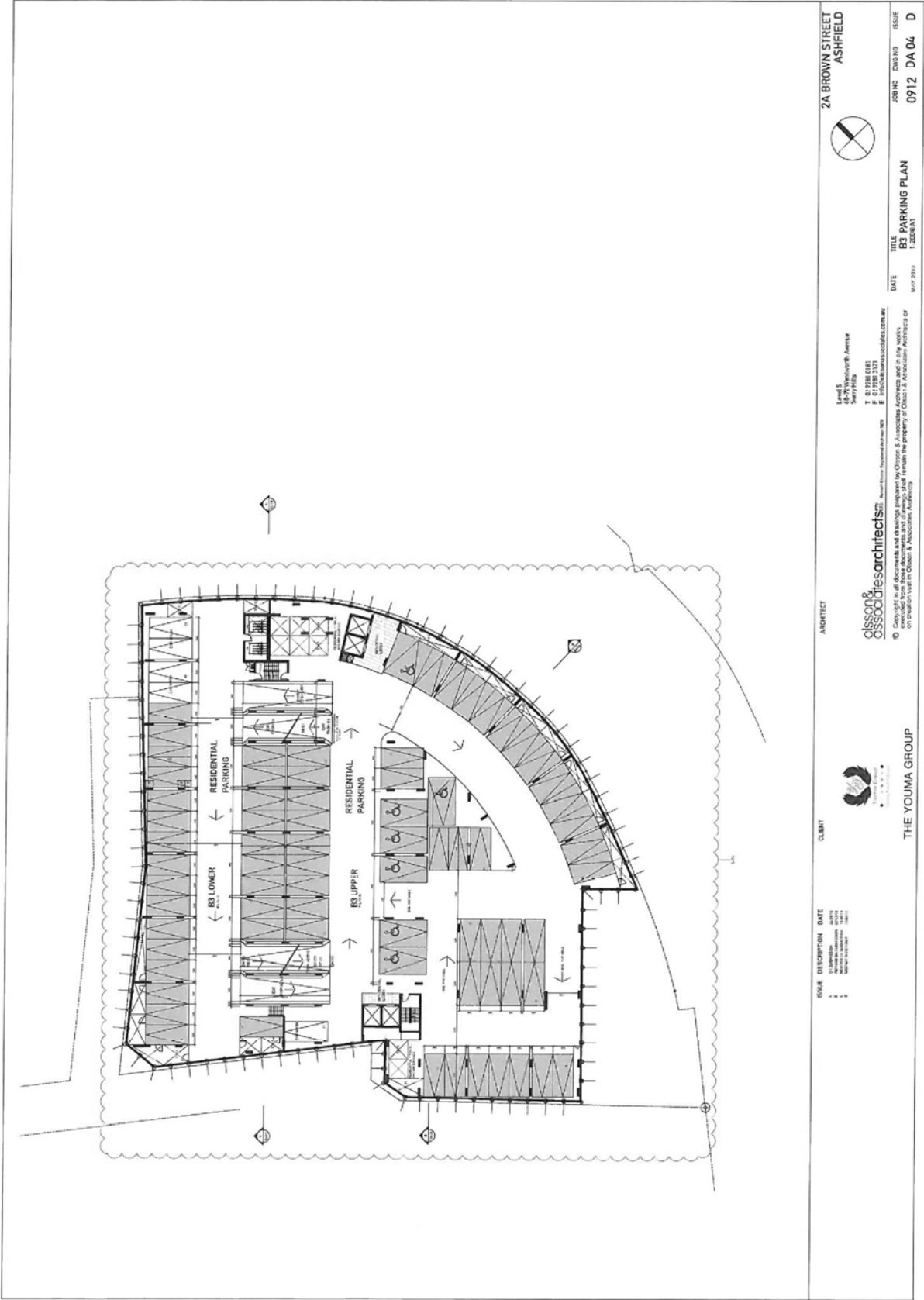
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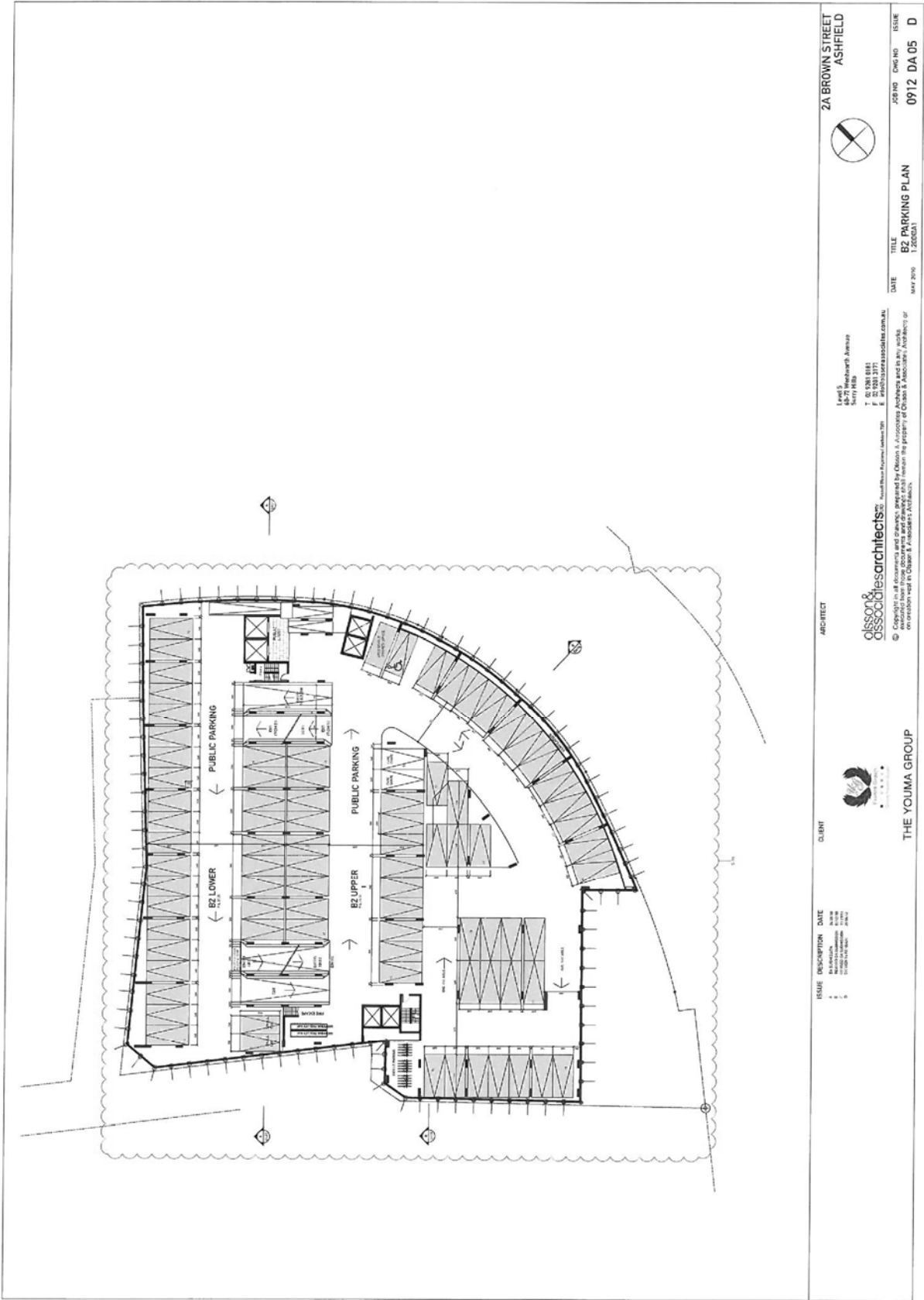


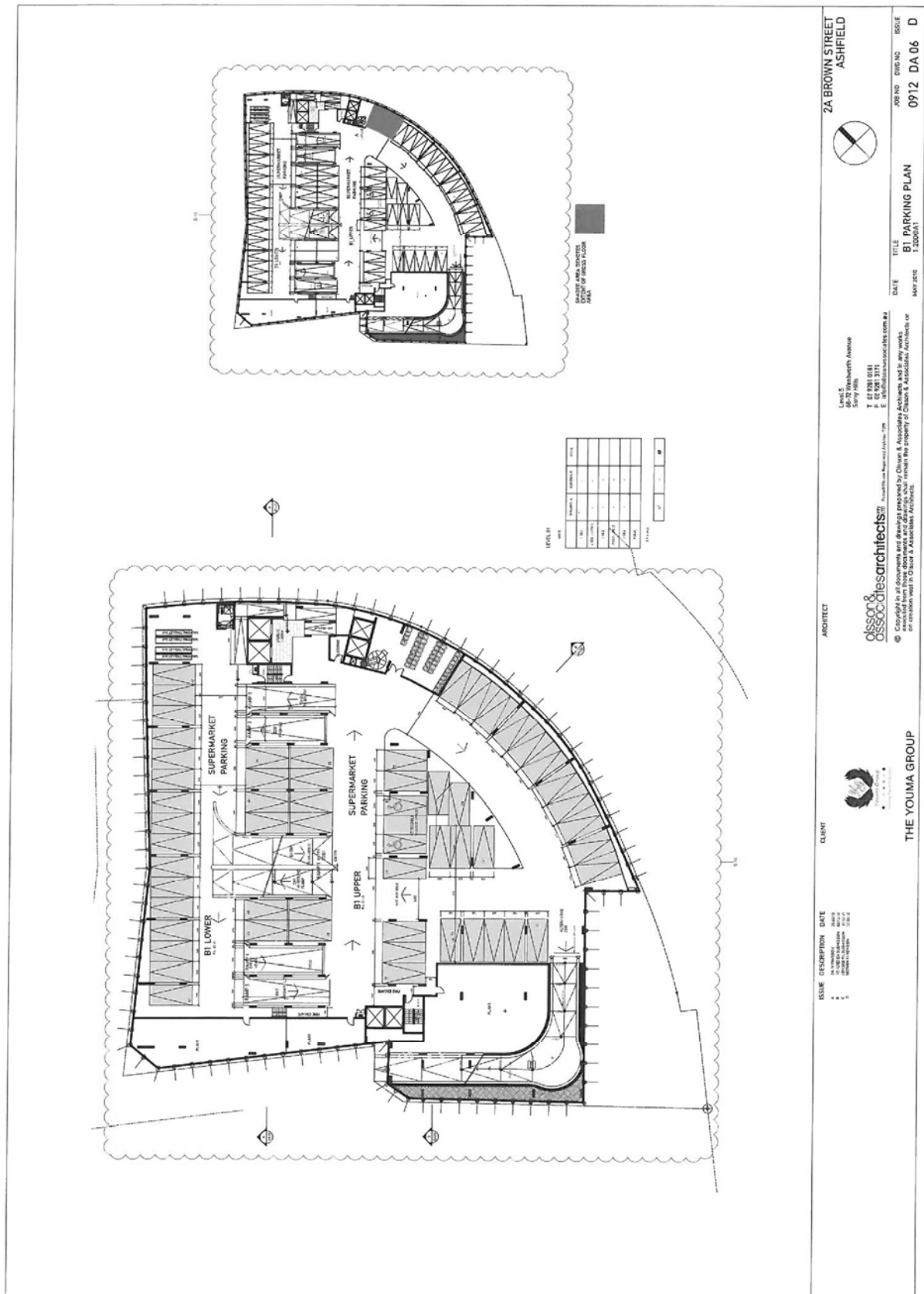


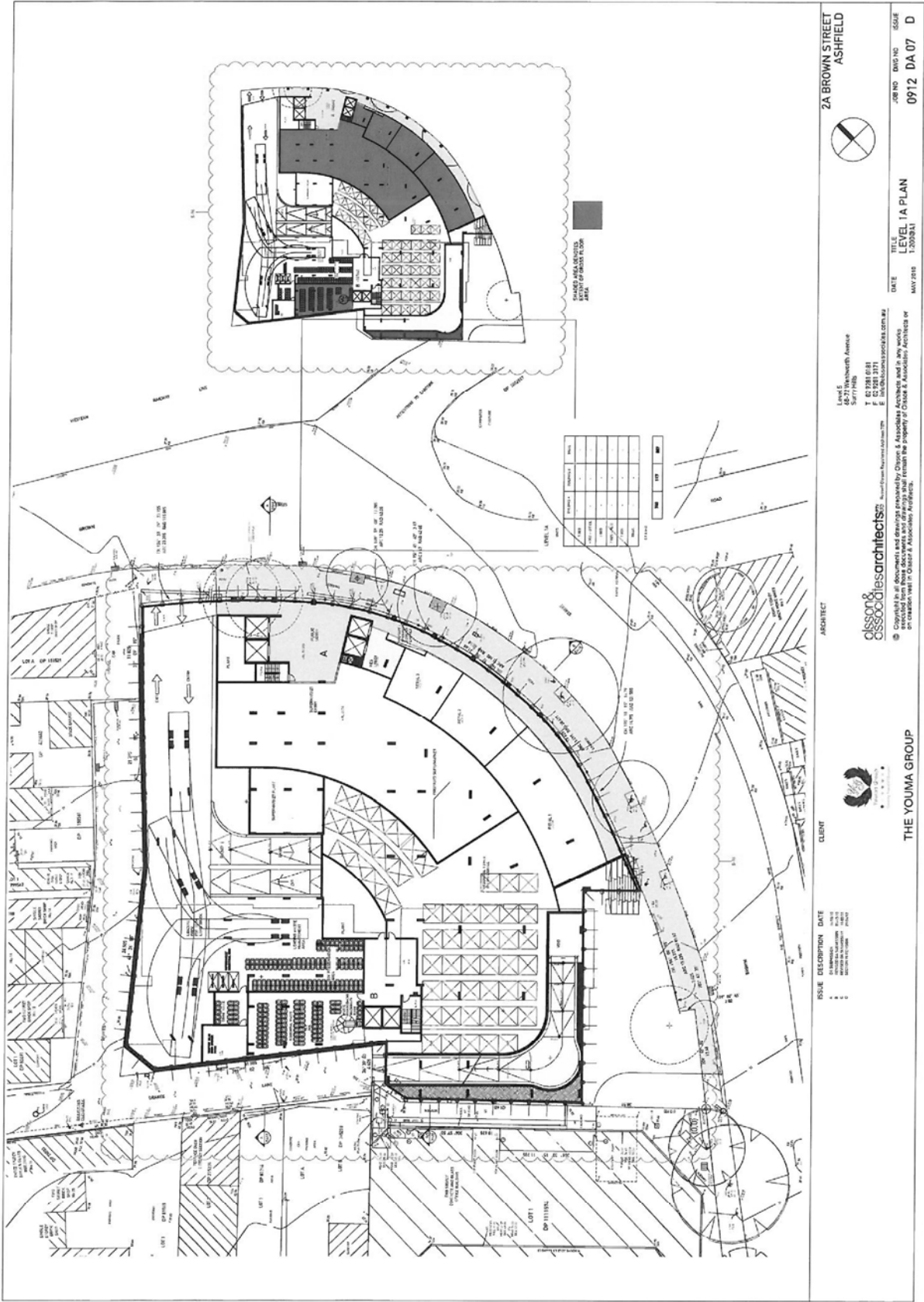


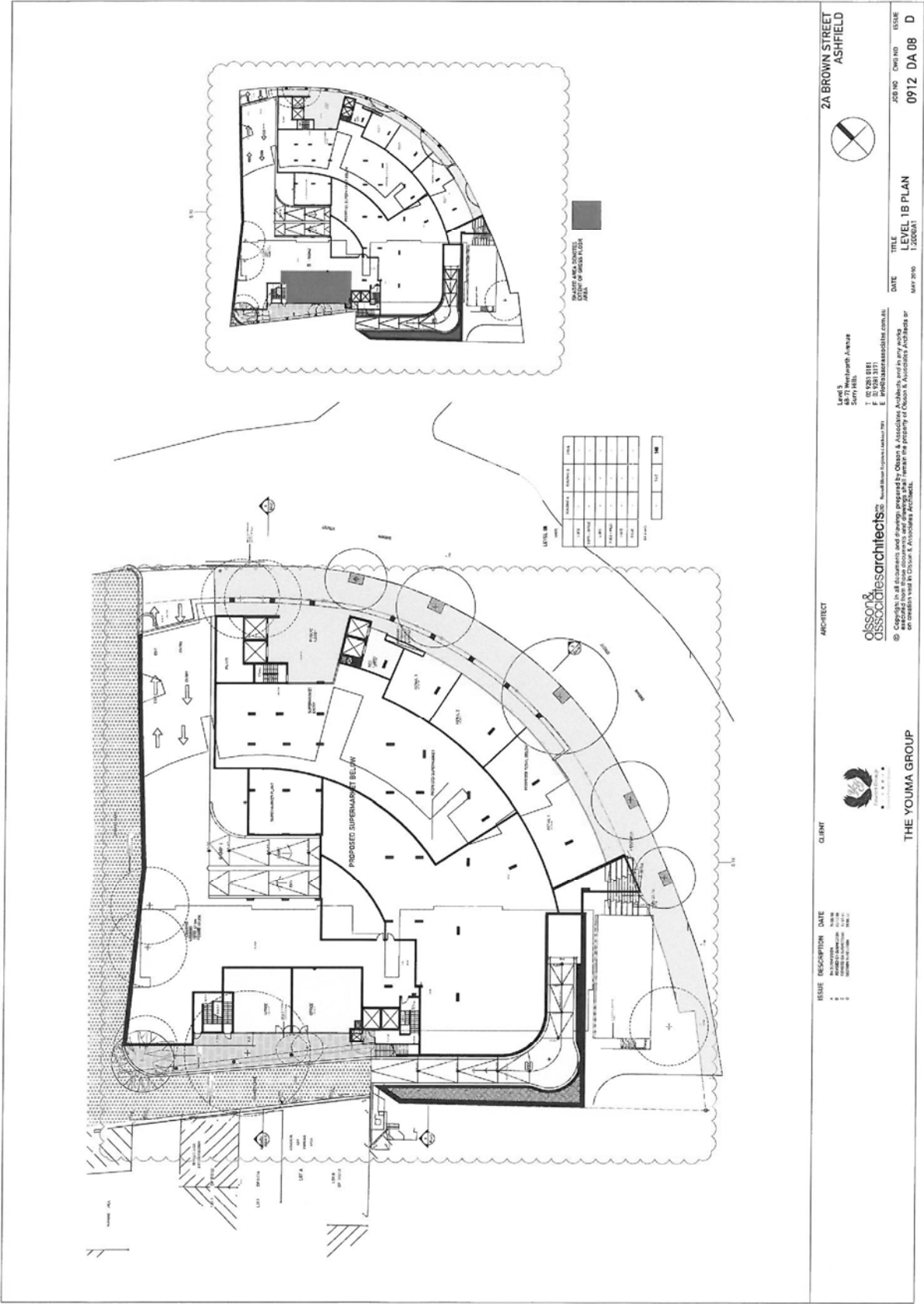












CONDITIONS

DA 2010.301.3

2A Brown Street ASHFIELD 2131

Description of Work as it is to appear on the determination:

An application pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979*, as amended, seeks Council's approval to delete the lowest approved basement car parking level and to amend the remaining basement levels so as to provide the required number of car parking spaces. The original approval Incorporated a total of five (5) basement car parking levels where as the proposed modification will have a total of four (4) car parking levels. The proposed break down of the basement levels are:-

- Basement level B1 – Retail, providing a total of 57 car spaces;
- Basement level B2 – Public, providing a total of 84 car spaces;
- Basement level B3 – Residential, providing a total of 79 car spaces; and
- Basement level B4 – Residential, providing a total of 76 car spaces;

A General Conditions

(1) **Approved plans stamped by Council**

The development must be carried out only in accordance with the approved plans and specifications listed below, prepared by Olsen & Associates Architects Pty Ltd and any supporting documentation received with the application, except as amended by the conditions specified hereunder:-

Job No	DWG No	Issue	Title
0912	DA 01	C	Site / Analysis Plan
0912	DA 02	C	B5 Parking plan
0912	DA 03	C	B4 Parking plan
0912	DA 04	D	B3 Parking plan
0912	DA 05	D	B2 Parking plan
0912	DA 06	D	B1 Parking plan
0912	DA 07	D	Level 1A plan
0912	DA 08	D	Level 1B plan
0912	DA 09	C	Level 2 plan
0912	DA 10	C	Level 3 plan
0912	DA 11	C	Level 4 plan
0912	DA 12	B	Level 6 plan
0912	DA 13	C	Level 6 plan
0912	DA 14	B	Level 7 plan
0912	DA 15	D	Level 8 plan
0912	DA 16	D	Mezzanine Plan
0912	DA 17	C	Section AA
0912	DA 18	D	Section BB
0912	DA 19	D	Elevation - South
0912	DA 20	D	Elevation - East
0912	DA 21	D	Elevation - North
0912	DA 22	C	Elevation - West
0912	DA 23	C	Elevation - East
0912	DA 24	C	Elevation West (Courtyard)
0912	DA 25	B	Shadow Diagrams
0912	DA 26	D	Perspective / Finishes
0912	DA 27	B	Envelope Study
0912	DA 28	C	Masterplan Height Analysis
0912	DA 29	C	Masterplan Height Analysis
0912	DA 30	A	Adaptable Apartments
0912	DA 31	A	Public Right of Way
0912	DA 32	A	Stratum Plans
0912	DA 33	B	Neighbouring Shadow Studies
0912	DA 34	B	Neighbouring Shadow Studies

0912	DA 35	B	Neighbouring Shadow Studies
100102	L01	C	Concept Landscape Plan
100102	L02	C	Landscape plan Sections and elevations
209-728	H-01	A	Site Survey, Roof Plan & OSD Calcs
209-728	H-02	A	Stormwater Drainage Levels 2 – 8
209-728	H-03	A	Stormwater Drainage Levels 1A & OSD Detail
209-728	H-04	A	Sediment Control plan

Document	Prepared by	Date
Statement of Environmental Effects Pty Ltd	Caladines Town Planning	December 2010
Acoustic Assessment Report No. 20C-09-0317-TRP-452602-1	VIPAC	16 June 2010
BASIX Assessment Report No. 20C-09-0318-TRP-45998-2	VIPAC	4 November 2010
BASIX Certificate	Certificate No 309596M_02	4 November 2010
BASIX Certificate	Certificate No 309610M_02	4 November 2010
Traffic and Parking Assessment Report	Varga Traffic Planning	25 May 2010
Waste management Report	Olsson & Associates Architects Pty Ltd	2 December 2010
Access Report	Mark Relf	11 May 2010
Access Report Addendum	By Mark Relf	22 February 2011

(2) Dedication of land to Council

Basement levels B2 which provide public car parking, shown on drawing 0912.DA05, Issue D revised 29/06/12 shall be dedicated to Council free of all costs to Council, to be available to members of the public for use as a public car park, the fee simple of which shall be vested in Council ("the public car park land"). The public car park land shall not include residential lobbies, residential storage, nor residential car parking or bicycle storage spaces.

(3) Creation of stratum allotment for the public car park land

The land which is the subject of the development consent shall be subdivided to include a stratum subdivision so as to create one stratum allotment for B2 which will be the public car park land.

A certificate of occupation shall not be issued for the whole of the development the subject of this consent until the Applicant for consent or any successor in title, at its cost, obtains development consent for the stratum subdivision of the public car park land and the stratum allotment is transferred to Council, in fee simple, at no cost to Council.

(4) All essential services to be provided to the car park land prior to dedication

The public car park land shall contain, at no cost to Council, all essential services including fire services, drainage/stormwater services, ventilation services, line markings, service metres, energy efficient lighting services and be fully compliant with all relevant provisions of the Building Code of Australia, at the time the land is transferred to Council in accordance with condition 3 above.

Part of the essential services which are to be installed within the stratum allotment and be operational at the time of transfer of the land to Council include a "time stay" system which will control the length of stay for each car park user of the public car park land. The Applicant or its successor in title shall be responsible for the maintenance and upkeep of all essential services including the "time stay" system within the stratum allotment for B2 forming the public car park land.

The proposed lighting services shall be approved by Ashfield Council prior to issue of the Construction Certificate stage 2. The proposed lighting system shall be energy efficient, achieving the highest energy rating available.

Separate and independent service meters for electricity and water shall be installed for the public car park land. Details shall be approved by Ashfield Council prior to release of the Construction Certificate stage 2.

(5) Public pedestrian right of way: Drakes Lane to Brown Street

A pedestrian link from Drakes Lane to Brown Street shall be available as a public pedestrian right of way through the western portion of the development site. The public pedestrian right of way is specifically identified on

drawing No. DA 31 Issue “A” prepared by Olsson & Associates Architects Pty Ltd titled “Public Right of Way Plan”.

(6) Creation of easement for public pedestrian right of way

The Applicant shall at its cost prepare the terms of an easement for public pedestrian right of way and submit the documentation creating the easement to Council for its approval prior to lodgement with the Land Titles Office. Proof of lodgement of the documents, creating the easement for public pedestrian right of way with the Land Titles Office, shall be provided to Council prior to release of the occupation certificate.

The terms of the easement to be created for the public pedestrian right of way shall include, but not necessarily be limited to, the following matters:

- A lighting system to be incorporated along the public pedestrian right of way at the Applicant's cost.
- The maintenance of, and public liability insurance for users of, the public pedestrian right of way to be the responsibility of the Applicant, with Certificates of Currency to be provided to Council annually.
- Opening hours of the public pedestrian right of way to be at least between the hours of 6.00am in the morning and 12 midnight in the evening seven (7) days per week.
- The lift system which is part of the public pedestrian right of way, shall be fully operational for public use during the opening hours of the public pedestrian right of way.

(7) Easements for access to public car park land

An easement for access shall be created in favour of Council for the purpose of permitting vehicular ingress to and egress from the public car park land. The easement for access shall be created at the Applicant's cost in conjunction with the stratum plan.

Prior to lodgement of all documentation, creating the easement with the Land Titles Office, Council shall approve the wording of the terms of the easement. The Applicant shall provide proof of lodgement of the documentation creating the easement, with the Land Titles Office, to Council prior to release of the Occupation Certificate.

(8) Easement for services relating to the public car park land

Easements for access and maintenance shall be created in favour of Council relating to all services installed within the public car park land. The easements shall be created at the Applicant's cost in conjunction with the stratum plan.

Prior to lodgement of all documentation creating the easements, with the Land Titles Office, Council shall approve the wording of the terms of the easements. The Applicant shall provide proof of lodgement of the documentation creating the easements, with the Land Titles Office, to Council prior to release of the occupation certificate.

(9) Electronic display system for car parking within the development site

To minimise the amount of vehicles circulating in the car parking and to prevent queuing of cars at the Brown Street car park entrance, the Applicant shall, at its cost, install an electronic display system (dynamic signage) at the entrance to the car park, in a prominent position, which shall indicate to intending vehicular users of the site, availability of parking spaces within the site.

The dynamic signage should be visible from Brown Street so motorists are aware of the number of vacant spaces prior to entering the car park. Details of the proposed signage shall be submitted to Ashfield Council for approval prior to release of the Construction Certificate stage 2.

(10) Driveway

The proposed driveway shall cater for the simultaneous left turns by a 12.5 metre truck and B99 car without requiring the service vehicle to cross the centre line in Brown Street.

(11) Individual Bay sensors

The applicant shall install individual bay sensors relaying occupancy details to a dynamic signage at the entrance of the building and integrated with an infringement system to advise rangers of over stays. Details of this system shall be submitted and approved by Ashfield Council prior to the release of the Construction Certificate stage 2.

(12) Provision of Conduit and cabling

The applicant shall make provisions and installation of conduit & cabling to allow for the installation of future entry and exit boom gates and auto pay stations for payment of parking fees over and beyond time limited parking including cabling for a management computer, cctv and reporting system. Details shall be submitted and approved by Ashfield Council prior to the release of the Construction Certificate stage 2.

(13) Delivery vehicles to the site

All deliveries to the subject site are to be limited to vehicles with maximum length of 10.7metres, and of which are required to enter and exit the Brown Street driveway from the correct side of the road. The following conditions are also applicable:

- (1) Access to the loading dock shall be restricted to only one vehicle at any one time.
- (2) Vehicles longer than 10.7 metres are prohibited from accessing the subject site.
- (3) A Loading Dock Management Plan (LDMP) shall be prepared to Council's satisfaction and shall implement appropriate measures to prevent more than one vehicle accessing the loading dock at any one time. The LDMP shall be submitted for approval, prior to the release of the Occupation Certificate.

(14) Design and construction of car parking bays and ramps

The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including grades, turn paths, sight distance requirements, aisle lengths, loading bay dimensions and parking bay dimensions) should be in accordance with AS2890.1 - 2004 and AS2890.2 – 2002 for large vehicles.

(15) Inclusion of Car share pods

In order to encourage alternative forms of transportation, two (2) 'car share' pods shall be sign posted on level B2 of the proposed public car park to the satisfaction of Council. A visual led light system shall be provided to these two spaces to allow easy identification. Details of the proposed identification system shall be provided for approval of Ashfield Council prior to release of the Construction Certificate stage 2.

(16) Pedestrian safety along Brown Street

Pedestrian safety shall be ensured in the area, particularly with regard to the interaction of trucks and pedestrians along the Brown Street frontage of the site. Clear sight line measures shall be provided at the property line to the Brown Street driveway to ensure adequate visibility between vehicles leaving the car park and pedestrians on the frontage road footpath- reference section 3.2.4 AS2890.1-2004.

(17) Lodgement of separate Development application

A separate development application is to be submitted to Ashfield Council for the use and fit-out of the proposed retail and supermarket tenancies.

(18) Building work in compliance with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

B Design Changes**(1) External finishes**

External finishes shall be in accordance with the “Perspective Finishes Dwg DA 26 Issue D”, except as follows:

- (i) Ground level columns along Brown Street shall have a stone cladding, with their shape made rectangular as required to enable the cladding to be applied. Details are to be submitted to the satisfaction of Ashfield Council for approval, prior to the release of the Construction Certificate stage 2, and are to include large scale fixing details.
- (ii) Façade concrete perimeter beam shown as A on the perspective along Brown Street, located above the ground level columns and extending approximately to the floor level of Level 1, shall have a stone cladding. Details are to be submitted to the satisfaction of Ashfield Council for approval, prior to the release of the Construction Certificate stage 2, and are to include large scale fixing details.

The purpose of the above amendments is to have a building finish which is an appropriate minimum standard for the landmark position of the building, and to have a finish that is long lasting and better resistant to deterioration compared to a painted concrete surface.

The composite metallic panel cladding identified as J on the Drawing legend, shall be applied to the westerly façade shown on Elevation/north, DA 21 issue B and elevation East, DA 20 issue B, and marked in red. The purpose of the above amendments is to have a finish which is an appropriate minimum standard for the landmark position of the building, and to have a finish that is long lasting and better resistant to deterioration compared to a painted concrete surface.

All external paint finishes at ground level shall have anti-graffiti coatings.

(2) Clothes Drying Areas

External clothes drying areas shall be provided on the balcony areas of the apartments. These areas shall be located on balconies so that they are not directly visible from public places or the internal courtyard area of the proposed development. Details shall be submitted with the Construction Certificate stage 3.

(3) Provision of roof top communal open space

A roof top communal open space area shall be established within the development and shall be provided with facilities such as BBQ's and seating. Details shall be submitted and approved by Ashfield Council prior to issue of the Construction Certificate stage 3.

(4) Bicycle parking

A bicycle parking area shall be incorporated into the public carparking area without the loss of any public carparking spaces.

(5) Basement head height

The ceiling height for the internal waste and recycling collection areas shall be a minimum 4.3 metres and free from suspended pipes, ducts etc. Details are to be provided on revised plans with the submission of Construction Certificate stage 2.

(6) Vehicle wash bays

All vehicle wash bays shall be provided with a tap connected to a continuous supply of water and the wash bays shall be bunded and graded to a floor waste connected to the sewer.

(7) Provision of wash bays in basement levels B5 and B4

A minimum of four (4) resident's visitor parking spaces located on basement B3 and B4 shall be converted into a dual car wash bay/visitor car parking.

(8) Provision of public Art

A public art feature shall be designed and constructed/installed at the applicants cost for the lower section (blank wall) elevation of the building along the Drakes Lane frontages. This feature shall provide visual interest for pedestrians and interpret or reflect the local setting and/or landscape character and/or the cultural setting of the area. The feature shall be designed to ensure long-term durability and be resistant to vandalism. Details shall be approved by Ashfield Council prior to issue of Occupation Certificate, and the applicant is advised to liaise with Council during design stages.

(9) Protection of street trees

No trees on public property (footpaths, roads, reserves, etc) shall be removed or damaged during construction including for the erection of any fence, hording or other temporary works. Street trees shall be protected during construction work at all times. Details of the method employed to preserve and protect street trees shall be submitted and approved by Ashfield Council prior to release of the Construction Certificate stages 1, 2 and 3.

(10) Bicycle parking at Basement B1

18 bicycle parking area shall be incorporated into the supermarket level B1 without the loss of any carparking spaces.

(11) Bicycle parking at Basement B3 and 4

An additional 5 bicycle parking area shall be incorporated into the residential level B3 and B4 without the loss of any carparking spaces. Therefore a total of 20 bicycle parking area shall be provided at levels B3 and B4.

(12) Motorcycle parking at Basement B3 and B4

5 motorcycle parking area shall be incorporated into the residential level B3 and B4 without the loss of any carparking spaces.

C Conditions that must be satisfied prior to issuing/releasing a Construction Certificate for each relevant Construction Certificate stage**(1) Damage deposit/footpath, road, kerb and gutter**

A Damage Deposit of **\$50,000** is to be submitted prior to the release of the Construction Certificate stage 1 covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of the entire development and no earlier than the completion of stage 3 construction certificate works.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc. Note: Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

Bank Guarantees are accepted in lieu of any Council security deposit/bond subject to the following:

A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts are paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

(2) Footpath and Asphalt works to be carried out on Public land

The following construction works shall be carried out by the applicant to the requirements of Council's Works & Infrastructure Department. This work shall be carried out prior to the release of the Occupation Certificate. Plans for Council's perusal shall be submitted as stated below:

1. Construction Works - General

- (a) A demolition, construction and earth works Traffic Management Plan detailing construction and excavation vehicle routes, number of trucks, hour of operation, access arrangements and traffic control

will be submitted to Council, for approval, prior to the issue of a construction certificate for stages 1, 2 and 3.

- (b) Trees located on Council footpath shall be retained and protected at all times. Council approval is required for pruning of Council trees which is needed to aid construction works and shall be carried out in accordance with the Australian Standard AS4373 "Pruning of amenity trees" and conducted in accordance with the NSW Workcover Authority Code of Practice, Tree Work 2007.
- (c) Council shall be notified directly the moment any existing street sign located outside the site is removed or damaged during construction phase.

2. Construction Works – Brown Street

- (a) The public footpath for the full site frontage on Brown Street shall be completely reconstructed with the use of pavers similar in material, pattern and colour to the reconstituted type granite paving which have been used in Liverpool Road in the Ashfield Town Centre. All trees surrounds shall be in filled with permeable paving similar to existing. Details are to be submitted to the satisfaction of Ashfield Council for approval, prior to the release of the Construction Certificate stage 3.
- (b) The existing narrow central median island in Brown Street shall be temporarily removed prior to the demolition of existing buildings to allow an area for future construction zone. A temporary marked centre line shall be provided in place of the removed median island. Discussions with Council's Engineering Department shall be undertaken prior to marking out the area. The removal of the median island and the temporary line making shall be undertaken by the applicant at their cost to Council's satisfaction, prior to release of construction certificate stage 2.
- (c) The existing narrow central median island in Brown Street that is required to be removed as item (b) above shall be reinstated, at least one metre in an easterly direction (towards the Railway commuter car park from the northern end); this work will then allow kerb side parking to the front of the site along the bend in Brown Street. The parking will be of a type as determined by Council and provided for in general benefit to the area. The median shall be off-set a distance in position so as not to interfere in the proper and safe movement of buses and vehicles in the southerly direction. Plans illustrating the relocated central median island shall be submitted and approved by Ashfield Council and the Local Traffic Committee prior to the issue of the Construction Certificate stage 2. The relocated median island shall be constructed to Council's satisfaction prior to issue of Occupation Certificate.
- (d) In conjunction with the median being off-set, the southern corner of the access lane to the existing apartments off Brown Street, opposite the median, shall be cut back to allow garbage vehicles and other vehicles of maximum length servicing the apartments, to turn left (only) from the lane into Brown Street. Plans illustrating this requirement shall be submitted and approved by Ashfield Council and the Local Traffic committee prior to the issue of the Construction Certificate stage 2.
- (e) The applicant shall be responsible for the removal, design and re-construction of the median islands and associated kerb alterations.
- (f) No Stopping restrictions, subject to traffic committee approval, shall be signposted a minimum of 10 metres to both side of the driveway in Brown Street for the safe viewing of traffic and proper vehicle ingress and egress out of the driveway.
- (g) All bus stop facilities to the southern side of Brown Street in vicinity of the proposed site driveway shall be relocated further down Brown Street to and within the current parking area on the southern side of Brown Street adjacent to The Esplanade. The applicant shall provide notice to Council of minimum period of (6) weeks before commencement of construction for Council to arrange the necessary relocation of the bus stop.
- (h) The applicant shall be responsible for the design and construction of an indented area, to Council's satisfaction, within the embankment at the new location of the bus stop. The indented area shall be constructed approximately 16.0 metres by 2.0 metres to facilitate the provision of bus shelters. The embankment shall be lowered on the eastern side of the intended bus shelter area to allow passengers, sitting down, to adequately view buses in approach to the stop. A plan of this indented area and associated lowering of the embankment shall be submitted to Council for approval prior to the release of the Construction Certificate stage 2. Liaison should be made with Council's Engineering officers to determine criteria in the design of the intended area and lowering of

embankment prior to submitting plans for approval. The work shall be carried to the satisfaction of Council prior to commencement of construction and the relocation of the bus stop to this location.

- (i) A second and a new narrow central median island is to be constructed across the proposed site driveway in the middle of Brown Street to physically enforce and only allow vehicle movements left turn in and left turn out of the driveway. The design and positioning of the median shall provide a safe and sufficient width in travel lane movement between parked buses to the northern side and any standing vehicles to the southern side of Brown Street. The median shall not hinder/obstruct in the manoeuvre of any vehicular access in and out of the driveway. Further splaying to either side of the driveway should be considered, if deemed necessary. Plans illustrating the new median island shall be submitted and approved by Ashfield Council and the Local Traffic committee prior to the issue of the Construction Certificate stage 2. The new median island shall be constructed to Council's satisfaction prior to issue of Occupation Certificate.
- (j) The new median island above shall extend a minimum of 10 metres to the west of the driveway and extend east to as far as the commuter carpark entry to prevent any likely hood of 'U' turning from this end of the median.
- (k) The applicant shall be responsible for the design and construction of the new median island above.
- (l) All signs and marking for the alteration and provision of street parking and bus zone reallocation with the development shall be carried out by Council at cost borne by the applicant.
- (m) Details and measures to safeguard on the warning and viewing of traffic and pedestrians when exiting the driveway in Brown Street shall be submitted to Council prior to the release of the Construction Certificate stage 2.

3. Construction Works – Drakes Lane

- (a) The full length of Drakes Lane shall be is to be re-sheeted with 30mm of Asphaltic Concrete (AC 10) each edge adjacent to the kerb shall be milled to provide a satisfactory matching edge prior to issue of the Occupation Certificate.
- (b) The exit ramp onto Drakes Lane should be kept closed and not allow traffic movement out from 4.00am to 10.00am and 2.00pm to 7.00pm. The applicant will provide appropriate signage and measures to identify when the exit ramp is in operation. This measure shall include an electronic time system that automatically operates the proposed boom gate.
- (c) Vehicles exiting Drakes Lane coming out of the exit ramp should be warned and made to give-way in advance to entering vehicles coming in from Hercules Street. The applicant is to provide further details to Council in determining how to address this issue prior to issue of the Construction Certificate stage 3.
- (d) To avoid incorrect entry via Drakes Lane to the site, appropriate signage shall be placed in a visible location warning motorists that Drakes Lane access is exit only.
- (e) Notwithstanding the narrow width of the east-west section of Drakes Lane between Hercules Street and the north-south section of Drakes Lane, the remainder of the east –west section of the lane up to the exit ramp shall allow for the safe passing of a service vehicle and a car, in the event of an unscheduled service delivery as well as being able to cater for current vehicle manoeuvre in and out of the property driveways, especially with delivery trucks accessing the driveways and serving the properties.
- (f) The kerb and gutter adjoining the development on the north–south section and east–west section of Drakes Lane shall be reconstructed to Council's specification together with the Asphaltic Concrete sheeting of all of Drakes Lane.

(3) Support for Drakes Lane & Holden Street Road Reserve

The applicant shall in writing free Council of any indemnity or cost for any road or other pavement failure due to the excavation and construction of the proposed building or any other works associated with this development.

A traffic management plan outlining how demolition, excavation and construction of the proposed building will be managed, shall submitted and approved by the relevant Road Authority (that being Ashfield Council), prior to the release of the Construction Certificate for stages 1, 2 and 3.

A detailed plan of showing how each road reserve will supported during the excavation and construction phase for site, and how if required Council's road reserve will need to be reconstructed (backfilled) including stop work points for inspections purposes. These details shall be prepared by a suitably qualified Engineer and submitted and approved by the relevant Road Authority (that being Ashfield Council), prior to the release of the Construction Certificate for stages 1, 2 and 3.

(4) Services adjustment or relocation

The applicant shall meet the full cost for Telstra, Sydney Electricity, Sydney Water or Natural Gas Company to adjust/relocate their services as required. The applicant shall make the necessary arrangements with the service authority. (For information on the location of these services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the public utility authorities confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate stage 1 under Section 68 of the Local Government Act, 1993, for construction of the development.

(5) Stormwater disposal-calculations

- (a) Calculations and details of the proposed method of stormwater disposal shall be prepared by a suitably qualified professional civil engineer in accordance with **Council's Stormwater Management Code** and submitted to, and approved by, Council prior to the release of the Construction Certificate stage 2.

The Construction Certificate plan to be submitted to Council must consist of the following items:

Separate catchment areas within the site draining to each collection point or surface pit classified into the following categories:

- (i) Roof areas.
- (ii) Paved areas.
- (iii) Grassed areas.
- (iv) Garden areas.
- (v) The percentages of Pre-development and Post-development impervious areas

- (b) At each pit and or bend, a level of pipe is to be shown (the minimum grade for pipes is 1%).
- (c) All flowpaths both internal and external, which pass through or around the proposed development site, are to be shown on the Construction Certificate plan.
- (d) The detention tank as shown on plan number 209-728 drawing H-03 shall be designed so that inspection/access openings shall be provided over the trash screen as well as over the outlet pipe. There shall be no impediments to the removal of debris through these openings. Inspections shall be possible without residents or owners having to remove heavy access covers.
- (e) Calculations and details are to be provided to Council showing that provisions have been made to ensure that the pipd drainage system including pits have been sized to accept runoff from all storms up to the 100 year ARI, (including overflows from roof gutters).
- (f) All garbage and waste areas must drain to the sewer and not the stormwater system.

(6) Stormwater detention storage facility

- (a) On-site Stormwater Detention storage shall be provided in conjunction with the stormwater disposal. This storage shall be designed in accordance with Council's Stormwater Management Code. Details of the storage shall be submitted to and approved by Council prior to the release of the Construction Certificate stage 2.
- (b) All on-site stormwater detention pits must be located on Common Property and not on private property.
- (c) Prior to the release of the Construction Certificate stage 2, a maintenance schedule is to be prepared which clearly outlines the routine maintenance necessary to keep the OSD system working, this information is to be included in the Positive Covenant required for this development. Some of the issues that will need to be addressed are:

- where the storage and silt arrestor pits are located
- which parts of the system need to be accessed for cleaning and how access is obtained
- description of any equipment needed (such as keys and lifting devices) and where they can be obtained
- the location of screens and how they can be removed for cleaning
- who should do the maintenance (i.e. commercial cleaning company)
- how often should it be done

The abovementioned maintenance schedule is to be submitted to and approved by Ashfield Municipal Council prior to the release of the Occupation Certificate.

(7) Erosion, dust, topsoil and sediment control

Temporary measures shall be provided during construction e.g. bunding, shade cloth to prevent dust leaving the site, sandbags around Council/private stormwater pits etc. in order to prevent sediment, dust, topsoil and polluted waters discharging from the site. Plans showing such measures shall be submitted to Council and approved prior to the release of the Construction Certificate.

(8) Waste Management Plan

Prior to the demolition works and issue of a Construction Certificate stage 2, the applicant shall prepare and submit a Waste Management Plan in accordance with the provisions of Ashfield Development Control Plan - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

- (a) Estimations of quantities and type of materials to be reused, recycled or left over for removal from site;
- (b) Identification on a plan of onsite material storage areas during construction, waste storage, recycling and composting areas;
- (c) Details of construction materials and methods to be used to minimise the production of waste in the completion of the new building work.
- (d) How waste is to be treated on the site.
- (e) How any residual non-reusable and non-recyclable waste is to be disposed of and including details of the approved waste disposal outlets where disposal will take place.

(9) Construction and Site Management Plan

Prior to demolition works and issue of a Construction Certificate for stages 1, 2 and 3 the applicant shall submit to Council or the accredited certifier a construction and site management plan that clearly sets out the following:

- (a) what actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like,
- (b) the proposed method of loading and unloading excavation machines, building materials, formwork and the erection of any part of the structure within the site,
- (c) the proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period,
- (d) how it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways,

- (e) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a chartered Civil Engineer or an accredited certifier.

Where it is proposed to:

- pump concrete from within a public road reserve or laneway, or
- stand a mobile crane within the public road reserve or laneway, or
- use part of Council's road/footpath area,
- pump stormwater from the site to Council's stormwater drains, or
- store waste and recycling containers, skip, bins, and/or building materials on part of Council's footpath or roadway,

An Activity Application for a construction zone, a pumping permit, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee shall be submitted to Council and approval obtained before a Construction Certificate is issued.

Note: A separate application to Council must be made for the enclosure of a public place (hoarding).

(10) Landscaping plan

Submission of a *Detailed Landscape Plan* at scale 1:100 or 1:200 prior to release of construction certificate at stage 2 (prepared by a landscape architect, landscape designer or other suitably qualified person who is eligible for membership of the Australian Institute of Landscape Architecture or the Australian Institute of Landscape Designers and Managers) to the Principal Certifying Authority. The plan should be consistent with the approved development plans including any approved *Landscape Concept Plan* and include –

- (a) All trees are to be planted from minimum 200 litre containers grown to Natspec 2 “Specifying Trees, a guide to assessment of tree quality” specification.
- (b) All proposed tree planting shown in the Landscape Concept Plan L01 and L02 (issue c) is to be relocated from the lawn areas and instead planted into the adjacent mulched garden areas.
- (c) All existing trees that are to be retained are to be protected in accordance with AS 4970-2009 Protection of Trees on Development Sites.
- (d) Utility services are not to be located in the mulched garden areas or within the dripline of the existing retained and protected trees.
- (e) Maintenance/Embellishment Strategy - to ensure plants are successfully established and maintained- show construction work exclusion areas, irrigation details, staking, topsoil, mulch etc.
- (f) Landscaping details are to be provided for approval with the Construction Certificate. All site works and landscaping is to be carried out in accordance with the approved plans prior to completion of work and/or occupation of the premises.
- (g) All street trees shall be retained and protected in accordance with AS 4970-2009 Protection of Trees on Development Sites.

(11) Section 94 Development Contributions

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction Certificate stage 2 to cater for the increased demand for community infrastructure resulting from the development:

	CONTRIBUTIONS (NEW DEVELOPMENT)					CREDIT (EXISTING DEVELOPMENT)			TOTAL
	Residential Accommodation less than 60sqm GFA	Residential Accommodation between 60-84sqm GFA	Residential Accommodation greater than 84sqm GFA	Retail Shops (per sqm)	Commercial (per sqm)	Sub-Total	Commercial (per sqm)	Sub-Total	
Number of Dwellings / Beds or GFA	22	24	74	740	140	N/A	2227.7	N/A	N/A
Number of deficient car parking spaces						0	N/A	N/A	0
Local Roads	\$3,002.73	\$3,275.71	\$12,905.68	\$12,344.56	\$424.63	\$31,953.30	\$6,756.75	\$6,756.75	\$25,196.55
Local Public Transport Facilities	\$9,605.45	\$16,157.95	\$71,031.01	\$2,920.25	\$920.80	\$100,635.45	\$14,651.87	\$14,651.87	\$85,983.58
Local Car Parking Facilities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A	N/A	\$0.00
Local Open Space and Recreation Facilities	\$168,917.27	\$284,146.75	\$1,249,120.36	\$113,783.95	\$35,876.87	\$1,851,845.20	\$570,877.88	\$570,877.88	\$1,280,967.32
Local Community Facilities	\$10,434.30	\$17,552.22	\$77,160.27	\$0.00	\$0.00	\$105,146.80	\$0.00	\$0.00	\$105,146.80
Plan Preparation and Administration	\$7,674.83	\$12,910.34	\$56,754.35	\$5,161.36	\$1,628.88	\$84,129.76	\$25,919.05	\$25,919.05	\$58,210.71
TOTAL	\$199,634.59	\$334,042.97	\$1,466,971.66	\$134,210.12	\$38,851.18	\$2,173,710.52	\$618,205.55	\$618,205.55	\$1,555,504.96

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\$C_C = \frac{\$C_P \times CPI_C}{CPI_P}$$

Where:

$\$C_C$ is the amount of the contribution for the current financial quarter

$\$C_P$ is the amount of the original contribution as set out in this development consent

CPI_C is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.

CPI_P is the Consumer Price Index for the financial quarter at the time of the original consent.

Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9716 1800. Payment may be made by cash, money order or bank cheque.

Council's Development Contributions Plan may be viewed at www.ashfield.nsw.gov.au or a copy may be inspected at Council's Administration Centre.

(12) Long service levy

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building works in excess of \$25,000.00 are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate stage 2. Payments can be made at Long Service Payments Corporation offices or most councils.

(13) Lighting to basement/pedestrian routes-safety

Lighting which meets the relevant Australian Standard of 40 lux, spaced at appropriate intervals to provide the required surveillance shall be provided to the vehicular basement parking area and along pedestrian access routes for safety and security

purposes during the evenings. The proposed lighting shall be at the highest energy efficient rating. Details to be shown on the construction certificate stage 2.

(14) Surveillance

A surveillance system, for the building, open space and basement car park is to be designed by a professionally recognised security firm, which include the following:

- a closed circuit television (surveillance cameras);
- the Manager's office having the relevant control panels; and
- Tapes/digital data 'on disc' to be properly stored and retained on site for a minimum of twenty-one (21) days for the availability of Council or NSW Police.

Details to be shown on the construction certificate at stage 2 and provided to Ashfield Police prior to occupation.

(15) Entry control - safety

At the entry to the resident basement car park, the following shall be provided:

- a boom gate;
- an intercom system between visitors and residents to entry and exit from the car park.

Each ground level entry area to the building shall have an intercom system whose purpose is to contact residents or the manager/caretaker to allow entry to visitors. Details to be shown on the application with the construction certificate stage 2.

(16) Preparation of geotechnical report

To ensure that the structural integrity of the proposal and neighbouring buildings will be maintained, a full geotechnical report must be submitted to the Council or the PCA prior to the issue of a construction certificate for stages 1, 2 and 3 and prior to the commencement of excavation works. The report must include an investigation of site and soil conditions as well as the proposed means of construction and must contain, where required, recommendations to ensure that excavation, backfilling and construction, including temporary works during construction, will not affect the structural integrity of neighbouring buildings or the structural stability of neighbouring public land, property or services. The report is to be prepared and certified by an appropriately qualified practicing geotechnical engineer.

All demolition, excavation, backfilling and construction must be undertaken in accordance with the recommendations of the geotechnical report.

(17) Vibration damage assessment

To minimise vibration damage and loss of support to buildings in close proximity, a report shall be prepared by a qualified Geo-technical engineer detailing the maximum size of hammer to be used where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence). The report is to be submitted to Council prior the issue of a Construction Certificate for stages 1, 2 and 3.

(18) Street numbering

An application for street numbering shall be lodged with Council for approval, prior to the release of a Construction Certificate, or Subdivision Certificate, whichever occurs first.

(19) Footpath/laneway – photographs to be submitted

Prior to the release of the Construction Certificate stage 1, the applicant shall lodge with Council photographs of the roadway, footpath and/or laneway at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage which has occurred to the relevant pavements. If any

damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard.

(20) Strata subdivision certificate to be obtained from Council

Prior to the issue of a strata certificate under Section 37 of the *Strata Titles Act 1973*, the applicant is to submit an application for a Section 37 certificate together with a survey plan prepared by a registered surveyor, and at least six copies for certification by an accredited certifier, the General Manager of Council or authorised person of Council.

(21) Subdivision certificate to be obtained from Council

A subdivision certificate, being a certificate that authorises the registration of a plan of subdivision under Division 3 of Part 23 of the *Conveyancing Act 1919* is to be obtained from Council in accordance with Section 109C(1)D of the *Environmental Planning and Assessment Act 1979*.

(22) Plan of subdivision - Council signature

A final plan of subdivision, prepared by a registered surveyor, and six (6) paper copies, are to be submitted to Council for signature, prior to registration at the Land Titles Office.

(23) Sydney Water - Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone Sydney Water 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of an occupation or subdivision certificate.

(24) Documentary evidence- compliance with consent– strata plan

The Strata Plan of subdivision will not be issued until documentary evidence of compliance with conditions of Development Consent No. has been submitted to Council.

(25) NSW Transport Rail Corp Requirements

Conditions and requirements imposed by NSW Transport RailCorp in their letter dated 23 June 2011 (reproduced below) shall be complied with prior to release of construction certificate stage 1.

- All excavation and construction works are to be undertaken in accordance with the following documentation:
 - Geotechnical Investigation Report prepared by Jeffery and Katauskas Pty Ltd - Ref 24847Z Let dated 21/04/2011
 - Geotechnical Assessment Report prepared by Jeffery and Katauskas Pty Ltd - Ref 24847Zrpt dated 12/05/2011
 - Structural Report prepared by Australian Consulting Engineers Pty Ltd – Ref 11AH119.R1 dated 09/05/2011
 - Zone of Influence Plan – Drawing No. S0001 Rev:B
 - Shoring Plan & Details Drawing No. S0100 Rev:B
 - Shoring Details Drawing No. S0101 Rev:B
 - Shoring Elevations 1 Drawing No. S0102 Rev:B
 - Shoring Elevations 2 Drawing No. S0103 Rev:B

A Construction Certificate is not to be issued until the measures detailed in this condition of consent have been incorporated into the construction drawings and specifications. Prior to the commencement of works the Principle Certifying Authority is to provide verification to RailCorp that this condition has been complied with.

- Prior to the commencement of works the Applicant is to submit to RailCorp a revised track/ground movement Monitoring Plan for endorsement. Works shall not commence until RailCorp has issued its written endorsement to the Monitoring Plan.
- Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.
- An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- The Applicant must incorporate in the construction drawings and specification all the measures recommended in the Electrolysis Report prepared by Corrosion Control Engineering (CCE) to control the electrolysis risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principle Certifying Authority shall not issue the Construction Certificate until it has confirmed that the recommended measures have been indicated on the Construction Drawings and Specifications.

- *The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of RailCorp.*

The Principle Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

- *Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to RailCorp for review and comment on the impacts on rail corridor. The Principle Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.*
- *No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.*
- *Prior to the issuing of a Construction Certificate the Applicant is to submit to RailCorp a plan showing all craneage and other aerial operations for the development and must comply with all RailCorp requirements. The Principle Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from the Rail Authority confirming that this condition has been satisfied.*
- *Where the Applicant proposes to enter the rail corridor, the Principle Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from RailCorp confirming that its approval has been granted.*

(26) Energy Australia Requirements

The construction of the proposal shall not affect the existing substation. Energy Australia shall be consulted and its requirements be met in the construction of the development.

(27) NSW Police Force Requirements

Conditions and requirements imposed by Ashfield Local Area Command in their letter dated 6 January (which is attached to this consent) shall be complied with. Compliance method of the conditions shall be submitted and approved by Ashfield Council prior to release of the Construction Certificate stage 3.

(28) NSW Transport Requirements

The following information is required to be submitted and approved by NSW Transport, Centre for Transport Planning and Product Development, prior to issue of the Construction Certificate stage 3:-

- (a) Preparation of a transport and accessibility impact assessment addressing:-
 - The objectives, priorities and targets of the NSW state plan 2010, metropolitan plan for Sydney 2036, NSW Bikeplan and the relevant policy advice including
 - Planning guidelines for walking and Cycling; and
 - Active Living Development: Designing Projects for Active Living
 - Measures to increase the use of public and active transport modes to meet travel demand – consistent with the NSW State Plan
 - Means to reduce parking provisions of the site as informed by a Workplace Travel Plan.
 - How the development will contribute to implementing the bicycle link along Brown Street adjacent to the site proposed in the Ashfield bikeplan together with upgrades to the existing pedestrian environment.
- (b) Preparation of Workplace Travel Plan, which includes car share and car pool spaces

- (c) Preparation of transport access guide to inform the future residents, customers and other visitors about available travel choices
- (d) Inclusion of a car share and car pool spaces in the car park
- (e) Provision of bicycle parking and amenities for staff at convenient and safe locations including the car park.

(29) Exhaust fumes from car park

Any exhaust ventilation from the carpark is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1, details demonstrating compliance are to be provided with the Construction Certificate stage 2.

(30) No external service ducts

Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate stage 2.

(31) SEPP 65 – Design Verification

Prior to release of the Construction Certificate for stages 2 and 3 design verification is required to be submitted from the original designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No – 65 Design Quality of Residential Flat Building Development.

D Conditions that must be complied with before work commences

(1) Construction zone

All construction vehicle activity should be accommodated on site. A construction zone would only be considered pending Traffic Committee approval, and that construction vehicles could use the kerb immediately outside the site without interfering with traffic movement through the area. A plan showing details of the length required and reasons to why construction vehicles could not be accommodated on site shall be submitted to Council in a minimum period of (6) weeks before commencement of construction for referral to the Traffic Committee. Relevant fees will apply as set out in Council's Fees and Charges.

All construction traffic at the site is to enter and leave via Brown Street. No construction traffic is to use Drakes Lane without firstly submitting a Traffic Management Plan to Council for approval.

(2) Notice of Commencement – Notification of Works

Work must not commence until the Principal Certifying Authority or the person having the benefit of the development consent has given Notification in Writing to Council no later than two days before the building work commences.

(3) Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

- (a) detailed plans and specifications of the building, construction and earth works have been endorsed with a Construction related to works for the following stages:-
 - Construction Certificate stage 1 – Shoring and excavation;
 - Construction Certificate stage 2 – Construction of basement and retail structure; and
 - Construction Certificate stage 3 – Construction of residential towers A & B
- (b) detailed plans and specifications of the relevant building, construction and earth works are to be endorsed with each Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (c) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and

- (d) at least two days notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

Note: If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

(4) Road opening permit- Council controlled lands

A "road use-opening permit" shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Works and Infrastructure Department for details.

(5) Public liability insurance – Works on Council/public lands

The applicant or any contractors carrying out works on public or Council controlled lands shall have public liability insurance cover to the value of \$10 million and shall provide proof of such cover prior to carrying out the works.

(6) Traffic control on public roads

Where works are undertaken on public roads, adequate traffic control in accordance with AS 1742.3 1996 "Traffic Control Devices for work on Roads", particularly regarding traffic movement controllers, advance warning signs and directions to motorists, shall be provided. Where such measures are not satisfactorily provided to this Australian Standard, Council may provide such and recover the costs from any bonds held.

(7) Engineering staff to inspect roadworks/drainage

An inspection by Council's staff will be required for (kerb/gutter/crossing etc) at the following stages:

- (i) After excavation.
- (ii) After the erection of formwork and the placement of reinforcement and prior to pouring of concrete.
- (iii) After placement of road base course.
- (iv) After completion of any pits.
- (v) After pipes have been laid and prior to backfilling.
- (vi) On completion of works.

A minimum of 24 hours notice is required to be given to Council to obtain an inspection. Work is not to proceed until the works or activity covered by the inspection is approved.

(8) Spoil and building materials on road and footpath

Spoil and building materials shall not be placed or stored within any public roadway or footpath.

(9) Sanitary facilities - demolition/construction sites

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(10) Building location - check survey certificate

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the: -

- (i) location of the building with respect to the boundaries of the site;
- (ii) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
- (iii) site coverage of the buildings on the site.

(11) Crane permit

Should the applicant need to use a crane during the course of building, it will be necessary to first obtain a "Crane Permit" from Council's One Stop Shop. A fee is payable for the permit. The approval of other authorities (e.g. Police Department, RTA) may be required for the use of a crane.

(12) Protection of public places - erection or demolition of building

- (a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or involves the enclosure of a public place; a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning is to be erected prior to works commencing and only with Council approval in accordance with Workcover requirements. The temporary structures are to be removed when the work has been completed.

(13) Site fencing/security

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

(14) Dilapidation Reports

A Dilapidation Report on the current structural condition of the existing buildings at must be prepared by a practicing structural engineer. The Dilapidation Report must be completed and submitted to the owner of the subject property and to Council prior to the commencement of ANY demolition, excavation or construction works. At the completion of the works, a second Dilapidation Report recording the structural condition must be prepared. That Report must be submitted to the owner of the subject property and to Council.

(15) Support for neighbouring buildings and notice to adjoining owners

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- (a) must preserve and protect the building from damage, and
 - (b) if necessary, must underpin and support the building in an approved manner, and
 - (c) must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Notes:

- (i) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of ANY works.
- (ii) allotment of land includes a public road and any other public place.

(16) Demolition work plan

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

(17) Asbestos sheeting removal - EPA/Workcover Authority

Asbestos removal is to be carried prior to principal works commencing in accordance with Environmental Protection Authority and Workcover Authority requirements. Proper procedures shall be employed in the handling and removal of asbestos and products containing asbestos so as to minimise the risk to personnel and the escape of asbestos particles in the atmosphere. Work is only to be carried out with the prior consent of the Work Cover Authority.

Note: There are substantial penalties for non-compliance with the above requirements.

(18) Lead removal certification

The existing structures/land on the site potentially contain lead. Following removal of any lead located on site a clearance must be provided to the Principal Certifying Authority certifying that no such lead remains on site from a suitably qualified person.

A copy of the clearance Certificate must be forwarded to Council before any other demolition work is commenced.

(19) Garbage skips on Council land - Council approval

Bulk refuse bins or garbage skips shall not be placed on grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council's Customer Service on telephone 9716 1800.

(20) Haulage route information

Full details of proposed haulage routes, estimated number of vehicle movements and trip locations related to demolition/construction activities are to be submitted to Ashfield Council prior to work commencing.

(21) Works zone application to Council - construction vehicles

The applicant is to apply to Council for a “works zone” along the site frontages for construction vehicles prior to work commencing. Contact Council’s Customer Service on 9716 1800 for details and the necessary fees you need to pay.

Note: A minimum of 2 months notice to Council is required.

E Conditions that must be complied with during construction or demolition

(1) Footpath, kerb and gutter protection

The applicant is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council’s property.

Pedestrian access across Council’s footpaths must be maintained in good order at all times during work. Any damage caused will be made good by Council at Council’s restoration rates, at the applicant’s expense.

(2) Excavations and backfilling - safety/standards

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(3) Plans to be available on site

The Council stamped approved plans, Development Consent and Construction Certificate shall be held on site to be produced unobliterated to Council’s officer at any time when required.

(4) Advertisements on hoardings prohibited

No advertisements of any kind shall be affixed to the hoarding except a board which may show the builder’s or architect’s name or any particulars regarding the subject building.

(5) Billposters - sign on hoarding

A sign “Billposters Will Be Prosecuted” shall be attached to or printed upon the front of the hoarding.

(6) Demolition/excavation/construction - hours of work

Demolition, excavation and construction work, including loading and unloading of materials and machinery, shall be restricted to between the hours of 7.00 am to 6.00 pm, Monday to Friday and from 7:00 am to 1.00 pm on Saturday. Work is prohibited on Sundays, and on public holidays.

(7) Demolition/excavation/construction - noise - Protection of the Environment Operations Act 1997

Noise arising from demolition/excavation/construction works shall be controlled in accordance with the requirements of *Protection of the Environment Operations Act 1997* and guidelines currently contained in the *NSW EPA Environmental Noise Control Manual*.

(8) Noise control during construction and demolition

For construction and demolition periods of 4 weeks or less the L10 level, measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 20dB.

(9) Dust control

Adequate measures are to be implemented, including, for example, water spraying/mesh barriers, to prevent dust from causing any nuisance.

You are to ensure that ALL vehicles leaving the site are free of mud and debris. Loads are to be fully covered and vehicles/wheels washed down to ensure that no nuisance occurs.

(10) Retaining walls and drainage

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

(11) Demolition requirements/standards

Demolition is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
 - (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (e.g. ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not to be allowed to enter the street gutter and stormwater systems.

- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.
- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

(12) Noise transmission - stair shaft - BCA

The walls of the stair shaft to have a Sound Transmission Class of not less than 45 and to be constructed in accordance with the relevant provisions of Part F5 of the *Building Code of Australia*.

(13) Noise transmission - dividing walls - BCA

The walls dividing bathrooms, laundries and kitchens in one flat from habitable rooms in an adjoining flat having a Sound Transmission Class of not less than 50 and being constructed in accordance with the provisions of Part F5 of the *Building Code of Australia*.

(14) Noise transmission - soil/waste pipes - BCA

Soil and waste pipes, including those that pass through a floor shall be separated from the rooms of any flat immediately adjacent thereto by construction having a Sound Transmission Class in accordance with Part F5 of the *Building Code of Australia*.

(15) Site investigation & site audit statement

Following demolition activities, the soil must be tested by a person with suitable expertise, to ensure the soil contaminant levels are below acceptable health criteria for residential areas. The soil investigation shall be carried out in accordance with the NSW Environment Protection Authority's *Guidelines for consultants reporting on contaminated sites*. A site Audit Statement shall be issued at the completion of the investigation by an approved NSW Environment Protection Authority Auditor in accordance with the NSW Environment Protection Authority's Guidelines for the NSW Site Auditor scheme.

F Conditions that must be complied with prior to installation of services

(1) On site detention system – check survey

Prior to the construction of an on-site detention system involving permanent construction work (e.g. construction of concrete slabs, walls, pipe-systems or pits etc, and prior to the placement of any concrete for ground floor, car park or garages) a "check survey from a registered surveyor" must be forwarded to the Council indicating compliance with the approved plans before any concrete pour is approved by the relevant Council building surveyor or Authorised Certifier.

(2) Stormwater runoff-collection/discharge (Non Standard Condition)

Stormwater runoff from all roof and paved surfaces shall be collected and discharged by means of a gravity pipe system to the nearest appropriate Council stormwater pit at a maximum Permissible Site Discharge of 126 L/sec for the 1:100 ARI.

(3) Pumpout system specifications

A pumpout system may be permitted to discharge small volumes of stormwater from the basement car parking area. Full details of the pump size, capacity, performance curves, friction losses etc from the manufacturer's specifications must be submitted with the stormwater drainage calculations demonstrating that the pump will function in accordance with the manufacturer's specifications for the required volume of stormwater at the subject total head. Minimum pump capacity allowable is for a 5 minute 1 in 20 ARI storm.

The drainage sump storage area for the pump shall be a bunded area able to cater for a 1 hour 1 in 20 ARI storm to minimise flooding in the event of a power blackout during a storm.

A dual pumpout arrangement will be necessary, these pumps will be required to be connected in parallel and alternate automatically, with each pump being capable of emptying the holding tank or holding area at the permissible site discharge rate. (All pumps must be Class 1 Zone 2, if the pumps are located within a building (i.e. in the basement).

The stormwater volumes discharged from the pumpouts are to be included in the permissible limited amount of stormwater discharged from the site.

(4) Stormwater runoff

Allowance shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other properties.

(5) Surface overflow paths – storm recurrence event

Surface overflow paths shall be provided to allow for the 1-hour 1 in 100 year storm recurrence event, and any more intense events.

Should it not be possible to provide an overland escape route for excessive stormwater an increase of 50 % in the required volume of stormwater storage will be required.

G Conditions that must be complied with before the building is occupied

(1) Approval to use/occupy building

The building or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

(2) Redundant vehicular crossings-removal and replacements

All redundant vehicular crossings on Holden Street shall be removed and replaced with concrete pavers within the footpath area similar to the type in Hercules Street as well as concrete kerb and concrete gutter at no cost to Council at the applicant's expense. This work shall be carried out prior to the release of the Occupation Certificate.

(3) Finished ground surface levels at property boundary

Finished ground surface levels shall match existing levels at the property boundary.

(4) Vehicle access driveway

The existing vehicular access driveway adjacent to Drakes Lane shall be reconstructed in accordance with Council's standard drawing and specifications. The driveway shall be located a minimum of 1.0m clear of any existing stormwater pits, lintels or poles and 2m clear of any trees within the road reserve. The driveway shall also be located a minimum of 0.5m clear of any utility service opening such as Telstra, Sydney Electricity, Sydney Water or Natural Gas Company. This work shall be carried out prior to the release of the Occupation Certificate.

(5) Engineering conditions to be satisfied prior to the issue of occupation certificate

Prior to the release of the Occupation Certificate when the on-site building works are completed there are three (3) conditions that must be satisfied.

They are:

- (a). *Work-As-Executed Plans*

A "Work-as-Executed" plan prepared and signed by a registered surveyor is to be submitted to Council's Engineering Department at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's drainage system is to be shown together with the following information:

- location
- pipe diameter
- gradient
- pipe material i.e. PVC or EW etc
- orifice size
- trash screen at orifice
- all buildings (including floor levels) and finished ground and pavement surface levels

(b) *Engineer's Certificate*

A qualified practising Civil Engineer shall certify on the completion of drainage works in respect of:

- * the soundness of the storage structure;
- * the capacity of the detention storage;
- * the emergency overflow system being in place;
- * the works being constructed in accordance with the Council approved plans; and
- * the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Code.
- * basement car park pumps are class one zone two.

(c) *Restriction-As-To-User*

A "Restriction-as-to-User" is to be placed on the title of the subject property to indicate the location and dimensions of the detention area. This is to ensure that works, which could affect the function of the stormwater detention system, shall not be carried out without the prior consent in writing of the Council.

Such restrictions shall not be released, varied or modified without the consent of the Council.

(6) Positive Covenant-stormwater detention/surface flow paths-occupation certificate

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the

- (a) surface flow path
- (b) finished pavement and ground levels
- (c) prevent the erection of any structures or fencing
- (d) on-site stormwater detention system

The wording in the Instrument shall be submitted to and approved by Ashfield Municipal Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate. The Instrument shall be registered prior to the completion of development.

(7) Floor space ratio compliance

The floor space ratio of the proposal must not exceed 3.47:1 calculated in accordance with Ashfield Local Environmental Plan 1985.

Prior to issue of an Occupation Certificate, a registered surveyor shall provide certification of the total and component floor space areas (by use) in the development, to the satisfaction of Ashfield Council.

H Conditions that are ongoing requirements of development consents

(1) Management of shopping trolleys

Prior to certificate of occupancy being issued, a coin operated shopping trolleys system or an electronic shopping trolley wheel locking system shall be in place to prevent the removal of shopping trolleys from the premises. Trolley bays shall be installed within the carpark areas or in designated areas within the confines of the property.

(2) Noise levels not to be exceeded

The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and 10:00pm at the boundary of any affected residence. The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Bank Centre Frequency (31.5Hz - 8kHz inclusive) between 10:00pm and 7:00am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 10:00pm and 7:00am.

(3) Air conditioners - noise control - Protection of the Environment Operations Act 1997

The air conditioners as approved by this consent shall be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997* that will adversely affect the amenity of the premises in close proximity to the property.

(4) Garbage bin storage/placement for collection - strata title plan

All garbage/recycling bins are to be kept in the garbage bin storage area in the main block. Bins are only to be placed in the designated pick up area on the day of garbage collection and are to be returned to the storage area immediately after collection. This requirement is to be incorporated into the Strata Title of the property.

(5) Garbage recyclables and green waste - Council to be indemnified

Council and its servants shall be indemnified against any claim for damages resulting from collection of recyclable and green waste or the collection of garbage material from the site.

(6) Accessibility to be maintained

A continuous path of travel not exceeding 1:14 grade or complying with AS 1428 and/or a lift is to be maintained between the main street entrance to the residential complex, adaptable units, accessible car parking spaces, letter boxes, garbage storage area, recreation areas and clothes drying areas.

(7) Acoustic compliance

Compliance with the acoustic recommendations submitted by Vipac Engineers & Scientists Ltd report 20c – 09 – 0317 – TRP – 452602 – 1 dated 16/06/2010

(8) Waste Management

The waste bin collection shall not be undertaken between the hours of 7.00pm – 7.00am each day.

(9) Shopfront appearance

To preserve the streetscape, roller shutters are not to be placed over the entrance or the windows of the retail premises

(10) Air conditioners

To preserve the streetscape, air conditioners or any plant equipment shall not be placed along the street façade or any place/part of the building that is visible from the public domain.

I Advisory Notes

Nil

Reason for the imposition of conditions

Unrestricted consent would be likely to cause injury:

- a) to the amenity of the neighbourhood
- b) to the heritage significance of the area

- c) to the heritage significance of the property
- d) to the amenity of the neighbourhood due to the emission of noise
- e) to the amenity of the neighbourhood due to the creation of a traffic hazard

and further, would not be in the public interest.

Compliance with Building Code of Australia

- (1) All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- (2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 or 188.

NOTES

- (i) This approval does not relieve an applicant of the obligation to obtain any other approval required under Section 68 of the Local Government Act, 1993 and Ordinances or Section 78A of the Environmental Planning & Assessment Act, 1979 or any other Act or Regulation.
- (ii) Further approval(s) – see above, may be required in addition to this development consent. Plans and specifications submitted for building works must comply with the Building Code of Australia, any relevant condition of development consent and/or other code or requirement of Council at the time of approval.

Ask Council if you are unsure of what procedures you need to follow.

SECTIONS 82A, 97 AND 95 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

You are advised that:

- Under the provisions of Section 82A of the Environmental Planning and Assessment Act, 1979, an applicant may request Council to review a determination of the applicant's development application, other than an application for designated development. Any request for a review must be made within six (6) months of the date on which the applicant received notice, given in accordance with the regulations, of the determination of the application and be accompanied by the fee prescribed in Section 257 of the Regulations.
- If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.
- Under the provisions of Section 95 of the Environmental Planning and Assessment Act, 1979, unless the development, which is the subject of this consent, is commenced within five (5) years from the date of determination, the consent will lapse.

Attachments: NSW Police Force Comments & Conditions

Mr Atalay Bas
Manager Development Services
Ashfield Council
260 Liverpool Road
ASHFIELD NSW 1800

6 January 2011

Dear Mr Bas,

**Re: Development Application Number: 10.2010.301.1 relating to
2A Brown Street, Ashfield.**

Thank you for your correspondence dated 16 December 2010 in regards to the proposed demolition of existing structures and the construction of 120 dwellings, a supermarket with ancillary offices, retail tenancies and 282 car parking spaces.

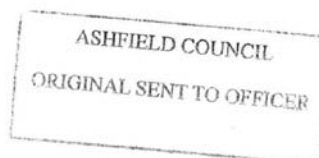
Should the proposal be supported by Council, Police would be supportive of the adoption of these Crime Prevention Through Environmental Design (CPTED) treatments as detailed.

A Crime risk Assessment and risk rating was calculated as Low. Please find enclosed recommendations made by the Ashfield Crime Prevention Unit.

Yours sincerely,



Ian Ball
Superintendent
Commander



ASHFIELD LOCAL AREA COMMAND

South West Metropolitan Region
14 Victoria St, Ashfield 2131

Telephone 02 97974099 Facsimile 02 97974011 ENet 48099 EFax 48011 TTY 9211 3776 (Hearing/Speech impaired)
ABN 43 405 613 150

NSW POLICE FORCE RECRUITING NOW 1800 222 122
WWW.POLICE.NSW.GOV.AU/RECRUITMENT

Introduction

On 29th December 2010 a Safer by Design Evaluation was conducted on the proposed site located at 2A Brown Street Ashfield. The following recommendations have been made as a result of this evaluation.

In April 2001 the NSW Minister for Planning introduced Crime Prevention Guidelines to Section 79C of the Environmental Planning and Assessment Act, 1979. These guidelines require consent authorities to ensure that development provides safety and security to users and the community. 'If a development presents a crime risk, the guidelines can be used to justify modification of the development to minimize crime risk, or, refusal of the development on the grounds that crime risk cannot be appropriately minimised'.

The Guidelines contain two parts. Firstly, it details the need for a formal crime risk assessment (Safer by Design Evaluation) to be done in conjunction with trained police, and secondly it outlines basic Crime Prevention Through Environmental Design (CPTED) principles and strategies that can be used by consent authorities to justify the modification proposals to minimize risk.

Crime Prevention Through Environmental Design (CPTED)

Crime Prevention Through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. It reduces opportunities for crime by using design and place management principles that reduce the likelihood of essential crime ingredients from intersecting in time and space.

Predatory offenders often make cost-benefit assessments of potential victims and locations before committing crime. CPTED aims to create the reality (or perception) that the costs of committing the crime are greater than the likely benefits. This is achieved by creating environmental and social conditions that:

- Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension).
- Maximise the effort required to commit crime (increasing the time, energy and resources required to commit crime)
- Minimise the actual and perceived benefits of crime (removing, minimizing or concealing crime attractors and rewards) and
- Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalization of inappropriate behaviour)

CPTED employs four key strategies. These are **surveillance, access control, territorial re-enforcement and space/activity management**.

Site Description

The proposed development relates to a mixed use development at 2A Brown Street Ashfield. The proposal involves the demolition of the existing structures and construction of an 8 storey plus mezzanine mixed use residential, commercial and retail development and over 5 levels of basement parking containing 282 car spaces. The residential buildings will be located over a ground floor retail level containing a supermarket, offices and 3 small retail shops.

The development site is bordered by Brown Street, Hercules Street and Liverpool Street located opposite Ashfield Railway Station and commuter car park at the centre of the Ashfield town centre.

A number of licensed premises are located within short proximity to the site. Approximately fifty metres to the East of the site along Liverpool Road is the The Crocodile Farm Hotel. Also located 100 hundred metres to the east is the Ashfield Hotel. Both are licensed to trade until 6.00am. To the South of the site along Liverpool Road, approximately two hundred metres is the Ashfield RSL Club. On the northern boundary of Ashfield Railway Station is the Ashfield Catholic and Community Club also licensed to trade until 6am.

Site Risk Rating

The NSW Police Safer by Design Evaluation process is based upon Australia and New Zealand Risk Management Standard ANZS4360:1999. It is a contextually flexible, transparent process that identifies and quantifies crime hazards and location risk. Evaluation measures include crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socio-economic conditions (relative disadvantage), situational hazards and crime opportunity.

After conducting this process the rating for this development has been identified as, **low crime risk**.

With this in mind the following Crime Prevention Through Environmental Design (CPTED) treatments should be considered for the development in order to reduce opportunities for crime.

Natural

Organised (low)

Technical/Mechanical (low)

Natural CPTED treatment levels include: Clear site design, territorial definition and design, natural surveillance, strategically located windows doors and vantage points, open building and landscaping sightlines and natural access control measures including symbolic and real barriers, clearly defined vehicle/pedestrian routes and channelling systems.

Organised CPTED treatment levels include: Low level organised guardianship eg, the strategic placement of employee workstations and the use of managed activity (community and private) and routine environmental maintenance. Organised strategies built upon natural measures.

Technical/mechanical CPTED treatments levels include: Basic target hardening. Good quality access control hardware. Corridors, mirrors and public address systems, help phones, motion detectors etc. Low level technical strategies built upon low level organised and natural treatment measures.

Surveillance

Natural surveillance is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design; landscaping and lighting. Natural surveillance is a by-product of well-planned, well-designed and well-used space. Technical/mechanical Surveillance is achieved through mechanical/electronic measures such as CCTV, help points and mirrored building panels. Technical/mechanical surveillance is commonly used as a 'patch' to supervise isolated, higher risk locations. Formal (or Organised) Surveillance is achieved through the tactical positioning of guardians. An example would be the use of on-site supervisors at higher risk locations.

General Comments in Design for Surveillance:

- Buildings facing 'outward' towards public and semi public areas provide natural surveillance and informal supervision (eyes on the street).
- Entry points should be designed so as to maximize surveillance opportunities to and from these areas from both inside as well as outside.
- The placement and orientation of common entry areas should maximize opportunities for natural supervision by residents, staff and other guardians.
- Laminated glass walls and windows facilitate supervision of common entry areas.
- No more than 15% of promotional material should cover windows to allow clear lines of sight into and out of the premises.

Recommendations:

- CCTV surveillance equipment can enhance the physical security of your business and assist in the identification of people involved in anti-social or criminal behaviour.
- It is strongly recommended that a multi camera digital CCTV surveillance system operate 24 hours a day with images kept for at least 1 month for viewing by police as required.
- Cameras should be installed both within and around the retail/commercial premises and car park areas.
- Cameras should monitor the cashier's area of retail premises and areas with poor natural supervision within the premises.
- TV monitors should enable retail staff to monitor activities on the camera.
- Recording equipment should be installed away from the counter area of retail premises to avoid tampering.

In terms of natural surveillance the proposed development site allows adequate site lines into and out of the premises via pathways, windows, street frontages and pedestrian entrances. Close proximity to other businesses along Brown Street provides staff with the ability to be seen and to readily contact surrounding businesses in case of an emergency.

Access control and lighting:

Entry points for burglary are most often located at the side and rear of buildings. Gates, fences, locks and appropriate access control devices increase the effort required by criminals to access favoured areas. Windows and doors should have security/entry control systems in place to deter unauthorised access and car parks and fire exits and stairs should be self locking and self closing. Current design trends in multistorey apartment blocks make it easy for "spiderman" type burglars to access buildings. Balconies should be separated horizontally and avoid creating outer ledges creating natural ladders to support hands and feet.

In terms of lighting, there is a proven correlation between poor lighting, fear of crime, the avoidance of public places and crime opportunity. Good lighting can assist in increasing the usage of an area. The objective of security lighting is to deny criminals the advantage of being able to operate unobserved. Lighting fixtures are frequently the target of vandalism. Therefore the proper selection and installation of fixtures to reduce theft and damage is critical.

General Comments in Design for access control and lighting:

- Natural ladders are design features, trees or nearby structures that help criminals to climb onto balconies, rooftops, ledges and windows.
- Resident only access to underground parking through the interior of buildings reduces opportunities for theft from vehicles.
- Voice and visual intercom devices can be an effective way of reducing unauthorised access.
- Lighting should be designed to the Australian and New Zealand Lighting Standards.
- Australia and New Zealand Lighting Standard 1158.1 – Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
- Lighting should be well positioned to reduce opportunities for vandalism.
- Ensure light switches for all lights are located in a secure area within the car park.
- Ensure lighting levels are appropriate for the users of that area.

Recommendations:

- Keyed locks on doors and windows are the preferred access controls device and not easily defeated.
- Consider the use of strategic placement of low anchored heavy planter boxes, or locking removable bollards in front of "at-risk" shops reducing the chance to commit ram raids.
- Install security lighting in and around the retail and commercial premises and car park areas particularly over entry/exit points to create an even distribution of light with no glare to assist with CCTV surveillance
- Consider lighting timers and sensor lighting as required to illuminate potential loitering zones.
- Lighting needs to eliminate opportunities for concealment and avoid shadowing as well as support effective use of surveillance equipment throughout the development site.
- Ensure the basement car park is well lit particularly entry and exits.
- A lighting maintenance policy needs to be established and maintained for the development.
- Lights should be mounted as high as possible (to reduce the chance of theft or damage to fixtures) while still providing the illumination required.

Territorial Re-enforcement

Criminals rarely commit crime in areas where the risk of detection and challenge are high. Offenders do not want to be detected, challenged or apprehended. Areas that have a perceived or actual presence of security via surveillance from employees and residents are less likely to attract offenders. People who have guardianship or ownership of areas are more likely to provide effective supervision and to intervene in crime than passing strangers.

Effective guardians are often ordinary people who are spatially 'connected' to a place and feel an association with, or responsibility for it. *Territorial Re-enforcement* uses actual and symbolic boundary markers, spatial legibility and environmental cues to 'connect' people with space, to encourage communal responsibility for public areas and facilities, and to communicate to people where they should/not be and what activities are appropriate.

General Comments in Design for Territorial Re-enforcement:

- The boundaries of the development are reasonably well defined.
- All doors should be kept closed and locked when not in use and regularly maintained to assist with the protection of the property.
- Effective signage and directions will provide guidance to visitors/customers in locating main areas and keep them away from restricted areas.
- Signs can also assist in controlling activities and movements throughout the premises.
- Consider perimeter fences around the property
- Ensure the street number is clearly visible from the street
- Consider the use of graffiti resistant materials in the design of buildings.

Recommendations:

- Consider the use of security guards to promote a secure well supervised environment and encourage the safe use of public and private areas particularly after hours.
- Install clear security signage to reflect the secure environment within.
- Directional signage should be displayed at the entry to the complex and indicate direction in a clear, legible fashion and use international symbols to avoid confusion
- Ensure "Park Smarter" signage is displayed within the car park area to warn motorists to secure their vehicle and property.

Space/Activity Management

Space/Activity management strategies are an important way to develop and maintain *natural* community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximize community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

77% of all public order incidents are alcohol related. Street offences, public violence and vandalism often occur within eyesight of pubs and other licensed premises. Shops and businesses located near existing licensed premises are at greater risk of crime than other areas. Therefore close attention should be paid to this development as it is located near to existing licensed premises.

General Comments in Design for Space/Activity Management

- Street activity during the day. Normal pedestrian activity during the day will assist in crime prevention as burglars and other offenders consider active streets to be too risky during the day.
- Street activity during the night. Normal pedestrian activity at night can increase surveillance and natural community policing. Facilities should be positioned so that adjoining residents can monitor after hours activities.

Recommendations:

- Placing "higher – risk" services such as ATMs in areas that are well supervised by employees, retailers and pedestrian traffic can provide guardianship and in turn reduce crime risk.
- Consider the placement of retail outlets in areas that allow adjoining residents and businesses to monitor activity during and after business hours.

Additional security treatments can also be considered to reduce the risk of crime from occurring and enhancing the four key strategies relating to CPTED. They include:

Security Guards

- Security Industry Act 1957 No. 157
- A person must be licensed to carry on a security activity. In general this would apply to general duties police in two ways.
 - 1 Acting as a bodyguard, crowd controller or bouncer.
 2. Patrolling, protecting, watching or guarding any property (including cash in transit)
- The holder of a security licence must, at all times while carrying on a security activity, wear on his or her person so as to be clearly visible their security licence.
- An exemption to wearing the licence can be granted by the commissioner but if performing the duties above, the licence holder must display at all times a laminated card which includes a recent photograph, the name of the company, and a unique and easily decipherable identifying number.
- If you identify a person performing a security activity without displaying their licence records their details and the circumstances and forward information to licensing who will breach the person.
- Extra security should be provided on nights where there is extra activity. Security guards should actively patrol through the venue as well as monitor the access/egress doors.
- Security should be able to provide assistance to a person at risk/victim of crime if required Even if this simply to know that it may be appropriate to contact police and not handle a situation themselves. It is recommended that female security is also employed to provide assistance to female patrons when required. This includes regular checks of female toilets for intoxication and drug issues.
- Security should be employed to monitor activities outside the venue for up to 30 minutes after closing. This will assist in deterring anti-social behaviour by encouraging exited patrons to move on, and it will also provide added surveillance for the business in the prevention of armed robberies after close whilst the night's takings are usually being counted.

Staff Training

- Provide training and information so everyone is prepared and show employees how to deal with customers politely, how to deal with intoxicated customers and to be aware of signs of anger and tension.
- Inform staff that their own safety is paramount and that they should not put their own safety at risk to order to protect goods or property.
- Train staff in non-violent responses to threatening situations, in what they should do in the event of a robbery or shoplifting incident.
- Make sure staff are familiar with cash handling procedures, credit checks and knowing how to raise the alarm and how to operate security equipment.
- Personal protection devices such as personal duress alarms can be used as an additional safe guard to the measures above to enable staff to activate the alarm manually in the event of an emergency such as a robbery.
- 'Bizsafe' is a project that exists for all small to medium sized businesses to help identify crime risks and provide recommendations on how to reduce that risk. Seminars are run throughout the state by the project co-coordinators, NSW Police and NRMA Business Insurance. For further information regarding this project, please contact your local Crime Prevention Officer.

Landscaping

Landscaping can be used to enhance the appearance of the development and assist in reducing opportunities for vandalism. However, landscaping can also provide concealment or entrapment areas for people involved in criminal behaviour.

- Some predatory offenders, particularly rapists, seek pockets and enclosures created by vegetation/landscaping. When selecting and maintaining vegetation, consideration should be given to the possibility of areas becoming entrapment sites in the future.
- A safety convention is to have 3 – 5 metres of cleared space on either side of pathways and bicycle routes. Thereafter, vegetation is stepped back in height to maximise sightlines.
- A safety convention for vegetation is: lower tree limbs should be above average head height, and shrubs should not provide easy concealment.
- As malicious damage (graffiti) is often an offence caused to such developments strong consideration must be given to the use of graffiti resistant materials, particularly on the fences, ground floor and areas which are accessible by other structures to reduce such attacks or assist in the quick removal of such attacks.

- Keeping trees and shrubs trimmed can reduce concealment opportunities and increase visibility when travelling to and from grounds.
- Landscaping next to fencing should be kept low to ensure branches and shrubs are not used as a natural ladder to gain unauthorised access to the grounds.
- Landscaping next to the fencing should be kept trimmed to allow natural surveillance from potential guardianship of neighbouring residents.
- Landscaping near existing luminaries should be regularly trimmed and maintained to ensure illumination from lighting is not restricted.
- Some overgrown landscaping was located around several buildings, particularly near windows and balconies where concealment opportunities may exist increasing the risk of unauthorised access to occur.
- Remove obstacles and rubbish from property boundaries, footpaths, driveways, car parks and building to restrict concealment and prevent offenders scaling your building. This particularly should be considered to ensure bins are secured appropriately during hours when business grounds are not occupied.
- A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally with a forty-eight hour period. Please feel free to contact Ashfield Police station on 9797-4099 to secure Police attention so investigations can be carried out and graffiti can be recorded.

Intruder Alarm Systems

- Intruder Alarm Systems should be designed and installed to the Australian Standard – Domestic & Commercial Alarm Systems to enhance the physical security of the property.
- As a number of premises have had telephone lines cut to prevent alarms being reported to the security monitoring company, a supplementary system such as Global Satellite Mobile (GSM) or Radio Frequency (RF) systems should be used to transmit alarm signal by either mobile telephone or radio frequency.
- It is recommended that any existing intruder alarm system be upgraded.
- Consideration should also be given to incorporating duress facility into the system to enable staff to activate the system manually in the event of an emergency.
- Staff should be aware that duress devices should only be used when it is safe to do so.
- LED's (Lighting Emitting Diodes) within the detectors should be deactivated, to avoid offenders being able to test the range of the system.

- The system should be tested on a regular basis to ensure that it is operating effectively.
- Test alarm system and duress facility to ensure to ensure that the system is fully operational.
- Conduct practice 'LOCKDOWN' procedures at the premises during operational hours and break periods to ensure program is working efficiency.

Cash handing/Safes

- It is recommended that there is established cash handling procedures for the maintaining and transportation of cash to reduce the opportunities of crime.
- Limit the amount of money carried at any time and ensure that this limit is executed and maintained by staff.
- Limit the amount of money carried in the cash drawer at any time (\$200.00 float).
- Lock cash drawers when not in use, and clear money from the cash drawer on a regular basis, e.g. to a safe.
- Use a minimum of two staff, or security services, when transferring money to financial institutions, or consider using a reputable security company especially when transferring large amounts of money.
- Avoid counting cash in public.
- Ensure that the safe installed is designed to the Australian Standards and utilised to provide additional security to all valuables, including money and pharmaceutical items.
- The safe should be anchored to the floor or wall or both to prevent easy removal.
- The safe should have a drop-chute facility installed within the safe to enable staff to deposit money without having to open it.
- The safe should be locked at all times when not in use to restrict access.
- Further consideration should also be given to using time delay facilities to restrict access to the safe.
- The safe should be installed in an area away from public view where access is limited.

Key and valuable control

- The control of keys and valuables is very important and should be closely monitored by management.
- A key register should be used to list which staff members have been issued with keys, the type of keys issued and what areas they have access to.
- The control of valuables is just an important and a register should also be used to record which staff members have been issued with valuable items such as laptop computers, mobile phone, etc. These registers should be detailed and regularly maintained and audited.

- In addition, all valuables should be clearly marked with the business details where possible and the serial numbers and other details should be recorded and stored in a safe place.

Telephones

- Telephones should be pre-programmed with the security number, emergency number '000' and your local police number, Ashfield Police phone number 97974099, for quick reference by any one using the facility.
- Telephone lines or boxes should be secured to avoid unlawful tampering.

General

- Sensitive materials, including confidential records, should be appropriately destroyed or secured, e.g. confidential records should be shredded or disposed of through security destruction services.
- Computer and access passwords should be changed regularly to restrict access and avoid misuse by past and present staff.
- Emergency evacuation plans should be implemented and maintained to assist staff and emergency services in the event of an emergency. This plan should be prominently displayed.
- Staff should be suitably trained and updated regularly with refresher training in evacuation procedures.

Occupational Health & Safety Act 2000 – No. 40

- Duties of Employer:
- An employer must ensure the health, safety and welfare at work of all employees.
- That duty extends (without limitation) to the following:
- Ensuring that any premises controlled by the employer where the employees work (and the means of access to or exit from the premises) are safe and without risk to health;
- Ensuring that any plant or substance provided for use by the employees at work is safe and without risks to health when properly used;
- Ensuring that systems of work and the working environment of the employees are safe and without risks of health;
- Providing such information, instruction, training and supervision as may be necessary to ensure the employee's health and safety at work;
- Providing adequate facilities for the welfare of the employer's place of work.
- An employer must ensure that people (other than the employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.

Victim Support

- If you or your staff have:
- Experienced a situation where violence or the threat of violence has occurred;
- Received an injury as a result of violence;
- Suffered a loss or adverse effects as a result of experienced violence; or
- Experienced domestic violence or sexual assault,
- You can contact the Victims of Crime Bureau by telephoning Sydney 02 9384 3000 or Toll Free 1800 633 063. Victims of Crime Bureau staff can provide or put you in contact with services you may require such as:
- Counselling (telephone or face to face)
- Information about other support services
- Information about legal processes
- Information about applying for victims compensation
- The Victims of Crime Bureau's assistance line operates 24 hours a day, 7 days a week. The Bureau in conjunction with Sydney City Mission operates the telephone counselling and referral service.

Conclusion

The New South Wales Police have a vital interest in ensuring the safety of members of the community and their property. Consideration of the potential impact on local residents, community resources, Police and Ashfield Council needs to be observed. By using the recommendations contained in this evaluation, any person who does so acknowledges that:

1. It is not possible to make areas evaluated by the NSWP absolutely safe for members of the community or their property
2. It is based upon the information provided to the NSWP at the time the evaluation was made,
3. The evaluation is a confidential document and is for use by the consent authority or organizations referred to on page 1 only,
4. The contents of this evaluation are not to be copied or circulated otherwise than for the purposes of the consent authority or organization referred to on page 1.

The NSW Police hopes that by using the recommendations contained in this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that all risks have been identified, or that the area evaluated will be free from criminal activity if its recommendations are followed.

Factors considered in determining this assessment include:

1. Review of architect's drawings (submitted with proposal)
2. Assess current crime trends
3. Identify current problems
4. Review of Statement of Environmental Effects (submitted with proposal)
5. Review of similar sites in the area.

Should you require any further information on the subjects mentioned within this report please feel free to contact Senior Constable Sean Brennan, Crime Prevention Officer, Ashfield Local Area Command, phone 97974051.

Yours sincerely



Sean Brennan
Senior Constable
Crime Prevention Officer
Ashfield Local Area Command
30th December 2010

Subject	YASMAR - DRAFT PLAN OF MANAGEMENT
File Ref	Yasmar
Prepared by	Ron Sim - Manager Strategic Planning & Projects
Reasons	Council Resolution – The objective is to provide a corporate (Council) response to the currently exhibited Draft Plan of Management (POM) and Draft Conservation Management Plan (CMP)
Objective	Provide corporate Council response and recommend participation in a proposed Reserve Trust to be set up to administer the property/consider future land use development options.



Overview of Report

Provides a synopsis of the recently exhibited Draft Plan of Management for Yasmar and suggests key issues that need to be considered when determining future development /land use options for the site. It is also recommended that Council participate in the Reserve Trust to be formed to administer the site and assess future expressions of interest for use of the property.

1.0 Background

The POM and “constraints and opportunities” findings of the CMP for the historic Yasmar site are on public exhibition concluding 24 August 2012. See **Attachment 1** for details.

Yasmar

Key recommendations in both Plans are as follows (*italicised*)

“Summary

This Plan of Management for Yasmar Reserve aims to ensure the historic site retains its environmental, scenic, cultural, and social values. The plan will also help ensure that the interactions and relationships between the adjoining uses on the Reserve are managed in a holistic way.

Yasmar Reserve is unique in terms of its historic, aesthetic, scientific and social significance. The Reserve contains three portions:

- The original homestead, known as Yasmar House, which dates to the 1850s and is the only villa house estate remaining along Parramatta Road, which is the oldest roadway in Australia. The house exterior is a fine, rare and largely intact example of a Greek Style Villa, complete with its original configuration and rear courtyard, service wings and outbuildings. The garden that fronts the house is a rare example of the Gardenesque style surviving close to the city and retaining connection with its original residence. The house is currently vacant.*
- The eastern and western wings of the homestead which, until fairly recently, were used to house juvenile offenders. The eastern wing is currently vacant, while the western wing is occupied by the Yasmar Training Facility (operated by the NSW Juvenile Justice).*

Conservation

Conservation policies are based on the Yasmar Reserve Conservation Management Plan (CMP) (Godden Mackay Logan, 2011).

The recommendations of the 2012 POM/CMP are:

- Retain Yasmar Reserve in public ownership as a single lot. While the tripartite character of the site has significance and should be retained and interpreted, the management of Yasmar Reserve should be managed on a holistic basis.*
- Promote publicly accessible institutional uses for the Reserve as a whole, and to retain public access to the Reserve.*
- Undertake ‘catch-up’ conservation works for Yasmar House and grounds as a matter of urgency. In the short term, the State Government should undertake an audit of urgent repair work, and undertake these repairs to prevent any further deterioration of the building. In the longer term, Yasmar House and garden should be restored using best-practice heritage restoration methods, with tradespeople fully qualified in restoration work. Following restoration, Yasmar House and garden should be conserved as required by a building conservation/maintenance schedule identifying tasks that need to be undertaken, and when they need to be done.*

- *Prohibit new development that would adversely impact Yasmar House, its grounds and its setting.*
- *Implement an interpretation plan for the site.*

Funding

Yasmar House and garden will require substantial funds for restoration and ongoing maintenance. The State Government has already expended \$350,000 towards the management of the site (Officer Comment: Additional funding for restoration works are being sought). Long term funding will need to be generated from tenures over the eastern and western wings of Yasmar Reserve, as well as possible future uses of Yasmar House. It is the intention income generated within Yasmar Reserve will be retained and applied for the general purpose of the Reserve Trust.

Future uses of Yasmar House and garden

The site offers a spectrum of opportunities for adaptive reuse, from uses that involve entirely public use, to those that involve mainly private use. A mix of private and public uses is also possible. The best use will need to be identified through a tender process calling for expressions of interest to lease the site. Potential uses may be limited by:

- (i) The need to find a use that provides a recurrent income stream sufficient to restore, conserve and maintain Yasmar House and Garden.*
- (ii) The need to maintain Yasmar House's heritage significance and integrity*
- (iii) The need for a level of public access and multiple uses.*
- (iv) The internal layout, which features many small spaces.*

Access

All vehicular access to the whole site is to be via the driveway connecting to Chandos Street. The entry must be sufficient to allow the two-way movement of vehicles. At no time is vehicular access to be obtained via Parramatta Road (except in the case of emergencies). The Parramatta Road driveway and associated carriageway that once serviced Yasmar House is to be only be used for pedestrian access.

Parking

To create a framework for the equitable, efficient and safe use of the common car park, the then Department of Lands commissioned the preparation of a traffic management plan (Thompson Stanbury Associates, 2008). A Traffic Management and Safety Committee shall be established to implement the traffic management plan and to develop further guidelines and coordinate on-site parking arrangements in order to maximise on- and off-site vehicular and pedestrian safety. Under the traffic management plan, the Juvenile Justice Training Centre would continue to have sole use of the small car park to the rear of its facility. In addition, to comply with the judgment of the Land and Environment Court, car parking spaces shall be allocated for the different uses on the Reserve.

Management

Yasmar Reserve is Crown land. The Yasmar (R1011588) Reserve Trust is charged with care, control and management of the site. The Lands Administration Ministerial Corporation (MinCorp) manages the affairs of the Trust (that is, undertakes the day-to-day work). This management arrangement shall continue, though there is scope for involvement by Ashfield Council, should Council seek a greater management role. The Reserve Trust shall manage the entire Reserve, and consider the site as a whole.

Zoning and reservation action (Yasmar House and Garden)

Once new uses are formalised, the Reserve Trust shall seek advice from Ashfield Council on appropriate zoning for Yasmar Reserve to enable these new uses, and then apply to alter the zoning accordingly.

2.0 Comments from Council's heritage advisor (*italicised*)

"My concern is that an inappropriate development of the lands which form part of this Estate will be permitted because no other source of funding can be found. Any long term alienation of the lands by substantial building and development will be regretted, very quickly. However, it may be that Council will be asked to approve an inappropriate zoning change to facilitate a use which it finds inappropriate, but which has been "locked in" by higher levels of government.

It may be that a commercial tenant can be found for the eastern side, prepared to pay properly for such a well located site. This would deliver some funding stream to the Trust, but even with the Corrective Services returns from the western side, this may not support the work the house needs.

Council could support the idea of the Trust and argue for a role in it, to maintain and ensure respect for the community interest in the property. However, adequate resources over a sustained time frame must be provided, to avoid the need for a chance of any resort to inappropriate development.

I hope this is of some assistance..... Robert A Moore"

3.0 Officer comments

Council and the community need to be closely involved in any future decisions relating to management and use of Yasmar – all parties need to be "kept in the loop".

Ongoing community involvement including the recent "open day" held at the property assists in identify the values of the site and it will be important to continue to consult the Ashfield community at each step in the process.

Once the POM/CMP is finally adopted mechanisms and procedures should be followed in consultation with Council to ensure that consultation occurs in a timely fashion before important decisions are made on the future use of Yasmar and the grounds. Council can be involved in the Trust to be set up to administer the property as a means of achieving this.

In the interim the following specific objectives were endorsed by Council previously and communicated to the Department of Primary Industry prior to release of the Draft POM. They remain relevant and are generally consistent with those expressed in the currently exhibited Draft Plan of Management:

- conservation of the cultural landscape, buildings, and any moveable heritage and other features in a manner which retains their cultural significance,
- conservation/protection of the extensive gardens and original vegetation - provide a landscape master plan
- opportunities for public viewing of the house and public access to the main gardens ;
- promotion of community understanding and appreciation of the history & cultural significance of the historic site and educational opportunities;
- use of the historic Yasmar site in a manner which is compatible with its significance and if possible continues its cultural traditions in a dynamic manner;
- priority to be given to restoring and conserving features of the historic dwelling in danger of severe deterioration;
- careful management of traffic and parking consistent with conserving Yasmar and associated gardens.

4.0 Development/land use options for Yasmar

(a) Development options:

It may be possible to develop parts of the site (such as the eastern part of the site formerly proposed for the “COASIT” facility). However it is critical that any development be designed in a way that does not adversely affect the heritage significance of Yasmar and from a wider perspective, Haberfield Garden suburb.

A pro-active planning approach is therefore recommended involving the preparation of site planning briefs. These should be prepared in close consultation with Council for incorporating guidelines and built form policies that will ensure future development is in accordance with **CMP** principles and will address some of the concerns expressed by Council’s heritage advisor.

The *site planning briefs* can be in a summary form and should address the following issues:

- the sustainable use and management of the site;
- the relationship of the proposal to development on adjoining land or on other land in the locality;
- landscaping provisions which ensure the preservation of trees and other vegetation and enhancement of the visual experience and amenity values of the gardens;
- provision of adequate infrastructure, water, electricity and sewerage;
- provision for adequate protection and management of environmental features/ hazards such as landform stability, erosion control, drainage & flooding, vegetation and landscaping, waste control and noise and lighting;
- the social and economic effect of any proposal on the historic building and gardens and the significance of the Haberfield locality;

- the character, siting, scale, shape, size, height, design and external appearance of the proposal;
- provisions for the protection and maintenance of any heritage buildings, archaeological, indigenous cultural values.
- criteria for the erection of signs for any proposed use which will provide for minimal signage located on the site of the activity or facility,
- the amount of traffic, access points, parking, loading unloading and manoeuvring likely to be generated by a proposal and how it can be provided without compromising other users of the site or its heritage significance.
- Maintaining reasonable public access to the house

(b) Potential land uses

The Draft POM alludes to some potential uses for the dwelling and for other buildings on the site. Although it is agreed proposed uses for the site cannot be finally determined at this stage (with the exception of Juvenile Justice who wish to retain a training presence in the current (west wing) building, some potential uses that for the historic building site are listed below. Any use of other disused buildings on the site or their replacement with new structures must have acceptable heritage impacts and align with the principles expressed in the **CMP** for the site.

- Art gallery, exhibitions
- Function centre/event venue
- Art and craft workshops
- Restaurant/tea room
- Residence
- See also Table 3 on page 47 of the CMP for other land use possibilities including possible **(attached)**

Most of the above uses for the historic house would satisfy Council's objectives for use of the historic site. It is also agreed as stated in the CMP that different uses could be combined. Any use(s) must not damage, destroy, significantly alter or result in an unacceptable level of wear and tear on the landscape, spaces and fabric of Yasmar. Decisions about which uses are actually implemented in the historic building will depend upon State Government, Council, community and commercial interest in management of these or other uses. It will be necessary to maintain a flexible approach to future uses in order to allow for changes in public interest, progressive evolution of operations and fresh ideas. However irrespective of future uses and development options for the eastern wing some key outcomes that will always need to be achieved are:

- The house should be open to the public at certain times of the year and it is preferable that it remain in public ownership. Perhaps some rooms in the house can also be made available to community groups.
- The central garden should be always publicly accessible during daylight hours.
- A "cast iron" agreement needs to be set up so that all funds received from redevelopment/sale of land or for the lease of the dwelling are directed to restoration of historic Yasmar and ongoing maintenance of the equally historic gardens.

Finally, the site can also provide an important educational resource, providing insight into the cultural significance of the property. An *interpretation plan* should be prepared to organise presentation of the site in a manner which best reflects its social, historic and archaeological importance. Interpretive strategies and methods will, however, depend upon future uses of the site. Possibilities (see above) include presentations based at the house, guided tours, a self-guided walk of the house and gardens with an interpretive brochure, a series of signs at various features and historical demonstrations and activities. Interpretation of the site's history and features will be very important.

5.0 Maintenance plan required to prevent further deterioration

The potential for further deterioration of the historic fabric of buildings on the site is of concern. This is mentioned in Part 4.1 of the Draft CMP however it is not clear whether there is a detailed interim conservation management plan in place to identify urgently required remedial work and prevent any further deterioration of the historic structures on the site. Council should request that a maintenance plan be produced as a matter of urgency and its recommendations implemented expeditiously.

6.0 Zoning considerations

Draft LEP 2012 will rezone the land to an R2 low density residential zone compatible with the remainder of Haberfield. Open space/public recreation is also permissible within this zone. Clause 5.10 of the Draft LEP is a "standard" clause appearing in all new LEP's and is reproduced below

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

Given the flexibility offered by this Clause it is not anticipated any future zoning changes would be required. The above clause in fact provides safeguards by ensuring that a pre-requisite for approving any future uses that do not comply with the proposed residential zoning is maintaining heritage significance.

7.0 Establishment of Reserve Trust – Council involvement

It is proposed to establish a reserve trust to prepare an expression of interest document to lease the property. The trust may also choose to propose development options for other parts of the site. Council's heritage adviser suggests that Council may wish to be involved on the Trust. This is a good approach because it will keep Council "in the loop" and involved in future decision making processes associated with the use of the site.

8.0 Conclusion

This report outlines the broad findings of the Draft POM and CMP and suggests a number of key criteria that need to be considered relating to future land uses and development options including options for access to the house and gardens by the public. The report can form the basis of a corporate Council response to the Draft POM and CMP exhibited by the Department of Primary Industry. It is also suggested that Council be involved in the proposed Reserve Trust to be set up to administer the site as a way of ensuring Council's views are known when important decisions on the future of the property are considered.

Financial Implications

N/A

Other Staff Comments

Council's heritage advisor provided comments.

Public Consultation

Currently being carried out by State Government – public exhibition concludes 24 August.

ATTACHMENTS

Attachment 1	Draft Plan of Management (includes extract from Draft CMP - constraints and opportunities) - Circulated under separate cover	56 Pages
Attachment 2	CMP Draft Report - Circulated under separate cover	234 Pages

RECOMMENDATION

- 1/4 That a copy of this report be provided to the Department of Primary Industry as an expression of Council's corporate view addressing a range of matters that need to be considered when determining future land use and development options for the historic "Yasmar" site.**
- 2/4 That Council advise the Department of Primary Industry that it wishes to be represented on the future Reserve Trust to be formed to consider future land use/ development options for the site.**
- 3/4 That the Department of Primary Industry be requested to produce a maintenance plan and implement its requirements as a matter of priority in order to halt any further deterioration of the building fabric of the historic buildings on the site**
- 4/4 That the Haberfield Association and Ashfield and District Historical Society be advised of Council's decision.**

PHIL SARIN
Director Planning and Environment

Subject	COMMUNITY GARDENING POLICY
File Ref	Community Gardening Policy
Prepared by	Jocelyn Cutler - Sustainability & Resource Recovery Education Officer
Reasons	To present the results of the public exhibition of the drafted Community Gardens Policy
Objective	To seek Council's adoption of the attached Community Gardening Policy.

Overview of Report

Following significant interest in community gardening from the local community and council, a draft policy was developed and, following Council's endorsement, was placed on public exhibition.

The draft Community Gardening Policy gained positive support from community responses during the public exhibition period.

This report seeks to gain Council's endorsement of the policy.

Background

Ashfield Council supports the development of community gardening within the Ashfield Local Government Area and believes that appropriately designed and managed community gardens can provide a wide range of environmental, social and economic benefits to the Ashfield community.

Council's Sustainability Team has undertaken significant research in order to develop the draft Community Gardening Policy (Attachment 1). This research and Council's recent experience has shown that a 'bottom-up' approach to community gardens is preferable in the development of community gardens and as such is the model proposed in this draft Policy.

Under the model proposed in this draft Policy, the community initiates the development of a garden by identifying a site, establishing an incorporated group, obtaining approval for the garden, and managing the facility on a day to day basis. Council plays a support role through the policy, assesses applications, grants access to suitable land and provides general advice and support to groups. Initially Council will be able to fund some small infrastructure for the establishment of a few new gardens e.g. raised garden bed structures, recycling, worm farming and composting facilities.

This method has been piloted via the Eora Community Garden in Smith Street, Summer Hill, which has been running effectively as a self managed space for approximately 3 years.

The draft Policy sets out the support and assistance Council can provide for Community Gardens as well as the roles and responsibilities for any new community garden groups.

This draft policy has been on public exhibition during May 2012 and received supportive comments from the community only.

This report seeks Council's adoption of the draft Community Gardening Policy (Attachment 1).

Financial Implications

Council has an existing budget allocation for Community Gardens of \$40,000 (\$20,000 from the Environmental Levy and \$20,000 from the Waste and Sustainability Improvement Program Payment).

These funds will be accessed to support new garden applications and to provide appropriate training for community garden volunteers.

Other Staff Comments

Council's Community Services Team worked closely with the Sustainability Team on the establishment of the Eora Community Garden and during the research phase for the draft Community Gardening Policy. They along with other Council staff have provided various feedback on the draft policy which has been incorporated into the attached document where appropriate.

Public Consultation

This policy has been developed from discussions and preliminary consultation with the Ashfield Community Gardeners Group.

The draft policy was on public exhibition during May, to garner responses from the wider community. Two comments were received; both were in support of council adoption of the policy:

"The Ashfield Gardeners have read the Ashfield Council's Community garden policy. As you may be aware, we have been great supporters of this policy and we are happy that it has now been passed. The Gardeners would like to thank the Council for approving the policy and we believe that it will be a great benefit for the local area. We look forward to working with the Council to implement the policy.
Regards,
Kim Santarossa
on behalf of Ashfield Community Gardeners"

"I am responding to the draft Community Gardening Policy on public exhibition and wanted to congratulate council in formalising a policy on this function within our community and thereby allowing for some activity in community gardening in Ashfield LGA.
Regards
Margaret Levin
50 Church Street
Ashfield NSW 2131"

Conclusion

Council has a desire to see more community gardens within the LGA. Having a clear policy and mechanism for establishing community gardens will ensure any new gardens are well developed and managed into the future.

ATTACHMENTS

Attachment 1 Community Gardening Policy July 2012 14 Pages

RECOMMENDATION

That Council adopts the Ashfield Community Gardening Policy.

JANENE HARRIS
Team Leader Sustainability

PHIL SARIN
Director Planning and Environment



Ashfield Council

Community Gardening Policy



Ashfield Council

Community Gardening Policy

July 2012

This policy will be reviewed biennially by: The Sustainability Team
Next review date: July 2014



Ashfield Council

Community Gardening Policy

Title:	Community Gardening Policy
Summary:	This Policy outlines the ways in which Ashfield Council intends to support community gardening within the Ashfield Local Government Area.
Record Number:	
Date of Issue:	
Approval:	
Version Control:	Version 5 – Final July
Contact Officer:	Sustainability Team
Relevant References:	The Australian City Farms & Community Garden Network
Main Legislative or Regulatory References:	NIL
Applicable Delegation of Authority:	Delegations Schedule Corporate and Community Services
Related Ashfield Council Policy:	Park Plans of Management, Community Strategic Plan, Pesticide Use Notification Plan
Related Ashfield Council Procedure:	Customer Service Standard



Ashfield Council

Community Gardening Policy**1. Policy Background**

Ashfield Council supports the development of community gardening within the Ashfield Local Government Area and believes that appropriately designed and managed community gardens can provide a wide range of environmental, social and economic benefits to the Ashfield community.

For the purposes of this Policy, community gardens are:

Not-for-profit, community managed spaces that provide an opportunity for food production and other gardening activities, for the benefit of members in the local community.

Community gardens require substantial community involvement in planning, decision-making, garden management and day-to-day activities. It is envisaged that once established, community gardens within the Ashfield area will be self-sustaining and will require minimal management, support and intervention by Ashfield Council staff.

2. Policy Purpose

This Policy outlines how Ashfield Council intends to support community gardening activities within the Ashfield Local Government Area (LGA), including gardens established on both public and community owned land.

3. Policy Objectives

The objectives of this policy are to:

- Acknowledge the potential social and environmental benefits of community gardening
- Outline types and mechanisms of support Ashfield Council is committed to providing to community gardening groups
- Set out requirements for the establishment of community gardening on Council owned land
- Ensure that all community gardens are managed in an efficient manner and maintained to an acceptable standard

4. Implementation and access

This Policy has been developed in consultation with the Ashfield Community Gardeners, the gardening group who currently operate in the Eora Community Garden in Summer Hill. The Policy will also be subject to a wider community consultation period before being finalised.

A soft copy of the Policy will be available on Council's website and hard copies can be made available upon request via Council's Customer Service Centre.

Implementation of this Policy will be undertaken by members of the community interested in forming community garden groups and by members of Council's Sustainability Team.

5. Benefits of Community Garden

Community gardens can provide and facilitate a range of social and environmental benefits. They bring together people from different backgrounds, age and interest groups, and can help build stronger, more integrated and more resilient communities.

Some of the positive social interactions that occur in community garden spaces include: cooperating through working parties, sharing gardening tips, arranging social events and sharing produce.



Ashfield Council

Community Gardening Policy

Community gardens also function as educational resources, and allow for the promotion of environmental awareness and stewardship. They often provide demonstration sites for composting and worm farming; rain water harvesting and re-use; and organic and water-wise gardening principals.

In some circumstances community gardens can also contribute to increased food security and improved health and nutrition outcomes, and further benefits of community gardens are that they contribute to the diversity of open space use and recreation; can be sites for community outreach; and can provide valuable vocational experience.

Finally, access to community gardening spaces can be especially valuable to, and valued by, members of the community who have limited space to garden within their own properties. This is particularly relevant in the densely populated suburbs of the Ashfield LGA.

6. Types of Community Gardening

There are a number of different models of community gardens. The two types of community gardens that are supported through this Policy are:

- Community gardens that have a mixture of individual allotments and shared areas; and
- Communal gardens where the entire garden is managed collectively

These gardens may be located on public land, whether owned by Council or other Government agencies, or on community owned assets -such as Churches and schools.

Unless special exemption is requested and granted this policy will not support gardens in which the entire space is divided into allotments which are managed by individuals.

Note: For the purposes of this policy, public land includes all Council owned land and Crown Land under Council's care control and management.

7. Council's Role in Community Gardening

Ashfield Council will apply a community development approach to community gardens, in which gardening groups manage the gardens themselves with the support of the Council and other partnering organisations. This approach leads to increased community ownership which can assist in the ongoing sustainability and success of a community garden.

8. Council Support and Assistance for Community Garden Groups

Council can provide the following services and assistance to community garden groups:

8.1 A Council Point of Contact

Council will provide a point of contact for garden group coordinators and committee members. This person will coordinate Council's assessment of new garden proposals and, the provision of advice on design and maintenance of garden spaces and plans of management (including examples). This person may also provide advice and limited assistance in obtaining grants to support community gardening activities.

8.2 Materials and Equipment

Council may, at its discretion and subject to budgetary constraints, be able to provide the following materials:

- raised garden bed structures – for the establishment of a new garden
- recycling, worm farming and composting facilities and associated infrastructure



Ashfield Council

Community Gardening Policy

- soil, compost & mulch – during the initial establishment of a new garden
- public signage and educational materials for the community garden.

8.3 Education and Training

Council will provide relevant workshops and training opportunities for community garden volunteers. For example TAFE Courses for Community Gardening, worm farming and composting, organic gardening principles and water-wise gardening.

Council will also endeavour to source and provide shared educational resources (e.g books and DVDs) to community gardeners through the Ashfield and Haberfield Libraries.

8.4 Communication and Promotion

Council can assist in connecting community gardens and gardeners to one another, in order to help build relationships and encourage the sharing of information and experiences. Council will also promote community gardening and gardens through Council's website, publications and events, and will link interested community members to existing gardening groups.

8.5 What Council Cannot Provide

Council is not in a position to provide the following services of resources:

- administrative support (e.g. photocopying)
- the holding of any monies on behalf of community garden groups
- the provision of large infrastructure (e.g. sheds, rainwater tanks, sun shelters)
- the ongoing provision of plants, seeds, soil or mulch
- the provision of tools or other equipment
- the repair or replacement of damaged, lost or stolen infrastructure and equipment
- public liability insurance
- the development or hosting of any internet based platforms for group communications and promotion, e.g. websites, blogs, wikis
- ongoing financial support

9. Responsibilities of Community Gardeners

Community gardeners are responsible for maintaining the garden so that the health and safety of the surrounding community and other gardeners are not adversely impacted upon. All community garden groups operating within Council lands must have an established and agreed Plan of Management prior to undertaking works and be an incorporated group within 12 months of the use of land being granted. Appendix 2 contains an outline of the topics a Plan of Management should include.

In particular, gardeners are responsible for ensuring that:

- They have an operating Code of Conduct
- They cooperate and communicate with the Council, residents of the surrounding neighbourhood, partnering organisations and other gardeners;
- They do not discriminate against one another due to differences in race, culture, age or sexuality;
- Decision making is democratic, transparent and inclusive;
- Any water leaving the garden is not contaminated by sediment, fertiliser, manure or excessive organic matter that might pollute waterways;
- Noise levels within the garden are maintained at a level that is not disturbing to neighbours;
- Compost, worm farming systems and fertilisers are maintained so as not to attract vermin or produce unpleasant odours;
- Any rainwater harvesting systems are maintained to ensure water is of a high quality;
- Lawn areas are regularly mowed and garden beds kept tidy;



Ashfield Council

Community Gardening Policy

- Any materials delivered to or stored at the garden are maintained so as not to create an unpleasant environment for other residents in the community;
- Visitors are welcomed to the garden;
- Where gardens are established on Council land, members of the general public can access the garden during daylight hours, i.e. non-members cannot be excluded from Council lands
- They have appropriate Workplace Health and Safety Plans and Systems in place
- They have a nominated person to act as a liaison with Council.

9.1 Rights of Community Gardeners

Community gardeners have the right to:

- Develop their own internal policies, organisational procedures and plan of management providing they liaise with and get support from Council;
- Be consulted with regard to any decision that may affect the garden and to be advised by Council in a timely manner of any policy changes that may impact them;
- Be treated with respect by other gardeners and partnering organisations; and,
- Negotiate a secure and reasonable agreement with Council.

9.2 Conflict Resolution and Complaints Procedure

Community Gardens should aim to promote an environment that is respectful and considerate. However, it is possible that conflict may sometimes arise, either within the garden group or with external stakeholders such as local residents or the Council. In the event of a conflict arising, steps should be taken immediately to work towards its resolution, including communicating respectfully with those involved; and engaging the assistance of a mediator where appropriate.

Council requires that community gardeners develop a management plan which includes a gardener's agreement that all members agree to follow. The agreement should provide information on the expectations of behaviour on site, the management of shared garden areas and plots; and a conflict resolution process.

10. Insurance and Risk Management

It is essential that garden groups are aware of the risks associated with undertaking a publicly accessible community garden project. Each garden group has a duty of care to the community who access the garden areas. To ensure funds are available to meet that duty, a minimum of \$10,000,000 of public liability insurance policy is required to be held.

11. Incorporation of the Garden Group

Ashfield Council encourages community garden groups to have a clear and identified legal structure. Garden groups utilising Council owned land are required to apply to the NSW Office of Fair Trading to become Incorporated Associations within 12 months of use of land being granted. This arrangement provides the group with flexibility in the management of funds and enables them to open a bank account, obtain public liability insurance cover and apply for government grants.

Incorporation as an association requires groups to establish a management committee with annually elected office bearers and to commit to regular meetings. This can be beneficial for the project as it maintains a structure that can address management issues. Having a committee also helps share the tasks of garden management and avoids excessive responsibility being placed on a few people or the garden management becoming dominated by one person.

12. User Agreement

A licence for use agreement must be signed between Ashfield Council and the organisation for



Ashfield Council

Community Gardening Policy

the purpose of developing and maintaining a community garden. The licence agreement would also contain conditions for the use of the site.

At the initial set up of a new garden, a license will be granted for 12 months with an option for a 3 year agreement after this period. All community gardens will operate on a not-for-profit basis

A licence or other agreement with the group could be revoked or not renewed if:

- the group disbands or ceases to function
- the garden is not maintained or becomes unsafe for public access; and,
- appropriate insurance cover is not maintained

The group will be required to report annually to Council on the function of the garden and how they are meeting Council objectives

13. Ashfield Council Use of the Garden as a Demonstration Site

Council's vision is to promote the development of community gardens as demonstration sites for sustainable living, that can be utilised for educational and community activities.

In demonstrating sustainability best practice, community garden groups are strongly encouraged to include outdoor learning and meeting spaces; interpretative signage; and to use recycled materials and practice water-efficient and organic gardening.

Where community gardens are established on land owned by Ashfield Council, Council retains the right to use the garden as a demonstration site for community education activities such as tours and workshops. Council will communicate with the garden users to ensure that organised activities do not conflict inappropriately with other garden uses, such as regular working bees.

14. Establishment of Community Gardens on Community Owned/Managed Land

Open space is limited within the Ashfield LGA and Council therefore supports the establishment of community gardens on community lands such as church grounds, schools, and retirement villages. Community gardens on community owned lands will be supported by Council as outlined in this policy provided they meet the conditions described herein.

15. Establishment of Community Gardens on Council Land

Ashfield Council encourages resident groups to work in partnership with Council in the establishment of new community gardens on Council land. Establishing a community garden can be a complex process requiring consultation with a broad range of stakeholders and there are a number of issues that need to be considered before a community garden is initiated.

Ashfield Local Government Area is a highly urbanised municipality with limited open space available for community use. Community gardening is one of many activities, including active and passive recreation, which Council land zoned for Open Space can be used for.

Council supports the equitable allocation of land for community use. Assessment of proposed new sites will take into consideration the following:

- availability of other open space nearby for active and passive recreation;
- local population density (including ratio of multi-unit dwellings vs. single dwellings with private gardens);
- proximity to existing community gardens; and
- existing land use



Ashfield Council

Community Gardening Policy

In order for Council to consider supporting the development of new community gardens on Council-owned or controlled land, applicants will need to submit a completed Application Form (Appendix 1) to Council. Addressing the site selection criteria outlined in the box 1 below and following the process for starting a new community garden. The first steps in this procedure include establishing a community garden group, conducting a site assessment of potential sites and discussing their proposal with Council to identify any possible issues. Once a preferred site has been established, applicants will need to submit a completed application form to the Council. If the application is supported, the Council will organise community consultation with local residents and work with the community garden group to address any concerns.

16. Water supply on Council land

Where water is made available by Council to community garden groups, use will be closely monitored to ensure water is used responsibly. Council actively encourages water conservation within the community, and this will also apply to community gardens on Council land.



Ashfield Council

Community Gardening Policy

Site Selection Criteria for New Community Gardens on Council Owned Land

1. Location: Sites zoned as Open Space under the Local Government Act may be appropriate. These sites are usually established for community use such as park lands, open spaces and community centres that have outside areas. Priority will be given to sites located in high density areas

2. Safety: Sites should have no major safety or health concerns; and have good passive surveillance (for example, can be easily seen from nearby houses or retail areas).

3. Accessibility: Sites should be accessible for a range of user groups. Sites should be located close to public transport, allow access for people with disabilities, have vehicle access (e.g. for delivery of mulch and soil) and accommodate groups wanting to visit the garden.

4. Solar access: Sites need to be suitable for growing vegetables and receive full sunlight - ideally for at least 5 -6 hours per day.

5. Size: Sites which are large enough to accommodate garden beds (including communal beds) composting systems and seating areas.

6. Water: Sites with easy access to a water supply or buildings nearby from which rainwater can be collected.

7. Soil Contamination: Sites will need to be checked for soil contamination. If contamination exists then advice will need to be sought from experts on whether it is suitable for growing food.

8. Multiple Use: Sites where a community garden can be integrated without conflicting adversely with other land uses and where the community garden can still be used by non gardeners for passive recreation and educational workshops.

9. Interest Levels: Sites will require a minimum of 8 interested gardeners, in order to ensure that the garden is sustainable and will be maintained to an appropriate standard.

Note: It may not always be possible to find a site that meets all of the above criteria. Council will prioritise the sites that can meet as many of the requirements as possible.

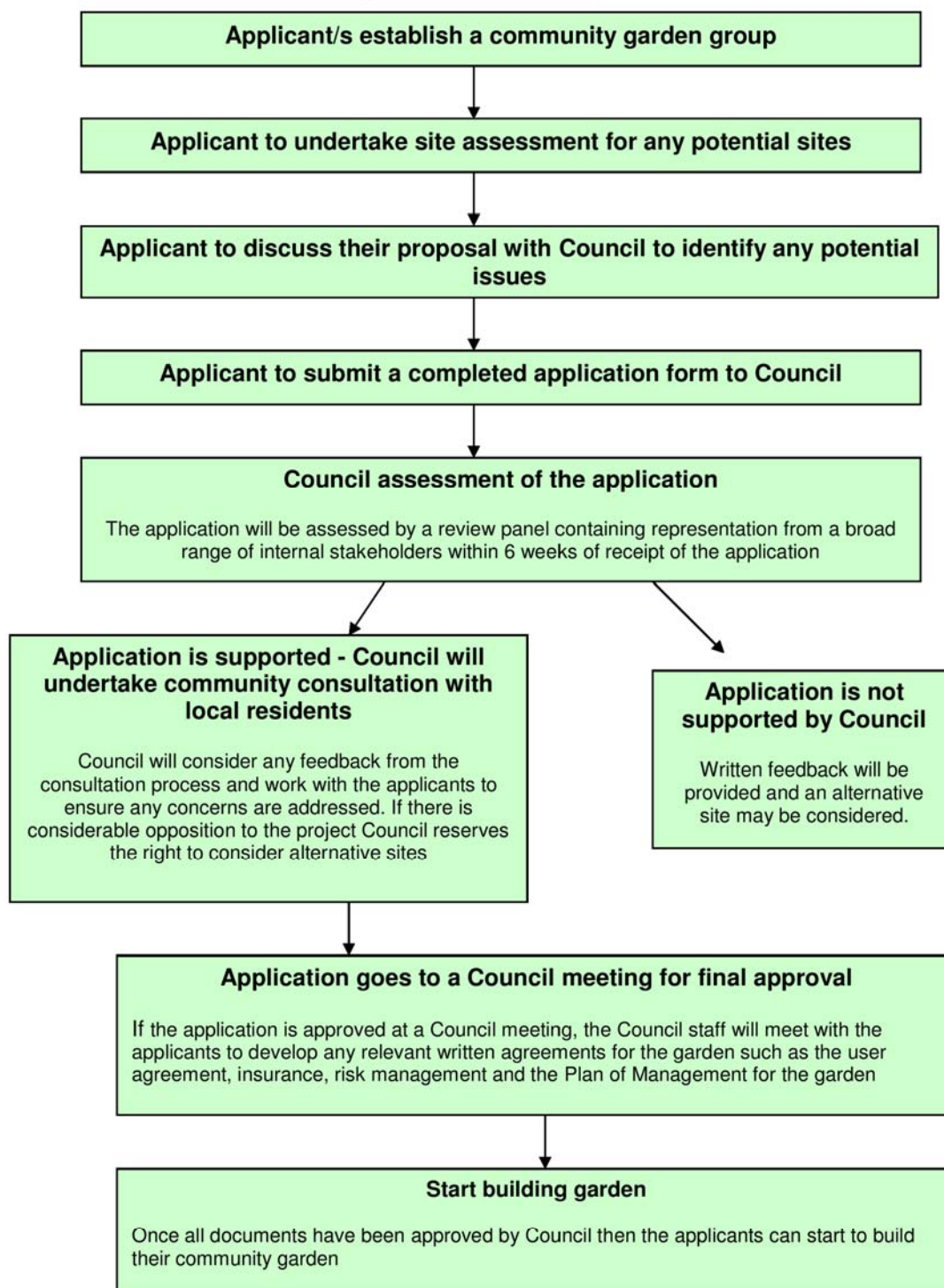
Box 1 – Site Selection Criteria



Ashfield Council

Community Gardening Policy

Process for Starting a New Garden



10



Ashfield Council

Community Gardening Policy

Appendix 1 – Community Garden Application Form

Part 1 Applicant Details

Community Garden Group Name		
Contact Person Name		
Postal Address	Street Address:	
	Suburb	Postcode
Phone Numbers	BH	AH
Email Address		
Applicant Signature		Date

Part 2 Group Details

Number of Members	Current:	Maximum Number
Is the Group Incorporated	Yes	Incorporation Number
	No - Please provide details on the aims and objectives of the group?	
How is the Group Structured? Included brief details on roles, meetings and decision-making		
Have any of the members had experience in Community Garden Groups previously?		
Who will benefit directly from the project?		
Other Comments		



Ashfield Council

Community Gardening Policy

Part 3 Proposed Site Details

Proposed Project Site Address	Street Address:	
	Suburb	Postcode

Part 4 Proposed Site Assessment

What is the land currently used for, e.g. passive recreation, sporting groups, playground, et?	
Are there any existing structures or services on the site?	
Does the site have good visibility from nearby houses or businesses?	
How far is the site from public transport, bicycle tracks and footpaths?	
Is the site accessible for a range of user groups, including disabled access if required by registered participants?	
Is the site of adequate land size to accommodate the project? Consider the size of the proposed garden beds, composting systems etc	



Ashfield Council

Community Gardening Policy

Does the site have sunlight for at least 5-6 hours per day?	
Is there access to water?	



Appendix 2 – Topics to Include in a Plan of Management

The plan of management should include the following:

- Statement of purpose
- Aims and objectives, including the long term vision for the garden
- Proposed management structure
- Proposed induction process for volunteers
- Proposed risk management framework and completed risk assessment
- Proposed management of pests and weeds (chemical spraying?)
- Provision for public liability insurance
- Proposed decision-making framework and conflict resolution processes
- Proposed policy regarding sustainable land management including management of soil water, energy, organic and non-organic waste, biodiversity and building materials
- Proposed policy regarding access, equity and membership
- Proposed policy for the allocation and management of plot gardens
- Proposed funding model, e.g. membership fees, fundraising, grants
- Proposed policy regarding drugs and alcohol, including smoking onsite
- Any potential partnerships the group envisages, e.g. with local schools
- Contact details for project coordinators
- Considerations of accessibility including proximity to public transport

Subject	AMENDMENTS TO COUNCILLOR EXPENSES AND FACILITIES POLICY
File Ref	GOVERNANCE
Prepared by	Nellette Kettle - Director Corporate & Community Services
Reasons	To amend to the Expenses and Facilities Policy in preparation for the new Council term.

Overview of Report

This report seeks to amend, for public exhibition, the Councillor's Expenses and Facilities Policy in preparation for the new Council term.

Background

The Councillor Expenses and Facilities Policy provides for the equipment and facilities that are provided to Councillors to assist them in fulfilling their civic duties. Each Council is required to have such a policy under the Local Government Act 1993.

Report

Council officers are in the midst of planning for the equipment and facilities of the new Council term and as part of this process we have consulted with current Councillors on equipment requirements via survey and a workshop in June 2012.

It is recommended that the Council adopt the following changes to the Expenses and Facilities Policy to enable planning for the new term of Council to be put into effect:

- Page 8 (travel within the Sydney Metropolitan area) – an increase in the limit applying to the cost of a single taxi trip from \$70 to \$120, in response to feedback from Councillors that a \$70 limit is too low for trips taken at peak traffic times.
- Page 9 (travel outside the Sydney Metropolitan area including interstate travel) - an increase in the limit applying to the cost of a single taxi trip from \$70 to \$120
- Page 9 (Telephone and PDA Costs and Expenses) – this section has been re-written to reflect that Council will no longer provide mobile phones to Councillors and will instead provide reimbursement of costs
- Page 13 (Provision of Equipment and Facilities for Councillors) – this section has been rewritten to:
 - Provide Councillors with the alternative of a laptop or ipad;
 - Provide Councillors with the alternative of a multi-function device or an old style fax machine according to preference
 - Provide for reimbursement of internet (up to \$50 per month) and fax costs (up to \$80 per month) for Councillors who choose to utilise their own home office set up
- Page 14 (Provision of Additional Equipment and Facilities for the Mayor) – 3rd dot point re-written to reflect that Council no longer provides the mobile phone

- Pages 21 and 22 – administrative amendments to the forms to facilitate the above changes.

Financial Implications

Provided for within existing budgets for 2012/13.

Other Staff Comments

The General Manager, Manager Corporate Services and Manager Information and Communications Technology have contributed to this review.

Public Consultation

Under the legislation a 28 day period of public exhibition is required before final adoption of the Policy by Council.

Conclusion

The changes outlined in this report and marked up in the policy are recommended for adoption for public exhibition to facilitate the issue of equipment and facilities to the new Council in due course.

ATTACHMENTS

Attachment 1 Amended Councillor Expenses and Facilities Policy 22 Pages

RECOMMENDATION

- 1/2 That Council adopt the proposed amendments to the Expenses and Facilities Policy to facilitate planning for the new Council term for the purposes of public exhibition.**
- 2/2 That the amended policy undergo public exhibition in accordance with the Local Government Act 1993.**

NELLETTE KETTLE
Director Corporate & Community Services



**Ashfield
Council**

Councillor Expenses and Facilities Policy

To be reviewed: Annually
By: Governance

~~November-August 2012+~~

Title:	Councillor Expenses and Facilities Policy
Summary:	This policy outlines various entitlements for Councillors to meet their civic obligations at Ashfield Council.
Record Number:	***
Date of Issue:	November 2010 Updated October 2011 Updated August 2012
Approval:	Council Meeting 11 November 2011
Version Control:	Version 2
Contact Officer:	General Manager
Relevant References:	
Main Legislative or Regulatory References:	Local Government Act 1993
Applicable Delegation of Authority:	
Related Ashfield Council Policy:	Model Code of Conduct
Related Ashfield Council Procedure:	

Table of contents

1. INTRODUCTION	4
Title and commencement	
Purpose of policy	
Objective and coverage of policy	
2. PAYMENT OF EXPENSES	4
General provisions	
Payment of expenses generally	
Allowances and expenses	
Reimbursement and reconciliation of expenses	
Payment in advance	
Spouse and partner expenses	
Specific expenses for mayors and Councillors	
Discretionary trips and attendances at conferences and similar events	
Training and educational expenses	
Travel within the Sydney metropolitan area	
Travel outside the Sydney metropolitan area including interstate travel	
Telephone costs and expenses	
Internet	
Care and other related expenses	
Insurance expenses and obligations	
Legal expenses and obligations	
Other reasonable expenses	
3. PROVISION OF FACILITIES	12
General provisions	
Provision of facilities generally	
Private use of equipment and facilities	
Provision of equipment and facilities for Councillors	
Provision of additional equipment and facilities for the Mayor	
4. OTHER MATTERS	16
Acquisition and returning of facilities and equipment by Councillors	
Reporting requirements	
Legislative framework	
Other government policy provisions	
Status of the policy	

APPLICATION FORM – PRIVATE USE OF COUNCIL'S HOME OFFICE EQUIPMENT

COUNCILLORS EXPENSES CLAIM FORM

1. Introduction

TITLE AND COMMENCEMENT

This policy is titled *Councillor Expenses and Facilities Policy*.

This policy was adopted by Council on 24 November 2009 and commenced on 25 November 2009.

It replaces the previous policy titled Payment of Expenses and Provision of Facilities to Council adopted by Council on 24 February 2009.

PURPOSE OF POLICY

The purpose of this policy is to ensure that the facilities provided to assist Councillors to carry out their civic duties are reasonable and that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors.

OBJECTIVE AND COVERAGE OF POLICY

The objectives of this policy are to:

- Provide a guide to Councillors expenses and facilities
- Outline the process for paying expenses so that they can be properly recorded, reported and audited
- Comply with the guidelines issued by the Department of Local Government

The policy applies to all Councillors. The Mayor is entitled to specific additional facilities as set out in this Policy.

2. Payment of expenses

General provisions

PAYMENT OF EXPENSES GENERALLY

Allowances and expenses

Council does not provide general expense allowances to Councillors. Councillors are entitled to the expenses set out in this policy provided that they satisfy the stated requirements.

Reimbursement and reconciliation of expenses

Before Council will pay for an expense under this policy, Councillors must seek reimbursement in a formal written claim lodged not later than three months after the expense was incurred.

Each claim must include original receipts, or tax invoices (where GST applies), to be considered for reimbursement.

Council will pay properly documented claims within seven days of the submission of the claim.

Payment in advance

Where it is not appropriate or practicable for Council to pay in advance for a Councillor to attend a conference, seminar or other event, cash or cheque equivalent will be paid to the Councillor in advance.

Councillors must reconcile all expenses against the amount of the advance within 30 days of returning from the event concerned, and present the reconciliation to Council with all receipts, or tax invoices if GST applies.

All funds not expended on official business must be reimbursed to Council within a further 30 days. Council is entitled to deduct from the Councillor's fees any amounts outstanding after this time.

SPOUSE AND PARTNER EXPENSES

Where Councillors make discretionary trips, or attend conferences or similar events and are accompanied by a spouse or partner, any additional costs related to spouses or partners (including meals, travel, tours and other expenses) will be met by the delegate or partner and will not be reimbursed by Council.

Exceptions:

Council will consider the cost of registration and official conference dinners for a spouse or partner's attendance at the Local Government Association's Annual Conference. Travel expenses, any additional accommodations expenses and the cost of tours will be the personal responsibility of individual Councillors.

Expenses for the spouse of the Mayor or a Councillor, when representing the Mayor when they are called on to attend an official function of Council or carry out an official ceremonial duty while accompanying the Mayor within the State, will be met by Council.

Specific expenses for Mayors and Councillors

DISCRETIONARY TRIPS AND ATTENDANCES AT CONFERENCES AND SIMILAR EVENTS

Councillors may undertake discretionary trips, or attend conferences and similar events subject to approval.

Council in full meeting will generally determine whether to give its approval. If this is not practicable then the approval will be subject to the joint approval of the Mayor and the General Manager.

If the Mayor requires approval it will be subject to the joint approval of the Deputy Mayor and the General Manager.

A Councillor who wishes to undertake a trip or attend a conference or similar event must provide a written request to the Mayor stating the reasons why the Councillor

wishes to attend and what benefits it will bring to Council, unless invited to attend by the Mayor. If the trip or attendance is interstate, the Councillor should submit the itinerary and cost for consideration.

Council will allocate up to \$13,000 per year (including GST) to fund attendance at conferences and similar events. However, Council may agree to allocate additional funds in specific cases where it decides that there is a benefit to Council from the attendance.

The Mayor may nominate a substitute attendee including the Deputy Mayor or another Councillor in his or her stead on those occasions where the Mayor is unable to be present.

The Council will normally pay in advance for all accommodation (double room of an adequate standard), and normal registration costs charged by organisers, including the costs of related official luncheons, dinners and tours that are reasonably relevant to the interests of Council or assist Councillors to discharge the functions of their civic office.

Where Councillors attending a conference or meeting for which accommodation has been booked and paid in advance by Council, and subsequently they do not require this accommodation for the full period of the event, they should advise Council staff no later than 24 hours prior to the commencement of the event to enable any reimbursement of expenses to be sought. Where such notice does not occur, it is an expectation of this policy that Councillors will reimburse Council for any costs for the period for which they do not require accommodation. Councillors who require to cancel an entire booking for an approved Conference or similar event due to other commitments should notify Council staff as soon as possible prior to the commencement of the event to enable reimbursement or credits to be pursued for any travel or accommodation bookings.

Council will meet all reasonable costs of transportation to and from conferences when they are not included in the conference fees. Councillors are entitled to use Cab Charge in this instance provided that the cost of a single trip does not exceed \$70 (including GST).

For accommodation or meals that Council has not prepaid, and for incidental expenses, Council will reimburse expenses incurred while at conferences, seminars or official functions to the limits of the allowances set out in the Australian Tax Office's Taxation Determination TD 2010/19 or such determinations or policies of the Australian Tax Office that supersede it.

The limits will be applied as follows:

- Where Councillors' meals are not prepaid by Council or are not included in the seminar, conference, event or briefing fee, the monetary limits per day for meals are those set out under 'Food and Drink' in Table 3 of paragraph 10 of TD 2010/19 or such determinations or policies of the Australian Tax Office that supersede it. (As at June 2010 – Meal Allowance (per day) Breakfast \$27.00; Lunch \$38.00; Dinner \$65.00)
- Where Councillors incur incidental expenses, such as phone calls and similar expenses, the monetary limits per day for those expenses are the rates set out under 'Incidentals' in Table 3 of paragraph 10 of TD 2010/19 or such

determinations or policies of the Australian Tax Office that supersede it. (As at June 2010 – Incidental Expenses (per day) \$24.05)

- Where Councillors' accommodation expenses are not prepaid by Council or are not included in the seminar, conference, event or briefing fee, the monetary limits per day for those expenses are those set out under 'Accommodation' in Tables 3 and 4 of paragraph 10 of TD 2010/19 or such determinations or policies of the Australian Tax Office that supersede it.

With the approval of the Mayor and General Manager, a Councillor may expend more than the individual monetary limits per day for meals and incidental expenses, provided that the overall monetary limit per day in that case will be the sum of all of the monetary limits per day for meals and incidental expenses.

On completion of a discretionary trip or attendance, Councillors should provide a written report to Council on the aspects of the attendance that are relevant to Council's business and/or the local community. A report is not required for the annual conferences of the Local Government and Shires Associations.

TRAINING AND EDUCATIONAL EXPENSES

In addition to attending conferences, Councillors are encouraged to undertake training and educational courses, and attend seminars and briefings from key members of the community, politicians and business that are directly related to their civic functions and responsibilities.

A Councillor who wishes to attend a training and educational course, or attend a seminar or briefing, must provide a written request to the General Manager stating the reasons why the Councillor wishes to attend and what benefits it will bring to Council, unless invited to attend by the Mayor. The approval will be subject to the joint approval of the Mayor and the General Manager. If the Mayor requires approval it will be subject to the joint approval of the Deputy Mayor and the General Manager.

Council will allocate up to \$9,000 per year (including GST) to fund relevant training and educational courses, and attendances at seminars and briefings. However, Council may agree to allocate additional funds in specific cases where it decides that there is a benefit to Council from the attendance.

This allocation is for all Councillors taken together and the Mayor and General Manager will ensure that access to training and educational courses is distributed equitably.

Council will reimburse expenses incurred while at training or educational courses, or seminars or briefings, to the limits of, and in the same way as, the allowances referred to under 'Discretionary trips, and attendances at conferences and similar events' above. However, expenses that are additional to the service component, such as donations or some other private benefit are excluded.

TRAVEL WITHIN THE SYDNEY METROPOLITAN AREA

Councillors are entitled to claim expenses for travel:

- to and from meetings of Council including committees of Council,

- inspections within the Ashfield area in accordance with a resolution of Council,
- meetings to which a Councillor has been appointed a delegate or observer and
- any other activity that has been authorised by Council.

A kilometrage allowance will be paid for use of a private vehicle at the rate set by the Local Government Award provided that the travel is undertaken expediently, and by the shortest practicable route, subject to personal medical considerations or special needs.

Council will meet all reasonable costs associated with parking and road tolls for travel relating to defined Council business.

The driver is personally responsible for all traffic or parking fines incurred while travelling in private or Council vehicles on Council business. Where the Councillor is not the driver, the Councillor shall ensure that all traffic or parking fines are paid.

Councillors are entitled to use public transport or taxi transport. On request Councillors will be provided with an individual cab charge card. A general limit of ~~\$70.00~~120.00 (including GST) applies to the cost of a single trip and an absolute monthly limit of \$200.00 (including GST), applies to each Councillors unless otherwise approved by the Mayor and General Manager. Users of this facility must return their copy of the Cab Charge docket, clearly indicating reason for travel, place of departure and arrival and time of arrival to Chief Financial Officer within 7 days.

TRAVEL OUTSIDE THE SYDNEY METROPOLITAN AREA INCLUDING INTERSTATE TRAVEL

Council will meet all reasonable travel costs associated with an approved attendance. Travel may be by air, private or hire car, train or taxi, if prior approval has been attained.

Where air travel is appropriate, it will be provided by economy class. However, the General Manager may decide that travel will be by train.

Travel by private or hire vehicle shall be subject to prior approval from the General Manager and provided that:

- the travel is undertaken expediently, and by the shortest practicable route, subject to personal medical considerations or special needs;
- "kilometrage" rates will be paid for private vehicles at the then current rate set by the appropriate Local Government Award;
- hire cars will be limited to medium sized, 4 cylinder vehicles or fuel-efficient hybrid models;
- payment will not exceed the cost of economy class airfares to and from the particular destination

Councillors are entitled to use Cab Charge for travel to and from conferences, seminars or other official functions provided that the cost of a single trip does not exceed ~~\$70.00~~120.00 (including GST), unless otherwise approved by the Mayor and General Manager.

Council prohibits the funding of any overseas travel for staff or Councillors.

TELEPHONE ~~AND PDA~~ COSTS AND EXPENSES

From September 2012, Council no longer purchases and issues mobile telephones to Councillors. This allows Councillors more flexibility to meet their own preference and usage needs.

Councillors will be reimbursed for network/usage costs up to a maximum value of \$80 per month for their mobile telephone costs on the production of receipts.

Where mobile telephone costs are incurred under an all inclusive capped plan, Councillors must nominate and pay for their personal usage (e.g. if a Councillor has a \$50 capped mobile telephone plan and estimates that 20% of their usage is private, they would be entitled to reimbursement of 80% of the plan cost (up to a maximum of \$80 per month)

Councillors must retain access to records to substantiate their personal use claims in case of audit.

~~If a Councillor uses his or her private mobile phone or PDA for official business, Council will:~~

- ~~• reimburse the cost for official calls up to a maximum value of \$80.00 per month (including GST); or~~
- ~~• reimburse the network, leasing costs of a PDA or mobile phone to a maximum value of \$80.00 per month (including GST); or~~
- ~~• reimburse costs including a combination of the two options above to a maximum value of \$80.00 per month (including GST).~~

~~Reimbursement of call costs or PDA expenses applies to a mobile phone or PDA owned or leased by a Councillor, and extends to include a PD or mobile phone acquired before the commencement of this policy, or subject to a lease or network access plan which existed before the commencement of this policy, and which continues after the commencement of this policy.~~

~~Charges in excess of \$80.00 per month (including GST) are the responsibility of the Councillor. Where a Councillor uses a prepaid telephone or PDA, the claim must include an activity statement from the service provider, where available, or such other proof of the amount of official calls as the General Manager requires.~~

Council will not reimburse acquisition costs (except where these are charged as part of a capped plan), or provide peripherals, maintenance or training for private Councillor owned mobile phones ~~or PDAs.~~

Councillors must seek reimbursement in a formal written claim lodged not later than three months after the expense was incurred.

Each claim must include original receipts, or tax invoices (where GST applies), to be considered for reimbursement. Council will pay properly documented claims within seven days of the submission of the claim.

~~“PDA” includes personal digital assistants, smart phones or PDA phones, whether or not they include computing, telephone, wireless internet and/or wireless email functionality.~~

~~Councillors who have an existing Council mobile phone will have until 31 December 2012 to purchase their own mobile phone and return their pre-existing Council issued phone.~~

CARE AND OTHER RELATED EXPENSES

Council will reimburse Councillors for the reasonable cost incurred for the care of their children, and for elderly, disabled or sick immediate family members for whom they have caring responsibilities, while attending:

- Council meetings; or
- Council inspection meetings; or
- Council Committee meetings.

Council will reimburse Councillors for reasonable care costs paid to providers (other than their immediate family, spouse or partner) up to one hour before and after such meetings (based on advertised commencement time).

Council's ~~Community Services Manager~~Group Manager Community Programs and Services will identify and assess a reasonable level of care expense based on the circumstances and cost of services available to the public.

INSURANCE EXPENSES AND OBLIGATIONS

Councillors will receive the benefit of insurance cover for:

- Personal injury while on Council business. The cover does not include medical expenses for illness, or for accident which does not involve a third party.
- Professional indemnity for matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors provided the performance or exercise of the relevant civic duty is, in the opinion of Council, in good faith or proper. This is subject to any limitations or conditions set out in the policy of insurance that is taken out from time to time.
- Public liability for matters arising out of Councillor's performance of civic duties or exercise of their functions under the *Local Government Act*. This is subject to any limitations set out in the policy of insurance that is taken out from time to time.

LEGAL EXPENSES AND OBLIGATIONS

Council may by resolution indemnify or reimburse the reasonable legal expenses of:

- A Councillor defending an action arising from the performance, in good faith, of a function under *the Local Government Act*; or
- A Councillor defending an action in defamation provided the statements complained of were made in good faith while exercising a function under the *Local Government Act*; or

- A Councillor for proceedings before the Local Government Pecuniary Interest Tribunal, or an investigative body, provided the subject of the proceedings arises from the performance in good faith of a function under the *Local Government Act* and the Tribunal or investigative body makes no adverse finding.

Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the *Local Government Act* should be distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term of office.

Council shall reimburse such Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, provided that:

- the amount of reimbursement shall be reduced by the amount of any moneys that may be or are recouped by the Councillor;
- the Councillor's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper, and the Councillor acted in good faith as per S731 of the Local Government Act;
- the amount of such reimbursement shall be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's Solicitors will be paid. Any portion of the expenses representing any hourly charge rate higher than the hourly charge rate of Council's Solicitors will not be reimbursed; and
- the Councillor is not the plaintiff in the action.

It should be noted that Council will not meet the costs of an action in defamation taken by a Councillor in any circumstances.

OTHER REASONABLE EXPENSES

Council will meet other reasonable expenses incurred by Councillors, if approved by the Mayor and General Manager.

3. Provision of facilities

GENERAL PROVISIONS

Provision of facilities generally

Councillors should note the requirements of Council's *Code of Conduct* when using Council facilities. The Code requires Council resources to be used ethically and only in the course of civic duties unless private use is specifically authorised.

Councillors should particularly note that the interests of Councillors in their re-election are private interests. Councillor letterhead, Council logo and other resources must never be used for these purposes.

Private use of equipment and facilities

Council deems that there is no private benefit to Councillors with respect to the provision of equipment and facilities, nor from travel bonuses such as 'Frequent Flyer' schemes or any other such loyalty programs while on Council business. However, Council acknowledges that incidental private use may occur from time to time for which no compensation to Council is required.

Where the Mayor (or if the Councillor concerned is the Mayor, then the Deputy Mayor) and the General Manager decide that a Councillor's private use is more than incidental, the Councillor shall compensate Council for the private use within 30 days of request.

Council is entitled to deduct from the Councillor's fees any amounts outstanding after 30 days from request.

Where Councillors wish to use Council's home office equipment for more than one hour per week for private use, private use of home office equipment is authorised on approval of a Councillor's application by the General Manager and where the specified payment is made.

Council is entitled to deduct from the Councillor's fees any amounts outstanding after 30 days from the approval of the Councillor's application.

Each approval expires after 12 months and Councillors must apply on or before expiry for continued private use. Council will not pay for additional consumables or maintenance as a result of private use.

Applications must be made in the form of the Private Use of Council's Home Office Equipment Councillor Application Form attached to this policy.

PROVISION OF EQUIPMENT AND FACILITIES FOR COUNCILLORS

The facilities available to all Councillors to discharge the functions of civic office are as follows:

- Use of Council stationery
- Council business cards to a maximum of 500/annum
- A Council name badge
- Secretarial support and postage for Council business, on authorisation of the General Manager
- Meals on evenings of Council and Committee meetings
- Use of a Councillor's room on Level 6 Civic Centre. The room will be equipped with telephone, computer and other office equipment, as required

The following home office equipment (up to a maximum retail value of \$2,500) will be provided as standard for use in the discharge of Council business:

- Council standard lap top (including internet, Microsoft office 2007 and virus software) or iPad device~~A Note Book Personal Computer or Tablet~~
(Note: Should the property be lost or damaged Councillors are entitled to one replacement per Council term and all circumstances to be considered on individual merit and approved by the General Manager)
- Multifunction printer (with print, scan, copy and fax capability) or standard , facsimile (with fax, copy or call facility)~~scanner and copier~~
- ~~Wireless internet access~~ with a plan up to \$80 per month.
- Installation, ~~and~~ line rental and call costs for one a phone/fax line for Council business up to a maximum value of \$5080 per month
- ~~Mobile telephone and hands free kit~~Portable bluetooth car device
(Note: Should the property be lost or damaged Councillors are entitled to a replacement per term and all circumstances to be considered on individual merit and approved by the General Manager)
- A Cab Charge Card for use, exclusively, for attendance at authorised meetings, conferences and seminars, and in line with this expenses Policy

~~Council will provide home office equipment to a maximum retail value of \$2,500 (including GST).~~ Council will also pay for:

- ~~installation of home office equipment and up to \$80.00 per month (including GST) for Council related call costs on landline~~
- ~~provision of hands free car kit and up to \$80.00 per month for Council related call costs on Council's mobile phone plan~~

~~• provision of a wireless internet plan up to a maximum of \$50.00 per month~~

- Charges in excess of the limits set out above are the responsibility of Councillors and are to be paid to Council within 30 days of request.

All equipment is supplied to enable Councillors to discharge their official duties in an efficient and effective manner. This equipment remains the property of Council and will be maintained in working order and is to be returned upon ceasing to hold office.

Council, by resolution, may provide additional support to a Councillor during any period of permanent or temporary physical incapacity to enable the Councillor to discharge his or her functions of Civic Office.

Councillors who choose to run and maintain their own home office set up are entitled to be reimbursed for internet costs of up to \$850.00 per month and fax costs of up to \$580 per month.

Councillors must seek reimbursement in a formal written claim lodged not later than three months after the expense was incurred.

Each claim must include original receipts, or tax invoices (where GST applies), to be considered for reimbursement. Council will pay properly documented claims within seven days of the submission of the claim.

PROVISION OF ADDITIONAL EQUIPMENT AND FACILITIES FOR THE MAYOR

In addition to the equipment and facilities provided to the Councillors, the Mayor is entitled to receive the benefit of the following facilities to discharge his or her civic duties:

- Office equipment and refreshments essential for the running of the Mayoral office
- Administrative and secretarial assistance relating to the discharge of civic functions
- ~~A mobile phone and~~ the full cost of call, usage and network charges associated with Council business for the Mayor's mobile phone
- Use of ceremonial clothing including mayoral robes, chains of office.
- Spouse or partner expenses

Expenses for the spouse or partner of the Mayor or a Councillor, when representing the Mayor when they are called on to attend an official function of Council or carry out an official ceremonial duty while accompanying the Mayor within and outside the Ashfield LGA but within the State, will be met by Council.

- Use of a Council vehicle

Council will pay the costs of a fully maintained energy efficient hybrid vehicle (including charges for registration, fuel, tyres, servicing and financing) provided

that the vehicle is limited to a model having a retail price of no more than \$50,000 (including GST).

Councillors and authorised Council staff are entitled to drive the Mayoral vehicle for Council business purposes, on the discretion of the Mayor. Only the Mayor, the Mayor's immediate family may use the vehicle for private purposes.

Private use of the Mayoral vehicle outside the Sydney Metropolitan area must be paid on the basis of the per kilometre rate set out in the Executive Staff Kit prepared by the Local Government and Shires Association.

The Mayor is personally responsible for all traffic or parking fines incurred while travelling in the Council vehicle. Where the Mayor is not the driver, he/she will ensure that all traffic or parking fines are paid.

- Fuel card for Mayoral vehicle.
- Allotted car space on Council premises.

When the Deputy Mayor acts in the office of the Mayor the facilities and expenses provided to the Mayor will apply.

4. Other matters

RETURNING OF FACILITIES AND EQUIPMENT BY COUNCILLORS

The equipment issued to Councillors remains the property of Council and shall be returned on completion of the term of office.

However, upon ceasing to be a Councillor or in the event of Council deciding to dispose of the equipment, a Councillor may request the purchase of such equipment. The General Manager shall consider each request and consider Council's leasing arrangements of such equipment.

Councillors will be provided with the opportunity to purchase Council owned equipment if they:

- Have held office for at least one full term and
- Indicated that he/she is not standing for re-election or
- Have been unsuccessful in seeking re-election

The opportunity to purchase will not be available to a Councillor who is disqualified or dismissed from holding civic office.

If the equipment is available to be sold, the General Manager will determine an "appropriate purchase price" based on a fair market value and as suggested by the leasing company or the general market.

STATUS OF THE POLICY

- | This policy is current pending review by November 201~~20~~²⁹ or as required by the NSW Department of Local Government from time to time.

REPORTING REQUIREMENTS

Council will report on the total cost of expenses and the provision of facilities for the Mayor and all Councillors, as well as the following specific categories, or such other categories as required by the Department of Local Government from time to time.

Expenses

Council will report on the following expenses for Councillors:

- | ▪ cost of ~~phone calls including mobiles, home located landlines~~telephone, facsimile and internet services;
- spouse/ partner/ accompanying person expenses;
- conference and seminar expenses;
- training and skill development expenses;
- interstate travel expenses;
- overseas travel expenses;
- care and other related expenses.

Provision of facilities

Council will report on the cost of the provision, including rental, of dedicated office equipment allocated to Councillors on a personal basis such as ~~desktop or~~ laptop computers, ~~fixed telephones, mobile phones,~~ other mobile communication devices, ~~telephones~~ multi function devices, facsimile machines and internet installed in Councillors' homes, but not including the costs of using this equipment, such as calls.

Significant equipment and facilities costs

Council will report on any other significant costs incurred for Councillors, such as the cost of the provision of facilities and equipment where such provision is above what would normally be required by Councillors for the day-to-day running of Council.

LEGISLATIVE PROVISIONS

Provisions under the Local Government Act 1993

Changes to sections 252(5) and 253 of the *Local Government Act 1993*, made by the *Local Government Amendment Act 2005*, require Councils to make and submit their expenses and provision of facilities policies annually to the Department of Local Government.

Section 252 of the *Local Government Act 1993* requires Councils to adopt or amend a policy annually for the payment of expenses and the provision of facilities to mayors, deputy mayors and other Councillors. Mayors and Councillors can only be reimbursed for expenses and provided with facilities in accordance with this policy.

Section 252 also makes provision for a Council to reduce the amount payable to mayors and Councillors (under sections 248- 251 of the *Local Government Act 1993*) by the amount representing any private benefit of a facility provided by the Council to them. It also requires that the policy be made under the provisions of *Local Government Act, the Local Government (General) Regulation* and any relevant guidelines issued under section 23A of the *Local Government Act*.

Section 252 states:

- (1) *Within 5 months after the end of each year, a Council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other Councillors in relation to discharging the functions of civic office.*
- (2) *The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a Councillor of a facility provided by the Council to the mayor or Councillor.*
- (3) *A Council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a Councillor otherwise than in accordance with a policy under this section.*
- (4) *A Council may from time to time amend a policy under this section.*
- (5) *A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.*

Section 253 specifies actions that Council must undertake before a policy concerning expenses and facilities can be adopted or amended.

Section 253 states:

- (1) *A Council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) *Before adopting or amending the policy, the Council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.*
- (3) *Despite subsections (1) and (2), a Council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the Council is of the opinion that the proposed amendment is not substantial.*
- (4) *Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a Council is to forward to the Director-General:*
 - (a) *a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and*
 - (b) *a statement setting out, for each submission, the Council's response to the submission and the reasons for the Council's response, and*
 - (c) *a copy of the notice given under subsection (1).*
- (5) *A Council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the Council proposes to adopt a policy that is the same as its existing policy.*

Section 254 requires that a part of a Council or committee meeting which considers the adopting or amending of such a policy must not be closed to the public.

Section 12 provides that the public is able to inspect during office hours at the Council, and at no charge, the current version and the immediately preceding version of the Council's expenses and facilities policy. The public are also entitled to a copy of the policy either free-of-charge or on payment of a reasonable copying charge.

Section 23A makes provision for the Director-General of the Department of Local Government to prepare, adopt or vary guidelines that relate to the exercise by a Council of any of its functions. It also requires that a Council must take the relevant guidelines into consideration before exercising any of its functions.

Section 428(2)(f) requires a Council to include in its annual report:

The total amount of money expended during the year on mayoral fees and Councillor fees, the Council's policy on the provision of facilities for use by Councillors and the payment of Councillors' expenses, together with a statement of the total amount of money expended during the year on the provision of such facilities and the payment of such expenses.

In addition Section 428(r) requires that Councils must report on any other information required by the regulations.

Provisions under the Local Government (General) Regulation 2005

Clause 217 of the Regulation (Additional information for inclusion in annual reports) was amended in December 2006.

Clause 217 states in part:

(1) For the purposes of section 428(2)(r) of the Act, an annual report of a Council is to include the following information:

(a) details (including the purpose) of overseas visits undertaken during the year by Councillors, Council staff or other persons while representing the Council (including visits sponsored by other organisations),

(a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, Councillors in relation to their civic functions (as paid by the Council, reimbursed to the Councillor or reconciled with the Councillor), including separate details on the total cost of each of the following:

- (i) the provision during the year of dedicated office equipment allocated to Councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in Councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),*
- (ii) telephone calls made by Councillors, including calls made from mobile telephones provided by the Council and from landline telephones and facsimile services installed in Councillors' homes,*
- (iii) the attendance of Councillors at conferences and seminars,*
- (iv) the training of Councillors and the provision of skill development for Councillors,*
- (v) interstate visits undertaken during the year by Councillors while representing the Council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
- (vi) overseas visits undertaken during the year by Councillors while representing the Council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
- (vii) the expenses of any spouse, partner or other person who accompanied a Councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,*
- (viii) expenses involved in the provision of care for a child of, or an immediate family member of, a Councillor, to allow the Councillor to undertake his or her civic functions.*

Clause 403 (Payment of expenses and provision of facilities) states:

A policy under section 252 of the Local Government Act 1993 must not include any provision enabling a Council:

- (a) to pay any Councillor an allowance in the nature of a general expense allowance, or*
- (b) to make a motor vehicle owned or leased by the Council available for the exclusive or primary use or disposition of a particular Councillor other than a mayor.*

OTHER GOVERNMENT POLICY PROVISIONS

DLG circulars to Councils

This policy takes into account the following Circulars:

- Circular 05/08 – *Legal assistance for Councillors and Council employees.*
- Circular 02/34 – *Unauthorised use of Council resources.*
- Circular 09/36 – *Release of Revised Councillor Expenses and Facilities Guidelines*

Model Code of Conduct

This policy is consistent with the *Model Code of Conduct for Local Councils in NSW*, Department of Local Government, ~~December 2004~~ and Ashfield Council's *Code of Conduct* which implements the Model Code.

The part of the Model Code headed 'Use of Council resources' (pp 23-24) is particularly relevant to s252 policies, and is implemented by the *Code of Conduct*.

ICAC publications

Councils should also be aware of and take account of the Independent Commission Against Corruption (ICAC) publication *No Excuse for Misuse, preventing the misuse of Council resources (Guidelines 2)*, November 2002.

This publication is available on the ICAC website at www.icac.nsw.gov.au.

COUNCILLOR APPLICATION FORM**PRIVATE USE OF COUNCIL'S HOME OFFICE EQUIPMENT**

Name _____

Address _____

Telephone _____

- Level of use ☐ No private use / [Private use less than 1 hour per week](#)
- ☐ Private use up to 5 hours per week
- ☐ Private use over 5 hours per week

It is recognised that limited, incidental private use may occur. Incidental private use of up to 1 hour per week does not attract a payment.

PAYMENT SCHEDULE

Private use	Quarterly fee	Yearly fee
Up to 5 hrs/week	\$27.50	\$110.00
Over 5 hrs/week	\$55.00	\$220.00

The above fees are inclusive of GST.

Please note that Council shall not meet the costs of additional consumables or maintenance as a result of private use.

PAYMENT METHODQuarterly payment attached ☐Annual payment attached ☐Deduct from Councillor fees ☐

Signature _____

Date _____

THIS FORM MUST BE SUBMITTED ANNUALLY

COUNCILLOR EXPENSES PAYMENT FORM

Name _____

Claim period	From	To

Mobile Telephone Calls ~~(refer to attached statement)~~

Total mobile call cost incurred on official business (max of \$80/month) \$ _____

Receipts must be attached and private use will not be reimbursed

% allocation of Council use _____ %

Fax ~~Landline~~ (refer to attached statement)Total landline ~~phone~~/fax cost for private use (max of \$~~580~~/month) \$ _____**Cab Charge Card Expenses** (refer to attached statement)Total CabCharge costs for official business (Approx \$~~12070~~/trip to max of \$200/month) \$ _____**Internet Usage** (refer to attached statement)Wireless internet costs in excess of limit (max of \$~~850~~/month) \$ _____

Allowance for private vehicle while on official business

Date	Purpose	Distance (km)	Rate/Claim amount (office use only)

Care Expenses

Date	Description of care type	For whom	Claim amount

Other Expense (as approved by Mayor and GM)

Date	Description	Claim amount

I attach the relevant receipts or bill statements and declare that the above expenses were incurred by me and are payable in terms of the Ashfield Council *Councillor Expenses and Facilities Policy*

☐

I enclose my cheque for the above private use amounts and costs in excess of the limits

OR

☐

Please deduct this private use amount and costs in excess of the limits from my Councillor allowance

Signature _____

Approved by _____

Date _____

Subject	SECTION 449 RETURNS - PECUNIARY INTEREST RETURNS FOR PERIOD 1 JULY 2011 - 30 JUNE 2012
File Ref	Governance>Statutory Reporting
Prepared by	Laura Lahoud - Corporate Services Officer
Reasons	To comply with Section 449 of the Local Government Act
Objective	To ensure transparency and accountability in local government decision making

Overview of Report

Section 449 of the Local Government Act requires that all Councillors and designated persons complete a pecuniary interest return and lodge it with the General Manager. The returns can be inspected by members of the public and assist in ensuring transparency and accountability in local government decision-making.

Background

At the time of tabling returns were received from the following Councillors and designated persons:-

Councillor Adams	Ms V Chan
Councillor Cassidy	Ms N Kettle
Councillor Drury	Mr P Sarin
Councillor Kelso	Mr T Giunta
Councillor Kennedy	Mr M Vinayagamoorthy
Councillor Lofts	
Councillor Mansour	
Councillor McKenna	
Councillor Rercerethnam	
Councillor Stott	
Councillor Wang	
Councillor Wangmann	

Financial Implications

Nil

Other Staff Comments

Nil

Public Consultation

As per section 450A of the Local Government Act, Council maintains a register of returns where members of the public can inspect the Pecuniary Interest Register under the GIPA Act 2009

Conclusion

Section 450A (2) (b) of the Local Government Act states that returns must be tabled at the first meeting held after the last day for lodgement. There are no outstanding returns.

ATTACHMENTS

- | | | |
|---------------------|---|--------|
| Attachment 1 | Memorandum to Councillors and Designated Persons regarding Pecuniary Interest Returns | 1 Page |
| Attachment 2 | Register of Returns - Councillors and Designated Persons 1 July 2011 - 30 June 2012 | 1 Page |

RECOMMENDATION

- | | |
|------------|--|
| 1/2 | That it be noted the Pecuniary Interest Returns have been tabled in accordance with Section 450A of the Local Government Act. |
| 2/2 | That the Division of Local Government be given a copy of the report. |

NELLETT KETTLE
Director Corporate & Community Services



Ashfield Council

MEMO

TO: All Councillors and Designated Persons
FROM: Gabrielle Rennard, Manager Corporate Services
DATE: 16 July 2012
SUBJECT: Pecuniary Interest Returns

Please find attached a Pecuniary Interest Form, which you need to complete and return to me by Thursday 26 July 2012. The form covers the period 1 July 2011 to 30 June 2012.

Careful completion of returns

The Local Government Pecuniary Interest Tribunal has indicated the need for Councillors to give due care and attention to the accuracy, detail and content of the disclosures required in returns. The same requirement also applies to designated persons.

It is recommended that before completing your return, Councillors and designated persons should take the time and effort to carefully read the guideline on pecuniary interest. The guidelines have been attached to this memorandum.

Advice as to completion of returns

Information is required to be written in a legible form. If information has not been provided in a section of a return, or if the date of signing has not been added, the omission will be brought to the attention of the Councillor or designated person for personal rectification. Changes cannot be made on your behalf.

On receipt of a completed return, it will be checked to see that the return has been completed correctly, i.e. it is signed and dated by the Councillor or designated person, and the word 'NIL' is inserted in any blank sections.

Upon receipt of the return it will be filed in the Register of Returns. Members of the public can inspect the Pecuniary Interest Register under Section 12 of the Local Government Act 1993. They assist in ensuring transparency and accountability in local government decision-making. The obligation upon Councillors and designated persons to lodge returns is as much a protection for them, as it is for the community.

Attachment 1 – "Ashfield guidelines to completing the form" (19 pages)
Attachment 2 – Disclosures by Councillors and Designated Persons Return

If you require any assistance at all in completing the form please do not hesitate to contact me on 9716 1905.

With regards

Gabrielle Rennard



Ashfield Council

PECUNIARY INTEREST REGISTER
RETURN OF DISCLOSURES
ALL COUNCILLORS & DESIGNATED PERSONS

1 July 2011 – 30 June 2012

Councillor or Designated Person	Date Issued	Date Returned	Receipt Issued
COUNCILLORS			
Councillor Adams	16/07/2012	01/08/2012	01/08/2012
Councillor Cassidy	16/07/2012	01/08/2012	01/08/2012
Councillor Drury	16/07/2012	26/07/2012	26/07/2012
Councillor Kelso	16/07/2012	18/07/2012	18/07/2012
Councillor Kennedy	16/07/2012	01/08/2012	01/08/2012
Councillor Lofts	16/07/2012	31/07/2012	31/07/2012
Councillor Mansour	16/07/2012	24/07/2012	24/07/2012
Councillor McKenna	16/07/2012	01/08/2012	01/08/2012
Councillor Rerceretnam	16/07/2012	01/08/2012	01/08/2012
Councillor Stott	16/07/2012	31/07/2012	31/07/2012
Councillor Wang	16/07/2012	01/08/2012	01/08/2012
Councillor Wangmann	16/07/2012	31/07/2012	31/07/2012
SENIOR STAFF			
Vanessa Chan General Manager	16/07/2012	01/08/2012	01/08/2012
Nellette Kettle Director Corporate and Community Services	16/07/2012	23/07/2012	23/07/2012
Tony Giunta Acting Director Works and Infrastructure	16/07/2012	01/08/2012	01/08/2012
Phil Sarin Director Planning and Environment	16/07/2012	23/07/2012	23/07/2012
Myooran Vinayagamoorthy Chief Financial Officer	16/07/2012	23/07/2012	23/07/2012

Subject	SPONSORSHIP PROPOSAL - WESTFIELD BURWOOD
File Ref	Sponsorship
Prepared by	Robert Richardson - Business Liaison and Events Coordinator
Reasons	To seek Council's approval of proposed sponsorship of Feast of Flavours Food Festivals
Objective	Secure funding to support Council managed Food Festivals.

Overview of Report

Westfield Burwood has offered to sponsor Council Feast of Flavours food festivals to the amount of \$8000; as well as making a contribution of \$12,000 to the producers of an Ashfield Dining Guide. These funds would make a very positive impact on the running of the festivals and will enable production of the Guide to commence.

The Westfield sponsorship has been structured so that it does not detract from the promotion of Ashfield LGA food destinations and it brings a complementary Inner West wide focus to our promotion. Westfield Burwood are also providing sponsorship to a food festival and dining guide for Strathfield Council. The project thus demonstrates the effectiveness of a combined campaign by two Inner West Councils to effectively procure services; and may well be a program which more Inner West Councils can join in future years.

Council approval of the sponsorship offer is recommended.

Background

Ashfield Council recently engaged Big Splash Media to investigate the financial feasibility of producing an Ashfield Dining Guide, listing all restaurants, coffee shops and selected food providers in the Ashfield LGA and including editorial and advertising, to be released in conjunction with the 2012 Festival of Flavours food festivals. Our brief to Big Splash was to identify sponsors who would contribute funds for both the production of the Dining Guide and the running of the festivals. Big Splash, a producer of specialty business publications, was selected for this role because they have successfully worked with Strathfield Council to produce a Strathfield Good Food Guide.

Big Splash approached over 20 potential major sponsors to promote an opportunity to jointly support food guides and food festivals in Ashfield and Strathfield. This project has proved challenging, but so far one organisation, Westfield Burwood, has agreed to a sponsorship of \$20,000, consisting of contributions of \$12,000 for production of an Ashfield Dining Guide and \$8000 for the running of our 3 Feast of Flavours food festivals. This funding will provide sufficient security for Big Splash to proceed with production of the Dining Guide and will also make a major contribution towards the costs of running the festivals.

Westfield Burwood's principle aim in providing sponsorship is to promote their Spring Summer fashion offerings. They will take booths at the festivals where a fashion stylist will offer visitors a free fashion styling consultation and Westfield gift card. Refreshments will also be served at the booth and we are offering Westfield options of using locally based caterers. However the focus will be on fashion, not food. The Westfield booth will thus offer an interesting and enjoyable experience to fashion conscious visitors to our food festivals and will not detract from promotion of the local precinct food offerings.

For their \$8000 sponsorship, Westfield will receive the following benefits:

- 4mx4m stall at each event
- Logo on all banners
- Logo on posters
- Logo on brochures (delivered to 19,000 homes)
- Logo on website
- Mention in festival press releases

Subject to Council approval, this arrangement will be confirmed in an exchange of letters with Westfield.

Financial Implications

Provision of \$8000 from Westfield will provide a substantial supplementation to Council's net funding of \$25,000 for the 3 Feast of Flavours food festivals. Sponsorship will enable us to provide enhanced levels of marketing and entertainment to draw audience numbers and make their experience more satisfying. The sponsorship meets the requirements of Council's Sponsorship policy.

The production and budget for the Ashfield Dining Guide are being managed by Big Splash Media, with support and consultation from Council. Thus the funding of \$12,000 for the Guide will be paid direct to Big Splash and is not a sponsorship subject to Council approval. However it is relevant to note that Westfield's contribution will provide Big Splash with the required security to commence production of the guide and approach potential advertisers to fund the balance of their costs.

Other Staff Comments

N/A

Public Consultation

Discussions have been held with Ashfield Mall management and Ashfield Business Chamber regarding the proposed Westfield sponsorship. Representatives of both these organisations expressed an understanding of the substantial benefits which the Westfield sponsorship would provide our festival and dining guide projects, and agreed that, as a similar level of sponsorship could not be obtained from organisations with the Ashfield LGA Council, had valid and reasonable grounds to accept sponsorship from Westfield. Both organisations will collaborate with Council to run the Feast of Flavours food festivals.

The Westfield sponsorship proposal has also been discussed with a group of local businesses involved in planning for the Feast of Flavours food festivals. The response was enthusiastic as the business owners felt Westfield's involvement would add to the quality of the events and assist in drawing audience. One fashion business owner from Haberfield commented favourably on the inclusion of a fashion aspect to the festival.

Conclusion

The sponsorship of \$8000 from Westfield Burwood for the Feast of Festivals food festivals and the inclusion of a fashion consultation service will provide substantial benefits for the Feast of Flavours food festivals.

ATTACHMENTS

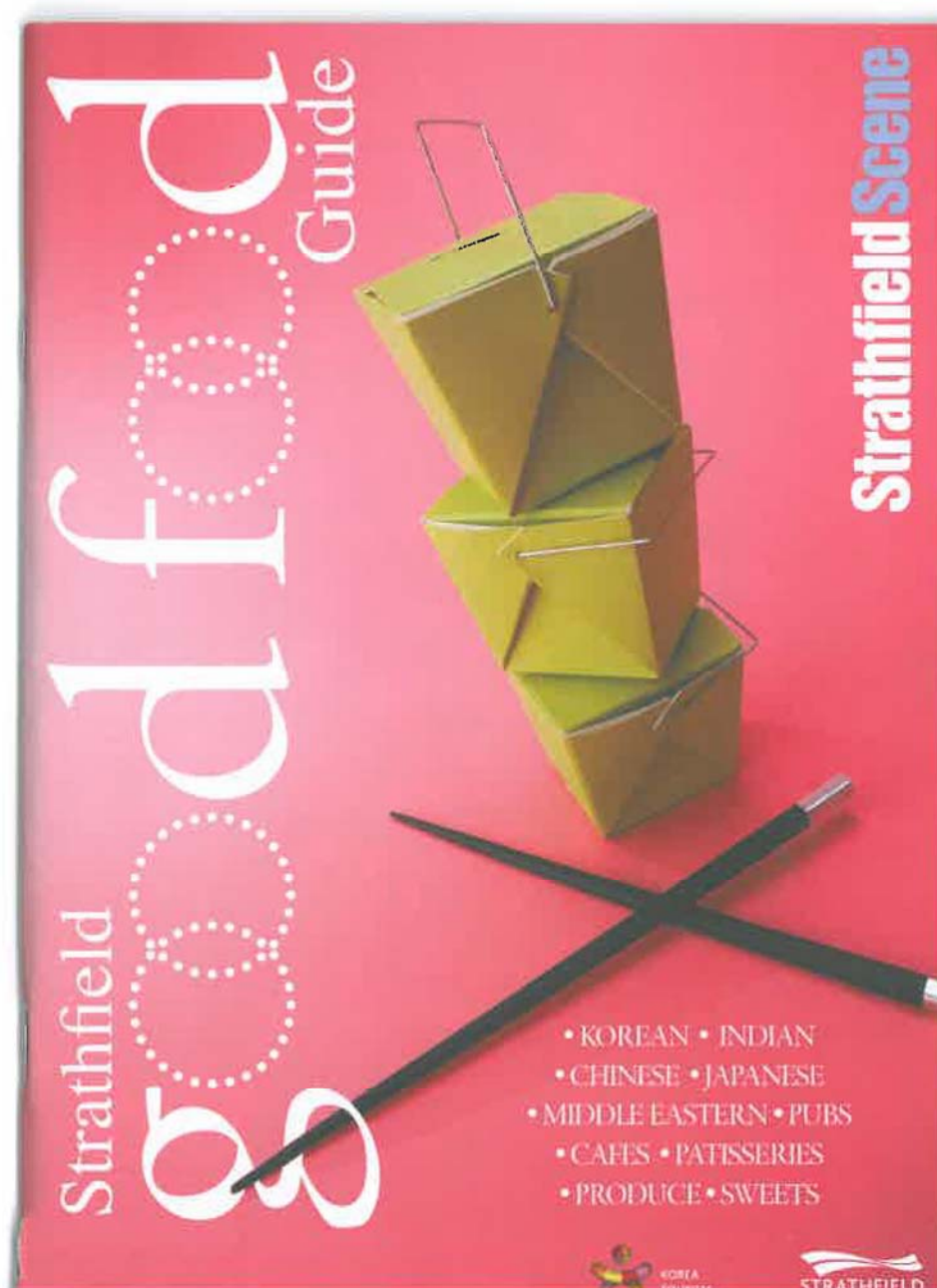
Attachment 1 Strathfield Good Food Guide 2011

1 Page

RECOMMENDATION

That Council approve the sponsorship of \$8000 from Westfield Burwood for the Feast of Festivals food festivals.

NELLETTE KETTLE
Director Corporate & Community Services



Subject	PROPOSED CHANGES TO COMMITTEE STRUCTURE
File Ref	GOVERNANCE
Prepared by	Nellette Kettle - Director Corporate & Community Services
Reasons	To report back to Council on a review of the Committee Structure
Objective	To adopt changes to the Committee Structure from October 2012.

Overview of Report

In March 2012 Council resolved that the General Manager commence a review of the Committee Structure. This report provides the results of that review and recommends some minor changes to the Committee Structure to apply for the new term of the Council.

Background

Council resolved the following on 27 March 2012:

1. That the General Manager prepare a discussion paper on Council Committees.
2. That the General Manager arrange a workshop of Councillors to review the committee structure.
3. That the third Tuesday of each month be set aside for Council Committee meetings.

A discussion paper was prepared and a workshop held of interested Councilors on 14 June 2012. The recommended changes presented in this report arise from the workshop discussions.

Current Committee Structure

The current committee structure comprises a mix of standing and advisory committees and one steering committee, as follows:

1. Budget and Operations Review Committee
2. Community Services
3. Communications Committee
4. Environment Committee
5. Library Committee
6. Local Indigenous, Multicultural & Ethnic Affairs Committee
7. Strategic Planning & Economic Development Committee
8. Works & Infrastructure Committee
9. Aboriginal Consultative Committee
10. Ashfield Access Committee
11. Ashfield Youth Committee
12. Seniors Action Committee

13. Ashfield Business Advisory Committee
14. Pratten Park Advisory Committee
15. Internal Audit Committee
16. Investment Advisory Committee
17. General Manager's Performance Review Committee
18. Women's Committee
19. Civic Centre Steering Committee

The advantages and disadvantages of this Committee Structure include:

Advantages	Disadvantages
<ul style="list-style-type: none"> • Committees service a broad range of interest/subject areas • Structure provides opportunities for a number of Councillors to Chair committees • Staff/public participation on some committees 	<ul style="list-style-type: none"> • Large number of topic/issue specific committees, not reflective of collaborative practices or organisational outcomes • Some committees not meeting regularly or at all • Difficult to support a large number of committees within available resources • Many committees increase the time demands on Councillors • Not a lot of opportunity to community representatives to participate as some committees are more receive and note focussed (e.g. community services) • Not specifically aligned with current strategic priorities • Overlap across some committees (e.g. Community Services and LIMEAC)

Proposed Committee Structure post September 2012

Arising from the Councillor Workshop the following new Committee Structure is recommended to Council for adoption:

<p>3 x Standing Committees (directorates structure based – Councillors as members only)</p> <p>Community Activities Committee – Dealing with community development, community programs and services, library, customer service and business relations matters</p> <p>Works and Services Committee – Dealing with civil works, parks, traffic, waste, aquatic centre, asset management matters</p> <p>Planning and Environment Committee – Dealing with regulatory, urban planning (excluding DAs) and environmental/sustainability matters.</p>	<p>OR</p>	<p>Councillor Briefing Evening (held every second Tuesday of the month) in place of standing committees.</p> <p>Agenda to be developed based on needs and key issues at the time and would include briefing updates, workshops and staff/external presentations.</p>
<p>7 x Advisory Committees (comprising Councillor, community and other representatives according to the Terms of Reference)</p> <p>Aboriginal Consultative Committee Ashfield Youth Committee Ashfield Access Committee Seniors Action Committee Pratten Park Advisory Committee Internal Audit Committee Women's Committee</p>		
<p>1 x Steering Committee (Councillors only)</p> <p>Civic Centre (sunset committee, project based)</p>		
<p>1 x Other Committee (Councillors only)</p> <p>General Manager's Performance Review Committee</p>		

Future Working Parties

Working parties are generally time and issue specific. Council has a number of working parties, some of which are current and others which have not been active for some time.

It is proposed that Working Parties be reviewed annually.

At the current time it is recommended that we move forward with the Shopping Trolleys Working Party only as the only current active working party.

The need for any new or future Working Parties can be called and considered by the new Council as appropriate to its interests.

External Representation/Committee

Council is reminded that Councillors also represent on a number of external committees and panels, including the SSROC Board and Committees, Local Traffic Committee and the Joint Regional Planning Panel.

Financial Implications

Nil. The new Committee Structure can be implemented within existing resources

Other Staff Comments

The Council management team have participated in a workshop on the Committee Structure prior to the Councillor workshop in June 2012.

Public Consultation

Not required.

Conclusion

The proposed committee structure is a minimal change option that realigns the standing committees with the organisation structure and results in a more effective number of advisory committees. The structure retains the ability for community representation and engagement with Council activities through the Advisory Committees.

ATTACHMENTS

There are no supporting documents for this report.

RECOMMENDATION

- 1/5 That Council adopt the proposed Committee Structure as outlined in the report to commence from October 2012.**
- 2/5 That terms of reference be developed for each of the new Standing Committees and presented to the first Council meeting in October for adoption.**
- 3/5 That new terms of reference be developed for each of the Advisory Committees within 3 months.**
- 4/5 The Shopping Trolley working party continue into the new Council term and that Council's Working Parties be formally reviewed on an annual basis or as needs arise.**
- 5/5 That a letter of thanks be sent to all (non Councillor) current term Committee members thanking them for their contributions over the last four years.**

NELLETT KETTLE
Director Corporate & Community Services

Subject	ASHFIELD RESPONSE TO THE INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL CONSULTATION PAPER
File Ref	State Government
Prepared by	Vanessa Chan - General Manager
Reasons	To report back the outcomes of the Councillor Workshop on the Local Government Review Panel Consultation Paper - Strengthening Your Community
Objective	To agree a response from Ashfield Council to the Consultation Paper.

Overview of Report

Findings of the councillors workshop are attached for consideration of Council.

Background

At the Budget and Operations Committee held 17 July 2012, Council considered a report by the Manager Governance providing background to NSW Local Government Review Panel. The report attached a copy of the Consultation Paper and noted that the closing date for submissions is 14 September 2012. Council resolved:

That the Council note the information contained in this report and that a workshop be arranged by the General Manager for interested Councillors to develop a submission regarding the Local Government Review Consultation Paper

A Councillors workshop was held 31 July, attended by Cllrs McKenna, Wang, Loft and Cassidy. The Consultation paper seeks responses to three specific questions:

1. What are the best aspects of NSW local government in its current form
2. What challenges will your community have to meet over the next 25 years?
3. What 'top 5' changes should be made to local government to help meet your communities future challenges?

During the workshop we focussed on these specific questions. The outcomes of our discussion are attached.

Financial Implications

Nil

Other Staff Comments

Nil

Public Consultation

The NSW Local Government Review Panel Consultation Paper is currently available for broad community comment.

Conclusion

That Council make a submission to the Local Government Review Panel Consultation process.

ATTACHMENTS

Attachment 1 LGRP Workshop Outcomes - 31 July 2012

2 Pages

RECOMMENDATION

That Council submit the attached responses to the questions put by the Local Government Review Panel.

VANESSA CHAN
General Manager

COUNCILLOR WORKSHOP
31 JULY 2012**LOCAL GOVERNMENT REVIEW PANEL – CONSULTATION PAPER**
STRENGTHENING YOUR COMMUNITY

Present Vanessa Chan
Councillor Cassidy
Councillor McKenna
Councillor Lofts
Councillor Wang

What are the best aspects of NSW local government in its current form

- Local government is the closest form of government to the people
- Elected councillors have familiarity and affinity with their communities
- Councillors have an intrinsic knowledge of and desire to promote community and the needs and aspiration of residents.
- Council provides voice for its community to other levels of government
- Council can respond quickly to local issues
- Can deliver services efficiently and with clear community focus
- Current structure provides balance between political and organisational aspects of Council
- Community finds it easy to feedback, participate and engage with Councils - more so than larger forms of government institutions
- Councils are innovative and explore new ideas and ways to consult/engage with our communities

What challenges will your community have to meet over the next 25 years?

- Addressing demand for delivery of services that are rightly the forum/domain of state government
- Cost shifting
- Continuing to focus on the basic role of local government to ensure public health, safety and convenience of community – given the broader community services role imposed on Councils will little or no funding
- Maintaining community wellbeing and aspirations of the community in addressing technical and environmental change, particularly where it immediately effects lifestyle
- Reducing and recycling waste
- Infrastructure renewal, particularly in historic urban areas
- Managing development and population pressure locally, in accordance with state wide planning pressures
- Increased density creating pressure on open space and recreational facilities
- Managing traffic and parking in the corridor suburbs
- Understanding and responding to the needs of diverse communities

THESE CHALLENGES DO NOT GET SOLVED BY HAVING LARGER LOCAL GOVERNMENT

What 'top 5' changes should be made to local government to help meet your communities future challenges?

- State or Federal Government Commission for local infrastructural renewal funded from GST (every person pays tax) and from local communities where they have the ability to pay.
- Core function of local government – public health, safety, convenience – must take precedents over functions that are the rightful role of state and federal without associated funding
- Town planning (statutory/strategic) should be simplified for the community, builders and home owners and applications should be removed from political determination
- A person of aboriginal heritage should be representative on all councils
- Change to size of Councils should only occur after a referendum in all proposed areas delivers majority support
- Popularly elected Mayors should be introduced
- Each Council should have a standards number of councillors (determined by % population but with a ceiling where appropriate)
- Facilitate an increase in local government influence to bring local knowledge to state government decision
- Simplified Code of Conduct for councillors and senior staff
- Constitutional recognition
- Councils need to be resourced and funded to provide services

Closing comments

- Amalgamations do not bring efficiencies through economies of scale.
- ROCS enable us to deliver efficiency gains and financial saving with flexibilities to tailor through joint purchasing and shared services.
- The problem is not structure it is funding