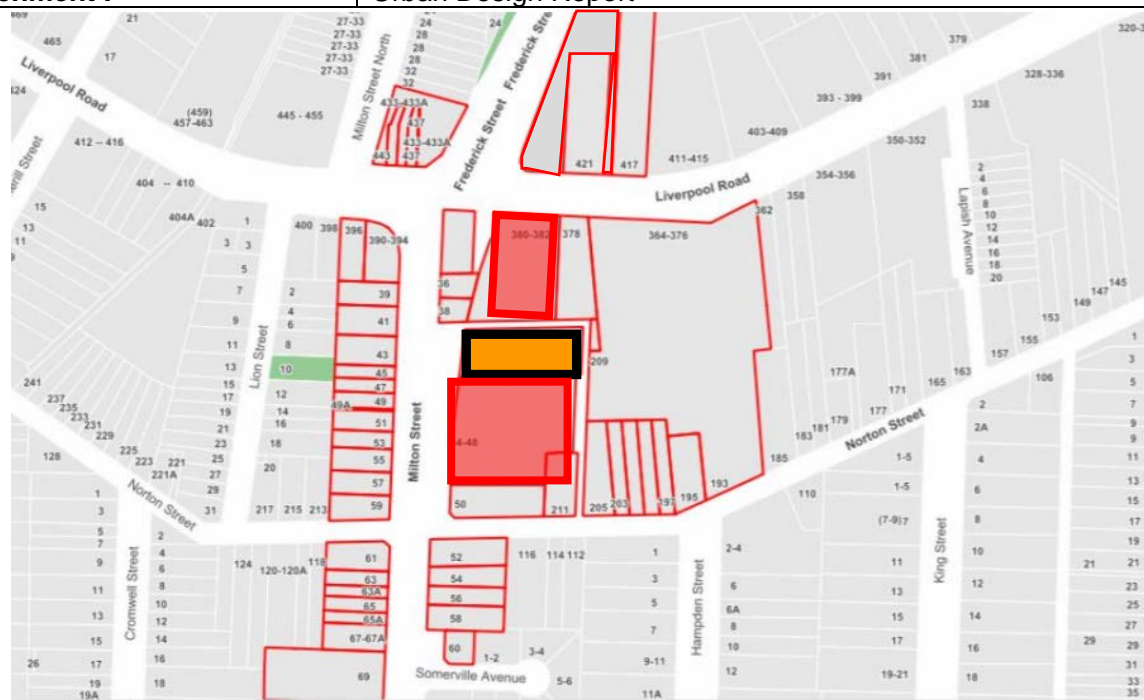






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2020/0139
Address	40 Milton Street ASHFIELD NSW 2131
Proposal	Construction of a 6 storey residential flat building of 37 units, 50 car parking spaces including affordable housing units and strata subdivision.
Date of Lodgement	02 March 2020
Applicant	Habitation Design
Owner	Appwam Pty Ltd
Number of Submissions	Seven (7)
Value of works	\$9,426,636.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%
Main Issues	Waste Collection, non-compliance with ADG, Variations to Development Standards, VPA for land dedication has not been completed
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards – Height
Attachment D	Clause 4.6 Exception to Development Standards – FSR
Attachment E	Recommended Conditions of Consent
Attachment F	Urban Design Report



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for Construction of a 6 storey residential flat building of 37 units, 50 car parking spaces including affordable housing units and strata subdivision at 40 Milton Street, Ashfield.

The application was notified to surrounding properties and seven (7) submissions were received in response to renotification of the application.

The main issues that have arisen from the application include:

- 52% variation to the maximum building height permitted under ALEP 2013
- 72% variation to the maximum FSR permitted under ALEP 2013 and ARHSEPP 2009
- Non-compliance with ADG minimum balcony requirements, cross ventilation controls, communal open space and building separation.
- Applicant unable to demonstrate how servicing/ waste collection is to occur for the site
- A Voluntary Planning Agreement (VPA), required for the land dedication for the rear lane expansion at the back of the site, has not been offered, publicly exhibited or properly considered by Council.

The non-compliances and unresolved issues are not acceptable and not able to be readily addressed by conditions and therefore the application is recommended for refusal.

2. Proposal

The current application seeks consent for the demolition of existing structures and the construction of a new in-fill residential flat building, made under the provisions of Division 1 within the Affordable Rental Housing SEPP 2009.

In particular the proposal seeks consent for the construction of two (2) levels of basement car parking accommodating 50 vehicular parking spaces and 37 units over 5 levels. The proposal is made up of 24 x 1 bedroom units, 7 x 2 bedroom units, 6 x 3 bedroom units and accommodates 164.5sqm (12% of the site area) for the purposes of Communal Open Space.

3. Site Description

The subject site is located on the eastern side of Milton Street, between the intersection of Milton Street and Liverpool Road and Milton Street and Norton Street. The site consists of 1 allotment and is generally rectangular shaped with a total area of 1329 sqm.

The site has a frontage to Milton Street of 23.2 metres and a secondary frontage of approximate 56.9 metres to Milton Lane. The site is affected by a land acquisition with 274sqm of the frontage to Milton Street being acquired by the RMS for the purposes of Milton Street expansion. As part of the current application 66.4sqm of the rear of the site with a frontage to Milton Lane is proposed to be dedicated to Council via a VPA for the purposes

of a lane extension to enable servicing of the site and other developments within Milton Lane. Once these areas are deducted the proposed site area for the development becomes 1,329sqm. The site currently has a Sydney Water Sewer pipe traversing the width of the site and is potentially impacted by the current application.

The site currently supports a two storey brick commercial building, with vehicular parking located within the front setback. The adjoining property to the north supports a recently constructed mixed use development, while to the south there is an existing three (3) storey residential flat building.

The subject site is not listed as a heritage item and is not located within a heritage conservation area. The property is not identified as a flood prone lot.

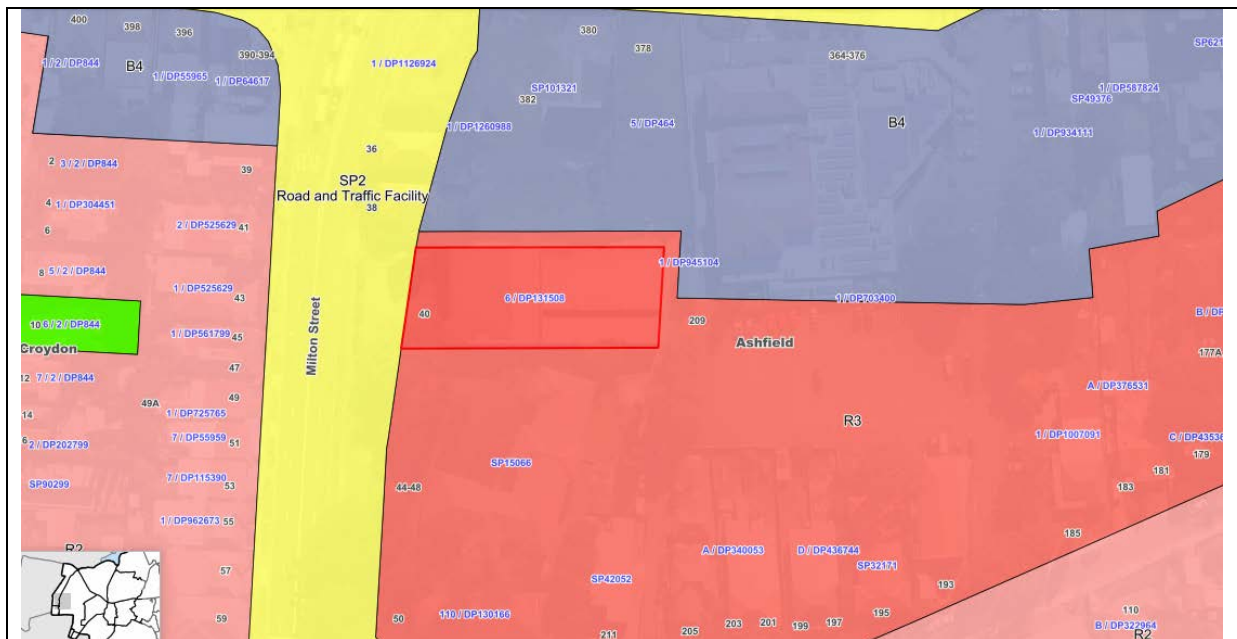


Figure 1 – Zoning Map, subject site identified by red box

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
09.2019.68	PRE-DA - Demolition of existing commercial/industrial building, construction of a new residential flat building comprising of 43 residential units and 53 car parking spaces over two levels of basement.	Advice issued – 22 November 2019

Surrounding properties

380 Liverpool Road, Ashfield

Application	Proposal	Decision
10.2012.269	Mixed Use Development	Approved

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
26/3/2020	Council Officers contacted the applicant and outlined a requirement for additional shadow diagrams, including elevational shadow diagrams and additional photomontages
8/4/2020	Council Officers contacted the applicant and outlined the critical nature of the lane extension/VPA to the overall design.
15/4/2020	Council Officers contacted the applicant and outlined a requirement for the submission of a detailed site investigation and remediation plan.
6/7/2020	The applicant provided amended plans and additional information to address Council's request for additional information listed above.
15/7/2020	<p>Council Officers issued formal correspondence to the applicant seeking the submission of amended plans/additional information addressing the following matters:</p> <ul style="list-style-type: none"> - Amended plans detailing the width and size of proposed balconies on the ground floor and level 4 expanded to meet ADG requirements - Amended plans detailing revised apartment sizes meeting the minimum size and layouts as specified in the ADG - Amended plans detailing additional window openings for units 104 to 304 and 105 to 305 - Amended plans detailing further window refinements to the western elevation - Additional information detailing compliance with the natural ventilation requirements of the ADG - Amended plans detailing the proposed lift overruns on elevations and floor plans - Amended plans/additional information detailing truck swept paths negotiating Milton Lane and the Norton Street entrance, relocation of the bin collection area and expansion of the proposed footpath opposite the development to comply with Australian Standards. - Amended plans/additional information detailing the creation of a waste disposal point at each level, submission of a waste management plan and revised waste room streetscape presentation - Submission of a BCA report addressing non-compliances
20/8/2020	Amended plans and additional information in response to the points raised in Council's letter was submitted.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 33—Hazardous and Offensive Development*
- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Ashfield Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. AIDAP 2016 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has been used in the past for activities which could have potentially contaminated the land. It is considered that the site will require remediation in accordance with *SEPP 55*.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and disposal of any contaminated soils and contamination issues prior to determination.

The contamination documents have been reviewed and reveal that the site can be made suitable for the proposed use after the completion of the RAP. To ensure that these works are undertaken, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of *SEPP 55*.

5(a)(ii) *State Environmental Planning Policy Affordable Rental Housing 2009*

The development application has been made under the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 Division 1 – In-fill affordable housing. Under this SEPP the development application is classified as a residential flat building. The development application is required to be assessed against the provisions outlined by Clauses 10 to 18. These clauses dictate permissible floor space ratio,

and are also concerned with neighbourhood character, built form and scale, landscaping, amenity, safety and parking. The main, relevant design parameters are addressed below:

(i) Floor Space Ratios (Clause 29)

Clause 13 of the ARH SEPP prescribes that the maximum floor space ratio for the development to which this clause applies is the existing floor space ratio for any from of residential accommodation permitted on the land on which the development is to occur plus—

(a) if the existing maximum floor space ratio is 2.5:1 or less—

(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or

(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,

In this instance the applicant has outlined that at least 50% of the development is to be used for the purposes of affordable rental housing in accordance with the requirements of clause 17 of Division 1 under the ARHSEPP 2009. Therefore, the site is eligible for an additional 0.5:1 FSR bonus, bringing the total permissible FSR to 1.2:1 or 1,594.8sqm.

(ii) Standards that cannot be used to refuse consent (Clause 29)

Clause 14 of the ARH SEPP prescribes that a consent authority must not refuse consent to a Development Application for a residential flat building if the development satisfies the following numerical controls:

(b) Site area

If the site area on which it is proposed to carry out the development is at least 450 square metres,

The site is affected by a land acquisition with 274sqm of the frontage to Milton Street being acquired by the RMS for the purposes of Milton Street expansion. As part of the current application 66.4sqm of the rear of the site with a frontage to Milton Lane is to be dedicated to Council via a VPA for the purposes lane expansion to enable servicing of the site and other developments within Milton Lane. Once these areas are deducted the proposed site area for the development becomes 1,329sqm. The subject site is compliant with the 450sqm requirement.

(c) Landscaped area

If at least 30 per cent of the site area is to be landscaped,

The proposal results in 19% (253.7sqm) of the site being dedicated for the purposes of landscaped area. This introduction of landscaping is in-line with the existing and emerging locality and is a significant improvement on the no landscaping currently provided. The proposed landscaping is compatible with the streetscape in which the building is located and is in line with the objectives of SEPP. No objection is raised to the developments non-compliance with the minimum required 30% landscaping.

(e) **Solar access**

if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.

It is anticipated that at least 70% of the dwellings proposed and communal open space will receive the required 3 hours solar access. The proposal is considered to be compliant with the solar access requirements of the SEPP.

(f) **Parking**

in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,
In accordance with this clause the development is required to provide a minimum of 28 vehicular parking spaces. The current proposal seeks consent for the provision of 50 parking spaces over two levels of basement and is compliant with the above clause.

(g) **Dwelling size**

if each dwelling has a gross floor area of at least—

- (i) 35 square metres in the case of a bedsitter or studio, or*
- (ii) 50 square metres in the case of a dwelling having 1 bedroom, or*
- (iii) 70 square metres in the case of a dwelling having 2 bedrooms, or*
- (iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.*

The proposed unit sizes are compliant with the requirements of the clause, each of the proposed units meet the minimum GFA requirements specified above.

(iii) **Character of Local Area (Clause 30A)**

Under the provisions of Clause 16A of the ARH SEPP, applications for in-fill development must satisfy a local character test which seeks to ensure the design of developments proposed under the ARH SEPP are consistent with the character of the area. The proposed residential flat building is adjacent an existing three storey residential flat building to the south and a 7 storey recently constructed mixed use development to the north. The proposed use as a residential flat building is not out of character with the local area.

The design of the proposal has been reviewed by Council's Architectural Excellence Panel (AEP) who raised no objection to the overall form and presentation of the building to the public domain. It is considered that the architectural presentation of the building is in keeping with the character of the local area. Overall it is considered that the design of the development is compatible with the character of the local area.

(iv) **Must be used for affordable housing for 10 years**

Clause 17 of Division 1 under the ARHSEPP 2009 outlines that development made under the provisions of division 1 must have conditions imposed which requires:

- a) *for 10 years from the date of the issue of the occupation certificate—*
 - i. *the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*

- ii. *all accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
- iii. *a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), that will ensure that the requirements of paragraph (a) are met.*

The current application is recommended for refusal due to the concerns raised within this assessment report, however recommended conditions of consent are provided in the event that the Panel disagrees with this recommendation. These conditions include the affordable housing restriction outlined above and will ensure compliance with clause 17.

(v) Subdivision

The current application does not seek consent for strata subdivision.

5(a)(iii) *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). SEPP 65 prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is not acceptable having regard to the nine design quality principles.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within IWCDP 2016 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% (332.2sqm) of the site.

Comment:

The current application proposes 164.5sqm or 12% of the site area for the purposes of communal open space and is a variation from the required 25% outlined above. The intention of this requirement is to ensure that developments provide valuable 'breathing space' between apartment buildings and provide spaces for the wellbeing of residents.

In this instance it is acknowledged that the development is located upon a smaller allotment and in a dense urban environment where strict compliance may not be readily achievable. However the current provision of communal open space of 12% is considered to be inadequate and fails to take advantage of opportunities to increase communal open space, through the introduction of roof terraces (as recommended by the ADG). Instead the development seeks large variations to maximum height limits and FSR to increase unit yields, but fails to provide sufficient common areas for residents to enjoy. The impacts of this non-compliance with communal space is further exacerbated by the non-compliance with minimum balcony dimensions (private open spaces) for individual units required by the ADG (as discussed below) with future occupants likely to be highly reliant upon communal areas.

It is considered that acceptance of the lack of communal open space currently provided would increase demand on existing public spaces throughout the LGA and place an unreasonable burden on the public domain. The proposed variation to common open space is not supported and the application recommended for refusal.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

Comment:

Due to the small nature of the site the development results in a variation to the above required separation distances outlined within the ADG. The intention of these separation distances is to ensure that maintain adequate open space, landscaping, sunlight and privacy for residential apartment development. In this instance given the constrained nature of the site a merit assessment of the proposed setbacks has been undertaken.

Northern Boundary

Analysis of the proposed northern boundary has highlighted that the development seeks consent for a 1m setback across all levels of the proposal. This boundary directly adjoins Milton Lane and results in a minimum 9m separation distance from the adjoining mixed-use development at 380 Liverpool Road. A review of the site photo replicated in figure 2 below highlights that openings to the southern boundary of 380 Liverpool Road generally relate to windows where openings have been kept to a minimum, while figure 3 shows the eastern elevation of 380 Liverpool Road where balconies have been located.

The development has been appropriately located to mass the majority of its bulk and scale away from neighbouring sites to the south and present the majority of its form to the public domain (Milton Lane), this ensures improved surveillance of the street below and provides a greater degree of activation. A review of the proposals setbacks to 380 Liverpool Road has highlighted that for the most part the minimum required 12m separation distance is achieved and that it is only point encroachments which result in a 9m separation. These point encroachments are resultant from 380 Liverpool Road and the subject site both not achieving the required separation distances. Due to the highly dense urban environment that the site is located in, privacy impacts are considered to be unavoidable and only resolvable through unreasonable concessions to amenity for occupants of the subject site (e.g removal of all balconies and instillation of only highlight windows to the northern elevation or installation of privacy screening to all north facing balconies).

In this instance requiring an increased setback from the northern boundary is expected to provide little improvement to privacy but will result in additional shadow impacts to sites located to the south and a loss of public domain activation/interface to Milton Lane. The proposed setbacks along the northern boundary are considered to meet intention of the separation distances and ensures a degree of usable open space, landscaping, sunlight and privacy which would not be substantially improved through an increase to the setbacks.



Figure 2 – Site Photo, Southern Elevation of 380 Liverpool Road.

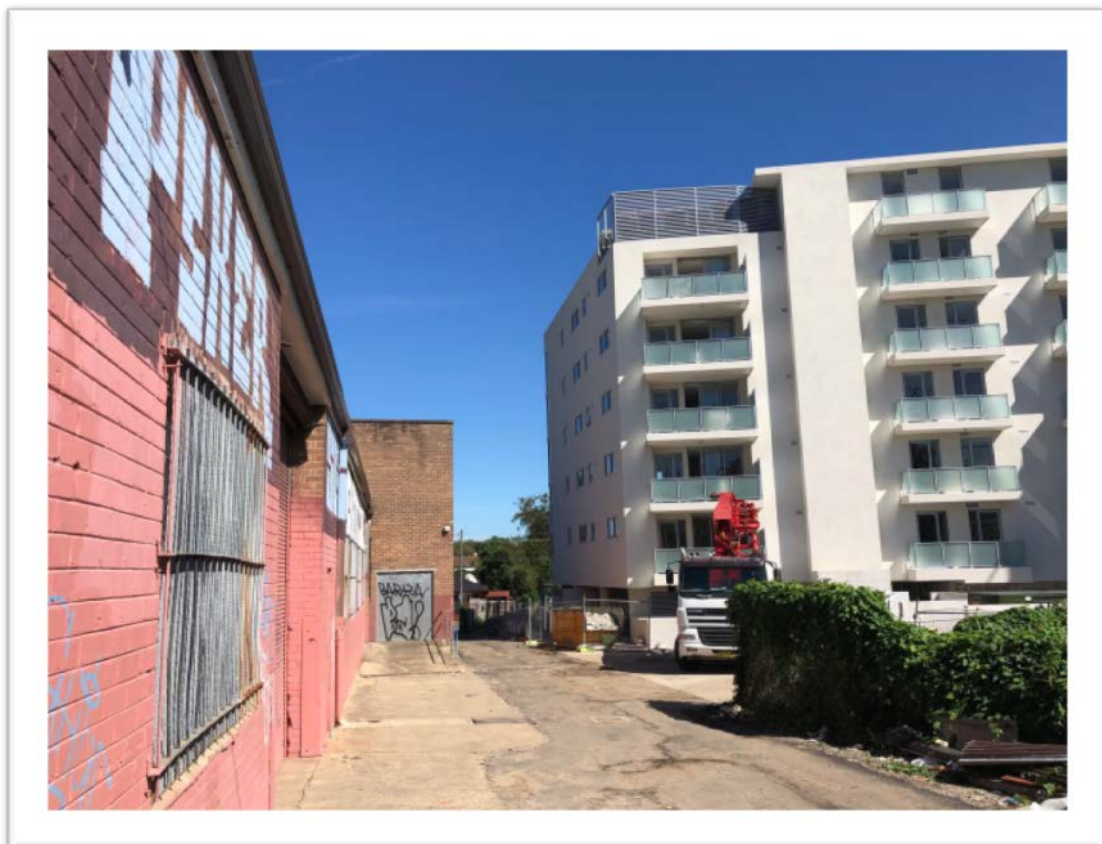


Figure 3 – Site Photo, Eastern Elevation of 380 Liverpool Road and Milton Lane View.

Southern Boundary

A review of the proposed southern boundary has highlighted setbacks ranging from 3m on the ground floor, 6m on levels 1 – 3, 7.5m on level 4 and 10m on level 5. Council has undertaken a review of the proposed setbacks and considers them acceptable. The proposed setbacks are largely compliant with the minimum standards expressed under the ADG and ensure sufficient separation from neighbouring sites to ensure usable open space, landscaping, sunlight and privacy. The proposal has been appropriately designed along the southern elevation to minimise openings in order to mitigate any privacy impacts. Where openings for windows are proposed along the southern elevation, they generally relate to highlight windows and bedrooms allowing for additional natural light and ventilation into the proposed apartments while ensuring sightlines in and out of the units are not achievable.

Eastern Boundary

The proposal is to be set back roughly 8 – 10m from the rear eastern boundary to of the site. This rear boundary backs onto Milton Lane, with the Ashfield RSL and carpark located beyond that. The proposed setback of 8 – 10m is largely compliant with the ADG and will not result in any unreasonable bulk/scale or privacy impacts for neighbouring sites. The proposed setback is considered acceptable and recommended for support.

Western Boundary

The proposed western boundary setbacks are acceptable and in-line with that of the new emerging streetscape. No objection to the proposed western boundary setbacks are raised.

Overall it is considered that the proposed setbacks are acceptable, however the application is recommended for refusal due to other non-compliances discussed within this report.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building.

Comment:

A review of the cross ventilation diagrams provided by the applicant has highlighted that less than 60% of the proposed apartments will be naturally cross ventilated in accordance with the requirements of the ADG. The diagrams detail that ventilation is achieved leaving the front door of units open or by requiring small bathroom or highlight bedroom windows to remain open. This does not satisfy the ADG which requires (for effective cross-ventilation):

In cross-through apartments external window and door openings on one side of an apartment (inlet side) are approximately equal to the external window and door opening areas on the other side of the apartment.

The proposed non-compliance with natural ventilation requirements is considered unacceptable in this instance as there are limited constraints as to why compliance might not be achieved. Acceptance of the proposed variation is expected to result in an unsustainable development heavily reliant upon mechanical ventilation. Such reliance is considered unacceptable given the current opportunity to create a sustainable development.

The proposal is recommended for refusal given the amenity and sustainability consequences of inadequate natural ventilation of apartments.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 Bedroom apartments	8m ²	2 metres
2 Bedroom apartments	10m ²	2 metres
3+ Bedroom apartments	12m ²	2.4 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3 metres.

Comment:

The current proposal seeks consent for the provision of balconies on the ground floor northern elevation, which have a maximum width of 1.5m and a usable area of 10-11sqm. On level 4 (where they relate to 3-bedroom units) the proposed balconies have a width of 2m. As mentioned above this non-compliance is unacceptable and is likely to force reliance upon the communal space which is well below minimum area requirements.

The proposed 1.5m width and 10 – 11 sqm area proposed for the northern boundary ground floor units is well below the minimum required 3m width and 15sqm area required by the ADG and does not result in a sufficient space for usability by occupants on a day to day basis. A review of the proposed ground floor units subject to the proposed non-compliant balcony sizes highlights that these units are also proposed to be adaptable units and be made available for persons with a disability. This further compounds the non-compliant size issue as any persons with a mobility impairment may be unable to manoeuvre around the balcony rendering the space even less practically dimensioned.

Likewise, the proposed 2m balcony width for 3 – bedroom units on level 4 also results in a balcony size which will not meet the day to day needs of occupants and force reliance upon other forms of open space either on the site or within the LGA. This is considered

unreasonable given the development is also non-compliant with minimum communal open space requirements.

The proposal is recommended for refusal due to the proposed insufficient provision of private *and* communal open space.

5(a)(iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)(v) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)

Development with frontage to classified road (Clause 101)

The site has a frontage to Milton Street, a classified road. Under Clause 101 (2) of *SEPP Infrastructure 2007*, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The applicant has currently failed to demonstrate how the site can be adequately serviced for the purposes of waste collection and therefore not satisfactorily demonstrated that the efficiency and operation of the classified road will not be impacted by the proposal, clause 101 is not satisfied the application is therefore recommended for refusal.

Documentation supplied by the applicant with regards to procedures regarding waste collection currently outline that bins are to be collected from Milton Lane, with trucks entering from Norton Street and exiting on Milton Street (path demonstrated in figure 4 below). Upon request from Council the applicant has provided swept path diagrams of trucks turning from Norton Street into Milton Lane, see figure 5 below. These swept path diagrams are based on the smallest trucks Council has servicing the Ashfield Area (9.4m long and weighing 26 tonnes). As seen from the provided swept paths in figure 5, Council garbage trucks are unable to make the Norton Street – Milton Lane turn without substantially encroaching onto private property. This matter has been reviewed by Council's Engineers who outlined that such a manoeuvre is not supported.

Alternative solutions such as trucks turning from Milton Street onto Milton Lane result in further complications with the site unable to accommodating a turning bay to allow for a truck to turn around and exit from Milton Lane onto Milton Street in a forward direction. This leaves only two remaining possible outcomes; the first being trucks enter Milton Lane from Milton Street, collect waste then reverse out onto Milton Street and the second being waste collection occurs from Milton Street. Both of these options are considered to be wholly unacceptable due to potential safety impacts and significant impact to the efficiency and operation of the Milton Street classified road. The proposal is therefore recommended for refusal as it has not been demonstrated that the development is compliant with clause 101 of the SEPP and that the site is able to be properly serviced.

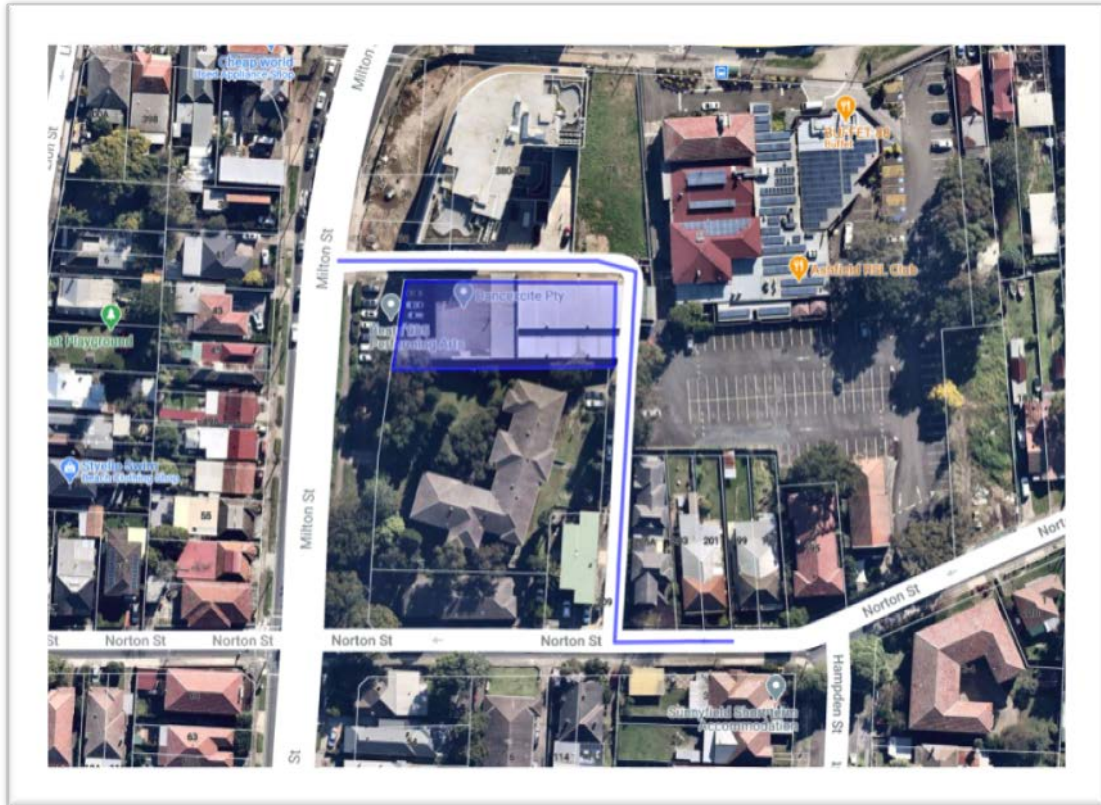


Figure 4 – Blue line indicates applicants proposed path of travel for Council Waste collection, site identified by blue box.



Figure 5 – Swept Paths for Council Garbage truck – turning from Norton Street onto Milton Lane

The application was referred to Roads and Maritime Services (RMS) for comment. RMS raised objections with the application with regard to ingress and egress from the site to

Milton Street, outlining that concerns are raised with the ability of trucks to achieve left in and left out turns. The RMS have outlined that it is likely that the Milton Street – Milton Lane intersection will need to be expanded to accommodate turning trucks. As part of this application the land which is to be required for potential intersection expansion is to be dedicated to the RMS for land acquisition and potential road expansion.

This potential road expansion could be conditioned as a requirement of public domain works and does not need to be resolved prior to a consent being issued for the site. Instead such matters could be addressed via a condition of consent requiring RMS sign off/ approval on public domain works and potential intersection expansion prior to the issue of a construction certificate. This is the same approach taken for the adjacent development at 380 Liverpool Road, who is also reliant on the Milton Street – Milton Lane intersection for truck turning. Should the application be approved appropriate conditions requiring compliance with the above are recommended for the consent.

Impact of road noise or vibration on non-road development (Clause 102)

Clause 102 of the *SEPP Infrastructure 2007* relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 40,000 vehicle. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

Milton Street has an annual average daily traffic volume of more than 40,000 vehicles. The applicant submitted a Noise Assessment Report with the application that demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of the SEPP. Conditions are able to be imposed in respect of this matter in the event that the development were approved.

5(a)(vi) *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*
(Vegetation SEPP)

Vegetation SEPP concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application was referred to Council's Tree Management Officer who raised no objection to the proposal, subject to suitable conditions of consent. Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and DCP subject to the imposition of conditions, which could be imposed in the event that the development were approved.

5(a)(vii) *Ashfield Local Environment Plan 2013 (ALEP 2013)*

The application was assessed against the following relevant clauses of the *Ashfield Local Environment Plan 2011*:

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards

- Clause 6.1 - Earthworks

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R3 under the *ALEP 2011*. The *ALEP 2013* defines the development as:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The development is permitted with consent within the zone. The development is not consistent with the objectives of the R3 zone and is therefore recommended for refusal.

The following table provides an assessment of the application against the development standards:

Standard	Proposal	non compliance	Complies
Height of Building Maximum permissible: 12.5m	19m	6.5m or 52%	No
Floor Space Ratio Maximum permissible with ARHSEPP bonus: 1.2:1 or 1,594.8m ²	2.0:1 or 2,741m ²	1,146.2sqm or 72%	No

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standards:

- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio

Height of Buildings

The applicant seeks a variation to the height of buildings development standard under Clause 4.3 of the Ashfield local environmental plan 2013 by 52% (6.5 metres).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the Ashfield LEP 2013 below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Ashfield LEP 2013 justifying the proposed contravention of the development standard which is summarised as follows:

- *The visual fit of the building in this particular instance having regard to the variation sought is addressed by Smith & Tzannes in the Urban Design report submitted with the DA documentation (see relevant extracts below). It concludes that in this case the buildings 'fit' is acceptable and appropriate for this site. The site sits within a landuse zone with a 12.5m height limit, immediately south of a zone with a 23m height limit. There is no provision within the ALEP 2013 for any transition between the two controls, notwithstanding that the LEP mapping includes a number of possible height limit which could have been adopted for this site (see below). As shown in the elevations the proposed scale of the proposal is appropriate to the adjoining development. The proposal provides a stepped building that offers a sound urban design outcome notwithstanding the height variation. The height is appropriate for the site having regard to the sites juxtaposition to the Ashfield West Precinct (AWP). The proposal maintains appropriate visual separation between the buildings so that the required extent of permeability is provided between the buildings when viewed from the opposite side of Milton Street.*
- *The study identifies the fact that the sites to the east have a 15m transitional height between the 23m and the 12.5m which provides opportunities to achieve a transitional form given that additional FSR can be achieved under the Affordable Housing SEPP (i.e. due to sites proximity to public transport and the fact that residential flat buildings are permissible in the zone). The additional affordable housing FSR enables the heights to be achieved given that the affordable housing is added to the 0.7:1 base FSR.*
- *The architectural design, layout and street presentation of the proposal achieves a high-quality development adjacent the AWP which is experiencing a high level of redevelopment, particularly along Liverpool Road. The proposal emulates contemporary building materials and finishes, with a change of materials for the upper two levels which breaks up the additional height of the building above 12.5m. These two levels also have a reduced footplate with larger setbacks creating a recessed appearance of the two part upper levels. The part upper levels will not read as two full levels thus emphasising the 4 storey primary building form of the 4 levels below. When viewed in the context of the 7 storeys to the north and 3 storeys to the south the proposed built form is appropriate and fits with the streetscape and overall built form outcomes contemplated by the AWP. The site is intrinsically linked with the outcomes of the AWP in that the site provides for a two way vehicle access solution in Milton Lane.*
- *The proposed height maintains acceptable sky exposure to existing buildings adjoining or adjacent to the site. Shadow diagrams are submitted with the DA plan set demonstrating that adequate daylight is maintained to units in the adjoining unit building. The units to the south have bedrooms facing north and as such achieve natural light to the eastern bedroom between 9 – 11am and to the east facing windows. Sufficient ambient light will remain available.*
- *There is no transition between the 23m height limit immediately north of the site and the 12.5m height limit or to the 8.5m height limit area immediately opposite the site*

and south of Norton Street. In considering the height interface the ALEP currently provides for N (13m) with I (8.5m) to the west of the site resulting in a transitional height difference of 4.5m. The difference between the site to the north and the subject site is S (23+m) v M (12.5m) representing a change of 10.5m and therefore a transition is appropriate. Based on the comparison the height difference proposed under this application offers a 3.5m change which is in keeping with the more moderate step in height between N and I as it currently exists under the ALEP. The transitional form provided by the proposal offers an acceptable urban design outcome and one which is supported by the design analysis conducted by Smith Tzannes architects who provide an independent urban design massing study.

- *The site has been the subject of mandatory road widening by the RMS (Milton Street frontage) and by Council via the provisions of the Ashfield DCP (Milton Lane). There are no planning incentives to achieve the widening of the rear lane. It is common for areas affected by public burden and urban design studies to receive incentives to increase the likelihood of redevelopment so that the overall strategic planning imperatives can be achieved. In this case the height has not been altered from the base 12.5m unlike sites to the north which have seen a significant change to height and FSR. The increased height significantly increases the likelihood of the strategic planning objectives being achieved.*

The applicant's written rationale does not adequately demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is not in the public interest because it is consistent with the objectives of the R3, in accordance with Clause 4.6(4)(a)(ii) of the Ashfield LEP 2013 for the following reasons:

To provide for the housing needs of the community within a medium density residential environment.

The current proposal results in the creation of 37 new units and does not reflect a medium density residential development. The proposed height sought is directly attributed to the proposed development yield. The proposed unit types and densities reflects a high density development and does not result in a range of medium density environment which is sought by the objectives.

To provide a variety of housing types within a medium density residential environment.

The proposal results in the creation of twenty four 1 – bedroom, seven 2 – bedroom and six 3 – bedroom units. Such housing types are not reflective of the medium density residential environment, which might typically promote larger scale units or townhouses and instead reflects a style and density more in-line with that of a high density or mixed use zoning.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

As discussed above the proposal is not considered to be designed to cater for the day to day needs of residents.

Combined with the over-sized building, the proposed variations to minimum balcony dimensions, lack of communal open space and lack cross ventilation and lack of serviceability for waste collection all combine to result in a proposal which is expected to force residents to become highly reliant upon services and amenities provided within the public domain and not within their own development.

It is considered the development is not in the public interest because it not is consistent with the objectives of the height of buildings development standard, in accordance with Clause 4.6(4)(a)(ii) of the Ashfield LEP 2013. The objective of this clause is as follows:

- *To achieve high quality-built form for all buildings,*
- *To maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes,*
- *To provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,*
- *To maintain satisfactory solar access to existing buildings and public areas.*

The development does not meet these objectives for the following reasons:

- The proposal does not provide a built form transition between the B4 – Mixed Use Zone and the R3 Medium Density Zone. The proposed height variation does not provide any visually identifiable difference between the two zones.

The proposal thereby fails to demonstrate an adequate address of the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Ashfield LEP 2013. For the reasons outlined above, there are not sufficient planning grounds to justify the departure from height of buildings development standard and it is recommended the Clause 4.6 exception not be granted.

Floor Space Ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of the applicable local environmental plan by 1,146.2sqm or 72%.

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- *The site has been the subject of mandatory road widening by the RMS (Milton Street frontage) and by Council - via the provisions of the Ashfield DCP (Milton Lane) even though the site is outside the nominated precinct area. There are no planning incentives for the subject site (unlike other sites in the precinct) to achieve the strategic planning outcomes for the area. The additional FSR is justified on first principles (urban design justification) but secondly can be justified because it provides a greater likelihood that the vehicle and pedestrian access can be improved within the precinct. The additional 0.29:1 FSR provides an incentive for the land owner to redevelop the site.*
- *ALEP 2013 does not provide a transition between the denser development permitted along Liverpool Road, immediately north of the site and the subject site. The FSR drops from 2.0:1 at the corner of Liverpool Road and Milton Street down to 0.7:1 on the subject site. The ALEP 2013 contains three (3) other FSR limits that could have been adopted for this site to achieve a transition such as "S1" – 1.5:1 or "S2" – 1.8:1. The proposed FSR of 1.49:1 (including 0.5:1 affordable housing GFA) is therefore acceptable for a transitional site under the provisions of ALEP 2013. The transitional site justification is supported by the Urban Design Report prepared by Smith & Tzannes demonstrating that the site functions as a transitional site based on the immediate FSR controls afforded to neighbouring sites.*
- *Due to its attributes the site is suitable for development of a building with greater bulk and scale than contemplated by the 0.7:1 FSR. The frontage is 23.25m and side boundaries of 57 - 58m with total site area over 1550sqm. There are no specific site constraints that would seek to limit the overall potential of the site. The northern boundary is the side boundary fronting Milton Lane which offers opportunities for natural light and outlook.*
- *The proposal does not result in undue adverse amenity impacts on existing development to the south of the site. We accept that the neighbour would be exposed to a 4 storey building however a 6 storey building is proposed. We note that the two upper levels are not full levels and have significant setbacks appearing more like a roof element. As shown below the two upper floor levels have reduced floor plates and have a 14.435m setback from the southern boundary*
- *The proposal has been designed to account for this site features/characteristics/opportunities and constraints. The design provides increased setbacks to the upper two floor levels; living areas orientated to the north (away from the southern neighbouring development); POS areas to the north (where possible); and communal open space at ground level (not rooftop COS). The site is capable of supporting greater FSR without any significant adverse impacts on its neighbours. Whilst some additional overshadowing occurs it is not causing significant adverse impact and units have orientation to the north, west and east. The additional FSR offers a mediating and transitional form stepping down from the 2:1 FSR plus to the north and 0.7:1 FSR to the south.*

- *The additional FSR of 0.29:1 is to be dedicated as affordable housing which is in the public interest. The provision of affordable housing is in line with the SEPP 70 initiatives of the State Government – notwithstanding that Inner West is yet to complete amendments to the ALEP 2013 to achieve SEPP 70 provisions. The Inner West RLS seeks to increase affordable housing across the LGA and this proposal will provide an additional GFA that would not otherwise be provided as part of a development proposal seeking additional GFA above the 0.7:1 standard.*

The applicant's written rationale does not adequately demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is not in the public interest because it is inconsistent with the objectives of the R3, in accordance with Clause 4.6(4)(a)(ii) of the Ashfield LEP 2013 for the following reasons:

To provide for the housing needs of the community within a medium density residential environment.

The current proposal results in the creation of 37 new units and does not reflect a medium density residential development. The proposed floor space ratio sought is directly attributed to the proposed development yield. The proposed unit types and densities reflects a high density development and does not result in a range of medium density environment which is sought by the objectives.

To provide a variety of housing types within a medium density residential environment.

The proposal results in the creation of twenty four 1 – bedroom, seven 2 – bedroom and six 3 – bedroom units. Such housing types are not reflective of the medium density residential environment, which might typically promote larger scale units or townhouses and instead reflects a style and density more in line with that of a high density zone.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

As discussed above the proposal is not considered to be designed to cater for the day to day needs of residents. The proposed variations to minimum balcony dimensions, lack of communal open space, lack cross ventilation and lack of serviceability for waste collection all combine to result in a proposal which is expected to force residents to become highly reliant upon services and amenities provided within the public domain and not within the development site itself.

It is considered the development is not in the public interest because it is inconsistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the Ashfield LEP 2013. The objective of this clause is as follows:

- *to establish standards for development density and intensity of land use,*
- *to provide consistency in the bulk and scale of new development with existing development,*
- *to minimise adverse environmental impacts on heritage conservation areas and heritage items,*
- *to protect the use or enjoyment of adjoining properties and the public domain,*

- *to maintain an appropriate visual relationship between new development and the existing character of areas that are not undergoing, and are not likely to undergo, a substantial transformation.*

The development does not meet these objectives for the following reasons:

- Acceptance of the proposed variation does not maintain compliance with the established standards for intensity and density employed within the former Ashfield LGA
- The proposal does not provide a built form transition between the B4 – Mixed Use Zone and the R3 Medium Density Zone. The proposed height variation does not provide any visually identifiable difference between the two zones.

The proposal thereby fails to demonstrate an adequate address of the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Ashfield LEP 2013. For the reasons outlined above, there are not considered to be sufficient planning grounds to justify the departure from floor space ratio development standard and it is recommended the Clause 4.6 exception not be granted.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not especially relevant to the assessment of the application other than as discussed above (where the provisions are not significantly altered). Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

IWCDCP2016	Compliance
Section 1 – Preliminary	
B – Notification and Advertising	Yes
Section 2 – General Guidelines	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	Yes
4 - Solar Access and Overshadowing	No – see discussion
5 - Landscaping	Yes
6 - Safety by Design	Yes
7 - Access and Mobility	No – see discussion
14 - Contaminated Land	Yes
15 - Stormwater Management	Yes
D – Precinct Guidelines	
Ashfield West	Yes
F – Development Category Guidelines	
Residential Flat Buildings	No – see discussion

The following provides discussion of the relevant issues:

Solar Access and Overshadowing

The current proposal results in a variation to design Solution DS1.1 of Chapter A within the Inner West Comprehensive Development Control Plan 2016 (IWCDCP 2016) which requires residential flat buildings to ensure living rooms and principle private open space of adjoining property receive a minimum 2 hours direct sunlight on 21 June. The applicant has undertaken a review of the floor plans for the adjoining development to the south of the subject site and demonstrated to Council that windows which are impacted by overshadowing relate to kitchens, bathrooms and a bedroom of units on levels 1 to 3 of the neighbouring site. A review of the neighbouring site to the south from a site inspection and floor plans provided by the applicant has highlighted that the majority of the existing development is orientated to the west and achieves solar access through its western elevation, with windows and doors to primary living areas located on the western elevations.

A review of the provided shadow diagrams has outlined that units along the northern boundary of level 1 and 2 of the neighbouring site to the south will retain the minimum required 2 hours solar access under the current scheme, but that the ground floor unit will not achieve the required solar access. Due to the orientation of the lots resulting from the time of subdivision and the orientation of the neighbouring site to the south, impacts of overshadowing are unavoidable with any re-development of the subject site likely to result non-compliance with the minimum required solar access levels for the northern boundary ground floor unit. In this instance to retain the existing levels of solar access the subject site would be required to remain as existing and underdeveloped when compared against current planning controls. The proposed extent of solar loss is acceptable due to the orientation of the site, and no objection is raised to the extent of overshadowing resulting from the proposal. However the application is still recommended for refusal based on other concerns raised within this report.

Access

The proposal seeks consent for the construction of a new footpath along the northern boundary of the site, within the frontage to Milton Lane. A review of this footpath by Council's Engineers has highlighted that it is only 1m in width and is non-compliant with Australian Standards for footpaths. The proposed footpath is to provide direct pedestrian access Milton Street for adaptable units located upon the ground floor and represents a safety hazard if accepted in its current form, due to its close proximity to a road. The proposed footpath is not supported in its current form due to the potential safety hazard to users resulting from insufficient width.

Residential Flat Buildings

The proposal results in a variation to the requirements of DS5.1 of Chapter F within the IWCDP 2016, which requires residential flat buildings located within the R3 zone to be a maximum of 3 stories and use a maximum 30 degree pitched roof as a 4th attic storey. The intention of this control is to ensure that development is consistent with the objectives of the LEP, of a human scale and minimises impact on neighbouring properties.

In this instance the requirement of strict compliance with this control is expected to result in a built form not in keeping with the emerging streetscape, which incorporates flat roofs and modern design features. Subject to the above concerns being addressed, it is considered that the proposal could result in a satisfactory human scale relationship and will not result in adverse impacts on neighbouring amenity. In this respect, a variation to control DS5.1 is likely to have been supported in circumstances where all other merits considerations of the DA were otherwise acceptable.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

Unit Amenity

The applicant has failed to adequately demonstrate that the proposal results in a sufficient level of amenity and day to day usability for occupants of the proposed units. The proposed non-compliances with the ADG for communal open space, cross ventilation and balcony dimensions results in a proposal which will not meet the day to day needs of occupants and should not be supported.

Site Servicing / Impact on a Classified Road

The applicant has failed to adequately demonstrate how waste collection is to occur and how the proposal is compliant with clause 101 of the infrastructure SEPP and will not impact the efficiency and operation of Milton Street.

Public Domain Safety

The proposal seeks consent for the construction of a new footpath within the public domain, which does not comply with the Australian Standards and results in potential conflict/safety concerns for future users.

Impact to Streetscape

The proposal does not provide a built form transition between the B4 – Mixed Use Zone and the R3 Medium Density Zone. The proposed height variation does not provide any visually identifiable difference between the two zones.

5(f) The suitability of the site for the development

It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(g) Any submissions

The application was notified in accordance with Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill for a period of 21 days to surrounding properties. Seven (7) submissions were received in response to this notification. The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Impacts of additional traffic along Milton Lane & loss of parking for the locality
Comment: The proposed traffic generation resulting from the development has been reviewed by Council's Development Engineers and Traffic Engineers who both outlined no objection in terms of the level of car parking provided. The proposed laneway is to be further expanded as part of the current application and is able to accommodate the additional traffic. However, the proposal is recommended for refusal based on other matters explored within this assessment report.

Issue: Acoustic impacts
Comment: The applicant has supplied an acoustic report with the current application and detail sufficient measures to ensure appropriate acoustic outcomes for future occupants and neighbours. Primary living areas, windows and balconies have all been designed to minimise potential acoustic impacts for neighbouring sites and are appropriate. Where noise is generated this is to be in-line with that of a standard residential accommodation building and is acceptable.

Issue: Overshadowing
Comment: Impacts of overshadowing have been assessed above within the main portion of the assessment report. It was assessed that impacts of overshadowing are largely compliant with current planning controls and that elements of non-compliance are unavoidable given the orientation of the site and the design of neighbouring buildings.

Issue: Increased Air Pollution

Comment: The proposal is not anticipated to generate a level of air pollution which may impact the amenity of neighbouring sites or of the subject site. Regardless the proposal is recommended for refusal based on the matters outlined above in the assessment report.

Issue: Loss of Visual Outlook

Comment: The proposed setbacks of the development are acceptable, any re-development of the subject site is anticipated to result in a loss of visual outlook for neighbouring sites. The proposal is considered to have been appropriately located upon the site to minimise impacts of visual outlook loss.

Issue: Bulk and Scale

Comment: The proposals bulk/scale achieved through significant variations to planning controls (discussed above) is not supported. The proposal is recommended for refusal based on non-compliance with planning controls. The proposed bulk/scale is not supported.

Issue: Damage to Neighbouring Sites

Comment: The application is currently recommended for refusal. However should the proposal be approved appropriate conditions requiring the undertaking of dilapidation reports and ensuring protection and retention of neighbouring properties is recommended for the consent.

Issue: Impacts to Property Prices

Comment: Impact to property prices is not a matter for consideration under the Environmental Planning and Assessment Act 1979 and as such cannot be considered as part of the current application.

Issue: Proposed density and height is not in-keeping with zoning of medium density residential

Comment: As mentioned above in the assessment section of this report it is considered that the density and intensity of this development does not reflect the objectives of the R3 medium density zone and should not be supported. The proposed variations are not supported, and the application is recommended for refusal.

Issue: Location of waste collection area is in conflict to neighbouring driveway

Comment: The proposed waste collection area has been amended since the time of initial lodgement and is now closer to Milton Street away from the driveway of 380 Liverpool Road. As part of the current application the applicant has provided swept paths detailing the ability of cars to drive around a garbage truck collecting bins for the subject site. The proposed revised location of waste collection is considered to be acceptable.

Issue: Out of character with area

Comment: The proposed design and appearance of the development is considered to be in-keeping with the emerging streetscape of the locality and is acceptable. In this instance Council only raises an objection to the proposed variations to planning controls and inability to demonstrate site servicing.

Issue: Privacy Impacts

Comment: Potential privacy impacts have been assessed above under the assessment section of the report. Overall it is considered that the development has been appropriately designed to ensure a fair balance between privacy impacts and amenity for occupants. The proposal will result in minimal privacy impacts for neighbouring sites to the south, while privacy impacts to the north are considered to be unavoidable without significant reductions to the amenity of the proposed units.

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is contrary to the public interest and is recommended for refusal.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Architectural Excellence Panel (AEP) – The proposal has been reviewed by Council's AEP panel who outlined no objection to the proposal. Council's AEP initially made recommendations regarding the design and appearance of the building, which have been addressed/resolved through the submission of amended plans.
- Building Certification – The proposal has been reviewed by Council's Building Certification Team who outlined that the traveling distance from the doorway of sole occupancy unit to fire stairs will require performance solution and outlined a requirement for the submission of a BCA report. At this time the requested BCA report has not been provided. The application is recommended for refusal based on other non-compliances outlined above. Should the proposal be supported conditions of consent requiring compliance with BCA are recommended.
- Development Engineering – The proposal has been reviewed by Council's Development Engineers who looked at internal traffic movements and stormwater. Council's Development Engineers have outlined no objection to the proposal subject to suitable conditions of consent.
- Environmental Health – The provided site investigations and acoustic reports have been reviewed by Council's Environmental Health Team who outlined no objection to the proposal, subject to suitable conditions of consent. These conditions are incorporated into the conditions document and are recommended to form part of any consent issued.
- Property – The proposal was referred to Council's Property Team with regards to the proposed land dedication and creation of a VPA. At this time no response has been received from the Property Team.

- Traffic Engineering – The application has been reviewed by Council's Traffic Engineers who outlined an objection to the proposed waste collection methods, outlining that a garbage truck is unable to service the site. These matters are discussed above under the assessment section of the report. The application is recommended for refusal based on an inability for the site to be serviced for waste collection.
- Resource Collection – Council's Resource Collection Team has reviewed the proposed garbage enclosure and considers it to be acceptable subject to conditions of consent. These conditions require each level to have a waste disposal point and for the documentation of appropriate waste receipts during construction.
- Urban Forests – The proposal has been reviewed by Council's Urban Forests Team who outlined no objection to the development subject to suitable conditions of consent requiring replacement plantings and protection of trees on neighbouring sites/public domain.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Sydney Water – The proposal was referred to Sydney Water for comment and review on the application and impacts to existing infrastructure. Sydney Water have outlined no objections to the proposal subject to recommended conditions of consent. These conditions include requirements for a section 73 certificate, the recommended conditions are included in the conditions document in the event the application is approved.
- Roads Marine Services (RMS) - The application was referred to Roads and Maritime Services (RMS) for comment. RMS raised objections with the application with regard to ingress and egress from the site to Milton Street, outlining that concerns are raised with the ability of Trucks to achieve left in and left out turns. The RMS have outlined that it is likely that the Milton Street – Milton Lane intersection will need to be expanded to accommodate turning trucks. This matter is assessed and discussed above within the assessment section of the report. In this instance any potential intersection expansion can be undertaken via public domain works and does not need to be resolved prior to determination should the application be otherwise supported.
- Ausgrid – The proposal was referred to Ausgrid, who outlined no objection to the application subject to the inclusion of recommended conditions of consent. These conditions are recommended for the consent should the application be approved.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

As stated above the development proposes to dedicate a portion of land at the rear of the site for the purposes of laneway expansion. The proper mechanism for this dedication requires the applicant to enter into a Voluntary Planning Agreement. At the time of writing this report negotiations regarding this VPA have not been undertaken and no preliminary or formal agreement is in place. Therefore the contributions outlined in the recommended conditions of consent have been calculated on the basis of no VPA being in place. Should the application be supported and a VPA entered into these contributions may need to be revised based on the agreement outlined in the VPA.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Ashfield Local Environmental Plan 2013* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development would result in significant impacts on the amenity of the future occupants, adjoining properties and the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. The applicant has made a written requests pursuant to Clause 4.6 to vary Clauses 4.3 and 4.4 of the *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with either standard is unreasonable or unnecessary in the circumstance of the case or that there are sufficient environmental grounds to support the variations. The proposed development will not be in the public interest because the variations are significant and inconsistent with the objectives of both the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, **refuse** Development Application No. DA/2020/0139 for Construction of a 6 storey residential flat building of 37 units, 50 car parking spaces including affordable housing units and strata subdivision. at 40 Milton Street ASHFIELD NSW 2131 for the reasons outlined in Attachment A.

Attachment A – Reasons for Refusal

The Inner West Local Planning Panel, as the responsible authority, hereby refuses Development Application No. DA/2020/0139 for Construction of a 6 storey residential flat building of 37 units, 50 car parking spaces including affordable housing units at 40 Milton Street ASHFIELD NSW 2131 for the following reasons:

1. The proposal has not satisfactorily demonstrated compliance with the objectives specified in the Apartment Design Guide as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings.
2. The proposal has not satisfactorily demonstrated compliance with Clause 101 of the State Environmental Planning Policy – Infrastructure 2007. The proposal has not satisfied the consent authority that it will not have an impact on the efficiency and operation of a classified road.
3. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with clause 1.2 (a) & (i) – Aims of Plan of the *Ashfield Local Environmental Plan 2013*. The proposed development does not promote the orderly and economic development of Ashfield in a manner that is consistent with the need to protect the environment or incorporate the principles of ecologically sustainable development.
4. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the objectives of the height of buildings control under Clause 4.3 of the *Ashfield Local Environmental Plan 2013*.
5. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the objectives of the Floor Space Ratio Development control under Clause 4.4 of the *Ashfield Local Environmental Plan 2013*.
6. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the request under clause 4.6 – Exceptions to development standards has not demonstrated sufficient environmental planning grounds to vary development standards under the *Ashfield Local Environmental Plan 2013*.
7. In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.
8. Pursuant to the provisions of Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would not be in the public interest.

Attachment B – Plans of proposed development

Sheet Name	Sheet Number
COVER PAGE	C101
BASIX CERTIFICATE	C102
SURVEY PLAN	C103
SITE ANALYSIS	C104
SITE PLAN	C105
BASEMENT -2	C106
BASEMENT -1	C107
GROUND FLOOR PLAN	C108
LEVEL 1.2.3	C109
LEVEL 4	C110
LEVEL 5	C111
ROOF PLAN	C112
ELEVATIONS	C113
ELEVATIONS	C114
SECTION	C115
SECTION	C116
DRIVEWAY DETAIL	C117
CALCULATION PLAN	C118
CROSS VENTILATION PLAN	C119
DEMOLITION PLAN	C120
MATERIALS AND FINISHES	C121



habitation
Design + Interiors
10/11 Kingsley Rd,
Newport NSW 1505
www.habitationdesign.com.au



Member
of Architecture
Australia
10/11 Kingsley Rd,
Newport NSW 1505

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	NJM	JP
B	20/12/19	DEVELOPMENT APPLICATION	NJM	JP
A	19/11/18	PRE-DEVELOPMENT APPLICATION	NJM	JP
ISSUE				

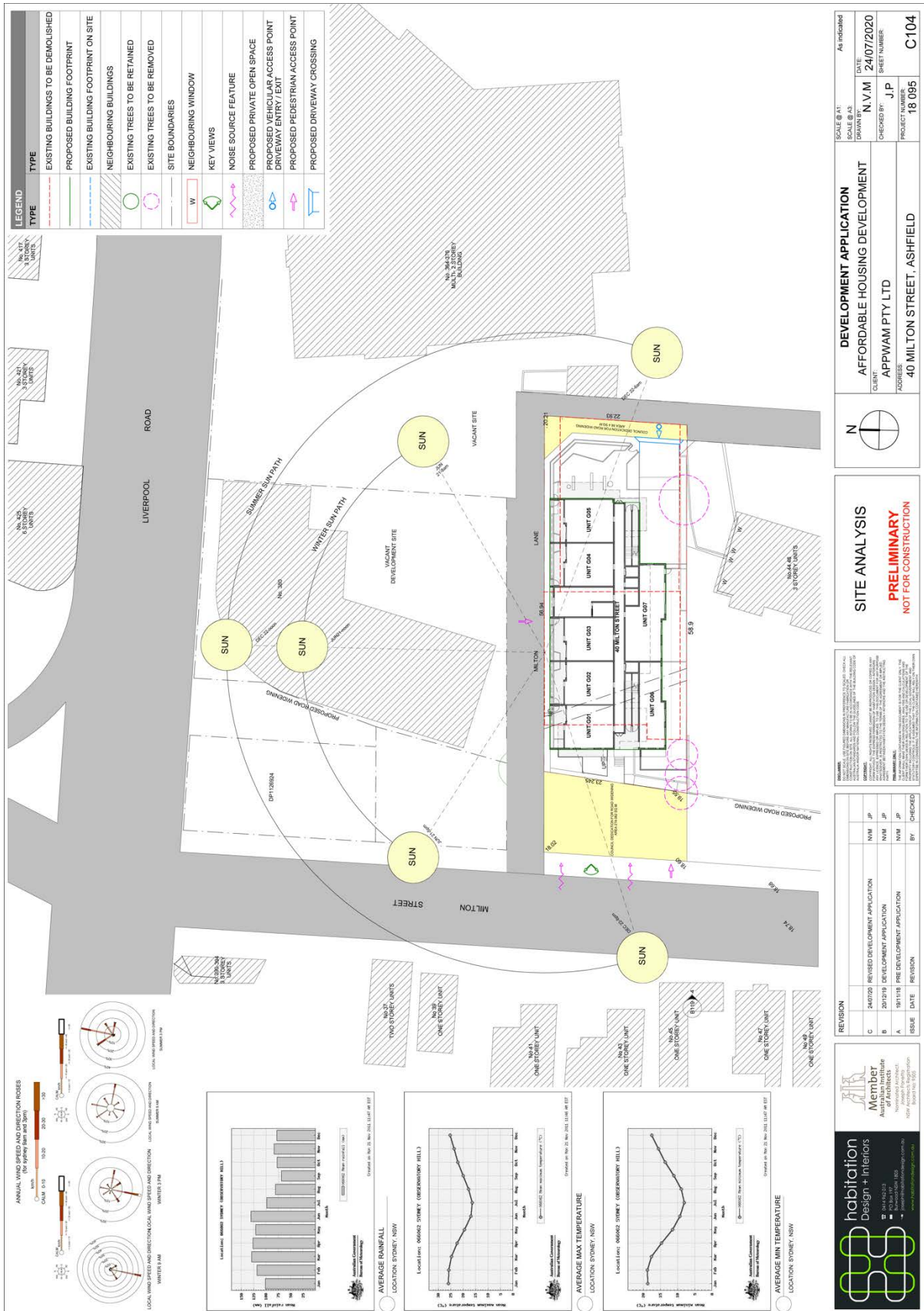
COVER PAGE
PRELIMINARY
NOT FOR CONSTRUCTION

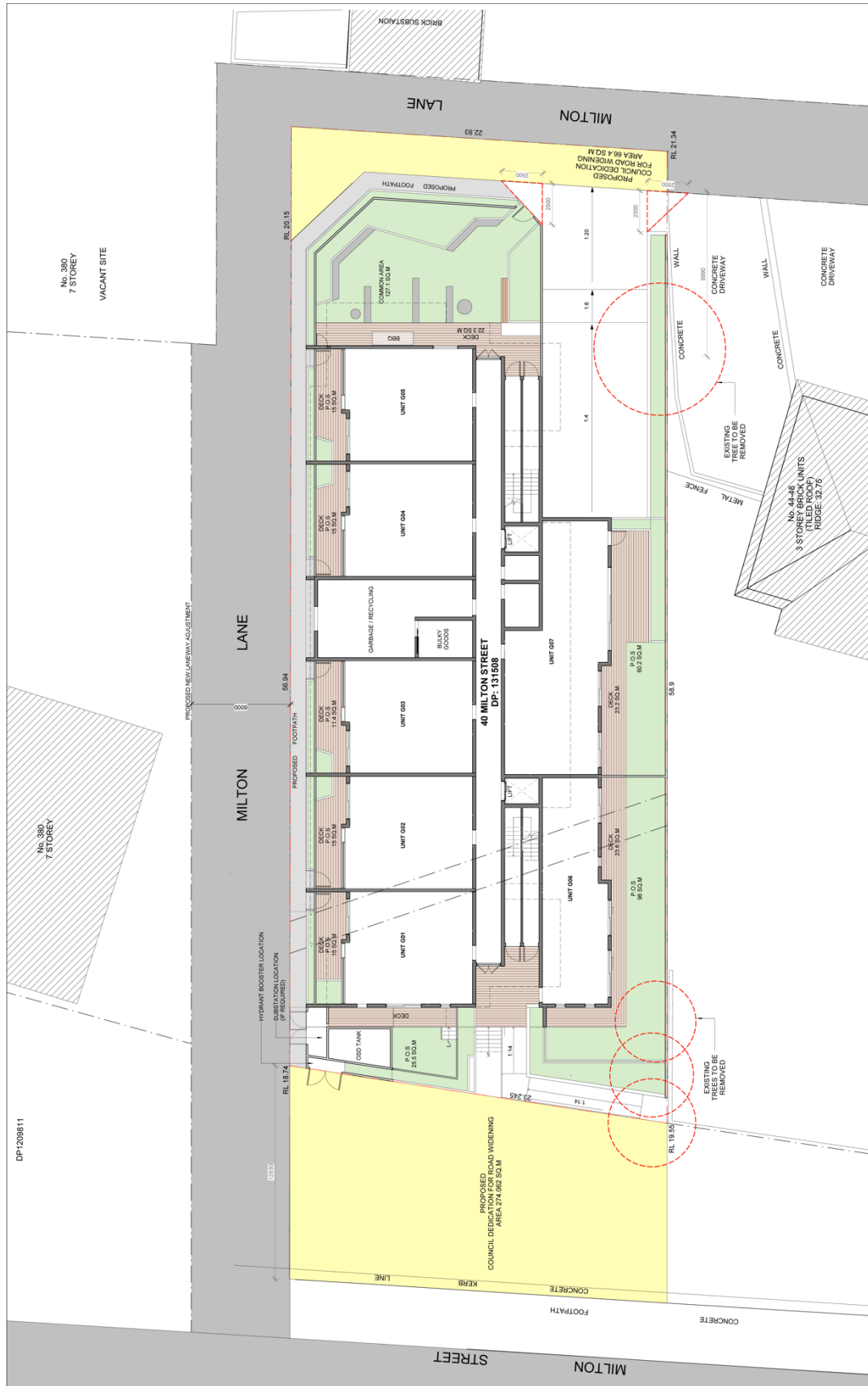
DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT

CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1:
DRAWING: N.V.M
DATE: 24/07/2020
SHEET NUMBER: C101

CHECKED BY: JP
PROJECT NUMBER: 18 095





SCALE @ A1 1:100
SCALE @ A3 1:200
DRAWN BY N.V.M
DATE 24/07/2020
CHECKED BY J.P
PROJECT NUMBER 18 095
SHEET NUMBER C105

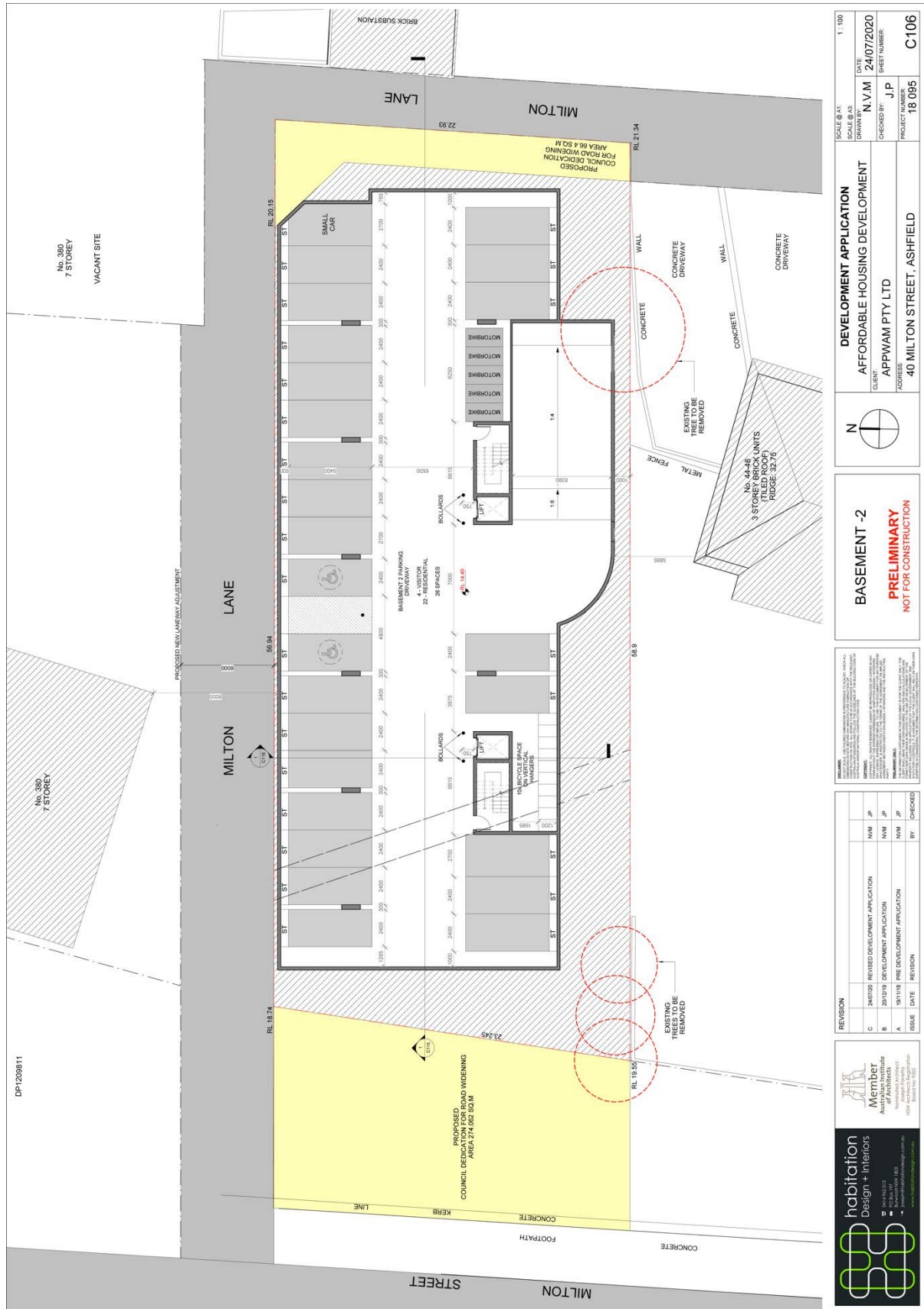
DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SITE PLAN
PRELIMINARY
NOT FOR CONSTRUCTION

NOTES:
1. THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION.
2. THE DEVELOPER SHALL OBTAIN ALL NECESSARY APPROVALS FROM THE LOCAL COUNCIL AND STATE AUTHORITIES.
3. THE DEVELOPER SHALL MAINTAIN ALL EXISTING SERVICES AND UTILITIES.
4. THE DEVELOPER SHALL MAINTAIN ALL EXISTING TREES AND VEGETATION.
5. THE DEVELOPER SHALL MAINTAIN ALL EXISTING WALLS AND FENCES.
6. THE DEVELOPER SHALL MAINTAIN ALL EXISTING DRIVEWAYS AND FOOTPATHS.
7. THE DEVELOPER SHALL MAINTAIN ALL EXISTING ROADS AND KERBS.
8. THE DEVELOPER SHALL MAINTAIN ALL EXISTING UTILITIES AND SERVICES.
9. THE DEVELOPER SHALL MAINTAIN ALL EXISTING STRUCTURES AND BUILDINGS.
10. THE DEVELOPER SHALL MAINTAIN ALL EXISTING LANDSCAPING AND GARDENS.

REVISION	DATE	BY	CHECKED
C	24/07/20	N.V.M	J.P
B	20/12/19	N.V.M	J.P
A	19/11/19	N.V.M	J.P

habitation
Design + Interiors
Member of the ASSOCIATION of ARCHITECTS
10/01/2013
10/01/2013
10/01/2013



SCALE @ A1 1:100
 SCALE @ A2
 DRAWN BY N.V.M
 DATE 24/07/2020
 CHECKED BY J.P
 PROJECT NUMBER 18 095
 SHEET NUMBER C 106

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

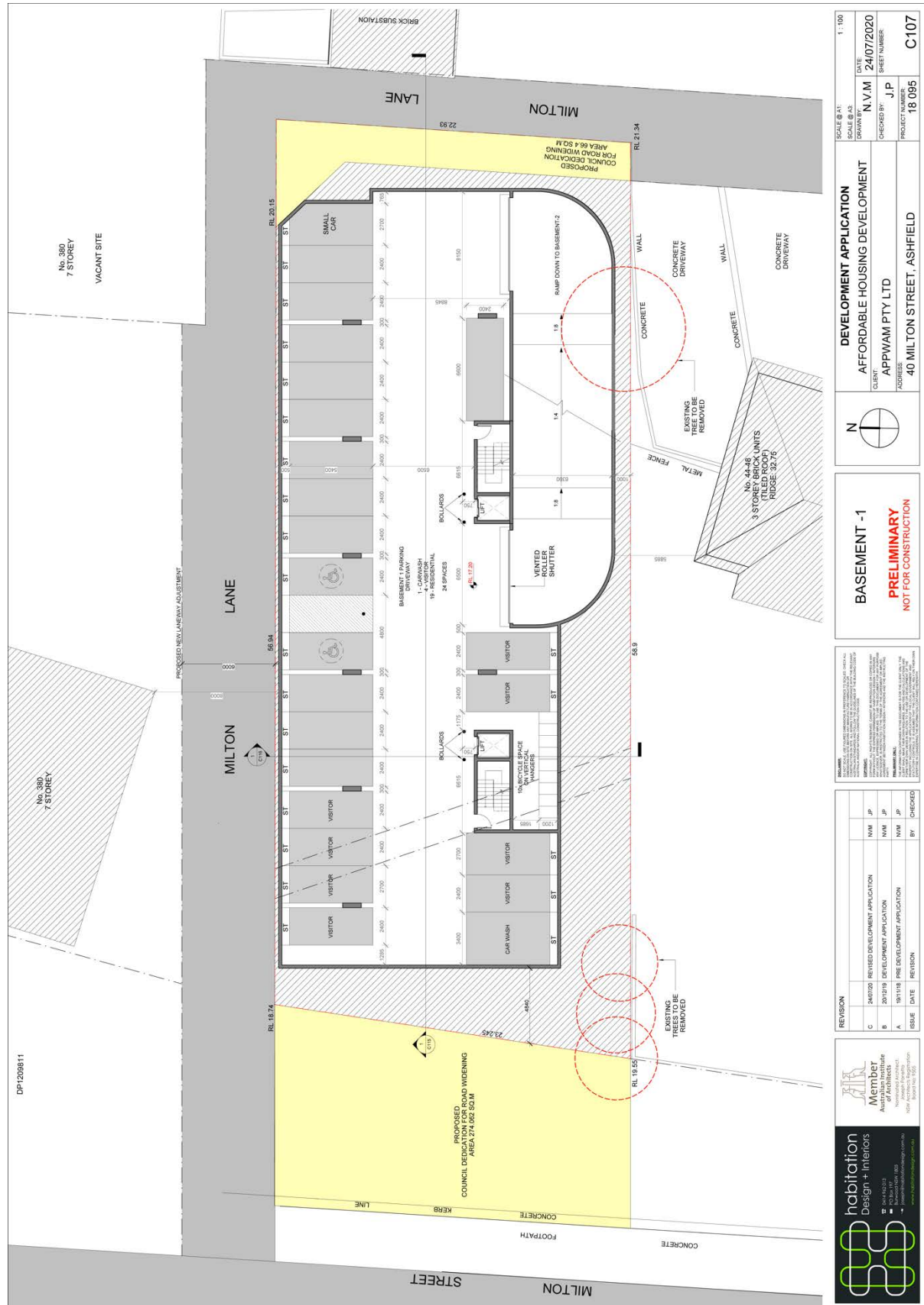
BASEMENT -2
PRELIMINARY
 NOT FOR CONSTRUCTION

NOTES:
 1. THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION.
 2. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE STATED.
 3. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
 4. THE DESIGNER ACCEPTS NO LIABILITY FOR ANY DAMAGE OR LOSS ARISING FROM THE USE OF THIS PLAN.
 5. THE CLIENT IS ADVISED THAT THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION.

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.V.M	J.P
B	20/07/20	DEVELOPMENT APPLICATION	N.V.M	J.P
A	19/07/20	PRE DEVELOPMENT APPLICATION	N.V.M	J.P

habitation
 Design + Interiors
 Member of the ASSOCIATION OF ARCHITECTS
 10/07/2020
 10/07/2020

habitation
 Design + Interiors
 10/07/2020
 10/07/2020
 www.habitationdesign.com.au



SCALE @ A1
SCALE @ A2
DRAWN BY N.V.M
DATE 24/07/2020
CHECKED BY J.P
PROJECT NUMBER 18 095
SHEET NUMBER C107

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

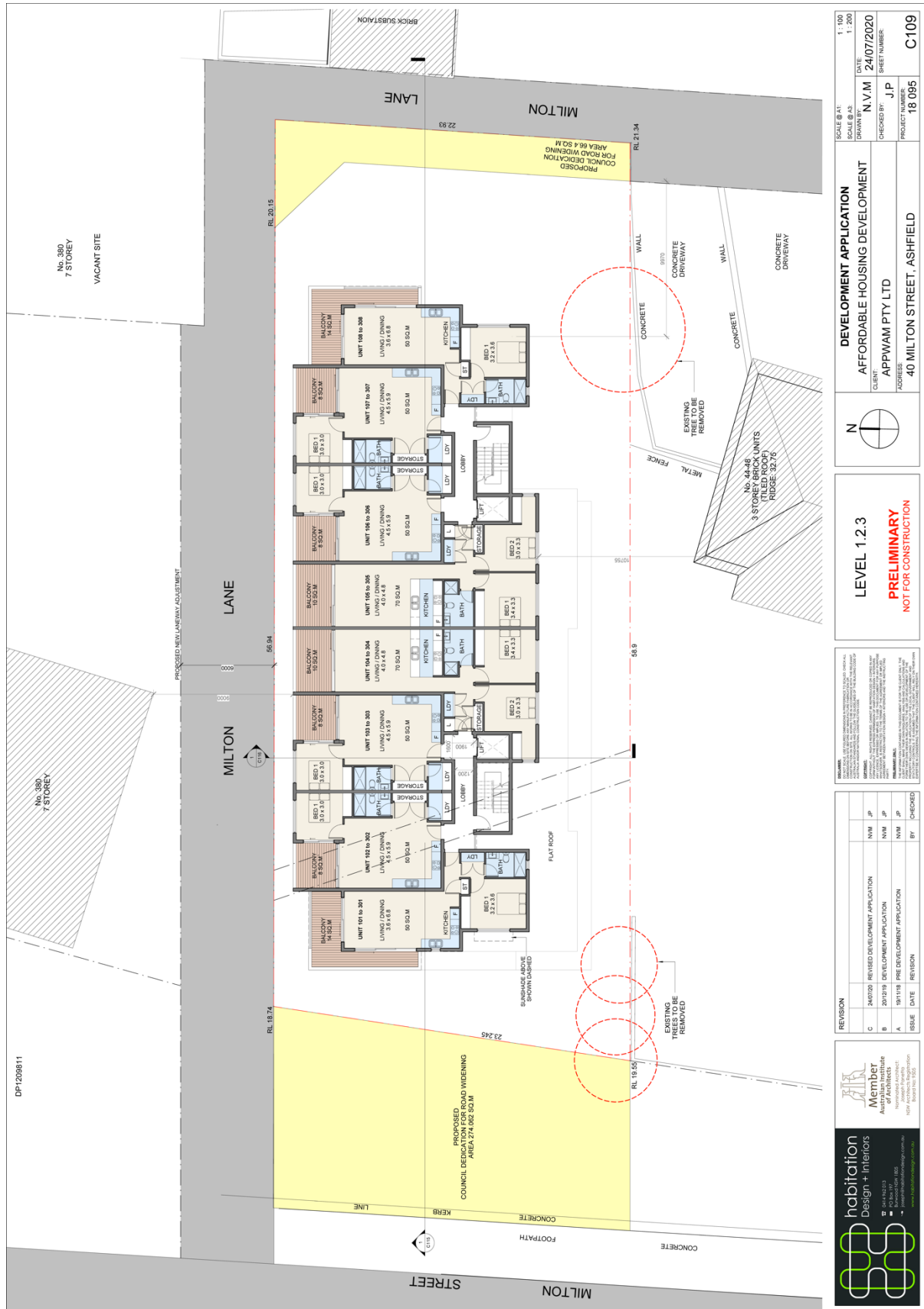
BASEMENT -1
PRELIMINARY
NOT FOR CONSTRUCTION

NOTES:
1. THIS DEVELOPMENT APPLICATION IS FOR THE PROPOSED CONSTRUCTION OF THE BASEMENT LEVEL OF THE DEVELOPMENT SHOWN ON THE SITE PLAN.
2. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE LOCAL PLANNING PANEL AND THE COUNCIL.
3. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS FROM THE RELEVANT AUTHORITIES.
4. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS FROM THE RELEVANT AUTHORITIES.
5. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS FROM THE RELEVANT AUTHORITIES.

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.V.M	J.P
B	20/12/19	DEVELOPMENT APPLICATION	N.V.M	J.P
A	19/11/19	PRE DEVELOPMENT APPLICATION	N.V.M	J.P

Member
Association of Architects
Member No. 1234
Approved by the Council on 10/07/2020

habitation
Design + Interiors
10/11-12/13
10/11-12/13
10/11-12/13
10/11-12/13
www.habitationdesign.com.au



SCALE @ A1 1:100
SCALE @ A3 1:200
DRAWN BY N.V.M
DATE 24/07/2020
CHECKED BY J.P
PROJECT NUMBER 18 095
SHEET NUMBER C109

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

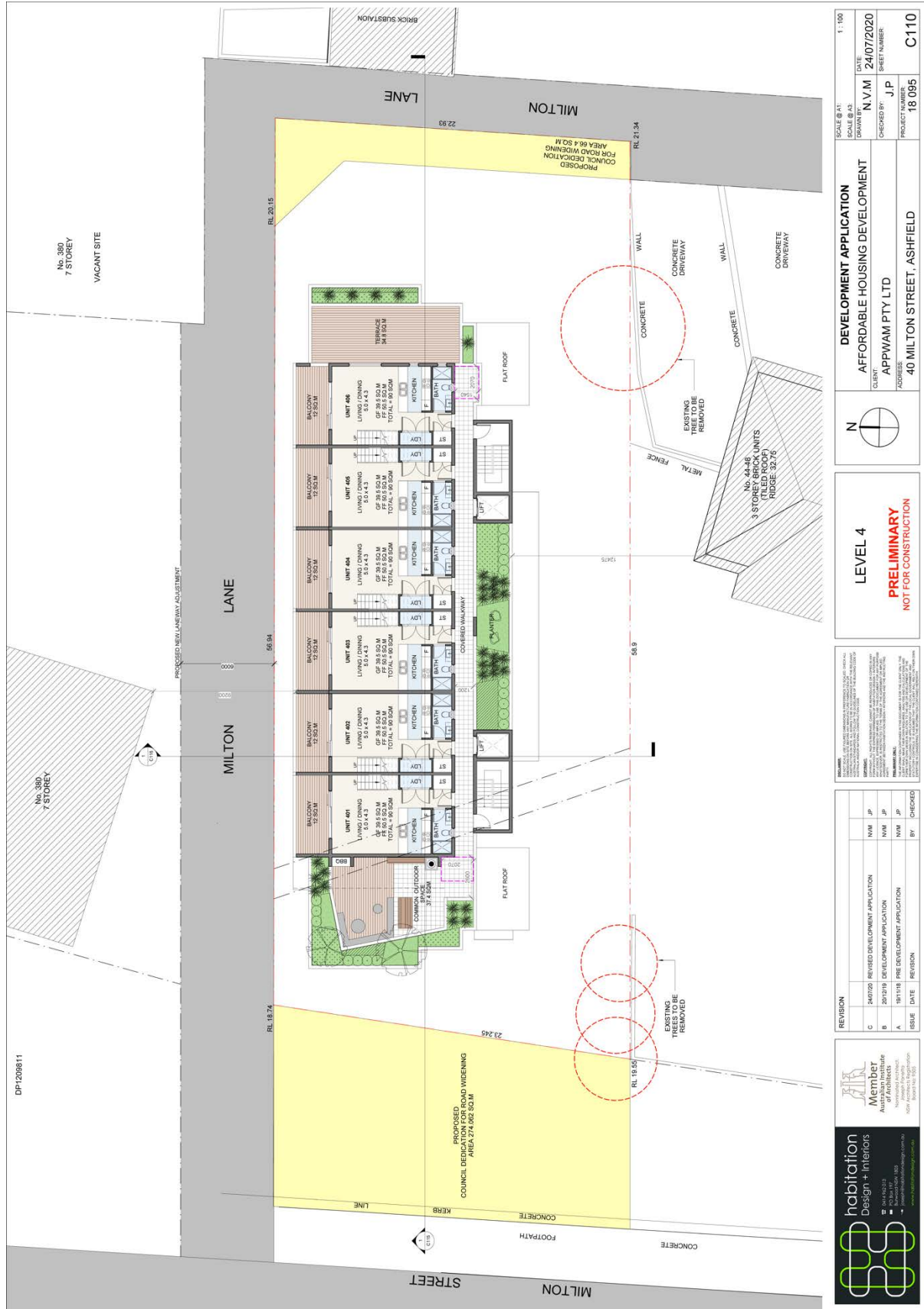
LEVEL 1, 2, 3
PRELIMINARY
NOT FOR CONSTRUCTION

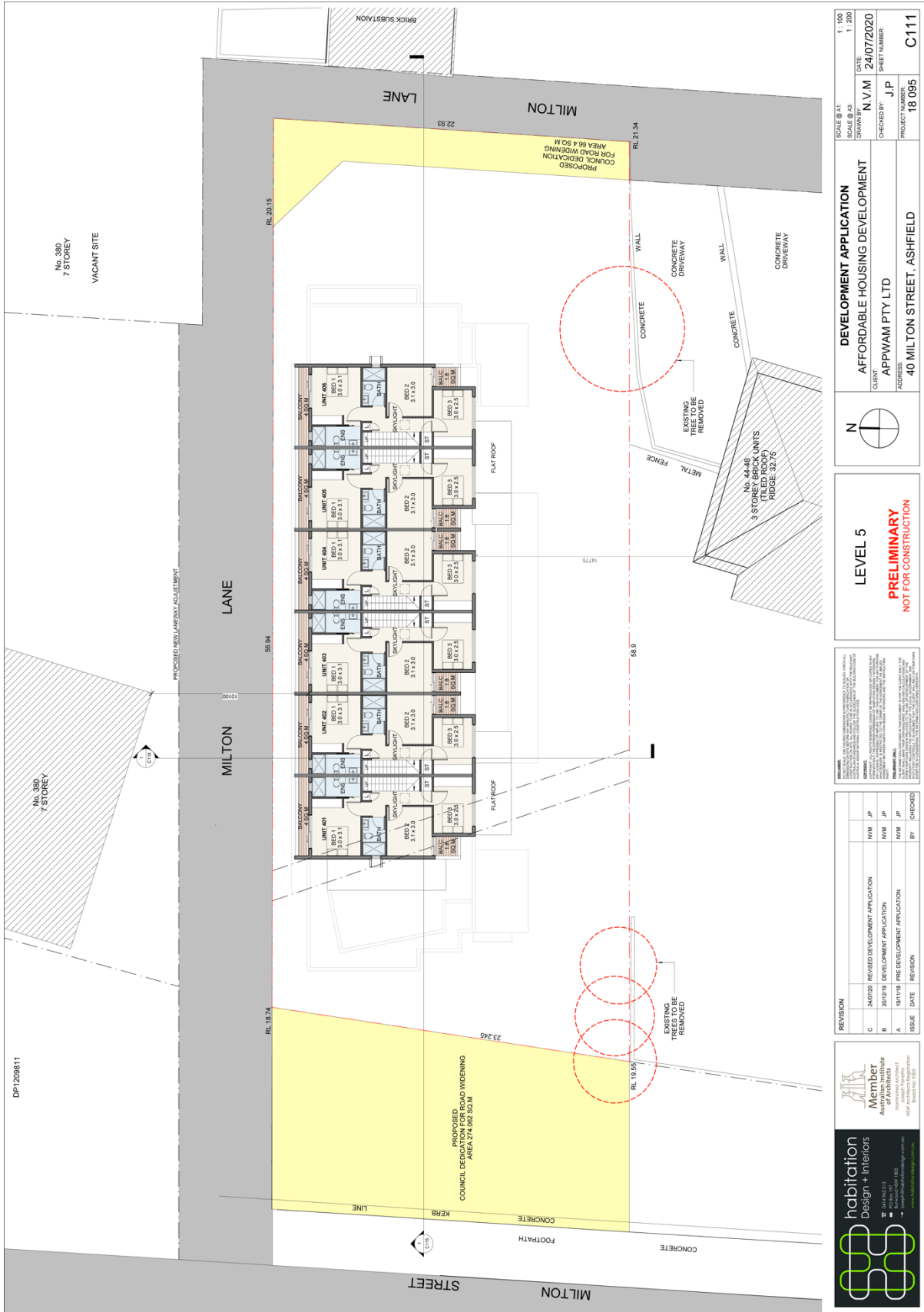
DISCLAIMER: This document is a preliminary development application and is not intended to be used for any other purpose. It is not a contract and does not constitute an offer. The information contained herein is for general information only and is not intended to be relied upon for any specific purpose. The applicant warrants that the information contained herein is true and correct to the best of their knowledge and belief. The applicant warrants that they are the owner of the land to which this application relates. The applicant warrants that they have the authority to enter into this application. The applicant warrants that they have obtained all necessary consents and approvals from the relevant authorities. The applicant warrants that they have provided all necessary information and documents to the relevant authorities. The applicant warrants that they have provided all necessary information and documents to the relevant authorities. The applicant warrants that they have provided all necessary information and documents to the relevant authorities.

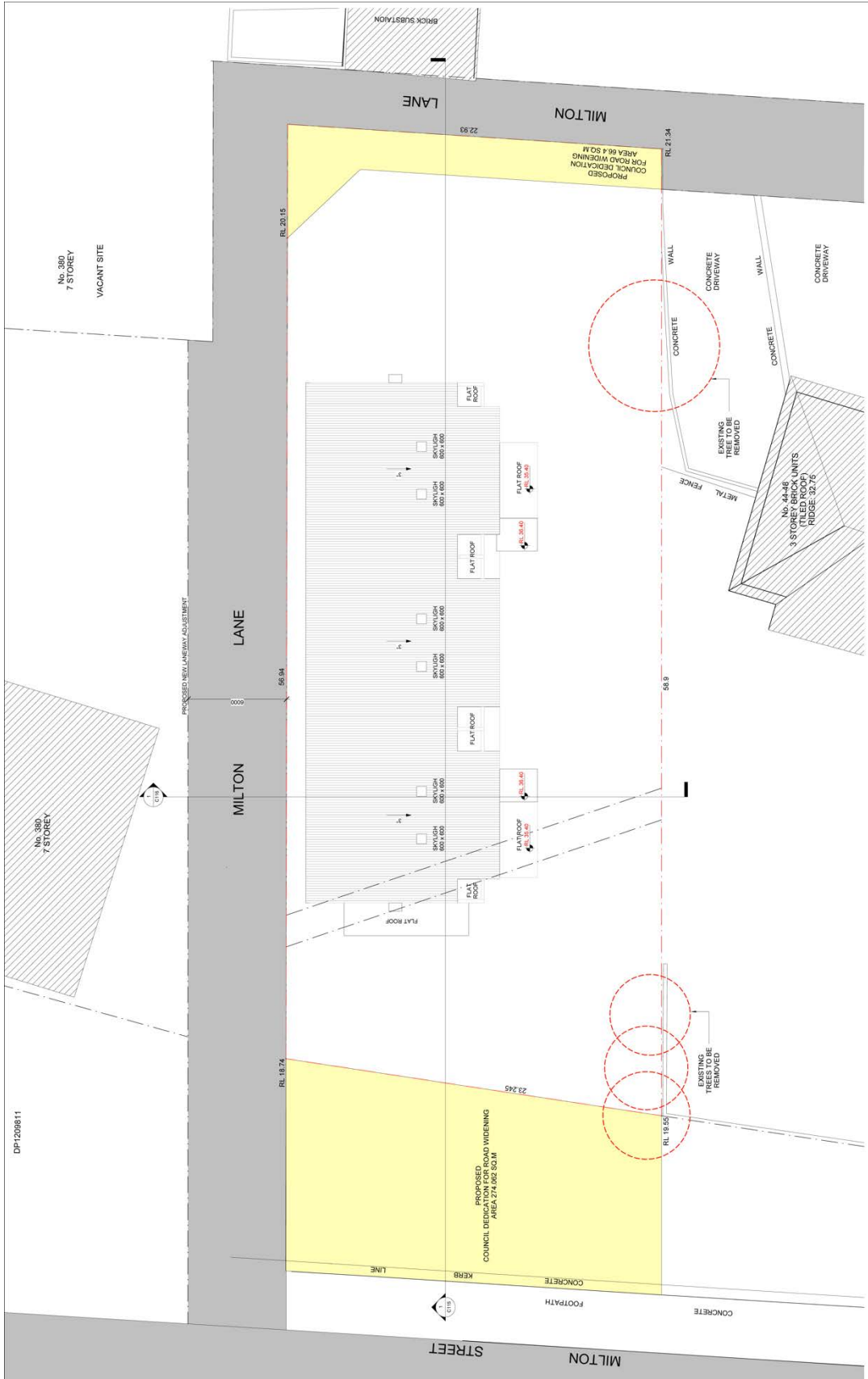
REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.V.M	J.P
B	20/12/19	DEVELOPMENT APPLICATION	N.V.M	J.P
A	19/11/19	PRE DEVELOPMENT APPLICATION	N.V.M	J.P

Member
ASSOCIATION
OF ARCHITECTS
10/11/19
10/11/19

habitation
Design + Interiors
10/11/19
10/11/19
www.habitationdesign.com.au







SCALE @ A1 1:200
 SCALE @ A2 1:100
 DRAWN BY N.V.M
 DATE 24/07/2020
 CHECKED BY J.P
 PROJECT NUMBER 18 095
 SHEET NUMBER C112

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

ROOF PLAN
PRELIMINARY
 NOT FOR CONSTRUCTION

NOTES:
 1. THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 3. REFER TO THE ARCHITECTURAL DRAWINGS FOR MATERIALS AND FINISHES.
 4. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
 5. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE LOCAL COUNCIL.
 6. THE DESIGNER ACCEPTS NO LIABILITY FOR ANY DAMAGE OR LOSS ARISING FROM THE USE OF THIS PLAN.
 7. THE CLIENT IS ADVISED THAT THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION.

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.V.M	J.P
B	20/12/19	DEVELOPMENT APPLICATION	N.V.M	J.P
A	19/11/19	PRE DEVELOPMENT APPLICATION	N.V.M	J.P

habitation
 Design + Interiors
 Member of the ASSOCIATION OF ARCHITECTS
 10/01/2019
 10/01/2019
 10/01/2019

habitation
 Design + Interiors
 10/01/2019
 10/01/2019
 10/01/2019



1 EAST ELEVATION
1:200



2 NORTH ELEVATION
1:200



10/11-12/13
201 Market Road
Bayswater VIC 3009
Australia
www.habitationdesign.com.au

Member
AUSTRALIAN
ASSOCIATION
OF ARCHITECTS

Member No: 18095
Accepted 16/05/2010

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.M. J.P.	
B	20/12/19	DEVELOPMENT APPLICATION	N.M. J.P.	
A	19/11/18	PRE DEVELOPMENT APPLICATION	N.M. J.P.	

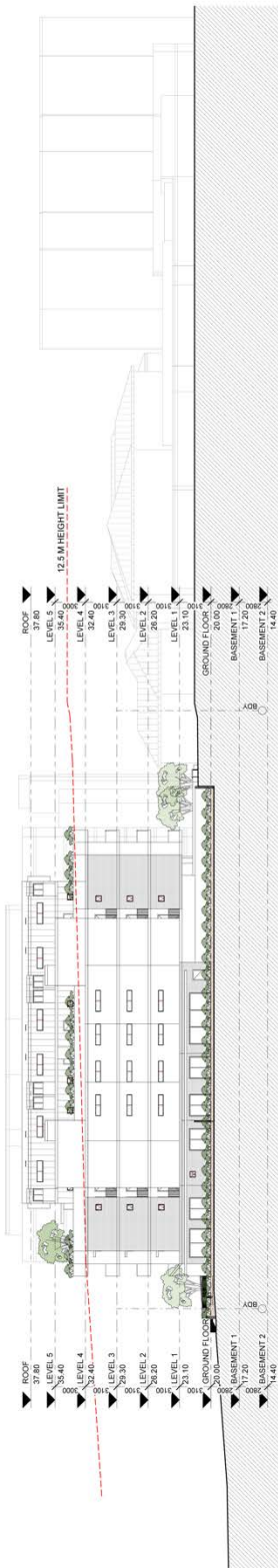
DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT

CLIENT:
APPWAM PTY LTD
40 MILTON STREET, ASHFIELD

SCALE @ A1: 1:200
SCALE @ A2: 1:400

DRAWN BY: N.V.M.
DATE: 24/07/2020

CHECKED BY: J.P.
PROJECT NUMBER: 18 095
SHEET NUMBER: C113



1 SOUTH ELEVATION
1:200



2 WEST ELEVATION
1:200



habitation
Design + Interiors

201-12-123
100-100-100
+ 100-100-100
www.habitation.com.au

Member
AUSTRALIAN
ASSOCIATION
OF ARCHITECTS

Member's Certificate
No. 10000000000000000000
Expires 31/03/2020

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.M. J.P.	
B	20/12/19	DEVELOPMENT APPLICATION	N.M. J.P.	
A	19/11/18	PRE DEVELOPMENT APPLICATION	N.M. J.P.	

ELEVATIONS
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT

CLIENT:
APPWAM PTY LTD

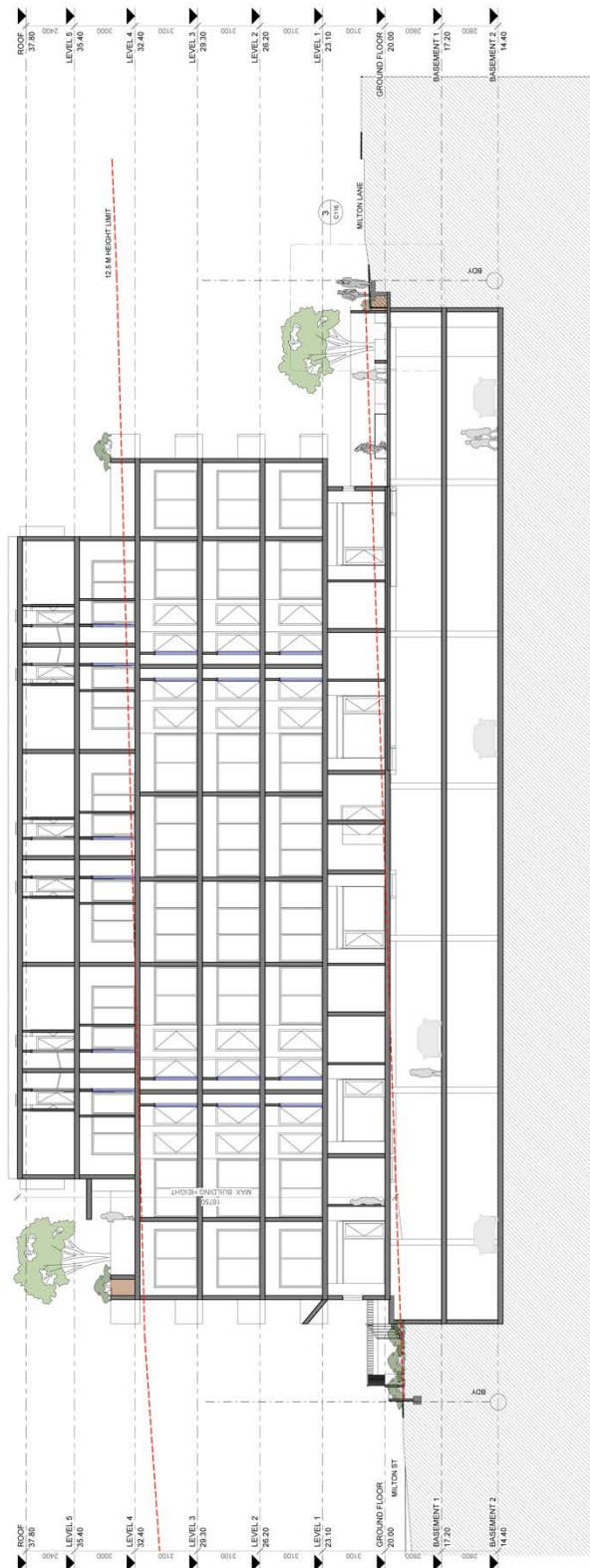
ADDRESS:
40 MILTON STREET, ASHFIELD

SCALE @ A1: 1:200
SCALE @ A2: 1:400

DRAWN BY: N.V.M.
DATE: 24/07/2020

CHECKED BY: J.P.
PROJECT NUMBER: 18 095

SHEET NUMBER: C114



SECTION 1
1:100

habitation
Design + Interiors

201-11-113
201-11-113
+ 201-11-113
www.habitation.com.au

Member
of the
Association
of Architects
of New South Wales
Since 1995

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/2020	REVISED DEVELOPMENT APPLICATION	NWM J.P	
B	20/12/19	DEVELOPMENT APPLICATION	NWM J.P	
A	19/11/18	PRE DEVELOPMENT APPLICATION	NWM J.P	

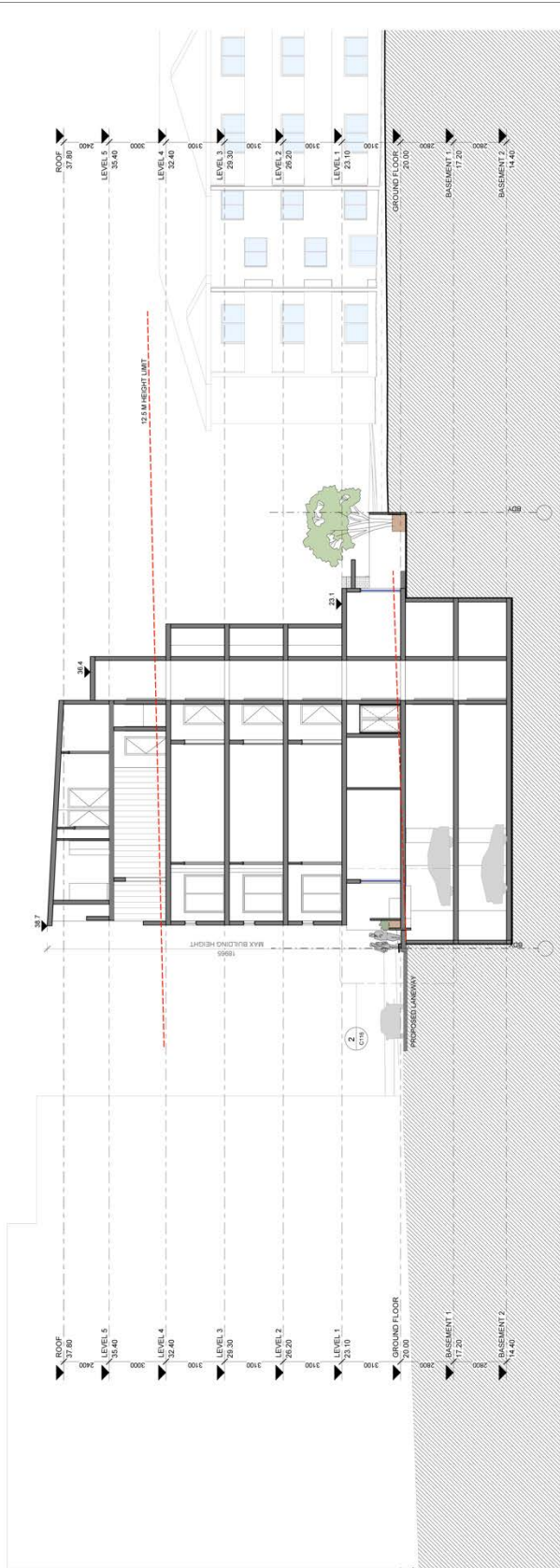
DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT

CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

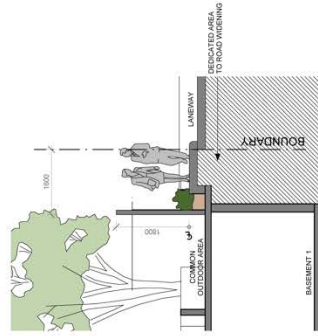
SCALE @ A1: 1:100
SCALE @ A2: 1:200

DRAWN BY: NWM
DATE: 24/07/2020

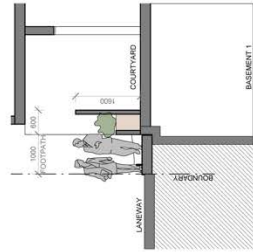
CHECKED BY: J.P
PROJECT NUMBER: 18 095
SHEET NUMBER: C115



1 SECTION 2
1:100



3 PATHWAY DETAIL 2
1:50



2 PATHWAY DETAIL 1
1:50

REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.M. J.P.	
B	20/12/19	DEVELOPMENT APPLICATION	N.M. J.P.	
A	19/11/19	PRE DEVELOPMENT APPLICATION	N.M. J.P.	

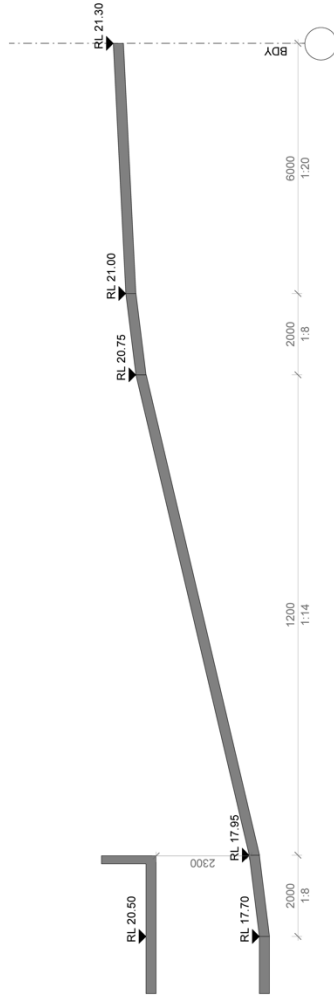
habitation
Design + Interiors
Member
AUSTRALIAN INSTITUTE OF ARCHITECTS
10/06/2019
Approved by IAPAS



SECTION
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1: As indicated
SCALE @ A2: As indicated
DRAWN BY: N.V.M.
DATE: 24/07/2020
CHECKED BY: J.P.
PROJECT NUMBER: 18 095
SHEET NUMBER: C116



○ DRIVEWAY DETAIL - SECTION
1:50

habitation
Design + Interiors
14/11-13
50 Lonsdale Street
Melbourne VIC 3000
www.habitationdesign.com.au

Member of Architects
Member of Engineers
Member of Planners
Member of Surveyors
Member of Quantity Surveyors
Member of Valuers
Member of Environmental Planners
Member of Urban Planners
Member of Landscape Architects
Member of Heritage Planners
Member of Urban Designers
Member of Urban Designers
Member of Urban Designers
Member of Urban Designers

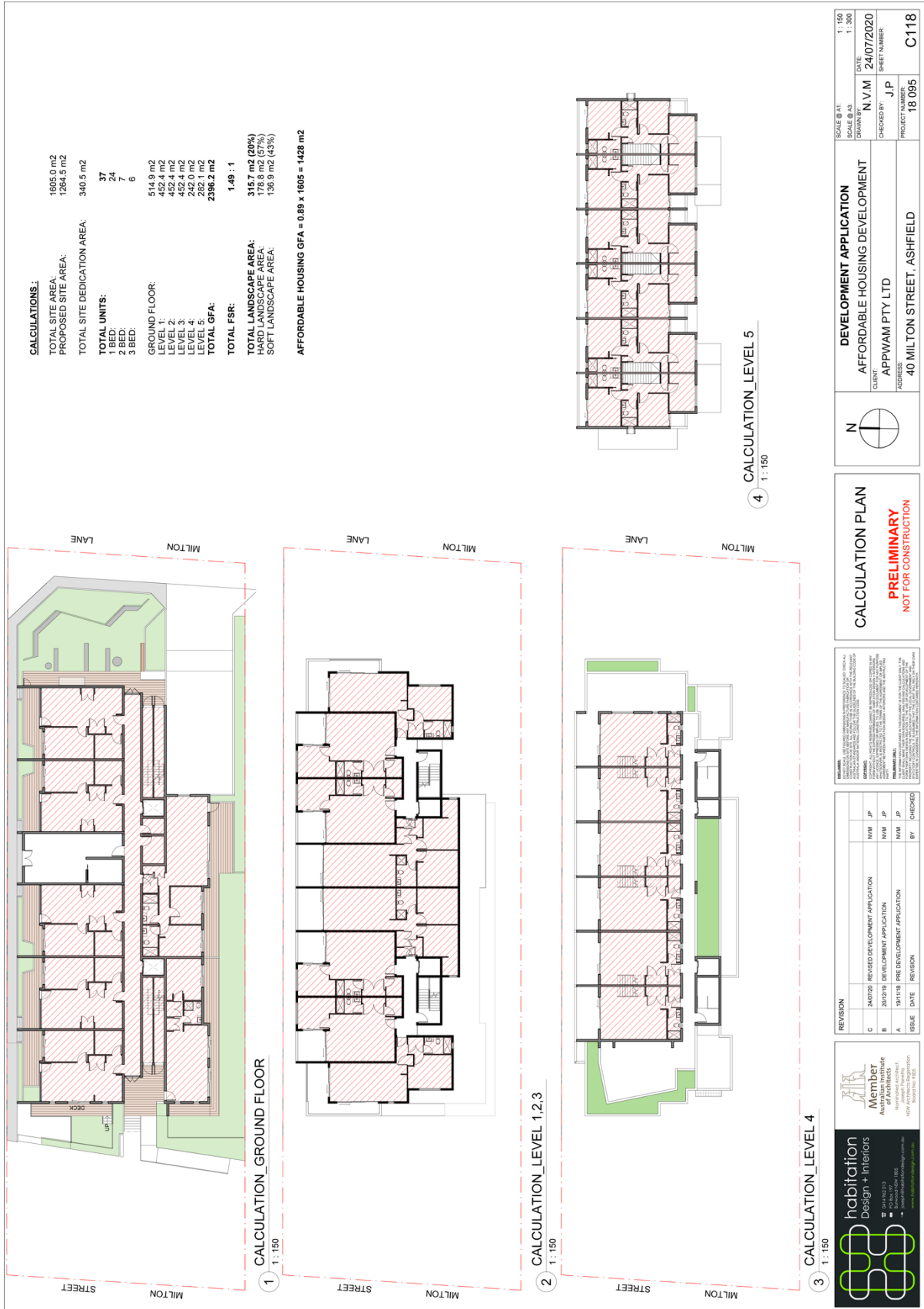
REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	NJM	JP
B	20/12/19	DEVELOPMENT APPLICATION	NJM	JP
A	19/11/18	PRE DEVELOPMENT APPLICATION	NJM	JP

DRIVEWAY DETAIL
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT

CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1: 1:50
SCALE @ A2: 1:100
DRAWN BY: NJM
DATE: 24/07/2020
CHECKED BY: JP
PROJECT NUMBER: 18 095
SHEET NUMBER: C117



UNIT	CROSS VENTILATION
UNIT 601	YES
UNIT 602	NO
UNIT 603	NO
UNIT 604	NO
UNIT 605	YES
UNIT 606	YES
UNIT 607	YES
UNIT 101	YES
UNIT 102	YES
UNIT 103	YES
UNIT 104	YES
UNIT 105	YES
UNIT 106	YES
UNIT 107	YES
UNIT 108	YES
UNIT 201	YES
UNIT 202	YES
UNIT 203	YES
UNIT 204	YES
UNIT 205	YES
UNIT 206	YES
UNIT 207	YES
UNIT 208	YES
UNIT 301	YES
UNIT 302	YES
UNIT 303	YES
UNIT 304	YES
UNIT 305	YES
UNIT 306	YES
UNIT 307	YES
UNIT 308	YES
UNIT 401	YES
UNIT 402	YES
UNIT 403	YES
UNIT 404	YES
UNIT 405	YES
UNIT 406	YES

TOTAL = 37 UNITS
 YES = 34 UNITS (92%)
 NO = 03 UNITS (8%)

HOPPER WINDOW DETAIL
 1:150

1 CROSS VENTILATION DIAGRAM - GF PLAN
 1:150

2 CROSS VENTILATION DIAGRAM - L1, L2, L3
 1:150

3 CROSS VENTILATION DIAGRAM - L4
 1:150

CROSS VENTILATION PLAN
PRELIMINARY
 NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1: As indicated
 SCALE @ A3: 1:300
 DRAWN BY: N.V.M. 24/07/2020
 CHECKED BY: J.P.
 PROJECT NUMBER: 18 095
 SHEET NUMBER: C119

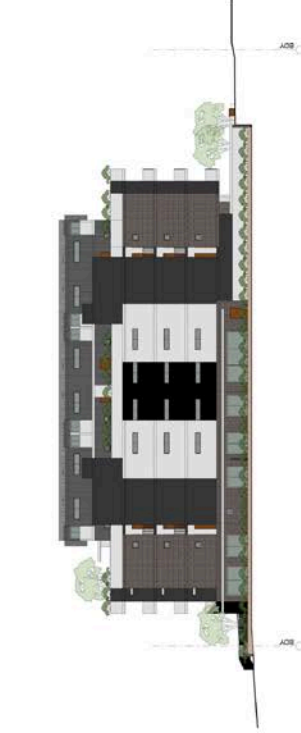
REVISION	DATE	REVISION	BY	CHECKED
C	24/07/20	REVISED DEVELOPMENT APPLICATION	N.V.M.	J.P.
B	20/12/18	DEVELOPMENT APPLICATION	N.V.M.	J.P.
A	19/11/18	PRE DEVELOPMENT APPLICATION	N.V.M.	J.P.



2 NORTH ELEVATION
1 : 200



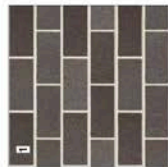
1 EAST ELEVATION
1 : 200



3 SOUTH ELEVATION
1 : 200



4 WEST ELEVATION
1 : 200



AREA: FEATURE WALLS
FINISH: FACE BRICK
DETAIL: AUSTRAL METALLIX
"BLACK STONE" OR SIMILAR



AREA: BASE WALLS
FINISH: MASONRY TO BE RENDERED
DETAIL: PAINTED "DULUX LEXICON"



AREA: BASE WALLS
FINISH: MASONRY TO BE RENDERED
DETAIL: COLORBOND "NIGHT SKY"



AREA: BASE WALLS
FINISH: MASONRY TO BE RENDERED
DETAIL: DULUX "DOMINO"



AREA: DOOR + WINDOW FRAMES + ROOF SHEETING + FEATURE CLADDING
FINISH: POWDERCOATED ALUMINIUM
DETAIL: COLORBOND "WOODLAND GREY" (MATT FINISH)
WIDE PAN METAL SHEETING



AREA: FACADE PANNELLING
FINISH: POWDERCOATED ALUMINIUM
DETAIL: CEDAR (ALUMINIUM CLADDING OR SIMILAR)



AREA: FACADE PANELS
FINISH: PRE CAST CONCRETE
DETAIL: (NATURAL FINISH WITH FILLET GROOVES)

habitation
Design + Interiors
10/11-13
100 Years Road
Bayswater VIC 3003
Phone: 03 9479 1313
www.habitationdesign.com.au

Member
Australian Institute of Architects
100 Years Road
Bayswater VIC 3003
Phone: 03 9479 1313
www.habitationdesign.com.au

REVISION	DATE	ISSUE	REVISION	BY	CHECKED
C	28/07/20	REVISED DEVELOPMENT APPLICATION		NMU JP	
B	28/07/20	DEVELOPMENT APPLICATION		NMU JP	
A	28/07/20	PRE DEVELOPMENT APPLICATION		NMU JP	

NOTES:
1. ALL FINISHES TO BE SUPPLIED BY THE CONTRACTOR.
2. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
3. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
4. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
5. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
6. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
7. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
8. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
9. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.
10. ALL FINISHES TO BE MATCHED TO THE SAMPLES PROVIDED.

MATERIALS AND FINISHES
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1: 1:200
SCALE @ A3: 1:400
DRAWN BY: N.V.M
DATE: 24/07/2020
CHECKED BY: J.P
PROJECT NUMBER: 18 095
SHEET NUMBER: C121



SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS
 ■ COMPLIANT HEIGHT SHADOW

1 SHADOW DIAGRAM JUNE 21ST 9 AM
 1:250

habitation
 Design + Interiors
 11/11/13
 11/11/13
 11/11/13

Member
 of the
 Institution of
 Engineers
 Australia
 (I.E.A.)

REVISION	DATE	BY	CHECKED
A	2019/06/21	NM	JP
B	2019/06/21	NM	JP

NOTES:
 1. THIS SHADOW DIAGRAM IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION.
 2. THE SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AND A SUN AZIMUTH OF 100 DEGREES.
 3. THE SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AND A SUN AZIMUTH OF 100 DEGREES.
 4. THE SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AND A SUN AZIMUTH OF 100 DEGREES.

WINTER SHADOW DIAGRAM
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1
 SCALE @ A3
 DRAWN BY: NVM
 DATE: 2012/2019
 CHECKED BY: J.P.
 PROJECT NUMBER: 18 095
 SHEET NUMBER: B121



SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS
 - - - COMPLIANT HEIGHT SHADOW

1 SHADOW DIAGRAM JUNE 21ST 10 AM
 1:250

habitation
 Design + Interiors
 11/11/2013
 11/11/2013
 11/11/2013

Member of Architects
 Member of Architects
 11/11/2013
 11/11/2013

REVISION	DATE	BY	CHECKED
A	2019/06/21	NMM	JP
B	2019/06/21	NMM	JP

NOTES:
 1. THIS SHADOW DIAGRAM IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION.
 2. THE SHADOWS ARE BASED ON A SUN ALTITUDE OF 30 DEGREES.
 3. THE SHADOWS ARE BASED ON A SUN AZIMUTH OF 120 DEGREES.
 4. THE SHADOWS ARE BASED ON A SUN ALTITUDE OF 30 DEGREES.
 5. THE SHADOWS ARE BASED ON A SUN AZIMUTH OF 120 DEGREES.

WINTER SHADOW DIAGRAM
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1
 SCALE @ A3
 DATE: 2012/2019
 DRAWN BY: J.P.
 CHECKED BY: J.P.
 PROJECT NUMBER: 18 095
 SHEET NUMBER: B122



SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS
 □ COMPLIANT HEIGHT SHADOW

1 SHADOW DIAGRAM JUNE 21ST 11 AM
 1:250

<p>habitation Design + Interiors 10/11-13 10/11-13 10/11-13 10/11-13</p>		<p>Member of Architects 10/11-13 10/11-13 10/11-13</p>		<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO</th> <th>DATE</th> <th>REVISION</th> <th>ISSUED BY</th> <th>CHECKED BY</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>20/11/18</td> <td>PRE DEVELOPMENT APPLICATION</td> <td>NM/JP</td> <td></td> </tr> <tr> <td>B</td> <td>20/12/19</td> <td>DEVELOPMENT APPLICATION</td> <td>NM/JP</td> <td></td> </tr> </tbody> </table>		NO	DATE	REVISION	ISSUED BY	CHECKED BY	A	20/11/18	PRE DEVELOPMENT APPLICATION	NM/JP		B	20/12/19	DEVELOPMENT APPLICATION	NM/JP	
NO	DATE	REVISION	ISSUED BY	CHECKED BY																
A	20/11/18	PRE DEVELOPMENT APPLICATION	NM/JP																	
B	20/12/19	DEVELOPMENT APPLICATION	NM/JP																	
<p>WINTER SHADOW DIAGRAM PRELIMINARY NOT FOR CONSTRUCTION</p>		<p>DEVELOPMENT APPLICATION AFFORDABLE HOUSING DEVELOPMENT CLIENT: APPWAM PTY LTD ADDRESS: 40 MILTON STREET, ASHFIELD</p>		<p>SCALE @ A1: 1:250 SCALE @ A3: 1:500 DATE: N.V.M. 20/12/2019 SHEET NUMBER: J.P. PROJECT NUMBER: 18 095 B123</p>																



SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS
 □ COMPLIANT HEIGHT SHADOW

1 SHADOW DIAGRAM JUNE 21ST 1 PM
 1:250

<p>habitation Design + Interiors 12/11/2013 12/11/2013 12/11/2013</p>		<p>Member of Architects 12/11/2013 12/11/2013 12/11/2013</p>																
<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO</th> <th>DATE</th> <th>REVISION</th> <th>BY</th> <th>CHECKED</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>2019/06</td> <td>PRE DEVELOPMENT APPLICATION</td> <td>NM/JP</td> <td></td> </tr> <tr> <td>B</td> <td>2019/06</td> <td>DEVELOPMENT APPLICATION</td> <td>NM/JP</td> <td></td> </tr> </tbody> </table>		NO	DATE	REVISION	BY	CHECKED	A	2019/06	PRE DEVELOPMENT APPLICATION	NM/JP		B	2019/06	DEVELOPMENT APPLICATION	NM/JP		<p>WINTER SHADOW DIAGRAM PRELIMINARY NOT FOR CONSTRUCTION</p>	
NO	DATE	REVISION	BY	CHECKED														
A	2019/06	PRE DEVELOPMENT APPLICATION	NM/JP															
B	2019/06	DEVELOPMENT APPLICATION	NM/JP															
<p>DEVELOPMENT APPLICATION AFFORDABLE HOUSING DEVELOPMENT CLIENT: APPWAM PTY LTD ADDRESS: 40 MILTON STREET, ASHFIELD</p>		<p>SCALE @ A1: 1:250 SCALE @ A3: 1:500 DATE: 2019/06/20 DRAWN BY: J.P. CHECKED BY: J.P. PROJECT NUMBER: 18 095 SHEET NUMBER: B125</p>																



SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS
 □ COMPLIANT HEIGHT SHADOW

1 SHADOW DIAGRAM JUNE 21ST 2 PM
 1 : 250

habitation
 Design + Interiors
 11/11/15
 15/15/15
 15/15/15

Member of Architects
 15/15/15
 15/15/15

REVISION	DATE	BY	CHECKED
A	15/11/18	PRE DEVELOPMENT APPLICATION	
B	20/04/19	DEVELOPMENT APPLICATION	

WINTER SHADOW DIAGRAM
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1: 1 : 250
 SCALE @ A3: 1 : 500
 DATE: 20/12/2019
 DRAWN BY: J.P.
 CHECKED BY: J.P.
 PROJECT NUMBER: 18 095
 SHEET NUMBER: B126



SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS
 ■ COMPLIANT HEIGHT SHADOW

1 SHADOW DIAGRAM JUNE 21ST 3 PM
 1:250

<p>habitation Design + Interiors 12/11/2013 12/11/2013 12/11/2013</p>		<p>Member of Architects 12/11/2013 12/11/2013 12/11/2013</p>		<p>REVISION</p> <table border="1"> <tr> <th>NO</th> <th>DATE</th> <th>REVISION</th> <th>BY</th> <th>CHECKED</th> </tr> <tr> <td>A</td> <td>20/11/18</td> <td>PRE DEVELOPMENT APPLICATION</td> <td>NM/JP</td> <td></td> </tr> <tr> <td>B</td> <td>20/11/18</td> <td>DEVELOPMENT APPLICATION</td> <td>NM/JP</td> <td></td> </tr> </table>		NO	DATE	REVISION	BY	CHECKED	A	20/11/18	PRE DEVELOPMENT APPLICATION	NM/JP		B	20/11/18	DEVELOPMENT APPLICATION	NM/JP	
NO	DATE	REVISION	BY	CHECKED																
A	20/11/18	PRE DEVELOPMENT APPLICATION	NM/JP																	
B	20/11/18	DEVELOPMENT APPLICATION	NM/JP																	
<p>NOTES:</p> <p>1. THIS SHADOW DIAGRAM IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION. IT IS SUBJECT TO CHANGE WITHOUT NOTICE.</p> <p>2. THE SHADOWS ARE BASED ON A WINTER SOLAR POSITION (JUNE 21ST 3 PM) AND DO NOT TAKE INTO ACCOUNT WEATHER CONDITIONS OR OBSTRUCTIONS.</p> <p>3. THE SHADOWS ARE BASED ON A WINTER SOLAR POSITION (JUNE 21ST 3 PM) AND DO NOT TAKE INTO ACCOUNT WEATHER CONDITIONS OR OBSTRUCTIONS.</p>		<p>WINTER SHADOW DIAGRAM PRELIMINARY NOT FOR CONSTRUCTION</p>		<p>DEVELOPMENT APPLICATION AFFORDABLE HOUSING DEVELOPMENT CLIENT: APPWAM PTY LTD ADDRESS: 40 MILTON STREET, ASHFIELD</p>																
<p>SCALE @ A1 1:250 SCALE @ A3 1:500</p>		<p>DATE: N.V.M. 20/12/2019 SHEET NUMBER: J.P. PROJECT NUMBER: 18 095 B127</p>		<p>DATE: N.V.M. 20/12/2019 SHEET NUMBER: J.P. PROJECT NUMBER: 18 095 B127</p>																



1 NORTH SHADOW ELEVATION_21ST JUNE 9 AM
44-48 MILTON STREET



2 NORTH SHADOW ELEVATION_21ST JUNE 10 AM
44-48 MILTON STREET



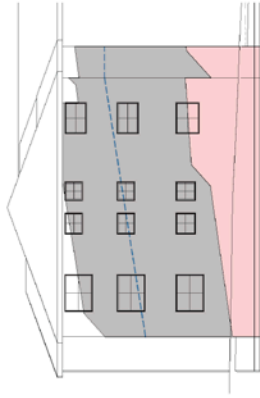
3 NORTH SHADOW ELEVATION_21ST JUNE 11 AM
44-48 MILTON STREET



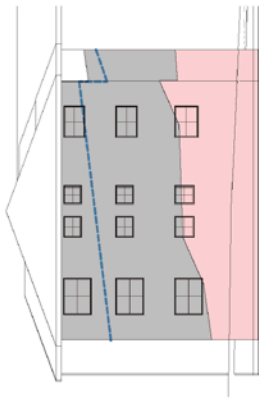
4 NORTH SHADOW ELEVATION_21ST JUNE 12 NOON
44-48 MILTON STREET



5 NORTH SHADOW ELEVATION_21ST JUNE 1 PM
44-48 MILTON STREET



6 NORTH SHADOW ELEVATION_21ST JUNE 2 PM
44-48 MILTON STREET



7 NORTH SHADOW ELEVATION_21ST JUNE 3 PM

SHADOW LEGEND:
 [Grey Box] PROPOSED BUILDING
 [Red Box] EXISTING BUILDING (PROPOSED SITE)
 [Light Blue Box] EXISTING NEIGHBOURS BUILDINGS
 [Blue Dashed Line] COMPLIANT HEIGHT SHADOW

SCALE @ A1 SCALE @ A2 DRAWN BY DATE CHECKED BY PROJECT NUMBER		1:100 1:200 N.V.M. 20/12/2019 J.P. 18 095
DEVELOPMENT APPLICATION AFFORDABLE HOUSING DEVELOPMENT CLIENT APPWAM PTY LTD ADDRESS 40 MILTON STREET, ASHFIELD		SHEET NUMBER B128

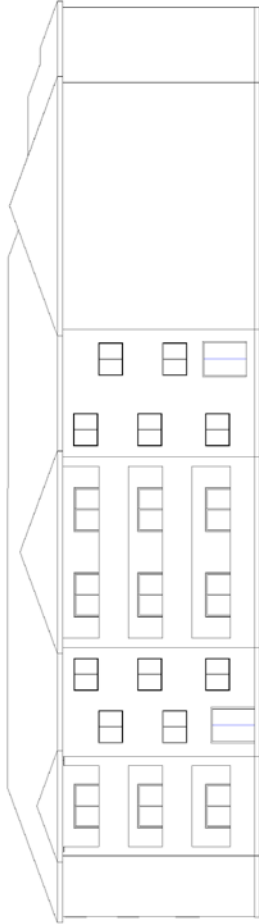
WINTER SHADOW ELEVATIONS
PRELIMINARY
 NOT FOR CONSTRUCTION

NOTES:
 1. SHADOWS ARE CAST FROM THE SUN AT THE SPECIFIED TIME AND DATE.
 2. SHADOWS ARE CAST FROM THE TOP OF THE BUILDING.
 3. SHADOWS ARE CAST FROM THE TOP OF THE ROOF.
 4. SHADOWS ARE CAST FROM THE TOP OF THE WALLS.
 5. SHADOWS ARE CAST FROM THE TOP OF THE WINDOWS.
 6. SHADOWS ARE CAST FROM THE TOP OF THE DOORS.
 7. SHADOWS ARE CAST FROM THE TOP OF THE TERRACES.
 8. SHADOWS ARE CAST FROM THE TOP OF THE BALCONIES.
 9. SHADOWS ARE CAST FROM THE TOP OF THE PORCHES.
 10. SHADOWS ARE CAST FROM THE TOP OF THE STAIRS.
 11. SHADOWS ARE CAST FROM THE TOP OF THE LIFTS.
 12. SHADOWS ARE CAST FROM THE TOP OF THE CORES.
 13. SHADOWS ARE CAST FROM THE TOP OF THE CORES.
 14. SHADOWS ARE CAST FROM THE TOP OF THE CORES.
 15. SHADOWS ARE CAST FROM THE TOP OF THE CORES.

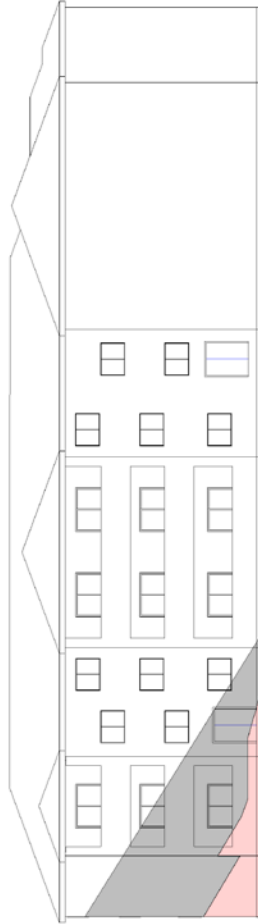
REVISION	DATE	BY	CHECKED
A	20/12/19	N.M.	J.P.
B	20/12/19	N.M.	J.P.

habitation
 Design + Interiors
 Member of Architects
 400 Ashfield Road
 Ashfield NSW 1585

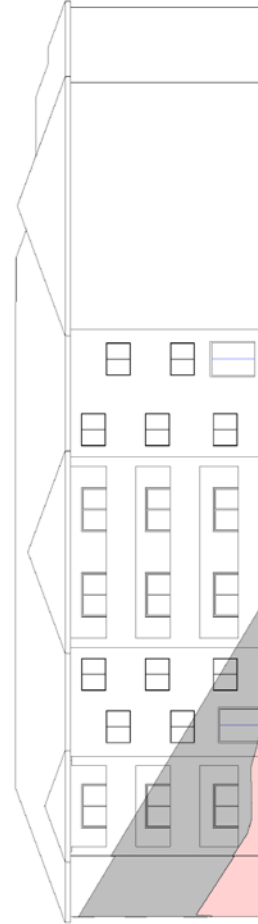




1 WEST SHADOW ELEVATION_21ST JUNE 10 AM



2 WEST SHADOW ELEVATION_21ST JUNE 11 AM



3 WEST SHADOW ELEVATION_21ST JUNE 12 NOON

SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS



habitation
Design + Interiors
CREATED BY
habitation Design + Interiors
www.habitationdesign.com.au

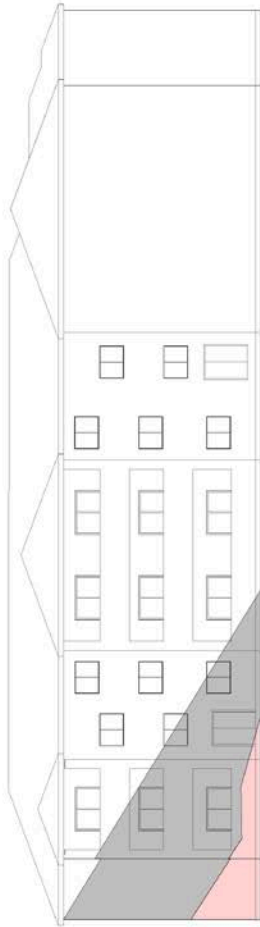
Member
 Australian Institute of Architects
 400 Adelaide Street
 Brisbane QLD 4000
 From 1916, 1926

REVISION	DATE	BY	CHECKED
A	20/11/18	PRE DEVELOPMENT APPLICATION	
B	20/12/19	DEVELOPMENT APPLICATION	
		TMU JP	
		TMU JP	

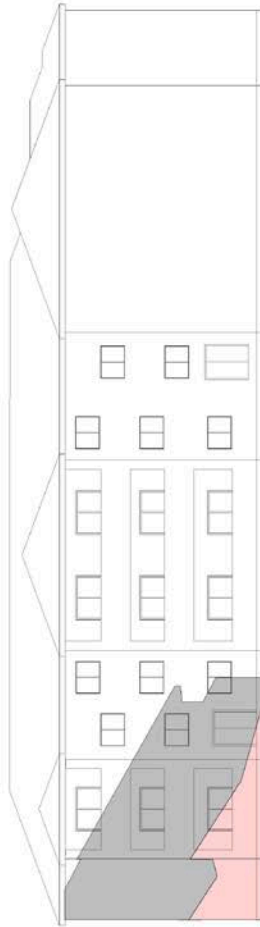
WINTER SHADOW ELEVATIONS
PRELIMINARY
 NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
 AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

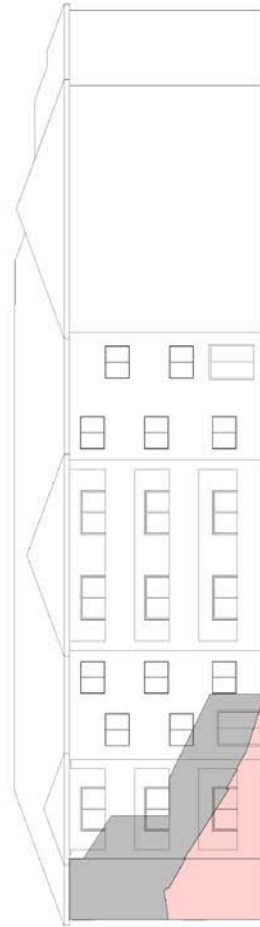
SCALE @ A1: 1:100
 SCALE @ A2: 1:200
 DRAWN BY: N.V.M. 20/12/2019
 CHECKED BY: J.P.
 PROJECT NUMBER: 18 095
 SHEET NUMBER: B125



1 WEST SHADOW ELEVATION_21ST JUNE 1 PM



2 WEST SHADOW ELEVATION_21ST JUNE 2 PM



3 WEST SHADOW ELEVATION_21ST JUNE 3 PM

SHADOW LEGEND:
 ■ PROPOSED BUILDING
 ■ EXISTING BUILDING (PROPOSED SITE)
 ■ EXISTING NEIGHBOURS BUILDINGS



habitation
Design + Interiors
11/11/11
11/11/11
11/11/11



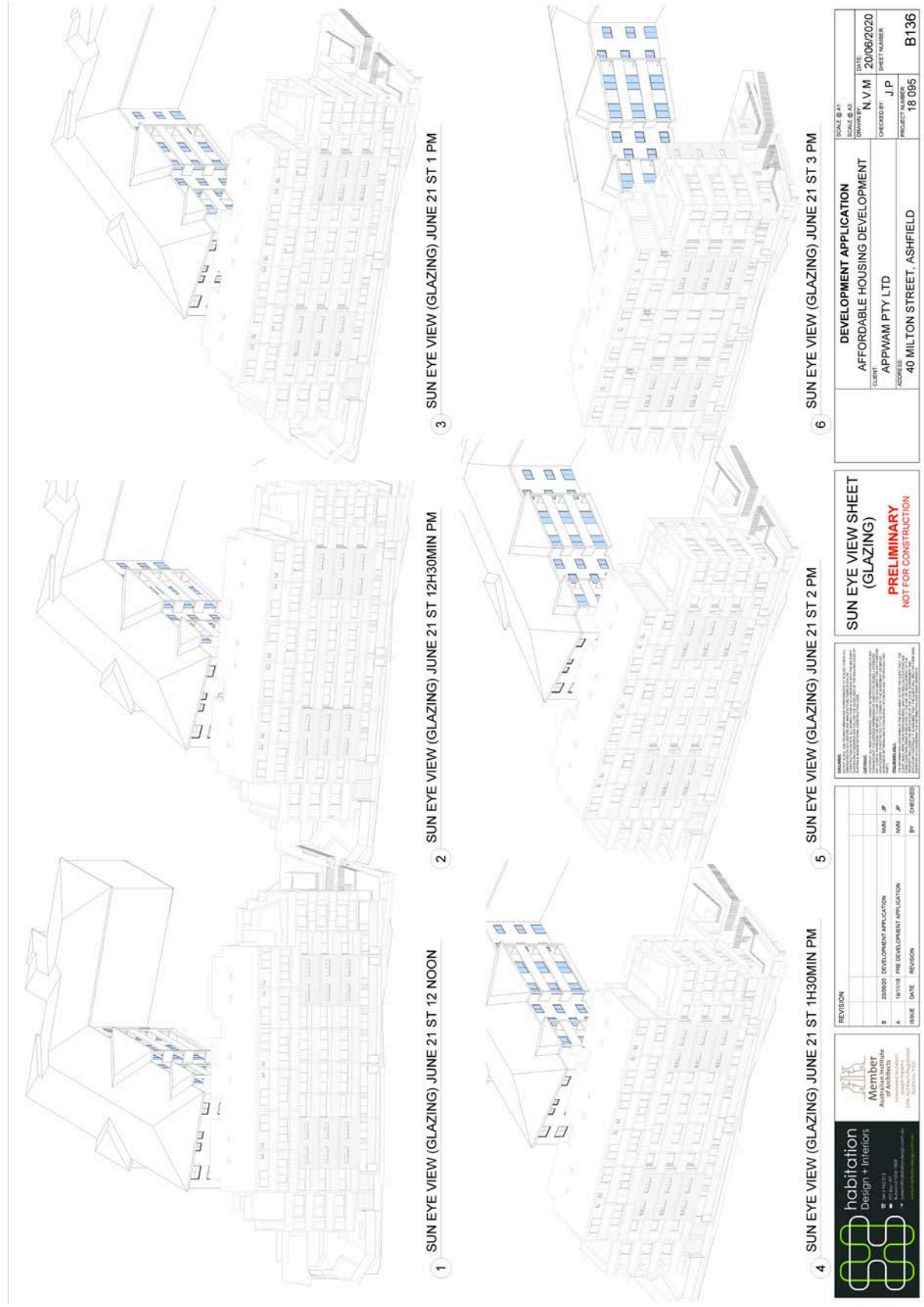
Member
of Architects
11/11/11
11/11/11
11/11/11

REVISION	ISSUE	DATE	REVISION	BY	CHECKED
A	PRELIMINARY DEVELOPMENT APPLICATION			NM/JP	
B	DEVELOPMENT APPLICATION			NM/JP	

WINTER SHADOW ELEVATIONS
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
 CLIENT: APPWAM PTY LTD
 ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1: 1:100
 SCALE @ A3: 1:200
 DRAWN BY: N.V.M. 20/12/2019
 CHECKED BY: J.P.
 PROJECT NUMBER: 18 095
 SHEET NUMBER: B126



3 SUN EYE VIEW (GLAZING) JUNE 21 ST 1 PM

2 SUN EYE VIEW (GLAZING) JUNE 21 ST 12H30MIN PM

1 SUN EYE VIEW (GLAZING) JUNE 21 ST 12 NOON

6 SUN EYE VIEW (GLAZING) JUNE 21 ST 3 PM

5 SUN EYE VIEW (GLAZING) JUNE 21 ST 2 PM

4 SUN EYE VIEW (GLAZING) JUNE 21 ST 1H30MIN PM



habitation
Design + Interiors
10/11-13/15
CANTONMENT ROAD
MILTON, QLD 4060
www.habitation.com.au



Member
of Architects
of Queensland
10/11-13/15
CANTONMENT ROAD
MILTON, QLD 4060

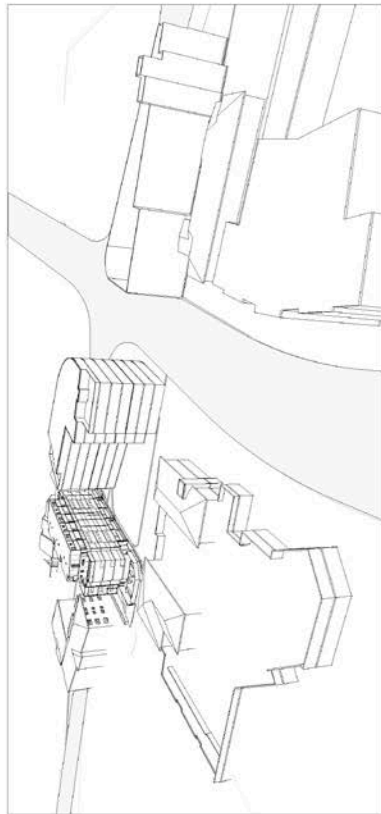
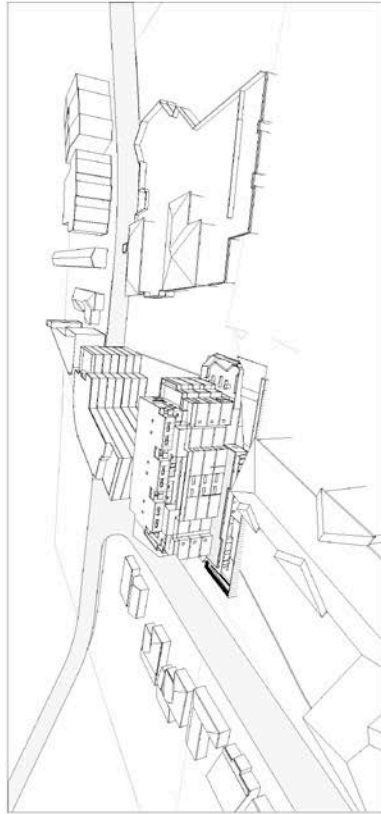
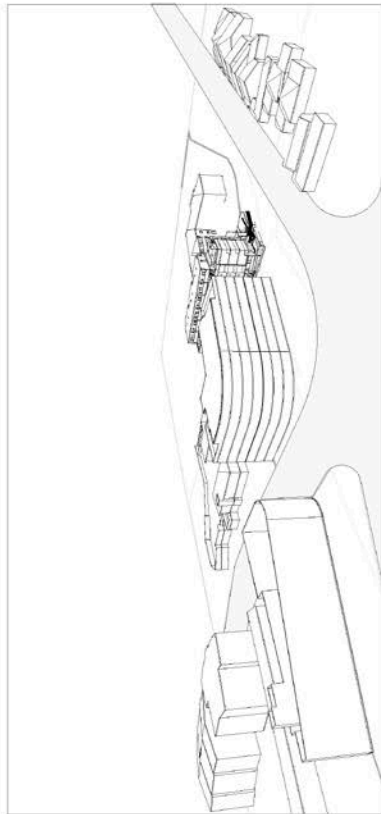
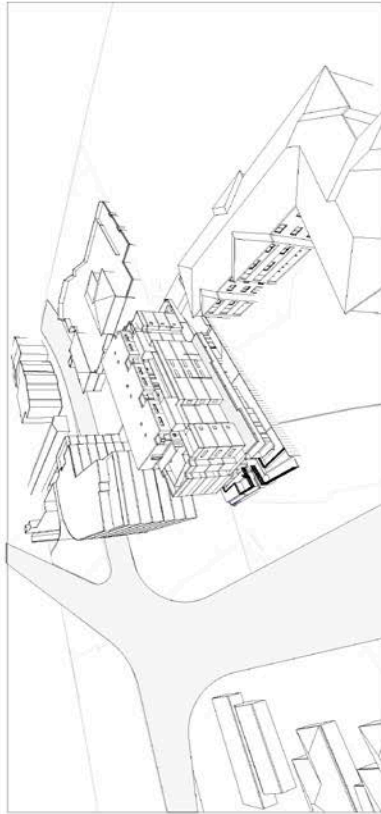
REVISION	ISSUE DATE	BY	CHECKED
B	20/06/2020	NVM	J.P
A	18/09/2019	NVM	J.P

**SUN EYE VIEW SHEET
(GLAZING)**
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT

CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE: @ 1:1
DRAWN: NVM
DATE: 20/06/2020
CHECKED BY: J.P
PROJECT NUMBER: 18 095
SHEET NUMBER: B136





habitation
Design + Interiors
11/11/2013
11/11/2013
11/11/2013

Member of Architects
11/11/2013
11/11/2013
11/11/2013

REVISION	DATE	BY	CHECKED
B	20/12/2019	NVM	JP
A	18/09/2019	NVM	JP

3D PERSPECTIVE
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

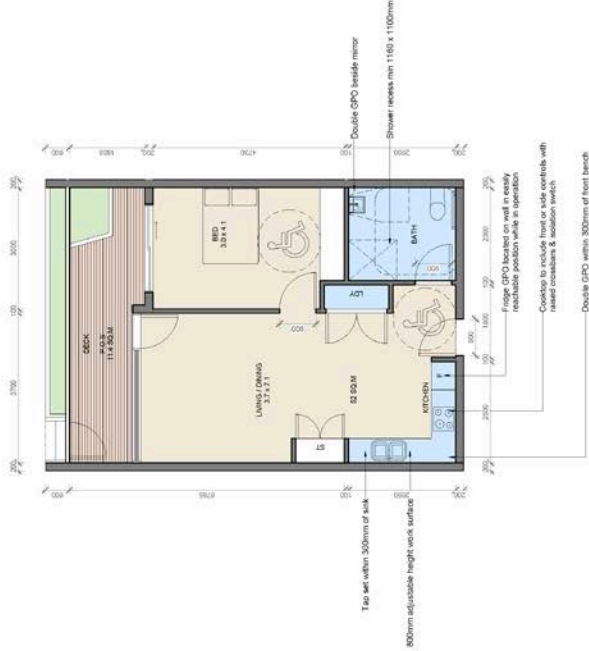
SCALE @ A1	1:50
DATE	20/12/2019
PROJECT NUMBER	18 095
SHEET NUMBER	B134

ADAPTABLE UNIT:

- ENTRY DOOR IS TO BE PROVIDED WITH A CLEAR DOOR OPENING WIDTH OF A MINIMUM 800mm.
- BATHROOM IS TO HAVE INTERNAL DIMENSIONS THAT ARE SUFFICIENT FOR FUTURE ADAPTATION TO AN ACCESSIBLE BATHROOM.
- A TOILET WITHIN THE UNIT IS TO BE PROVIDED AS VISITABLE.
- IF ANTILAND BENCH PROVIDED TO THE KITCHEN, A MINIMUM 1000mm IS TO BE PROVIDED BETWEEN BENCHES.
- VISITABLE TOILET.
- BEDROOM AND LAUNDRY ARE TO BE CAPABLE OF ADAPTATION (ie IF BEDROOM IS TO BE ENLARGED TO SUIT FUTURE CONFIGURATION, WALLS MUST BE NON-LOAD BEARING).



1 PRE ADAPTATION PLAN
1:50



2 POST ADAPTATION PLAN
1:50



Member of the Australian Institute of Architects
100 Years of Excellence
1917-2017

REVISION	DATE	BY	CHECKED
A	2017/10/10	NMM	JP
B	2017/10/10	NMM	JP

ADAPTABLE UNIT
PRELIMINARY
NOT FOR CONSTRUCTION



DEVELOPMENT APPLICATION
AFFORDABLE HOUSING DEVELOPMENT
CLIENT: APPWAM PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE @ A1: As indicated
SCALE @ A2: 1:200
DATE: 2017/10/10
DRAWN BY: NMM
CHECKED BY: JP
PROJECT NUMBER: 18 095
SHEET NUMBER: B135











Attachment C- Clause 4.6 Exception to Development Standards – Height

Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing



Appendix A:

CLAUSE 4.6 REQUEST FOR VARIATION TO

CLAUSE 4.3 (2) (HEIGHT OF BUILDING) OF ASHFIELD

LOCAL ENVIRONMENTAL PLAN 2013 (ALEP)

40 MILTON STREET

ASHFIELD

Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

1.0 Introduction

- This is a request to vary a development standard pursuant to the provisions of Clause 4.6 of Ashfield Local Environmental Plan 2013 (ALEP 2013), the relevant clause being Clause 4.3(2) (Height of Building).
- The relevant maximum height of building control is 12.5m.
- The relevant Height of Building control is a *development standard* for the purposes of the *EP & A Act 1979*.
- This request to vary the height development standard considers the judgment in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (“Initial Action”).
- The relevant case law confirms that the consent authority not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather that it “*only indirectly form the opinion of satisfaction that the applicant’s written request has adequately addressed*”.
- The objectives of Clause 4.6 1(a) is to provide an appropriate degree of flexibility in applying certain development standards to particular development. The intent is to achieve better outcomes for and from development by allowing flexibility in particular circumstances in accordance with Clause 4.6 1(b).
- The relevant plans relied upon are those identified as the plans prepared by Habitation Design + Interiors Architecture. An Urban Design Report, prepared by Smith & Tzannes, is relied upon in relation to the locational context and role of the site as transitional site. The site contributes to the vehicles access solution in Milton Lane by allowing two way access.

2.0 Development Standard to be Varied – Height

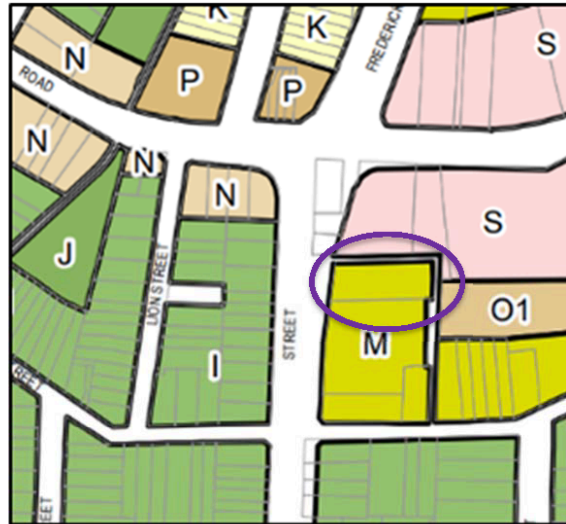
The relevant *development standard* to be varied is the 12.5m height control under Clause 4.3(2). Clause 4.3 of ALEP relevantly provides:

4.3 Height of buildings

- (1) *The objectives of this clause are as follows—*
- (a) *to achieve high quality built form for all buildings,*
 - (b) *to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes,*
 - (c) *to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,*
 - (d) *to maintain satisfactory solar access to existing buildings and public areas.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*
- (2A) *If a building is located on land in Zone B4 Mixed Use, any part of the building that is within 3 metres of the height limit set by subclause (2) must not include any area that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area.*
- (2B) *Subclause (2A) does not apply to development on land identified as “Area 3” on the [Key Sites Map](#) if the consent authority is satisfied that the development achieves the objectives of this clause.*

The relevant height of buildings map is identified below:

Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing



Map 1- Height Map ALEP
 The subject site is mapped "M" – 12.5m (max)

3.0 Nature of Variation Sought

The requested variation is as follows:

Height of the upper roof is 6.97m above the 12.5m height control at a maximum (see plan B116)

The following sections of the proposed building show the 12.5m height limit prescribed under clause 4.3(2) of ALEP 2013 (red dotted line).



Figure A: Section 1 of the proposed building showing the 12.5m height limit as red dotted line

Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

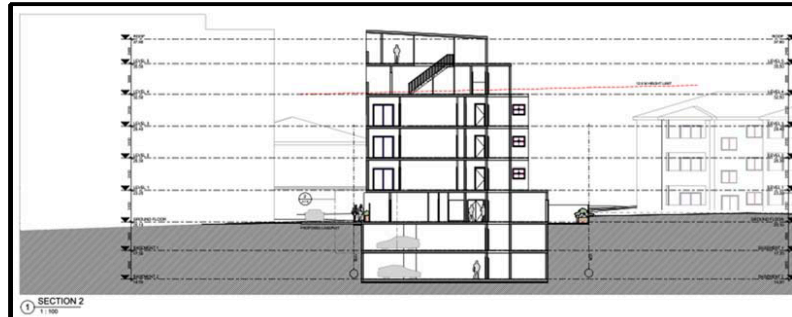


Figure B: Section 2 of the proposed building showing the 12.5m height limit as red dotted line

4.0 Height – Development Standard

A development standard is defined in S 1.4 of the *Environmental Planning and Assessment Act 1979* (“EPA Act”) to mean:

“provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed.”*

The 12.5 maximum height standard is a *development standard* as defined under the *EP&A Act 1979*.

5.0 Clause 4.6 of Ashfield Local Environmental Plan 2013

The following provides a response to relevant Clause 4.6 provisions:

Clause 4.6(2) provides that:

Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing



- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

The HOB development standard is not expressly excluded from the operation of cl4.6 and accordingly, consent may be granted.

Clause 4.6(3) relates to the making of a written request to justify the contravention of a development standard and states:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (4) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (5) *that there are sufficient environmental planning grounds to justify contravening the development standard. (our emphasis)*

The proposed development does not comply with the HOB development standard pursuant to cl4.3 of the ALEP 2013. However, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as detailed further in this written request.

Sufficient environmental planning grounds exist to justify contravening the development standard as detailed in Section 8.

Clause 4.6(4) provides that consent must not be granted for development that contravenes a development standard unless:

- (6) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Sections below of this written request address the matters required under cl4.6(4)(a) of the ALEP 2013 and cl4.6(4)(b).

Clause 4.6(5) provides that:

- (7) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing



Sections below of this written request addresses the matters required under cl4.6(5) of the ALEP. Clauses 4.6(6) and (8) are not relevant to the proposed development and cl 4.6(7) is an administrative clause requiring the consent authority to keep a record of its assessment under this clause after determining a development application.

6.0 Relevant Decisions

Initial Action

In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ('Initial Action'), Preston CJ indicated that cl4.6 does not directly or indirectly establish a test that a non-compliant development should have a neutral or beneficial effect relative to a compliant development. For example, a building that exceeds a development standard that has adverse amenity impacts should not be assessed on the basis of whether a complying development will have no adverse impacts. Rather, the non-compliance should be assessed with regard to whether the impacts are reasonable in the context of achieving consistency with the objectives of the zone and the objectives of the development standard. The relevant test is whether the environmental planning grounds relied upon and identified in the written request are "sufficient" to justify the non-compliance sought.

In addition, Preston CJ ruled that cl4.6 does not directly or indirectly establish a "test" that a development which contravenes a development standard results in a "*better environmental planning outcome*" relative to a development that complies with the development standard. There is no provision in ALEP clause 4.6 that requires a development that contravenes a development standard to achieve better outcomes.

Furthermore, Preston CJ ruled that it is incorrect to hold that the lack of adverse amenity impacts on adjoining properties is not a sufficient ground justifying the development contravening the development standard, when one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse amenity impacts.

Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 Moore J (herein referred to as Rebel MH").

In *Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 Moore J* identifies the steps provided in *Initial Action* confirming what the consent authority must do in order to satisfy itself as follows:

"For me to grant development consent for this development as it contravenes the permitted maximum building height development standard, cl 4.6(4)(a) requires me to be satisfied that:

(1) The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposed development (cl 4.6(3)(a) and cl 4.6(4)(a)(i)); and

(2) The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)); and

(3) The proposed development will be in the public interest because it is consistent with the objectives of the standard in question - set out in cl 4.3 of the LEP (cl 4.6(4)(a)(ii)); and

Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing



(4) The proposed development will be in the public interest because it is consistent with the objectives of the R4 High Density Residential Zone (cl 4.6(4)(a)(ii)).

For the first of the above matters, Preston CJ made it clear, in Initial Action at [25], that the Court need not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather that it “only indirectly form the opinion of satisfaction that the applicant’s written request has adequately addressed those matters.”

7.0 Clause 4.6(3)(a): Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

In dealing with the “unreasonable and unnecessary” Preston CJ identifies and validates the 5 options available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a)**.

Preston CJ at states as follows:

*“As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe v Pittwater Council* at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”*

Based on the above the following identifies the first method identified in *Wehbe*:

“Ways of establishing that compliance is unreasonable or unnecessary

42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: (our emphasis)

Clause 4.6(3)(a) – UNREASONABLE AND UNNECESSARY

This clause 4.6 responds to the matters required to be demonstrated by sub-clause 4.6(3) namely:

- *that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, and*
- *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Having considered the above the applicant relies upon the first method demonstrating that compliance is *unreasonable and unnecessary* because the objectives of the development standard are achieved notwithstanding a variation with the standard.

In dealing with the control it is necessary to identify the purpose of the height control and then progress to dealing with the consistency or otherwise with the height objectives. The first consideration relates to overall scale of a building given that both height and FSR determines the scale of a building to another building or natural feature.

Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

The visual fit of the building in this particular instance having regard to the variation sought is addressed by Smith & Tzannes in the Urban Design report submitted with the DA documentation (see relevant extracts below). It concludes that in this case the buildings 'fit' is acceptable and appropriate for this site.

The site sits within a landuse zone with a 12.5m height limit, immediately south of a zone with a 23m height limit. There is no provision within the ALEP 2013 for any transition between the two controls, notwithstanding that the LEP mapping includes a number of possible height limit which could have been adopted for this site (see below). As shown in the elevations the proposed scale of the proposal is appropriate to the adjoining development. The proposal provides a stepped building that offers a sound urban design outcome notwithstanding the height variation. The height is appropriate for the site having regard to the sites juxtaposition to the Ashfield West Precinct (AWP). The proposal maintains appropriate visual separation between the buildings so that the required extent of permeability is provided between the buildings when viewed from the opposite side of Milton Street.



Figure C: Identifies the western elevation fronting Milton Street. The proposal provides an appropriate urban design response for the site.

The 3D model images in figures C - F below depicts the anticipated built form within the immediate surrounds of the site. A vacant site to the north fronting Liverpool Road is yet to be developed which will provide greater height, bulk and scale along with the future redevelopment of the Club site. As indicated in the study the sites to the south fronting Milton Street are not afforded a transition site like that provided to the east.

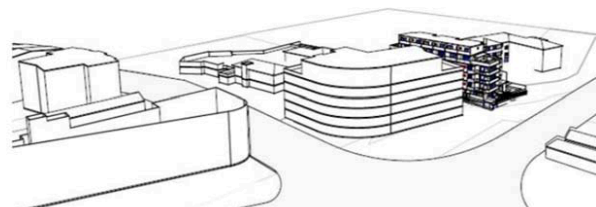


Fig D. Context massing model show study



Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

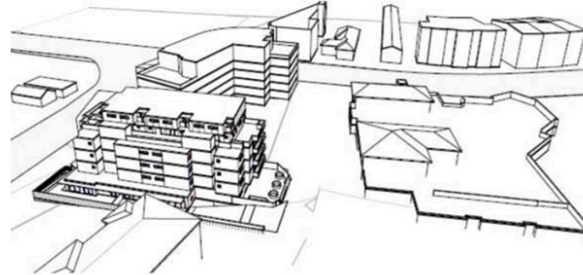


Fig E – View from the south east. Significant additional built form anticipated on the vacant site and Club site to the north and north east due to the height and FSR controls. Site will provide a transition both from Milton Lane and Milton Street.

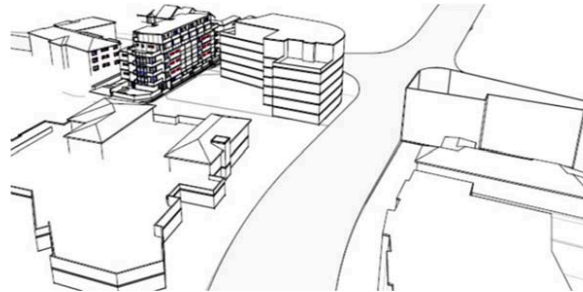


Fig F – View from east looking west along Liverpool Road. Eastern façade of the building stepped to allow solar access to the south in the morning. The two upper levels above the height are setback significantly from the southern boundary to reduce potential impacts and provide visual separation (14.435m provided between upper level and existing RFB to the south).

The proposal is supported by the Smith Tzannes study which identifies the transitional role of the site in a baseline urban design sense as shown below:

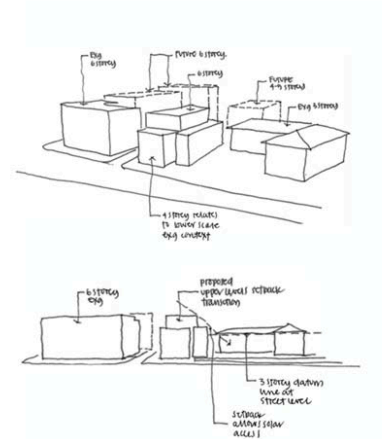


Fig G- Massing study by Smith Tzannes 27.11.19

Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

The study identifies the fact that the sites to the east have a 15m transitional height between the 23m and the 12.5m which provides opportunities to achieve a transitional form given that additional FSR can be achieved under the Affordable Housing SEPP (i.e. due to sites proximity to public transport and the fact that residential flat buildings are permissible in the zone). The additional affordable housing FSR enables the heights to be achieved given that the affordable housing is added to the 0.7:1 base FSR.

Further insight into the purpose of the standard can be obtained by investigating the objectives of the standard. The objectives in this case include both built form and amenity considerations with particular regard to solar, visual and privacy impacts. When considered within the framework of the objectives the height control requires a development to achieve a high-quality built form and to provide reasonable amenity impacts as a result of the building height. The following justification is provided:

(a) to achieve high quality-built form for all buildings,

The architectural design, layout and street presentation of the proposal achieves a high-quality development adjacent the AWP which is experiencing a high level of redevelopment, particularly along Liverpool Road. The proposal emulates contemporary building materials and finishes, with a change of materials for the upper two levels which breaks up the additional height of the building above 12.5m. These two levels also have a reduced footplate with larger setbacks creating a recessed appearance of the two part upper levels. The part upper levels will not read as two full levels thus emphasising the 4 storey primary building form of the 4 levels below. When viewed in the context of the 7 storeys to the north and 3 storeys to the south the proposed built form is appropriate and fits with the streetscape and overall built form outcomes contemplated by the AWP. The site is intrinsically linked with the outcomes of the AWP in that the site provides for a two way vehicle access solution in Milton Lane.

(b) to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes

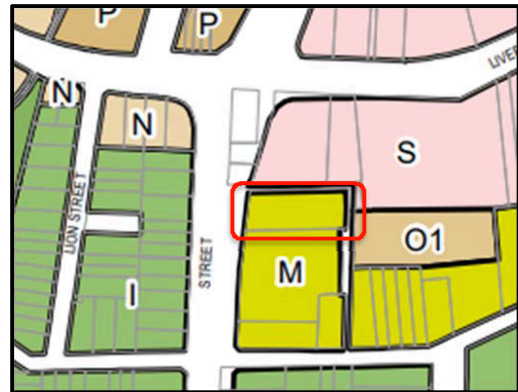
The proposed height maintains acceptable sky exposure to existing buildings adjoining or adjacent to the site. Shadow diagrams are submitted with the DA plan set demonstrating that adequate daylight is maintained to units in the adjoining unit building. The units to the south have bedrooms facing north and as such achieve natural light to the eastern bedroom between 9 – 11am and to the east facing windows. Sufficient ambient light will remain available.

(c) to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings

The following ALEP Height of Buildings map shows the change in height limits of the subject site, adjoining and adjacent sites in the immediate area.

There is no transition between the 23m height limit immediately north of the site and the 12.5m height limit or to the 8.5m height limit area immediately opposite the site and south of Norton Street. The O1 labelled area has a 15m height limit and acts as a transitional height on what is currently land occupied by the Ashfield RSL club.

Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing



I = 8.5m
 M = 12.5m
 N = 13m
 S = 23m
 O1 = 15m

Map 2 – Height Map ALEP

In considering the height interface the ALEP currently provides for N (13m) with I (8.5m) to the west of the site resulting in a transitional height difference of 4.5m. The difference between the site to the north and the subject site is S (23+m) v M (12.5m) representing a change of 10.5m and therefore a transition is appropriate.

Based on the comparison the height difference proposed under this application offers a 3.5m change which is in keeping with the more moderate step in height between N and I as it currently exists under the ALEP. The transitional form provided by the proposal offers an acceptable urban design outcome and one which is supported by the design analysis conducted by Smith Tzannes architects who provide an independent urban design massing study.

(d) to maintain satisfactory solar access to existing buildings and public areas.

Shadow diagrams are submitted with the DA plan set. The site has an east-west orientation. Therefore, a higher building can be expected to result in more shadow on the property immediately south of the site. The submitted diagrams demonstrate what the changes in shadow impacts are at various times of the day – as they impact on the actual side walls of the adjoining building. Given the siting of that 3-storey RFB on the block the level of impact is considered acceptable in this case. The two additional floor levels affect 2 of the units with 2 hours of sunlight being maintained to the rear bedrooms and east facing windows. Due to the projecting balcony there will be some shadowing currently to the west facing door. As stated initially there is no specific requirement for a Clause 4.6 proposal to maintain or exceed the performance of a compliant development. The proposal is to be assessed on individual merit. The requirement of the objective is to maintain satisfactory solar access and in this example when considering the number and orientation of units within the adjoining development the solar access is satisfactory.

8.0 4.6(3)(b) – Sufficient Environmental Planning Grounds

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The variation relates to height and as such calls upon those matters considered to be environmental planning grounds relevant to the subject matter. Justification provided for the variation applies to this particular application and not environmental planning grounds that could apply to all lands zoned R3 Medium Density Residential.

Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing



The additional height is 6.97m. The environmental planning grounds justification for the height variation is provided as follows:

- The site has been the subject of mandatory road widening by the RMS (Milton Street frontage) and by Council via the provisions of the Ashfield DCP (Milton Lane). There are no planning incentives to achieve the widening of the rear lane. It is common for areas affected by public burden and urban design studies to receive incentives to increase the likelihood of redevelopment so that the overall strategic planning imperatives can be achieved. In this case the height has not been altered from the base 12.5m unlike sites to the north which have seen a significant change to height and FSR. The increased height significantly increases the likelihood of the strategic planning objectives being achieved.
- Currently the ALEP 2013 does not provide any transition between the site and higher/denser development fronting Liverpool Road immediately north of the site. The height limit drops from 23m at the corner of Liverpool Road and Milton Street down to 12.5m for the subject site, notwithstanding that the ALEP 2013 contains seven (7) other height limits that could have been adopted for this site. The proposed 6.97m height is therefore not exceptional in terms of what is available for a transitional site under the provisions of ALEP 2013. The proposal will lower the current height change from 10.5m to 3.5m. This in turn will reduce the current 10.5m difference to 6.99m (i.e. 19.49m to 12.5m).
- The site dimensions create a development site that is capable and suitable for development of a building that has greater bulk and scale than that anticipated by the 12.5m height limit (4 storeys). The frontage is 23.25m and side boundaries of 57-58m with total site area over 1550sqm. The site to the south is one storey below the height control given that 12.5m is capable of supporting 4 storeys (each level is 3.1m floor to floor under the ADG).
- The site is suitable based on its location and neighbourhood context as a transitional site. The sites capacity to support the additional height as assessed by Smith & Tzannes is appropriate based on the transition it provides between the 23m height to the north and 12.5m height to the south. The height variations elsewhere in the locality are not as significant with 4 – 5m being the difference between height interface sites as opposed to 10.5m between the site and the southern neighbour. The proposed transitions between the 23m and the 12.5m is an appropriate urban design outcome for the precinct.
- The east-west orientation of the site creates additional issues for the design and layout of a development that does not result in significant adverse amenity impacts on existing development to the south. The proposal has been designed to account for the site constraints with increased setbacks of the upper two floor levels; orientation of living areas to the north (away from the southern neighbouring development); POS areas to the north (where possible); and communal open space at ground level in the north east corner which has the least impact on neighbours (no rooftop COS).
- Sufficient onsite parking for the seven (7) upper level units is accommodated within the proposed basement parking levels with access from the widened Milton Lane on the rear of the site. The widened lane is facilitated by this particular development.
- The proposal provides an additional 0.29:1 FSR as dedicated affordable housing units for 10 years. This is in line with the SEPP 70 initiatives of the State Government – notwithstanding that Inner West Council is yet to complete amendments to the ALEP 2013 to activate the SEPP 70 provisions. Additionally, the Inner West RLS seeks to increase affordable housing across the LGA and as such



Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

this proposal provides an additional seven (7) affordable housing units that would not otherwise be provided to the community in need of this accommodation. The proposal is therefore in the public interest.

In dealing with the sufficient environmental planning grounds Preston CJ in Initial Action considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 in order to demonstrate that grounds exist to warrant a variation to height. Clause 1.3 of the EP and A Act 1979 relevantly provides:

"1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)*

A development that complies with the landuse zoning of the site (R3 Medium Density Residential) satisfies the objectives of under S1.3 EP&A Act 1979.

The plans by Habitation Design & Interiors Architecture, and specifically the height variation indicated on the elevation and section plans of the DA plan set, satisfies the objectives in bold given that:

- The development replaces a non-compliant landuse (industrial/commercial) with a compliant medium density residential development, in line with Council's strategic planning objectives and the ALEP 2013.
- The development allows for the timely and economic development of the land as there is currently a high level of redevelopment occurring in the Ashfield West Precinct, including a significant corner development immediately north of the subject site.
- The development of thirty-eight (38) medium density residential units in this location is a positive social outcome for a variety of residents as the development comprises a mix of one and two bedroom units, including affordable units, in a highly accessible location.
- The development improves management of the States land resources by providing a more efficient use of private land with a transition in height, bulk and scale of new residential development on a site that is well positioned to take advantage of its proximity to high quality public transport, jobs, services and local and regional leisure, recreation and cultural activities.
- The additional height of the development facilitates an additional 0.29:1 FSR to be dedicated affordable housing units pursuant to SEPP (ARH) for 10 years.
- The urban design outcomes of the development, incorporating the additional height, has been assessed by an independent Urban Designer and found to provide an acceptable built form outcome for the site given its transitional nature and context.

Statement of Environmental Effects
 40 Milton Street, Ashfield
 Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

- The design and layout of the east-west site reflects maintains satisfactory access to daylight, sunlight and natural ventilation while reducing overlooking and other amenity issues for residents to the south of the site.
- The widening of Milton Lane and new public pedestrian pathway along the laneway, in response to the Ashfield DCP provisions improves access into and around the site for the new development and other existing properties along Milton Lane.

Based on the above the consent authority can be satisfied that there are sufficient environmental planning grounds to warrant the variation.

Notwithstanding the above Preston CJ clarified in Micaul and Initial Action, that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. In this case, these include:

- The proposal has an acceptable visual fit and and balances the opportunities and constraints.
- Maintains satisfactory levels of solar access to the neighbours based on the overall impact of solar to the flat building development and ADG provisions.

In summary, the HOB variation is considered to be in the public interest given its ability to not cause significant adverse impacts but also because of its ability to provide site specific environmental planning grounds demonstrating that strict compliance is unreasonable and unnecessary in the circumstances of this particular case.

The proposal as one departing from the height standard is in the public interest given its ability to:

- not cause significant adverse natural and built form impacts;
- provide site specific environmental planning grounds demonstrating that strict compliance is unreasonable and unnecessary in the circumstances. The justification and specific site considerations are not matters that would apply to all sites zoned R3 Medium Density under the Ashfield LEP. This site is fairly unique in that it lies outside the AWP boundaries but is required under the ADCP to provide community benefit. Based on the extract below from Smith Tzannes the site appears to be the only site burdened by land dedication that is not in the AWP precinct and that does not have incentives (see Fig H) below)

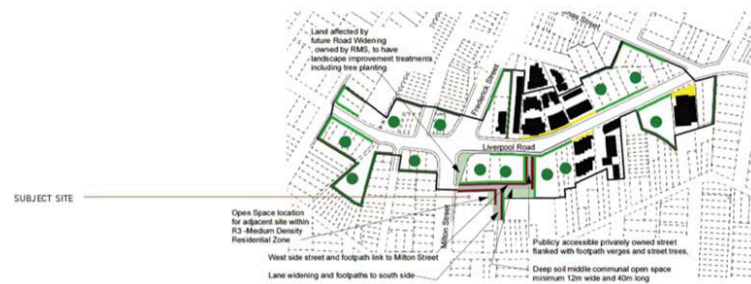


Fig H: Extract of Ashfield West Precinct where subject site is shown to require footpaths and widening to the site as well as the placement of the communal open space.



Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

Clause 4.6(4)(a)(ii) The proposed Development will be in the Public Interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Consistency with the Zone Objectives

An enquiry is now made in relation to the ability of the proposal and the identified variation, as one departing from the HOB standard, to reasonably satisfy the stated objectives of the zone.

R3 Medium Density Residential

The objectives of the R3 Medium Density Residential zone are as follows:

Zone R3 Medium Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The following provides a review of the zone objectives:

- *To provide for the housing needs of the community within a medium density residential environment.*

The proposal is a change of landuse from the existing industrial/commercial occupation of the land to a compliant residential flat building, including the provision of affordable housing units. The objective is achieved based on the provision of housing in a medium density environment where residential flat buildings are permissible forms of development.

- *To provide a variety of housing types within a medium density residential environment.*

The proposal is residential in nature. A residential flat building is permissible with Council's consent. The building is to comprise one and two bedroom units, including designated affordable housing units for 10 years. The upper levels are two storey apartments. On this basis a variety of accommodation is provided on a site that is well located in terms of access to jobs, services and public transport. The objective is achieved.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

This objective is not relevant to the proposal.

The departure from the HOB control does not hinder the ability of the development to provide appropriate residential accommodation for a variety of residents, including affordable housing units. The additional floor levels and units add to the housing supply in the immediate area and the bulk and scale of the development is an acceptable visual fit for the site given the transitional nature of the site between ALEP height limits. The site provides an opportunity to achieve a transitional built form to lessen the height change of



Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

10.5m (i.e. height change between the 23m control to the north and the 12.5m to the south).

8.0 Other Matters For Consideration

Step 4 - Clause 4.6(4)(b) – The Concurrence of the Secretary has been obtained

On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under cl. 64 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under cl4.6 of the ALEP.

The Court has power to grant development consent to the proposed development even though it contravenes the HOB development standard, without obtaining or assuming the concurrence of the Secretary by reason of s39(6) of the *Land and Environment Court Act 1979* (the Court Act).

Clause 4.6(5) - Concurrence Considerations

In the event that concurrence cannot be assumed pursuant to the Notice, cl4.6(5) of the LEP provides that in deciding whether to grant concurrence, the Secretary must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposed contravention of the HOB development standard has been considered in light of cl4.6(5) as follows:

- The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed development for this particular site. It is not directly transferrable to any other site in the immediate locality, wider region or the State and the scale of the proposed development does not trigger any requirement for a higher level of assessment;
- As indicated in Section 7 and Section 8, the proposed contravention of the development standard is considered to be in the public interest because it is consistent with the objectives of the zone and the objectives of the development standard.

The proposed development contravenes the Height of Building development standard under cl4.3 of ALEP 2013 and the building control under cl 4.3 of the ALEP is a development standard and is not excluded from the application of cl 4.6.

This written request to vary the development standard has been prepared in accordance with cl4.6(3) of the LEP and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the following reasons:

- the proposed development is consistent with the relevant objectives of the development standard pursuant to cl4.3 of the ALEP 2013 and is consistent with the relevant objectives of the R3 zone and therefore, the proposed



Statement of Environmental Effects
40 Milton Street, Ashfield
Demolition and construction of RFB (38 units) over basement parking including Affordable Housing

development is in the public interest;

- the proposed flat building will not result in significant adverse environmental harm in that the amenity of neighbouring properties will be satisfactory and there will be no significant adverse impacts on the Milton Street streetscape.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the HOB development standard including:

- Replacement of a non-compliant landuse with one that is compliant with the local land use planning controls for the site;
- Activation of the laneway widening and incorporation of a public pedestrian pathway within the site for the benefit of local residents;
- Additional gross floor area that provides specifically for additional affordable housing supply in a highly accessible area in terms of jobs, services and public transport;
- Urban design rationale based on the site being a transitional site mediating the scale and form of the 23m to the north and the 12.5m to the south. The scale and form of the development is appropriate for the setting and the site based on the surrounding heights. Proposal maintains the rhythm of development by providing suitable separation between the sites so that the subdivision pattern is legible.

**Attachment D – Clause 4.6 Exception to Development Standards –
FSR**



CLAUSE 4.6 REQUEST FOR VARIATION TO

CLAUSE 4.4 (2) (FLOOR SPACE RATIO) OF ASHFIELD

LOCAL ENVIRONMENTAL PLAN 2013 (ALEP)

**40 MILTON STREET,
ASHFIELD**

8th July 2020



1.0 Introduction

- This is a request to vary a development standard pursuant to the provisions of Clause 4.6 of Ashfield Local Environmental Plan 2013 (ALEP 2013), the relevant clause being Clause 4.4(2) (Floor Space Ratio) (FSR).
- The relevant maximum FSR for the site is 0.7:1 and the requested variation is 0.29:1. The additional 0.5:1 is available via the Affordable Housing SEPP.
- The relevant FSR is a *development standard* for the purposes of the *EP & A Act 1979*.
- This request to vary the FSR development standard considers the judgment in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ("Initial Action").
- The relevant case law confirms that the consent authority not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather that it "*only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed*".
- The objective of Clause 4.6 1(a) is to provide an appropriate degree of flexibility in applying certain development standards to particular development. The intent is to achieve better outcomes for and from development by allowing flexibility in particular circumstances in accordance with Clause 4.6 1(b).
- The relevant plans relied upon are those identified as the plans prepared by Habitation Design + Interiors Architecture. An Urban Design massing study prepared by Smith & Tzannes, is relied upon in relation to the locational context and role of the site as transitional site between the bulkier development to the North having a 2:1 FSR and development to the south having a 0.7:1 FSR.
- The clause 4.6 is supported by the updated shadow diagrams, access to sun diagrams and the letter dated 2nd July 2020 to Council (see annexure A) demonstrating the development, as one being outside the FSR controls, offers suitable solar access to the site and the adjoining sites.

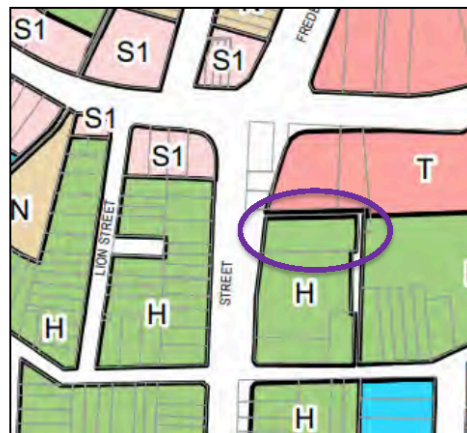
2.0 Development Standard to be Varied – Floor Space Ratio

The relevant *development standard* to be varied is the 0.7:1 FSR control under Clause 4.4(2). Clause 4.4 of ALEP relevantly provides:

4.4 Floor space ratio

- (1) *The objectives of this clause are as follows—*
- (a) *to establish standards for development density and intensity of land use,*
 - (b) *to provide consistency in the bulk and scale of new development with existing development,*
 - (c) *to minimise adverse environmental impacts on heritage conservation areas and heritage items,*
 - (d) *to protect the use or enjoyment of adjoining properties and the public domain,*
 - (e) *to maintain an appropriate visual relationship between new development and the existing character of areas that are not undergoing, and are not likely to undergo, a substantial transformation.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The relevant FSR map is identified below:



Map A: FSR under ALEP

The subject site is mapped “H” – 0.7:1(max) and T is 2:1

3.0 Nature of Variation Sought

The requested variation is as follows:

The proposal has a permitted FSR as follows:

Scenario 1 (Site area: 1,605sqm – no road widening)

ALEP FSR = 0.7:1; SEPP (ARH) bonus FSR = 0.5:1

Total permitted FSR is therefore 1.2:1.

This equates to a total permissible GFA of 1,926sqm.

The proposal has a gross floor area of 2,398.2sqm.

This equates to an FSR of 1.49:1.

This is a variation of 0.29:1 and equates to 472.2sqm floor area

Scenario 2 (Site area: 1,605sqm less rear Milton Lane road widening (58.4sqm) = 1546.6sqm)

ALEP FSR = 0.7:1; SEPP (ARH) bonus FSR = 0.5:1

Total permitted FSR is therefore 1.2:1.

This equates to a total permissible GFA of 1,855.92qm.

The proposal has a gross floor area of 2,398.2sqm.

This equates to a FSR of 1.55:1.

This is an exceedance of 0.35:1 and equates to 541sqm.



4.0 Floor Space Ratio – Development Standard

A development standard is defined in S1.4 of the *Environmental Planning and Assessment Act 1979* ("EPA Act") to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation,*

and

(o) such other matters as may be prescribed."

The 0.7:1 maximum floor space ratio standard is a *development standard* as defined under the *EP&A Act 1979*.

5.0 Clause 4.6 of Ashfield Local Environmental Plan 2013

The following provides a response to relevant Clause 4.6 provisions:

Clause 4.6(2) provides that:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The FSR development standard is not expressly excluded from the operation of cl4.6 and accordingly, consent may be granted.

Clause 4.6(3) relates to the making of a written request to justify the contravention of a development standard and states:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (4) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*



- (5) *that there are sufficient environmental planning grounds to justify contravening the development standard. (our emphasis)*

The proposed development does not comply with the FSR development standard pursuant to cl4.4 of the ALEP 2013. However, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as detailed further in this written request.

Sufficient environmental planning grounds exist to justify contravening the development standard as detailed in Section 8.

Clause 4.6(4) provides that consent must not be granted for development that contravenes a development standard unless:

- (6) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

Sections below of this written request address the matters required under cl4.6(4)(a) of the ALEP 2013 and cl4.6(4)(b).

Clause 4.6(5) provides that:

- (7) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Sections below of this written request addresses the matters required under cl4.6(5) of the ALEP. Clauses 4.6(6) and (8) are not relevant to the proposed development and cl 4.6(7) is an administrative clause requiring the consent authority to keep a record of its assessment under this clause after determining a development application.

6.0 Relevant Decisions

Initial Action

In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ('Initial Action'), Preston CJ indicated that cl4.6 does not directly or indirectly establish a test that a non-compliant development should have a neutral or beneficial effect relative to a compliant development. For example, a building that exceeds a development standard that has adverse amenity impacts should not be assessed on the basis of whether a complying development will have no adverse impacts. Rather, the non-compliance should be assessed with regard to whether the impacts are reasonable in the context of achieving consistency with the objectives of the zone and



the objectives of the development standard. The relevant test is whether the environmental planning grounds relied upon and identified in the written request are “sufficient” to justify the non-compliance sought.

In addition, Preston CJ ruled that cl4.6 does not directly or indirectly establish a “test” that a development which contravenes a development standard results in a “better environmental planning outcome” relative to a development that complies with the development standard. There is no provision in ALEP clause 4.6 that requires a development that contravenes a development standard to achieve better outcomes.

Furthermore, Preston CJ ruled that it is incorrect to hold that the lack of adverse amenity impacts on adjoining properties is not a sufficient ground justifying the development contravening the development standard, when one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse amenity impacts.

Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 Moore J (herein referred to as Rebel MH¹).

In Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 Moore J identifies the steps provided in *Initial Action* confirming what the consent authority must do in order to satisfy itself as follows:

“For me to grant development consent for this development as it contravenes the permitted maximum building height development standard, cl 4.6(4)(a) requires me to be satisfied that:

(1) The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposed development (cl 4.6(3)(a) and cl 4.6(4)(a)(i)); and

(2) The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)); and

(3) The proposed development will be in the public interest because it is consistent with the objectives of the standard in question - set out in cl 4.3 of the LEP (cl 4.6(4)(a)(ii)); and

(4) The proposed development will be in the public interest because it is consistent with the objectives of the R4 High Density Residential Zone (cl 4.6(4)(a)(ii)),

For the first of the above matters, Preston CJ made it clear, in Initial Action at [25], that the Court need not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather that it “only indirectly form the opinion of satisfaction that the applicant’s written request has adequately addressed those matters.”

SJD DB2 Pty Ltd v Woollahra Council [2020] NSWLEC 1112 (SJD DB2).

This appeal sought consent for the construction of a six-storey Shop top housing development at 28-34 Cross Street Double Bay (**the DA**). The Court approved the proposed development, having a height of 21.21m where the control was 14.7m – representing a maximum variation of approximately 44% (or 6.51m) – and a floor space ratio (**FSR**) of 3.54:1 where the control was 2.5:1 – representing a variation of approximately 41%.



The Court drew from the decisions in *Initial Action* and *RebelMH* in the *SJD DB2* judgment, and noted that although there are a number of ways to demonstrate that compliance with a development standard is unreasonable or unnecessary, it may be sufficient to establish only one way (at [35].) In considering the clause 4.6 variation requests submitted by the Applicant, the Court considered that they could be treated together, as the breaches they related to were fundamentally related, as where there is greater building form with additional height, so too is there greater floor area (at [63].)

Acting Commissioner Clay makes it clear in his judgment, 'cl 4.6 is as much a part of [an LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome' (at [73]).

7.0 **Clause 4.6(3)(a): Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case**

In dealing with the "unreasonable and unnecessary" Preston CJ identifies and validates the 5 options available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under Cl. 4.6(3)(a).

Preston CJ at states as follows:

"As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Based on the above the following identifies the first method identified in *Wehbe*:

"Ways of establishing that compliance is unreasonable or unnecessary

*42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the **objectives of the development standard are achieved notwithstanding non-compliance with the standard**: (our emphasis)*

Clause 4.6(3)(a) – UNREASONABLE AND UNNECESSARY

This clause 4.6 responds to the matters required to be demonstrated by sub-clause 4.6(3) namely:

- *that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, and*
- *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Having considered the above the applicant relies upon the first method demonstrating that compliance is *unreasonable and unnecessary* because the objectives of the development standard are achieved notwithstanding a variation with the standard.

In dealing with the control it is necessary to identify the purpose of the FSR control and then progress to dealing with the consistency or otherwise with the FSR objectives. The first consideration relates to overall scale of a building given that both height and FSR determines the scale of a building to another building or natural feature.



The visual fit of the building has been assessed by an independent Urban Designer. The Urban Design massing study by Smith and Tzannes dated 27.11.19 is submitted as part of the DA documentation and forms part of the overall justification for the proposal. The massing study informed the design solution and the overall FSR adopted for this development. The massing study concludes that in this context the site has a transitional urban design role mediating the greater development standards to the north and the lesser development standards to the south of Milton Lane.

The visual 'fit' of the subject proposal is acceptable based on the greater FSR including the affordable housing component. As depicted in the elevations the bulk and scale of the built form is appropriate and responds to existing development either side of the site. The site has an east-west orientation therefore the proposed flat building presents its narrowest view to the street therefore minimising bulk and scale to Milton Street when viewed from the public domain. The southern separation of the upper levels when measured to the adjoining building is 14.435m and is therefore acceptable.

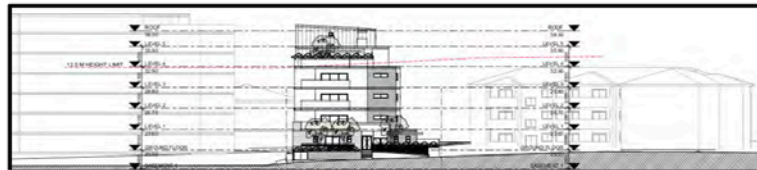


Fig 1. Elevation view from Milton Street

The 3D model images in figures A1 – A3 below depicts the anticipated built form within the immediate surrounds of the site. A vacant site to the north fronting Liverpool Road is yet to be developed which provides greater bulk and scale along with the future redevelopment of the Club site. As indicated in the study the sites to the south fronting Milton Street are not afforded a transition site like that provided to the east.

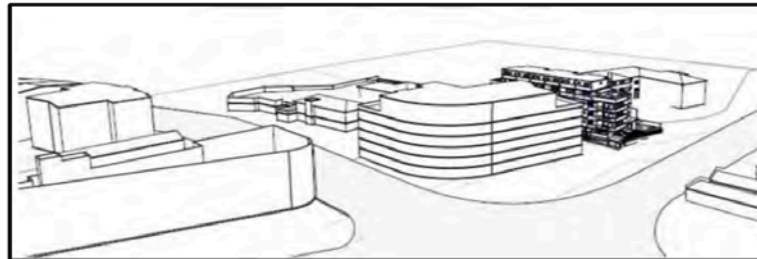


Fig A1. Context massing model show study

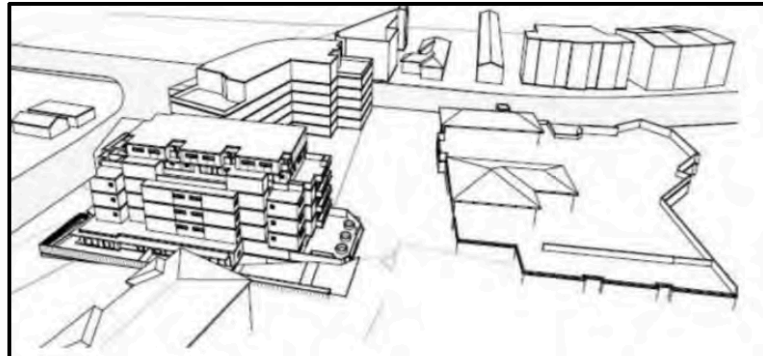


Fig A2 – View from the south east. Significant additional built form anticipated on the vacant site and Club site to the north and north east due to the height and FSR controls. Site will provide a transition both from Milton Lane and Milton Street.

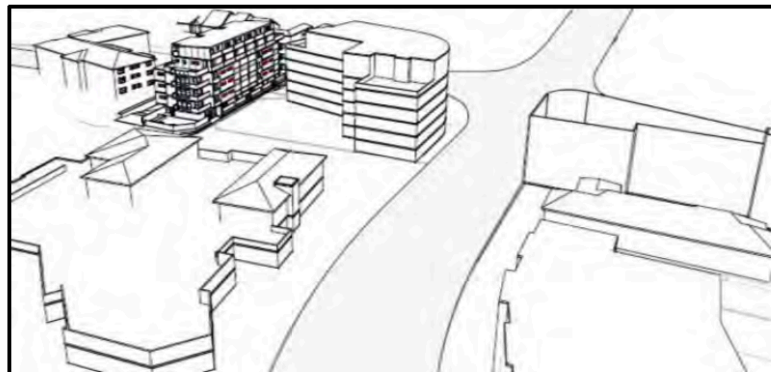


Fig A3 – View from east looking west along Liverpool Road. Eastern façade of the building stepped to allow solar access to the south in the morning. The two upper levels above the height are setbacks significantly from the southern boundary and 14.435m of separation exists between upper levels and the RFB to the south.

The proposal is supported by the Smith Tzannes study which identifies the transitional role of the site in a baseline urban design sense as shown below:

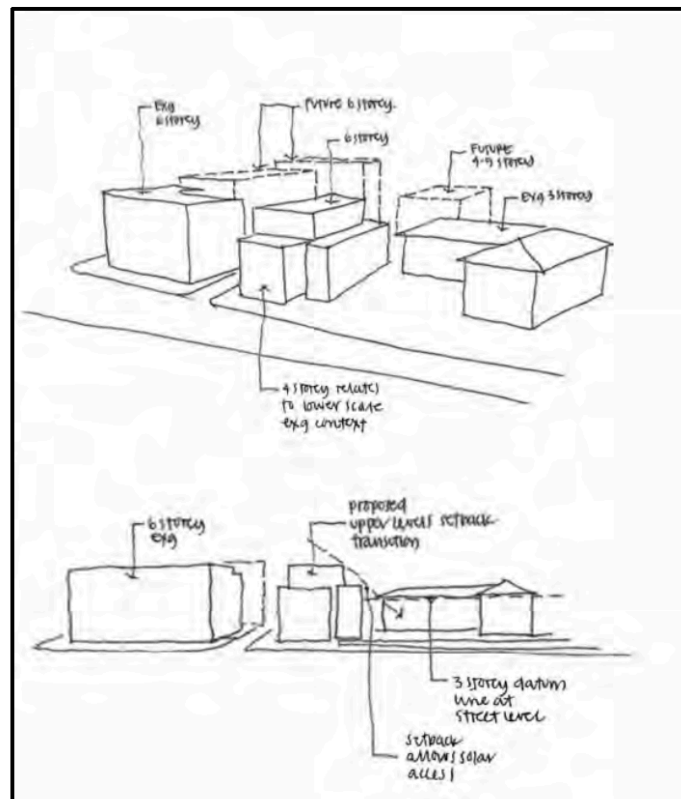


Fig B1- Massing study by Smith Tzannes 27.11.19

The study identifies the fact that the sites to the east have a 15m transitional height which potentially provides a transitional form given that additional FSR can be achieved under the Affordable Housing SEPP because of the site's proximity to public transport and the fact that residential flat buildings are permissible in the zone. The additional affordable housing FSR enables the heights to be achieved given that it is added to the 0.7:1 base FSR.

Further insight into the purpose of the standard can be obtained by investigating the objectives of the standard. The objectives in this case include both built form and amenity having regard to solar, visual and privacy impacts. When considered within the framework of the objectives the purpose of the FSR control requires the development to achieve an appropriate built form and provide reasonable amenity impacts as a result of the bulk and scale.

The following justification is provided.

(a) to establish standards for development density and intensity of land use

The proposal seeks to vary the FSR development standard due to the site-specific circumstances of this case. These circumstances are established by the lack of transitional height and density provisions between the Liverpool Road properties immediately north of the site and the medium density residential development south of the site. The bulk and scale of the new development at the corner of Liverpool Road



and Milton Street is quite substantial when considered against the 12.5m height and 0.7:1 FSR to the south. Properties fronting Liverpool Road to the south could have a theoretical height of 23m and FSR of 2.5:1 if adopting the affordable housing component. On this basis the subject site is capable of supporting additional density and act as a transitional site mediating bulk and scale from 23m and 2.5:1 to 12.5m and 1.2:1 (includes 0.5:1 bonus for affordable). The proposed FSR at 1.49:1 FSR offers that mediating scale and form.

The objective is satisfied given the circumstances of this case based on the findings of the urban design study and the proposal 'fit' for the site serving as a transitional element.

(b) to provide consistency in the bulk and scale of new development with existing development

The submitted plans, supported by the Urban Design Report, demonstrate that the proposed development has an acceptable 'fit' for the site. The proposals overall bulk and scale is consistent and compatible with the surrounding development both now and in the future (increased future development likely to 23m and 2.5:1 FSR to the north – north – east). The proposed FSR offers a mediating transitional form from the 2:1 plus FSR to the north and the existing development to the south. In dealing with compatibility it is appropriate to adopt the relevant principles established in *Project Ventures v Pittwater Council*. The principles establish that in order to be compatible the development does not necessarily need to be the same. As depicted in the elevations and 3D images forming part of this variation request the proposal is said to be compatible with the existing built form.

This objective is satisfied.

(c) to minimise adverse environmental impacts on heritage conservation areas and heritage items

The site is not a heritage item, is not located within a conservation area and is not proximate to any heritage items.

This objective is satisfied.

(d) to protect the use or enjoyment of adjoining properties and the public domain

The development assessment contained within the main body of the Statement of Environmental Effects establishes that the use and enjoyment of adjoining properties will be protected by the development as:

- Replacement of existing non-conforming landuse with compliant landuse;
- Improved connectivity between residential uses and the street improves causal surveillance which in turn improves safety and security of the area including public and private lands
- Siting of the development on the land to minimise potential amenity impacts on adjoining residents, are far as possible given the east-west orientation of the site and the siting of the existing RFB on the neighbouring land. The upper level setbacks for the two additional levels is acceptable at 14.435m from the wall of the southern building which provides adequate separation.
- The proposal will not cause the unit block to the south to depart from the 70% solar requirements under the ADG.
- The use and enjoyment of lands to the south will be maintained given that the orientation of the development is to the north and communal open space is to the eastern corner limiting potential impacts on neighbours. Communal space is at ground level in accordance with the Ashfield West Precinct controls.



This objective is satisfied by the development as follows.

(e) to maintain an appropriate visual relationship between new development and the existing character of areas that are not undergoing, and are not likely to undergo, a substantial transformation

As stated previously the locational context of the site lends itself to acceptance of a variation to the FSR and overall intensity of development. The immediate area to the north is captured by the new precinct controls and is likely to undergo further transformation in the future based on the current height and FSR controls. The site to the north has been recently redeveloped. Other sites including the vacant site to the north and Club site are likely to be redeveloped and therefore substantial transformation is proposed. The site to the south may be redevelopment in the medium to long term given the size of the allotment and changes to Strata laws. At this stage the assessment is undertaken on the current built form to the south. The visual relationship between the site and its immediate neighbours is appropriate having regard to the residential nature of the development and the context. The demolition of the industrial building provides an opportunity to provide a setback from the southern boundary.

Based on the above the objective is achieved.

8.0 4.6(3)(b) – SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The variation relates to FSR and as such calls upon those matters considered to be environmental planning grounds relevant to the subject matter. Justification provided for the variation applies to this particular application and not environmental planning grounds that could apply to all lands zoned R3 Medium Residential Density. The urban design study provides a rational and basis for the additional FSR in the form of a transitional built form element that mediates the 2:1 FSR to the north and the 0.7:1 FSR to the south.

The additional FSR for the proposed building is outlined above and is **0.29:1**.

The environmental planning grounds justification for the FSR variation is provided as follows:

- The site has been the subject of mandatory road widening by the RMS (Milton Street frontage) and by Council - via the provisions of the Ashfield DCP (Milton Lane) even though the site is outside the nominated precinct area. There are no planning incentives for the subject site (unlike other sites in the precinct) to achieve the strategic planning outcomes for the area. The additional FSR is justified on first principles (urban design justification) but secondly can be justified because it provides a greater likelihood that the vehicle and pedestrian access can be improved within the precinct. The additional 0.29:1 FSR provides an incentive for the land owner to redevelop the site.
- ALEP 2013 does not provide a transition between the denser development permitted along Liverpool Road, immediately north of the site and the subject site. The FSR drops from 2.0:1 at the corner of Liverpool Road and Milton Street down to 0.7:1 on the subject site. The ALEP 2013 contains three (3) other FSR limits that could have been adopted for this site to achieve a transition such as "S1" – 1.5:1 or "S2" – 1.8:1. The proposed FSR of **1.49:1** (including 0.5:1 affordable housing GFA) is therefore acceptable for a transitional site under the provisions of ALEP 2013. The transitional site justification is supported by the Urban Design Report prepared by Smith &



Tzannes demonstrating that the site functions as a transitional site based on the immediate FSR controls afforded to neighbouring sites.

- Due to its attributes the site is suitable for development of a building with greater bulk and scale than contemplated by the 0.7:1 FSR. The frontage is 23.25m and side boundaries of 57 - 58m with total site area over 1550sqm. There are no specific site constraints that would seek to limit the overall potential of the site. The northern boundary is the side boundary fronting Milton Lane which offers opportunities for natural light and outlook.
- The proposal does not result in undue adverse amenity impacts on existing development to the south of the site. We accept that the neighbour would be exposed to a 4 storey building however a 6 storey building is proposed. We note that the two upper levels are not full levels and have significant setbacks appearing more like a roof element. As shown below the two upper floor levels have reduced floor plates and have a 14.435m setback from the southern boundary.



Fig AA - Upper level floor plate provides a 14.435m setback to southern neighbour's wall

- The proposal will not cause the unit block to the south to depart from the 70% solar requirements under the ADG. It improves the solar access to the ground floor unit bedrooms, which is a desirable outcome.
- The proposal has been designed to account for this site features/characteristics/opportunities and constraints. The design provides increased setbacks to the upper two floor levels; living areas orientated to the north (away from the southern neighbouring development); POS areas to the north (where possible); and communal open space at ground level (not rooftop COS). The site is capable of supporting greater FSR without any significant adverse impacts on its neighbours. Whilst some additional overshadowing occurs it is not causing significant adverse impact and units have orientation to the north, west and east. The additional FSR offers a mediating and transitional form stepping down from the 2:1 FSR plus to the north and 0.7:1 FSR to the south.
- Sufficient onsite parking for the seven (7) upper level units is accommodated within the proposed basement parking levels with access available from Milton Lane to the rear of the site.
- The additional FSR of 0.29:1 is to be dedicated as affordable housing which is in the public interest. The provision of affordable housing is in line with the SEPP 70 initiatives of the State Government – notwithstanding that Inner West is yet to complete amendments to the ALEP 2013 to achieve SEPP 70 provisions. The Inner West RLS seeks to increase affordable housing across the LGA and this proposal will provide an additional GFA that would not otherwise be provided as part of a development proposal seeking additional GFA above the 0.7:1 standard.



In dealing with the sufficient environmental planning grounds Preston CJ in Initial Action considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 in order to demonstrate that grounds exist to warrant a variation to FSR. Clause 1.3 of the EP and A Act 1979 relevantly provides:

“1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,***
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,***
- (c) to promote the orderly and economic use and development of land,***
- (d) to promote the delivery and maintenance of affordable housing,***
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,***
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),***
- (g) to promote good design and amenity of the built environment,***
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,***
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,***
- (j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)***

A development that complies with the landuse zoning of the site (R3 Medium Density Residential) satisfies the objectives of under S1.3 *EP&A Act 1979*.

The plans by Habitation Design & Interiors Architecture, and specifically the FSR variations satisfy the objectives in bold given that:

- The development replaces a non-compliant landuse (industrial/commercial) with a medium density residential development in line with Council's strategic planning and the ALEP 2013.
- The development assists in achieving a co-ordinated and timely outcome for the site based on the outcomes under the Ashfield West Precinct which affect the subject site. Even though the site is outside the nominated area under the DCP it is nevertheless called upon to dedicated land for improved vehicle movements which form part of the overall planning deliverables.
- The development of thirty-eight (38) medium density residential units in this location is a positive social outcome for a variety of residents as the development comprises a mix of one and two bedroom units, including affordable units, in a highly accessible location.
- The development offers better and proper management of the States land resources by providing a more efficient use of private land that is well positioned to take advantage of its proximity to high quality public transport, jobs, services and local and regional leisure, recreation and cultural activities.
- The additional FSR of the development provides additional affordable GFA (0.29:1) which is dedicated affordable housing units pursuant to SEPP (ARH) for a 10 year period.
- The urban design outcomes, incorporating additional height and FSR has been assessed by a specialist Urban Designer and found to be an acceptable with



regard to the built form outcomes for the site given the bounding FSR to the north and south of the site. The FSR needs to be considered with height given that the FSR is utilised to achieve a taller building in this instance that mediates the higher and lower range of the FSR.

- The proposal will not cause the unit block to the south to depart from the 70% solar requirements under the ADG and it improves the solar access to the ground floor unit bedrooms which is a desirable outcome.
- The design and layout of the east-west site reflects opportunities to optimise exposure to daylight, sunlight and natural ventilation while reducing overlooking and other amenity issues for residents to the south of the site.

Based on the above the consent authority can be satisfied that there are sufficient environmental planning grounds to warrant the FSR variation.

Notwithstanding the above Preston CJ clarified in *Micaul* and *Initial Action*, that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. We note that the subject proposal does provide for additional shadow when compared to a fully compliant FSR proposal. The considerations set out in *Initial Action v Woollahra Council* requires an assessment to be undertaken that does not require the development to perform equally or better than a compliant version.

In summary, the FSR variation is considered to be in the public interest given its ability to:

- not cause significant adverse natural and built form impacts;
- provide site specific environmental planning grounds demonstrating that strict compliance is unreasonable and unnecessary in the circumstances. The justification and specific site considerations are not matters that would apply to all sites zoned R3 Medium Density under the Ashfield LEP. This site is fairly unique in that it lies outside the AWP boundaries but is required under the ADCP to provide community benefit. Based on the extract below from Smith Tzannes the site appears to be the only site burdened by land dedication that is not in the AWP precinct and that does not have incentives (see Fig AB below).

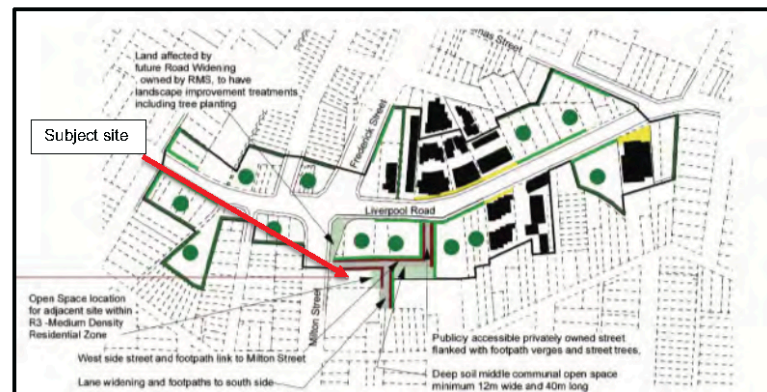


Fig AB: Extract of Ashfield West Precinct where subject site is shown to require footpaths and widening to the site as well as the placement of the communal open space.

Clause 4.6(4)(a)(ii) The proposed development will be in the Public Interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Consistency with the Zone Objectives



An enquiry is now made in relation to the ability of the proposal and the identified variation, as one departing from the FSR standard, to reasonably satisfy the stated objectives of the zone.

Zone R3 Medium Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The following provides a review of the zone objectives:

- ***To provide for the housing needs of the community within a medium density residential environment.***

The proposal is a change of landuse from the existing industrial/commercial occupation of the land to a compliant residential flat building, including the provision of affordable housing units. The objective is achieved by the provision of additional residential housing in the form of apartments. Objective is satisfied.

- ***To provide a variety of housing types within a medium density residential environment.***

The proposal is residential in nature. A residential flat building is permissible with Council's consent. The building is to comprise one and two bedroom units, including affordable housing units consuming 0.89:1 of the total 1.49:1 of GFA. The upper levels are two storey apartments. On this basis a variety of accommodation is provided on a site that is well located in terms of access to jobs, services and public transport. The objective is achieved.

- ***To enable other land uses that provide facilities or services to meet the day to day needs of residents.***

This objective is not relevant to the proposal.

Comment: The departure from the FSR control does not hinder the ability of the development to provide appropriate residential accommodation for a variety of residents, including affordable housing units. The additional residential GFA adds to the housing supply in the immediate area. The bulk and scale of the development is an acceptable given the transitional nature of the built form.

8.0 Other Matters For Consideration

Step 4 - Clause 4.6(4)(b) – The Concurrence of the Secretary has been obtained

On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under cl. 64 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under cl4.6 of the ALEP.

The Court has power to grant development consent to the proposed development even though it contravenes the FSR development standard, without obtaining or



assuming the concurrence of the Secretary by reason of s39(6) of the *Land and Environment Court Act 1979* (the Court Act).

Clause 4.6(5) - Concurrence Considerations

In the event that concurrence cannot be assumed pursuant to the Notice, cl4.6(5) of the LEP provides that in deciding whether to grant concurrence, the Secretary must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposed contravention of the FSR development standard has been considered in light of cl4.6(5) as follows:

- The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed development for this particular site. It is not directly transferrable to any other site in the immediate locality, wider region or the State and the scale of the proposed development does not trigger any requirement for a higher level of assessment;
- As indicated in Section 7 and Section 8, the proposed contravention of the development standard is considered to be in the public interest because it is consistent with the objectives of the zone and the objectives of the development standard.

The proposed development contravenes the Floor Space Ratio development standard under cl4.4 of ALEP 2013 and the FSR control under cl4.4 of the ALEP is a development standard and is not excluded from the application of cl4.6.

This written request to vary the development standard has been prepared in accordance with cl4.6(3) of the LEP and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the following reasons:

- Notwithstanding the contravention of the development standard, the proposed development is consistent with the relevant objectives of the development standard pursuant to cl4.4 of the ALEP 2013 and is consistent with the relevant objectives of the R3 Medium Density Residential zone and therefore, the proposed development is in the public interest;
- Notwithstanding the contravention of the development standard, the proposed flat building will not result in adverse environmental harm in that the amenity of neighbouring properties will be reasonably maintained and there will be no adverse impacts on the Milton Street streetscape.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the FSR development standard including:



- Replacement of a non-compliant landuse with one that is compliant with the local landuse planning for the site;
- Appropriate urban design outcome that offers transitional built form in accordance with the strategic planning imperatives for the locality;
- Additional GFA that provides specifically for additional affordable housing supply in a highly accessible area in terms of jobs, services and public transport;

A handwritten signature in black ink that reads 'A Martin'.

**Andrew Martin MPlA
Planning Consultant**



ANNEXURE A – Additional Justification dealing with sufficient environmental planning grounds

2nd July 2020

General Manager
Inner West Council

ATTN: Mr Conor Wilson

**RE: 40 Milton Street Ashfield
Addendum to Clause 4.6 Variation to Height and FSR
Additional Information Submission**

The purpose of this response is to provide an analysis of the additional shadow diagrams and sun eye diagrams prepared by Habitation Design and Interiors, dated 20th June 2020, in support of the proposal.

For completeness we formally advise Council that this letter and justification provided herein goes to supporting the applicants clause 4.6 variations in relation to both height and FSR. The updated photomontages and plans provide further justification for our initial urban design based justification under the clause 4.6. The photomontages demonstrate that the proposal has acceptable visual fit and contributes to the overall urban design response for this precinct.

This review focuses on the impact of the built form outside a compliant scheme. The shadow diagrams identify the impact of a compliant scheme and the proposed clause 4.6 scheme. As we understand the Inner West Planning Panel requested further analysis of the shadows and as such the additional information has been prepared to address that request.

In responding to the Panels questions with regard to shadows the Architect has prepared additional sun eye diagrams to represent the proposed scheme and the available direct sunlight available to living areas of the adjoining flat building to the south. As Council are aware we have also relied upon a GIPA application to determine the approved floor plates of the affected units to the south (see extracts below).

The shadow diagrams / sun eye diagrams prepared by Habitation Design dated 20.6.2020 shows the built form of the proposal and its relationship to the existing windows to the south of 3 x West facing apartments. This enables an assessment of the available direct sunlight to the windows of the kitchens and the living rooms of the three neighbouring units.

We believe Council will be of the same opinion that there is no longer a requirement as in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 to achieve a better environmental planning outcome but rather that there are sufficient environmental planning grounds to support the proposed variation to height and FSR (refer to *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 ("Initial Action") and *SJD DB2 Pty Ltd v Woollahra Council* [2020] NSWLEC 1112 (SJD DB2)). In particular we ask that the council in dealing with the subject clause 4.6 variation for height and FSR consider the SJD BD decision based on the variation granted in that case.

In that case the Appeal sought consent for the construction of a six-storey shop top housing development at 28-34 Cross Street Double Bay (the DA). The Court approved the proposed development, having a height of 21.21m where the control was 14.7m – representing a maximum variation of approximately 44% (or 6.51m) – and a floor space ratio (FSR) of 3.54:1 where the control was 2.5:1 – representing a variation of approximately 41%.

The Court drew from the decisions in *Initial Action* and *RebelMH* in the *SJD DB2* judgment, and noted that although there are a number of ways to demonstrate that compliance with a



development standard is unreasonable or unnecessary, it may be sufficient to establish only one way (at [35].) In considering the clause 4.6 variation requests submitted by the Applicant, the Court considered that they could be treated together, as the breaches they related to were fundamentally related, as where there is greater building form with additional height, so too is there greater floor area (at [63].)

Acting Commissioner Clay makes it clear in his judgment, 'cl 4.6 is as much a part of [an LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome' (at [73]).

In the present matter we have previously set out in the clause 4.6 variations the relevant justification as improved urban design outcomes/rationale and affordable housing benefits. The justification satisfies the sufficient environmental planning grounds to support both clause 4.6 variations. Also the justification is not common to all land of the same zoning and is site and locale specific. We request that Council has regard to the more recent Court decisions supporting the 'sufficient environmental planning grounds' justification. The justification below demonstrates that the units which have compliant AGD sunlight (i.e. 2 hours between 9 – 3pm) retain that compliance. In relation to the lower ground unit that unit has no access to sunlight based on a height and FSR compliant development shadow therefore the proposal has no additional impact (see further comments below under 'ground floor').

Adjoining Floor Plans

As provided in Figure A below the floor plan layouts of the adjoining site to the south have been provided. The extracts of the plans can be seen below with the kitchen and living areas fronting Milton Street.



Fig A: Floor plan layout



Figure B: Typical unit layout for the ground Level 1 & Level 2. Unit block is angled to the boundary and receives sun to its façade as shown in the sun eye diagrams.

The analysis of the shadows is as follows and for reference the adjoining units to the south are referred to as ground, level 1 and level 2 being the three (3) units facing the subject site facing north within an existing residential flat building.

As a general comment the remaining units in the neighbouring unit block primarily rely on a west facing front façade to obtain natural light and therefore the north facing units in question (the northern elevation is the shortest elevation) can be counted in the 30% of the units under the ADG that do not achieve the 2 hours even though the units achieve the 2 hours currently and face north.

The relevant point is that with 2 of the 3 affected (i.e. ground and level 1) units removed from the 70% the building, if submitted under a current DA to council, would comply with 70% solar control in accordance with the ADG. In any new development 30% of all units are permitted to have 2 hours or less and 15% of all units can be south facing and no direct sun light.

Based on the analysis undertaken the level 1 and level 2 units have access to 2 hours or more direct sun access and comply with the ADG. The ground floor unit has no solar access and therefore the proposal has no greater impact.

The shadow diagrams show three shadows as follows:

1. Shadow of the existing warehouse
2. Shadow of an Envelope compliant shadow
3. Shadow of the proposal with supporting sun eye diagrams showing 2 hours or more to the level 1 and 2 units with the proposed development in place

The assessment relies upon the comparison between a compliant envelope and the proposal given that there is no legal impediment to approving a development with additional impact even if it provides greater height or FSR. The relevant test is whether there are *sufficient environmental planning grounds* and whether the objectives of the zone and the standard can be satisfied. Our clause 4.6 variations establish that there is an urban design rationale for the variations and that the zone objectives and objectives of the standard are satisfied to the extent



necessary. The analysis confirms that the urban design response adopted outside the current controls does not give rise to adverse solar access issues. As stated above 2 hours solar access can be achieved to the units which have 2 or more hours solar access under a compliant envelope solar test.

The following provides analysis of each floor of the adjoining units facing west with a north facing kitchen windows:

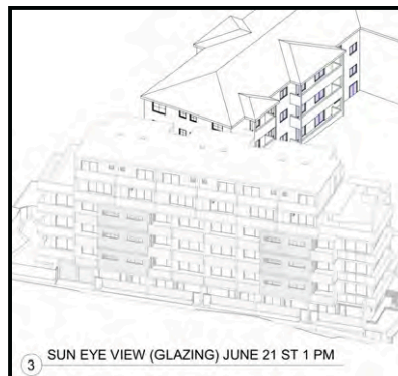
Ground Floor

Based on the shadow diagrams the current compliant shadow envelope causes complete overshadowing of the living room windows. On this basis there is no impact on the ground floor living area windows (i.e. kitchen and living) resulting from the proposal. The proposal does however result in an increase in the morning solar access to the ground floor bedroom and enables 2 hours of solar access compared to the current 1.5 hours. Whilst only an additional 30 mins at 11.00am the proposal as one departing from the standards results in a positive outcome given that this unit achieves no solar access at present.

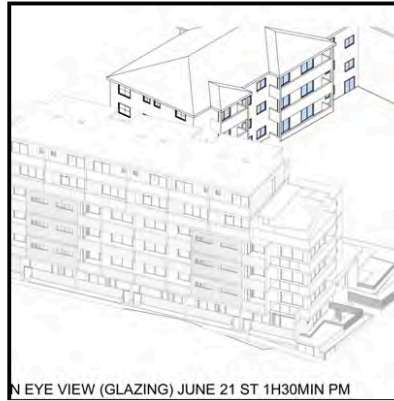
Level 1

The unit currently achieves more than the required 2 hours to the living area windows as required by the ADG based on a compliant envelope shadow assessment.

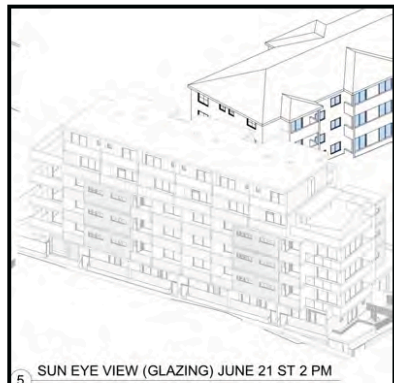
The proposal causes additional overshadowing as a result of the additional height. The proposal however achieves 2 hours solar access as indicated in the sun eye diagrams:



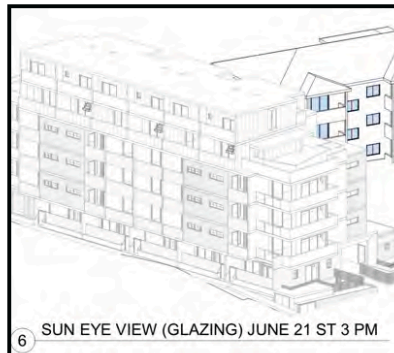
1pm solar access to level 1



5 SUN EYE VIEW (GLAZING) JUNE 21 ST 1H30MIN PM
1.30pm solar access to level 1



5 SUN EYE VIEW (GLAZING) JUNE 21 ST 2 PM
2pm solar access to level 1



6 SUN EYE VIEW (GLAZING) JUNE 21 ST 3 PM
3pm solar access to level 1
Level 2

Level 2 unit achieves more than the 2 hours and is not affected by the additional height except at 3pm for 30mins. No further assessment as the solar access is more than 3 hours.

**Summary:**

Based on the findings of the solar assessment the proposal satisfies both the height and FSR objectives on the basis that the proposal maintains adequate solar access to the adjoining units. The proposal as one departing from height and FSR is deemed to be acceptable given that:

- The proposal essentially affects three (3) of the adjoining units which form part of a larger unit block fronting Milton Street and have a westerly aspect. The solar access to the neighbouring unit block as a whole complies with the ADG if the units were proposed under a current DA. The proposal would not cause the unit block to depart from the 70% solar requirements under the ADG and this can be verified by the Registered Architect (refer to separate supporting letter by Joseph Panetta Registered Architect no. 9505).
- The proposal improves the solar access to the ground floor unit bedrooms which is a desirable outcome.
- The proposal maintains 2hrs of solar access to the level 1 north facing unit which in the circumstances is acceptable having considered the fact that the affected unit would form part of the overall 30% of units permitted to have less than 2 hours and comply with the ADG (30% of all apartments in any new apartment development can achieve less than 2 hours and 15% can face south and not have any direct solar access).
- The approval will enable the site to contribute to an improved urban form and one that contributes and increased affordable housing in line with the findings of the Residential Housing Strategy.

Regards

A handwritten signature in black ink, appearing to read 'A Martin', is written over a light grey rectangular background.

Andrew Martin MPlA
Director
Andrew Martin Planning Pty Ltd

Attachment E- Recommended Conditions of Consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
C105 Rev C	Site Plan	24/7/2020	Habitation Design
C106 Rev C	Basement - 2	24/7/2020	Habitation Design
C107 Rev C	Basement - 1	24/7/2020	Habitation Design
C108 Rev C	Ground Floor Plan	24/7/2020	Habitation Design
C109 Rev C	Level 1. 2. 3	24/7/2020	Habitation Design
C110 Rev C	Level 4	24/7/2020	Habitation Design
C111 Rev C	Level 5	24/7/2020	Habitation Design
C112 Rev C	Roof Plan	24/7/2020	Habitation Design
C113 Rev C	Elevations	24/7/2020	Habitation Design
C114 Rev C	Elevations	24/7/2020	Habitation Design
C115 Rev C	Section	24/7/2020	Habitation Design
C116 Rev C	Section	24/7/2020	Habitation Design
C121 Rev C	Materials and Finishes	24/7/2020	Habitation Design

As amended by the conditions of consent.

FEES

2. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$60,000
Inspection Fee:	\$230.65

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

3. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$424,978.00 indexed in accordance with Ashfield Development Contributions Plan/ Developer Contributions Plan No.1 – Open Space

and Recreation; 'Developer Contributions Plan No.2 – Community Facilities and Services (2005); and Leichhardt Developer Contributions Plan – Transport and Access has been paid to the Council.

The above contribution is the contribution applicable as at 1 September 2020.

***NB** Contribution rates under Ashfield Development Contributions Plan are indexed quarterly (for the method of indexation refer to Section 2.6 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Community Infrastructure Type:	Contribution \$
Local Roads	\$10,101.23
Local Public Transport Facilities	\$22,135.25
Local Public Car Parking	
Local Open Space and Recreation	\$356,294.65
Local Community Facilities	\$18,760.62
Plan Preparation and Administration	\$17,686.25
TOTAL	\$424,978.00

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

5. Boundary Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

6. Dry-weather Flows

Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement or any below ground structure must be designed to be "tanked" preventing the ingress of seepage or groundwater.

7. Rock Anchors

This consent does not grant consent for any rock anchors on the road reserve or Council land.

8. Tree Protection

No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

9. Works to Trees

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
<i>Eucalyptus scoparia</i> (Willow Gum) Front	Remove tree
<i>Cupressus</i> sp. (Cypress pine) Front	Remove tree
<i>Cupressus</i> sp. (Cypress pine) Front	Remove tree
<i>Cupressus</i> sp. (Cypress pine) Front	Remove tree
<i>Eucalyptus scoparia</i> (Willow Gum) Rear	Remove tree

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

10. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by koikas acoustics Pty Ltd , reference: 3998R20200130mfc40MiltonStAshfield_DA.docx dated 30 January 2020 must be implemented, including the following:

- a. Contents 7.0 - Conclusion.

11. Contamination – Remedial Action Plan (No Site Auditor Engaged)

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by Soilsrock Engineering Pty Ltd, reference Project No: SRE/612/AF/20/STG2 dated 01 June 2020, the *Contaminated Land Management Act 1997* and the *State Environmental Planning Policy No 55*.

12. Hazardous Materials Survey

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.

A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

13. Ausgrid - Streetlighting

The developer is to consider the impact that existing streetlighting and any future replacement streetlighting and maintenance may have on the development. Should the developer determine that any existing streetlighting may impact the development, the developer should either review the development design, particular the placement of windows, or discuss with Ausgrid the options for relocating the streetlighting. The relocating of any streetlighting will generally be at the developers cost. In many cases is not possible to relocate streetlighting due to its strategic positioning.

14. Ausgrid - Overhead Powerlines

There are existing overhead electricity network assets in Milton St and Milton Lane. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding. The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

Before a Construction Certificate is issued, the developer will be required to submit a survey plan to Ausgrid showing the location of all overhead mains within 5 metres of the proposed development. This drawing must contain a plan view and an elevated view clearly indicating the location of the overhead mains in relation to the development. This information should be forwarded to email address at the top of this letter for further comment. Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

15. Ausgrid - Underground Cables

There are existing underground electricity network assets in Milton St and Milton Lane. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable. Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

16. Ausgrid - Substation

There are existing electricity substation assets Milton Lane. The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a nonignitable blast resisting barrier. The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHz) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 141. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can

occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.

17. Residential Flat Buildings – Hot Water Systems

Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.

18. Residential Flat Buildings – Air Conditioning Systems

Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.

19. Residential Flat Buildings – Adaptable Dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate 5 units are Adaptable units.

No works are to occur to the premises that would prevent the Adaptable units from being adapted for persons with a disability.

20. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

21. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

22. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

23. Verification of Levels and Location

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

24. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

25. No Private Power Poles

No power pole is to be constructed on the property without the prior written approval of Council.

26. Milton Lane Traffic Signage

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with approved documentation from Council's Traffic Committee with regards traffic signage plans for Milton Lane.

27. Laneway Kerb

The proposed kerbing in line with the laneway should be made under Council control. All footpath back of kerb is the care and responsibility in maintenance by the owner

28. Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92

29. Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015. The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset,

e.g. relocating or moving an asset. Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tapin/index.htm>

PRIOR TO ANY DEMOLITION

30. Hoardings

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

31. Construction Traffic Management Plan – Detailed

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);

- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. 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; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

32. Resource Recovery and Waste Management Plan - Demolition and Construction

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

33. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining property/ies to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

34. Advising Neighbors Prior to Excavation

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.

35. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

PRIOR TO CONSTRUCTION CERTIFICATE**36. Splays - Dedication of Land**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the land owner has dedicated a splay that is registered at NSW Land Registry Services to provide for sight-distance for vehicles and pedestrians at intersections splays must be created at property corners. The size of the splay must be 4m x 4m at the Milton Lane as shown on the submitted plans.

37. Stormwater Drainage System – Major Developments

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD) and Stormwater Quality Improvement Devices (SQIDS), certified by a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater plans on Drawing Nos. 19MB8208/D01 to D06 prepared by United Consulting Engineers Pty Ltd and dated 28 January 2020, as amended to comply with the following;
- b. The existing inlet pit on Milton Lane shall be relocated perpendicular to the site drainage outlet pipe;
- c. Stormwater runoff from all surface areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank by gravity to the Council's piped drainage system via the OSD tank;
- d. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than for the pump-out of subsurface flows and surface flows from the driveway from the basement;
- f. The on-site detention system must be designed for all storm events from the 1 in 5 years to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions;
- g. Details of the Height vs Storage and Height vs Discharge relationships must be submitted.

- h. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD tank;
- i. OSD may be reduced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- j. Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- k. A pump-out system for drainage of surface flows from the basement ramp is permitted for the basement area only and must be designed in accordance with the following criteria:
 - 1. Comply with all relevant Australian Standards;
 - 2. An overflow, flashing light and audible alarm is to be provided to warn of pump failure;
 - 3. A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months;
 - 4. The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration, 100-year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from one-hour duration 20-year ARI storm event;
 - 5. The pump system must be discharged to the OSD storage tank;
 - 6. Subsurface flows must be collected at the point of ingress to the basement i.e. at the basement walls;
 - 7. The subsurface drainage system must have sufficient capacity to collect and convey all surface flows to the pump out system; and
 - 8. Inlet pits and drains for subsurface drainage must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system. e.g. isolate any subsurface drains at boundary walls, inspection pits with solid covers, etc.
- l. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- m. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
- n. No nuisance or concentration of flows to other properties;
- o. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;

- p. A silt arrestor pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- q. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- r. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- S. Modelling for the determination of the pollution load reductions must be undertaken in MUSIC (the Model for Urban Stormwater Improvement Conceptualisation) and in accordance with Marrickville Council's WSUD Reference Guideline. Stormwater quality load reduction controls are: and

90% reduction in the post development mean annual load of Gross Pollutants (greater than 5mm).

85% reduction in the post development mean annual load of Total Suspended Solids (TSS).

60% reduction in the post development mean annual load of Total Phosphorus (TP).

45% reduction in the post development mean annual load of Total Nitrogen (TN).

A WSUD Strategy Report must be provided to ensure the treatment measures proposed to meet Council's water quality targets. MUSIC model file (*.sqz file) must be included with the report;

A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.

s. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement must be fully "tanked" so as not to allow the ingress of seepage or groundwater.

38. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. The basement must be fully tanked to prevent the ingress of subsurface flows;
- b. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure;
- c. Proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years;
- d. All components of the basement, including footings, must be located entirely within the property boundary;
- e. No adverse impact on surrounding properties including Council's footpath and road;
- f. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- g. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- h. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

39. Waste Collection

Prior to the issue of a Construction Certificate the Certifying Authority must be provided with plans including swept paths prepared by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that demonstrate that waste collection can be collected in the rear Milton Lane by a Council Standard Resource Recovery Vehicle entering and exiting in a forward direction. Council Resource Recovery Vehicle Specifications are as follows:

Dimension	Measurement
Length:	9.4 metres
Width:	2.5 metres
Height (travel):	4.5 metres
Weight (loaded):	26 tonnes
Turning Circle:	26 metres

40. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia

(RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- b. New concrete footpath and kerb and gutter along the rear lanes of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer;
- c. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary.
- d. The existing Council drainage system at the Milton Lane must be reconstructed (minimum 375 mm RCP); The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event. Pipes must be Class 4 Steel Reinforced Concrete Pipe or approved equivalent and Pits must be cast in-situ. Plans, longsections and details must be provided including location of utility services; Connection of the private drainage system to Council's piped drainage system must be at a stormwater drainage pit at a level 300mm above the invert of the outgoing pipe.

All works must be completed prior to the issue of an Occupation Certificate.

41. Parking Facilities – Major (including basement)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- b. Minimum headroom of 2500mm must be provided above any disabled parking space(s);
- c. The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps;

- d. Longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a SRV utilising the loading bay. The sections must demonstrate that minimum headroom of 3500mm is provided;
- e. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - i. Car spaces adjacent to walls or fences are increased in width by an additional 300mm; End spaces are provided with an additional 1m aisle extension;
 - ii. End spaces are provided with an additional 1m aisle extension; and
 - iii. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004.
- f. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
- g. The relative surface levels of the internal access from the road being controlled so that:
 - i. The surface levels at the property boundary match "alignment levels"
 - ii. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - iii. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - iv. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary.
- h. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles;
- i. The curved section of the ramp is designed in accordance with AS/NZS 2890.1-2004 with grades measured along the inside radius;
- j. All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction;
- k. The entry security door must be set back a minimum of 5500mm from the property boundary;
- l. Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002; and
- m. A bicycle storage area must be provided to accommodate the numerical requirements of DCP and be designed in accordance with relevant provisions of AS 2890.3-2015.

42. Bin Storage Area - Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in the Inner West Comprehensive Development Control Plan (DCP) 2016 and must include doorways/entrance points of 1200mm.

43. Structural Details and Design

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to Class 2-9 buildings) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings).

44. Noise General – Acoustic Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

45. Shared Accommodation / Boarding House – Plan Of Management

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Plan of Management demonstrating compliance with operation and maintenance standards set out in the *Local Government (General) Regulation 2005*.

46. Car Wash Bay – Design

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with certification confirming that all wastewater generated from the car wash bay will be discharged to the sewerage systems in accordance with the requirements of Sydney Water.

47. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area must meet the floor area requirements as per the Inner West Comprehensive Development Control Plan (DCP) 2016 and have minimum doorways of 1200mm wide to accommodate large items.

48. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:12.

49. Each Residential Level is to have Access to a Disposal Point for All Waste Streams

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

50. Enclosure of Fire Hydrant

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in accordance with the requirements of AS 2419.1 2005.

51. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program 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.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

52. Fibre-ready Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.

53. Compliance with Planning Agreement

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided written evidence from Council that all matters in the executed Voluntary Planning Agreement must be complied with. The Voluntary Planning Agreement is attached as "Annexure 1" to this Determination Notice.

54. Green Roofs, Walls and Facades Report

Prior to the issue of Construction Certificate, the Certifying Authority is to be provided with a report prepared by a suitably qualified person demonstrating that the proposed landscape plan and details of any green roofs, wall and facades are consistent with [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#) including but not limited to using species selected from the suggested species list, water proofing and drainage.

55. Transport for NSW approval

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with approval from Transport for NSW regarding their acceptance of satisfactory demonstration of left in and left out access arrangements onto Milton Lane from Milton Street and Milton Street from Milton Lane. This demonstration must include swept paths of the largest vehicles required to access the site and may require the widening of the Milton Lane - Milton Street intersection. Any intersection expansion is to be approved by transport for NSW and Council prior to the issue of a Construction Certificate.

DURING DEMOLITION AND CONSTRUCTION**56. Contamination – New Evidence**

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

57. Imported Fill Materials

All imported fill on the site shall be validated as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM), in accordance with NSW Environment Protection Authority guidelines, 'Consultants Reporting on Contaminated Sites' (August 2011) to ensure the imported fill is suitable for the proposed land use.

All fill imported onto the site shall be validated by either one or both of the following methods:

- a. Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- b. Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).

58. Documentation of Demolition and Construction Waste

All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

59. Construction Hours – Class 2-9

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

60. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

PRIOR TO OCCUPATION CERTIFICATE

61. Road Widening/Splay

Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence which establishes that a plan of subdivision has been registered with NSW Land and Registry Services which results in the following road widening:

- b. Widening of the rear Milton Lane by 2.455 m; and
- c. Provision of 4m x 4m splay at the corner of Milton Lane Lane as shown on the plans.

62. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Heavy duty concrete vehicle crossing at the vehicular access location;
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- c. The existing concrete footpath and kerb across Milton Lane frontages of the site must be reconstructed; and
- d. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-“Roadworks Specifications”.

63. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

64. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

65. Undergrounding Power – Major development

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any existing overhead power cables along Milton Road frontage of the site have been relocated underground with appropriate street lighting and new steel standard poles. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet the lighting category required by Council and RMS. In addition, the design must also comply with AS4282 to ensure that no injury is caused to the amenity of the surrounding area by light overspill or obtrusive light.

66. Parking Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a. The car park has been completed, line marked and all signage relating to car parking erected;
- b. A notice has been clearly displayed at the Milton Street frontage to indicate that visitor parking is available within the property with access from Milton Lane; and
- c. Sign(s) have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area.

67. Public Domain - Major Developments

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with the works-as-executed plan(s), certified by a Registered Surveyor, that show the as built details in comparison to those shown on the plans approved with the public domain and

Roadworks Permit with all relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

68. Dilapidation Report – Post-Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey, structural condition and CCTV inspections which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

69. Stormwater Drainage and Road Works – Certification

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. All works required to be undertaken on public roads are designed and constructed in accordance with Council's approved plans;
- b. Video inspection (CCTV) in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia has been carried out of completed stormwater drainage works that are to revert to Council by an accredited operator; and
- c. Full works-as-executed plans in PDF and CAD format (dwg or dxf files), prepared and signed by a Registered Surveyor have been submitted to Council.

70. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device and any pumps installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plans must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

71. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device and pumps. The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

72. Easements, Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the *Conveyancing Act 1919*, has been created on the title of the property detailing the following :

- a. Restrictions on the Use of Land related to on Site Stormwater Detention System and stormwater quality improvement devices;
- b. Positive Covenant related to on-site stormwater detention and/or retention system; and
- c. Positive Covenant related to stormwater quality improvement devices;

The wording in the Instrument must be in accordance with Councils Standard wording.

73. No Weep Holes

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that any weep holes to Council road or footpath resulting from the building works have been removed.

74. Basement/Retaining Wall Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with certification from a suitably experienced structural and geotechnical engineer, who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng), that the basement and driveway has been constructed in accordance with the development consent and relevant Australian Standards.

75. Non-combustible Cladding – Class 2-9 Buildings

Prior to the issue of an Occupation Certificate the Principal Certifier must be provided with suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the National Construction Code (NCC).

76. Products Banned Under the Building Products (Safety) Act 2017

Prior to the issue of any Occupation Certificate, the Principal Certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the *Building Products (Safety) Act 2017* or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the *Building Products (Safety) Act 2017*.

77. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

Trees have been planted on the site as per the Landscape Plan prepared by Canvas Landscape Architects, 19/02/2020, and that the trees are planted at a minimum distance of 1.5 metres from any boundary or structure and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

78. Noise – Acoustic Report

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

79. Noise From Road, Rail & Aircraft – Compliance

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with an acoustic report prepared by suitably qualified acoustic consultant, confirming that the development complies with the requirements of the:

- a. *State Environmental Planning Policy (Infrastructure) 2007*;
- b. NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline;
- c. Australian Standard 2021-2000: Acoustics - Aircraft noise intrusion - Building siting and construction;
- d. conditions of development consent; and
- e. Recommendations of koikas acoustics Pty Ltd consultants in noise & vibration dated 30 January 2020.

80. Contamination – Disposal of Soil

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment Operations (Waste) Regulation 2014 and the *Protection of the Environment Operations Act 1997*.

81. Contamination – Validation (Site Audit Statement Required)

Prior to the issue of an Occupation Certificate, the Certifying Authority and Council must be provided with a Section A Site Audit Statement prepared by a NSW Environment Protection Authority accredited Site Auditor.

The Site Audit Statement must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

82. Contamination – Validation (No Site Audit Statement Required)

Prior to the issue of an Occupation Certificate, the Certifying Authority and Council must be provided with a Site Validation Report prepared by a suitably qualified environmental consultant with experience in land contamination.

The Validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines *Consultants Reporting on Contaminated Sites* and must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

83. Car Wash Bay – Trade Waste Agreement

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with a copy of the Sydney Water Trade Waste Agreement for the disposal of wastewater from the premises.

84. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

85. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

86. Verification and Maintenance of Green Roofs, Walls and Facades Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#).

87. Affordable Housing

Prior to the issue of any occupation certificate, a restriction is to be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that:

1. A minimum of 19 units will be used for the purposes of affordable housing for a minimum period of 10 years in accordance with the requirements of division 1 within the SEPP Affordable Rental Housing 2009 and,
2. all accommodation that is used for affordable housing will be managed by a registered community housing provider

ON-GOING**88. Operation and Management Plan**

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use, stormwater quality improvement devices and pump facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

89. Vehicles Leaving the Site

All vehicles must enter and exit the site in a forward direction.

90. Loading/unloading on site

All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.

91. Maintenance of tree plantings

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

92. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

93. Bin Storage

All bins are to be stored within the site. All bins are to be returned to the property within 12 hours of having been emptied.

94. Green Roofs, Walls and Facades Establishment

The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for 12 Months from the issue of an Occupation Certificate. If any of the planting are found faulty, damaged, dying or dead within 12 months

of the issue of an Occupation Certificate they must be replaced with the same species within one (1) month (up to 3 occurrences).

ADVISORY NOTES

Electrical Substations

Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Rock Anchors

If you are seeking to use temporary anchors, you must make a request for approval for a Permit under Section 138 of the *Roads Act 1993*. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road

reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.

- b. Demonstrate how the temporary anchors will be removed or immobilised and replaced by full support from structures within the subject site by completion of the works.
- c. The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.

Easement and Covenant Process

The following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):

- a. Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS 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 the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.

- b. Engineer's Certificate

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

- c. The soundness of the storage structure;
- d. The capacity of the detention storage;
- e. The emergency overflow system being in place;
- f. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- g. 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 DCP/Code;
- h. Basement car park pumps are class one zone two; and
- i. OSR pumps and SQIDS have been installed and commissioned.

c. Restriction-As-To-User

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.

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

A typical document is available from Council's Development Assessment Engineer.

d. A Maintenance Schedule.

Subsurface drainage pump-out systems

Where it is demonstrated by detailed geotechnical investigation that the groundwater flows are minimal or intermittent, a pump out system for groundwater may be considered. An application for modification of development consent with supporting documentation must be submitted. Where this option is to be pursued dry-weather flows of any seepage water will not be permitted through kerb outlets and must be connected directly to a Council stormwater system in accordance with Council requirements.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Annual Fire Safety Statement

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

An annual fire safety statement is a statement issued by or on behalf of the owner of a building to the effect that:

- a. Each essential fire safety measure specified in the statement has been assessed by a competent fire safety practitioner and was found, when it was assessed, to be capable of performing:
 - i. in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule, or
 - ii. in the case of an essential fire safety measure applicable otherwise than by virtue of a fire safety schedule, to a standard no less than that to which the measure was originally designed and implemented, and
- b. The building has been inspected by a competent fire safety practitioner and was found, when it was inspected, to be in a condition that did not disclose any grounds for a prosecution under Division 7.

Arborists standards

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

Tree Pruning or Removal (including root pruning/mapping)

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and must be retained and protected in accordance with Council's *Development Fact Sheet—Arborist Reports*.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three months prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and

- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;

- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and

- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

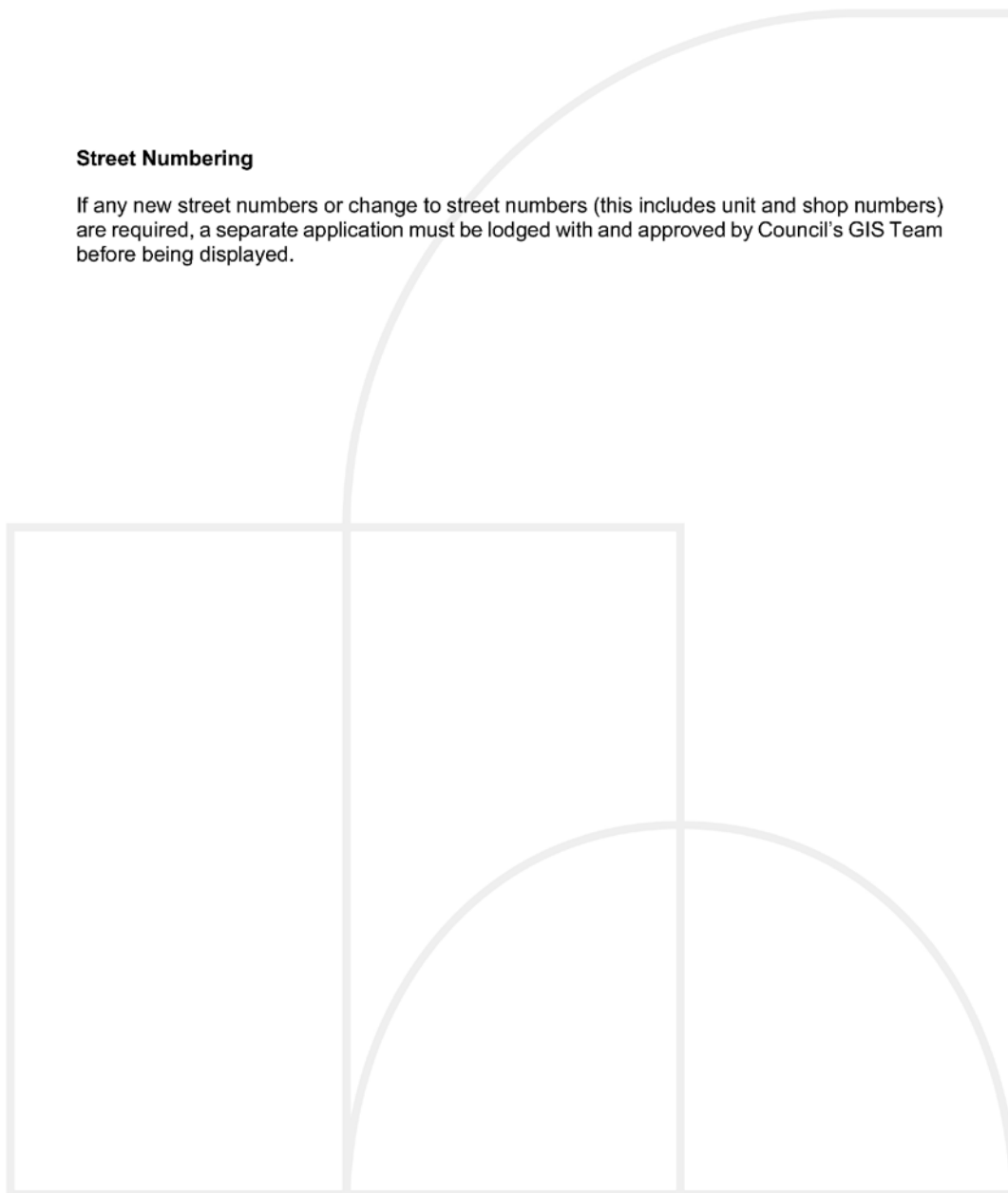
Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100

Landcom	www.dialprior.toyoudig.com.au 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - Environmental Solutions	SITA 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.



Attachment F- Urban Design Report



PRE-DA DESIGN REPORT

40 MILTON STREET ASHFIELD
NOVEMBER 2019

SMITH & TZANNES



CONTEXT

LOCAL CONTEXT

LOCATION

SUBURB	ASHFIELD	8KM
DISTANCE FROM SYDNEY CBD	CBD	700M
NEAREST SHOPS	ASHFIELD	<1KM
EDUCATION	ASHFIELD PUBLIC, CROYDON PARK PUBLIC	0.6KM
RECREATION	PRATTEN PARK, KEITH SMITH PARK	0.7KM

TRANSPORT AND ACCESS TO SITE

The site is well serviced by public transport with buses providing regular access to the Sydney CBD via the services shown below.

DISTANCE TO NEAREST STOP	
BUSES	ASHFIELD STATION, KINGSFORD CENTRAL STATION <100M
TRAIN	ASHFIELD STATION 1KM, CROYDON STATION 0.9KM

LOCAL NATURAL AND BUILT FORM CHARACTER

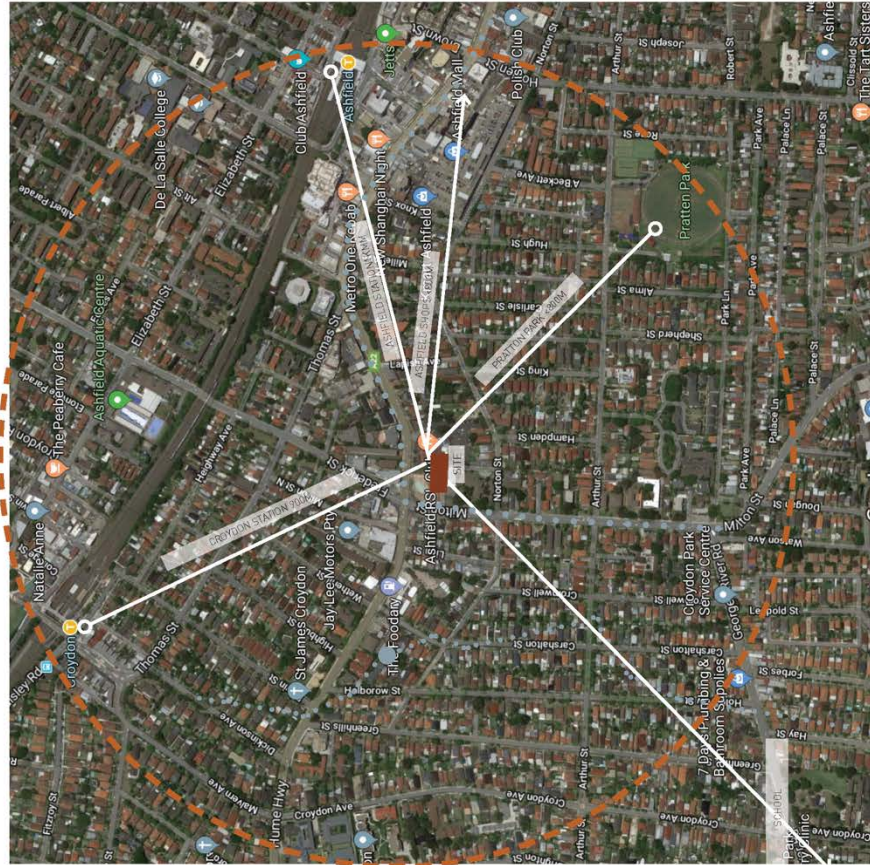
Ashfield is a suburb in the Inner West of Sydney. It has a population that is highly multicultural, it's urban density is relatively high, with the areas dwellings being a mixture of mainly post-war low rise apartment buildings and Federation-era detached houses. Amongst these are a number of grand Victorian buildings that hint at the early establishment of the area in 1838.

Prior to the arrival of Europeans, the area was inhabited by the Wangal People. The area was heavily wooded at the time with tall eucalypts covering the higher ground

The majority of the neighbourhood surrounding the site is residential, comprising of single and multi story dwelling and low rise residential flat buildings to the north and east the area is undergoing significant redevelopment.

The urban form is characterized by single dwellings of 1 and 2 storeys with redevelopment to the north and east consisting of contemporary apartment buildings of 4-7 storeys. Materials consist of blond and red brick face. New buildings are mostly painted render and concrete, glass and aluminium.

The topography rises gently towards the Ashfield centre. Milton Street runs generally parallel to the contour.

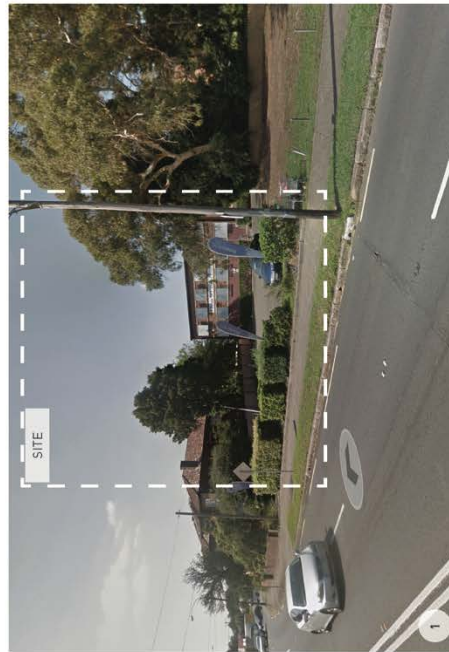




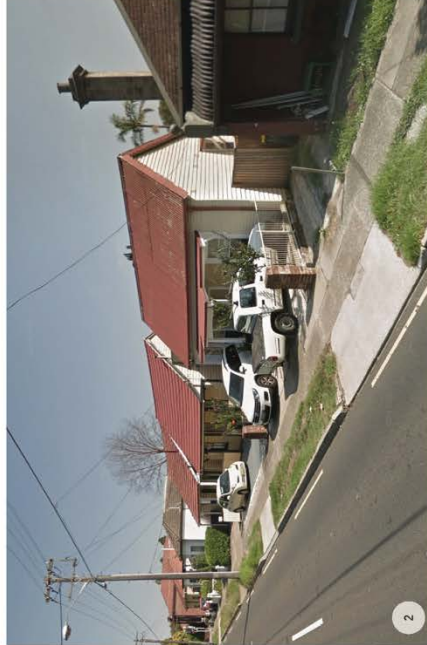
NEIGHBOURHOOD CONTEXT

The urban form is characterised by single dwellings of 2-3 storeys with generous rear gardens and significant vegetation. Many of these dwellings back onto large reserves and waterfront views of the surrounding coast.

Materials consist of red brick face, sandstone and rendered brickwork. These multi levelled dwellings with red tiled roofs, many of which are built directly into the stone of the cliffs surrounding the gully.



SUBJECT SITE ON MILTON STREET



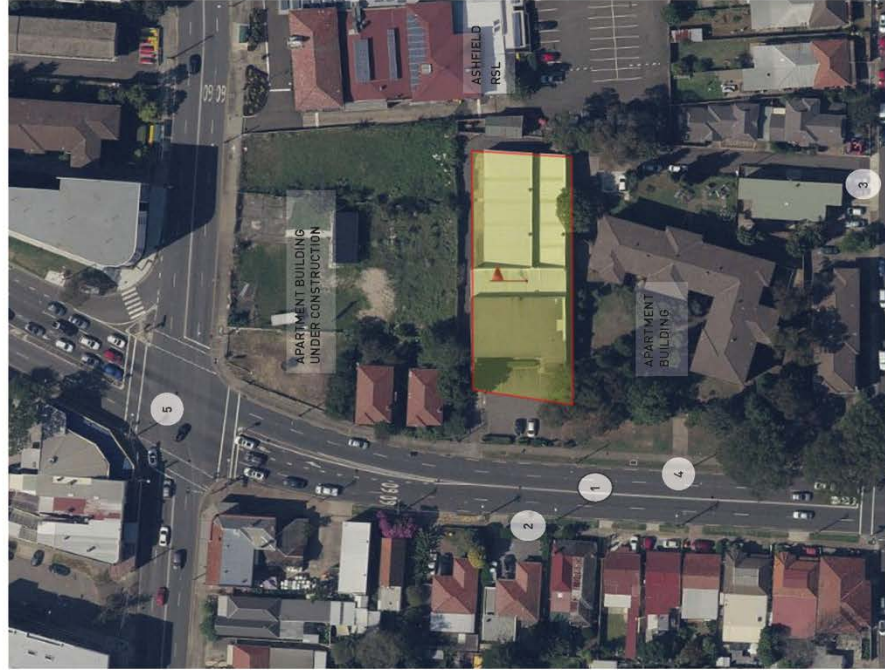
DWELLINGS ON OPPOSITE SIDE OF STREET



VIEW DOWN MILTON LANE

REV A 28-11-2019 B02

PROJECT STREET | SITE INVESTIGATION REPORT



SITE CONTEXT
REV A/28-11-2019
B03



APARTMENT BUILDINGS
ADJACENT



PROJECT STREET | SITE INVESTIGATION REPORT

PLANNING CODE ANALYSIS



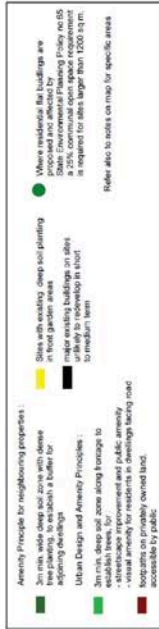
The site is located just outside the Ashfield West precinct in the Comprehensive Inner West DCP 2016.

The DCP proposes a variety of built forms throughout the centre with the greatest height concentrated along Liverpool Road. Development that falls away from the road corridor reduces in height to a 12.5m height along the edges. Some sites are provided with transition heights of 15m.

Although the site is not part of the DCP area, the strategy also proposes a footpath and open space on the subject site at the edge of Millon Lane.



SUBJECT SITE



LEP HEIGHT MAP



SUBJECT SITE

PREFERRED BUILDING LOCATION AND MAX STOREYS - WEST ASHFIELD PRECINCT DCP MAP 2

REV A/26/11/2019 B04



SITE RESPONSE

TRANSITION SITE

Development of site enables transition in height from the 6 & 7 storey existing and future development to the north - in the same way that the 15m height limit provides a transition on the RSL site.

ADDRESS MILTON LANE

Provide an active street frontage to Milton Lane and provide general amenity improvements to the lane - including increased width at the rear to enable better visibility for cars and pedestrians

PROTECT AMENITY OF ADJOINING

Protect the amenity of the adjoining residential apartment development. Particularly with respect to solar access and privacy to the apartments.

