



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	10.2019.125.01
Address	75 – 75A Palace Street, Ashfield
Proposal	Demolition of existing structures and construction of a two storey boarding house with 12 rooms (24 lodgers), managers residence and 7 car parking spaces with associated landscaping
Date of Lodgement	27 August 2019
Applicant	Brookes Associates Architects
Owner	Theo Themis
Number of Submissions	Fifteenth (15) individual submissions and one petition with 63 signatures
Value of works	\$1,539,750.00
Reason for determination at Planning Panel	Number of submissions
Main Issues	Compliance with ARH SEPP, Streetscape, Stormwater
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Conditions of Consent



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of existing structures and construction of a two storey boarding house with 12 rooms (24 lodgers), managers residence and 7 car parking spaces at 75 Palace Street, Ashfield. The application was notified to surrounding properties and fifteen (15) individual submissions and one petition with 63 signatures was received.

The main issues that have arisen from the application include:

- Non-compliance with Clause 30A of the ARH SEPP
- The proposal has not demonstrated compliance with Clause 29(2)(e) of the ARH SEPP, as the proposal is non-compliant with the Australian Standards for car parking.
- The proposal is non-compliant with the requirements of Clause 29(2)(d) of the SEPP. The proposal provides inadequate private open space for lodgers.
- The proposal is inconsistent with the aims set out in clause 1.2(2) of the Ashfield Local Environmental Plan 2013 as the proposal does not enhance the amenity and quality of life for local communities, nor does it achieve a high quality form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of the subject locality.
- The proposal has not demonstrated compliance with the aims and controls set out in clause 6.1 of the Ashfield Local Environmental Plan 2013 as the proposed level changes may disrupt drainage patterns and affect the amenity of adjoining properties.
- The proposal is contrary to Performance Criteria PC6 of Chapter A, Part 2 of the Comprehensive Inner West Development Control Plan 2016 as the proposal does not provide high quality amenity through physical, spatial and environmental design.
- The proposal is contrary to Clauses 4.1 – 4.9 of Chapter C, Part 3 within the Inner West Comprehensive Development Control Plan 2016. The proposal seeks to store bins awaiting collection within the public domain.

The non-compliances are not acceptable and therefore the application is recommended for refusal.

2. Proposal

Pursuant to Clause 4.12 of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent to demolish existing structures and construction of a two storey boarding house with 12 rooms (24 lodgers), managers residence and 7 car parking spaces with associated landscaping.

The proposed boarding house is to be constructed over two levels, with the ground floor incorporating 6 boarding rooms, a communal lodgers area and nine (9) on-site parking spaces accessed from the rear laneway (two of these spaces are located within a double car garage). Located upon level 1 of the proposal is six (6) boarding rooms within the main building and a managers residence situated above a proposed two car garage addressing the rear Palace Lane.

3. Site Description

The subject site is located on the northern side of Palace Street, between Shepherd Lane and Milton Street. The site consists of one(1) allotment and is generally rectangular shaped with a total area of 812.3sqm. The site is legally described as Lot 31 within Sec. 1 in D.P.1013.

The site has a frontage to Palace Street of 15.24 metres and a secondary frontage of approximate 15.24 metres to a rear lane known as Palace Lane. The site is not identified as being affected by any easements.

The site currently supports an attached dual occupancy development, with the eastern unit identified as 75 Palace Street and the Western unit identified as 75A Palace Street. The dwelling currently located upon the site is a single storey brick and tile dwelling house, matching a scale, form and material as that of the adjoining properties.

The subject site is not listed as a heritage item and is not within a heritage conservation area. However the subject site is within proximity to an item of local heritage significance and is adjacent from the Park Avenue, Ashfield Heritage Conservation Area (C14).

The following trees are located on the site and within the vicinity:

- 1 x *Lagestroemria indica* (Crepe Mytle) located in the rear garden
- 1 x *Pinus radiata* (Monterey Pine) located at the rear of 77 Palace Street

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
009.2017.45.1	Pre Development Application: Demolition of existing building (dual occupancy) and construction of a 2 storey boarding house containing 15 rooms with associated parking and landscaping.	Advice issued on the 9 April 2018.

The applicant has undertaken a pre development application discussions prior to the lodgement of the current development application. Within this meeting Council officers outlined the following concerns:

- Heritage, Context, Design and Streetscape – Concerns were raised that the proposed design would be out of scale and character with that of the neighbouring heritage items and sites within the vicinity
- Compliance with the ARH SEPP – It was outlined to the applicant that any proposal for a boarding house must strictly comply with the requirements of the ARH SEPP.
- Neighbouring Amenity Impact – Concerns were raised regarding the pattern of the proposed development

Surrounding properties

Application	Proposal	Decision & Date
77 Palace Street, Ashfield		
10.2013.57.01	Alterations and additions to a dwelling house, including a new first floor	Approved – 11/6/2013

4(b) Application history

Not applicable.

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.55 – Remediation of Land*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *Disability (Access to Premises — Buildings) Standards 2010*
- *Ashfield Local Environmental Plan 2013*
- *Comprehensive (Ashfield) Inner West DCP 2016 (former Ashfield LGA)*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *State Environmental Planning Policy No 55 – Remediation of Land*

The following provides further discussion of the relevant issues:

8 *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. Inner West Comprehensive Development Control Plan 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 not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

9 *State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)*

The application seeks the removal of vegetation from within the site and on Council land. The application was referred to Council’s Tree Management Officer whose comments are summarised as follows:

- *1 x Lagerstroemia indica (Crepe Mytle) - located in the rear garden shows poor condition and has low retention value. No objections are raised to the removal of the one site tree.*
- *1 x Pinus radiata (Monterey Pine) located at the rear of 77 Palace Street shows declining condition but is to be retained and protected. The tree has a Tree*

Protection Zone (TPZ) of 7.2 metres and a Structural Zone of 2.8 metres. Two proposed carparking spaces and the driveway are within the tree's TPZ. Permeable paving will reduce the level of impact on the neighbouring tree.

Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and Inner West Comprehensive DCP 2016 subject to the imposition of conditions, which have been included in the recommendation of this report, should the application be supported by the panel.

10 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. Under this SEPP the development application is classified as a Boarding House. The development application is required to be assessed against the provisions outlined by Clauses 25 to 30A. These clauses dictate permissible height and 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) Standards that cannot be used to refuse consent (Clause 29)

Clause 29 of the ARH SEPP prescribes that a consent authority must not refuse consent to a Development Application for a boarding house if the development satisfies the following numerical controls:

(a) Density - Floor Space Ratio (Clause 29(1))

"A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:

- (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*
- (b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or*
- (c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:*
 - (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
 - (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1."*

The site is zoned R2 – Low Density Residential under the Ashfield Local Environmental Plan 2013. A boarding house is permissible within the zone with consent. Under the LEP a maximum FSR 0.7:1 is permissible. Within the R2 Low Density Residential Zoning, Residential Flat Buildings (RFB's) are not a permissible use, therefore the site is not able to benefit from the additional FSR granted by clause 29 (1)(c).

The development is therefore permitted to obtain a maximum floor space ratio of 0.7:1 or 569m². The development proposes to achieve a floor space ratio of 0.52:1 or 420.46m², which is compliant with the development standard. The proposal is compliant with the floor space ratio set by the SEPP.

(b) Building Height (Clause 29(2)(a))

"If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land."

A maximum building height of 8.5 metres applies to the site as indicated on the Height of Buildings Map that accompanies the LEP.

The drawings indicate that the proposal has a maximum height of 6.7 metres above existing ground level.

(c) Landscaped Area (Clause 29(2)(b))

"If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located."

The development proposes 6m front setback to Palace Street, which is to incorporate landscaped area. This introduction of landscaping to the front setback is in-line with the existing streetscape, which currently integrates similar front setbacks with landscaped front yards. The proposed landscaping to the front setback is compatible with the streetscape in which the building is located and is in line with the SEPP.

(d) Solar Access (Clause 29(2)(c))

"Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter."

The communal lounge room on the ground floor has a north-facing window which will receive a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter.

(e) Private Open Space (Clause 29(2)(d))

"If at least the following private open space areas are provided (other than the front setback area):

- (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers;*
- (ii) if accommodation is provided on site for a boarding house manager - one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation."*

The development provides 12.8m² for the purpose of private open space for lodgers. This private open space is located along the eastern boundary of the site, directly opposite the proposed communal room and has dimensions of 2.9m x 4.4m. This space is non-complaint with the requirements of Clause 29(2)(d) and is inadequate for the provision of private open space for lodgers. Lodgers utilising rooms 7 – 12 located upon the first floor of the proposed development are expected to be highly reliant upon the required communal space with no access available to other outdoor spaces from their lodgings. The non-compliant rate of outdoor space currently proposed is therefore not acceptable and will result in a reduced rate of amenity for future occupants. Acceptance of this variation is likely to push occupants to reliance upon public assets for the provision of outdoor amenity and place an unjust burden on the public domain. The sites inability to provide the minimum required rate of communal open space for lodgers is directly linked to the developments desire to maximise

room numbers and meeting minimum parking rates at the expense of amenity for occupants. The proposed variation to the minimum required open space is not supported and the development is recommended for refusal.

The development proposes to provide a manager's private residence on top of a two car garage facing the rear lane. This a mangers residence has access to an area of 27m² also facing the rear lane on top of the proposed driveway. This space is to be only readily available to the manager and is sufficient to act as private open space.

(f) Parking (Clause 29(2)(e))

"If:

- (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and*
- (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and*
- (iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and*
- (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,*

The development is not carried out on behalf of a social housing provider and as such a parking rate of at least 0.5 parking spaces for each boarding room are required under the SEPP. To comply with the SEPP the development would be required to provide a minimum of 6 vehicular parking spaces.

The development proposes to provide 7 parking spaces (6 for lodgers and 1 for the manager).

Council's development assessment engineer has reviewed the proposed parking arrangement and outlined that the proposed parking layout is not supportable in its current form.

Car parking spaces proposed by the development have been assessed as being non-compliant with the Australian Standards. The proposed parking arrangement needs to be redesigned to the correct dimensions and this may result in a loss of on-site parking and non-compliance with the SEPP. The applicant has therefore not satisfactorily demonstrated to Council that the development is compliant with Clause 29(2)(e) and is therefore recommended for refusal.

(g) Accommodation Size (Clause 29(2)(f))

"If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:

- (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or*
- (ii) 16 square metres in any other case."*

The development proposes each room to be able to accommodate up to two lodgers, as such each room must be a minimum of 16m². The proposed rooms are at approximately 16m², with the exception of the managers room which is to measure 28m². The proposal is compliant with the requirements of the SEPP.

(ii) Standards for Boarding Houses (Clause 30)

Clause 30 of the ARH SEPP prescribes that a consent authority must not consent to a development to which this division applies unless it is satisfied of each of the following:

- (a) *a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.*

Communal living rooms have been provided on the ground floor.

- (b) *no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.*

No boarding room exceeds 25sqm (excluding private kitchens and bathrooms).

- (c) *no boarding room will be occupied by more than 2 adult lodgers.*

All rooms are for either one or two lodgers.

- (d) *adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.*

Adequate bathroom and kitchen facilities are provided within each boarding room.

- (e) *if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.*

The development provides a manager accommodation room at the rear of the site, this manager will be on the premises to manage the operation.

- (g) *if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.*

The site is located within the R2 – Low Density Residential zone, which is a zone utilised typically residential. This clause is not relevant to this assessment.

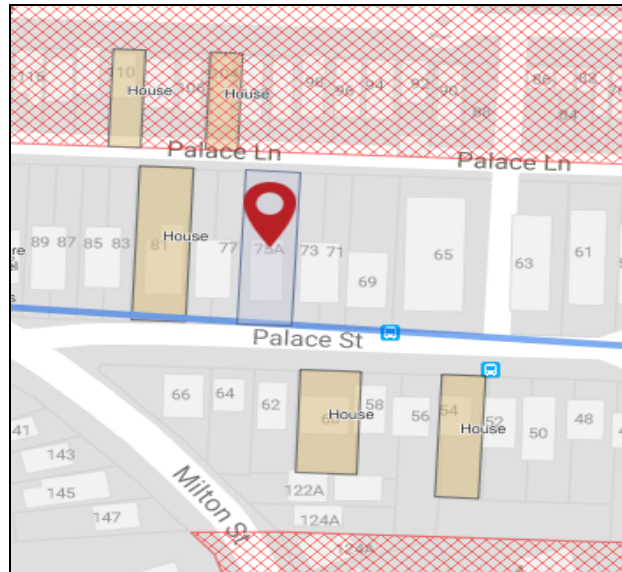
- (h) *at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.*

The development provides 6 bicycle parking spaces for the boarding rooms, this rate of parking has been assessed and is considered to be acceptable.

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

Under the provisions of Clause 30A of the ARH SEPP, applications for new boarding houses must satisfy a local character test which seeks to ensure developments proposed under the ARH SEPP are consistent with the design of the area.

The immediate area (including the subject site) is characterised by a row of similar, single storey duplex cottage-scale buildings of brick and tile construction with hipped roofs, which provide a consistent streetscape character. The site is within the vicinity of 4 heritage items and adjacent to the Park Avenue, Ashfield Heritage Conservation Area (C14), this is demonstrated below within figure 1.



(Figure 1 – Outline of Heritage items and Conservation Area within proximity to the site)

The proposal is not considered to respond to the context of the site or its neighbours. In this instance the proposed massing, scale and articulation results in a development contrasting from that of the streetscape. This is best demonstrated through the analysis of pictures 1 - 2 and perspective 1-2 below, which detail the current streetscape and the proposed development.



Picture 1 – Existing Streetscape, subject site is identified by red arrow.



Picture 2 – Existing Streetscape, subject site is identified by red arrow.



Perspective 1 – Looking South West – View of proposed development



Perspective 2 – Looking South East – View of proposed development

The proposed development will result in a building form inconsistent with the established streetscape, with a built form deriving from a desire to maximise permitted room yield. While it is acknowledged that the facade of the proposal has taken cues from neighbouring developments, the proposed first floor addition represents a building form not seen within the context of the streetscape and is expected to result in a dominating and detracting element. Within the immediate context of the site there are only two examples of developments with first floors. One example relates to the neighbouring heritage item at 81 Palace Street, which is a building that pre dates current houses. While the other is at 77A Palace Street, this first floor addition incorporates an additional street setbacks and a form which ensures that the original element of the building is not dominated.

The proposed development does not satisfy the local character test outlined within Clause 30A of the ARH SEPP and the proposal is therefore recommended for refusal.

(iv) Boarding Houses in Zone R2 Low Density Residential (Clause 30AA)

Clause 30AA of the ARH SEPP outlines that:

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

The subject site is within the R2 Low Density Residential Zone and as such is bound by this limitation to the number of boarding rooms. The proposal is compliant as it seeks consent for the construction of 12 boarding rooms and one managers accommodation.

11 Ashfield Local Environment Plan 2013 (ALEP 2013)

The application was assessed against the following relevant clauses of the *Ashfield Local Environmental 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 5.10 - Heritage Conservation

- Clause 6.1 - Earthworks

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

The site is zoned R2 Low Density Residential under the *ALEP 2013*. The *ALEP 2013* defines the development as:

Boarding House means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R2 Low Density Residential zone.

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

Standard	Proposal	Complies
Height of Building Maximum permissible: 8.5m	6.7m ²	Yes
Floor Space Ratio Maximum permissible: 0.7:1 or 569m ²	0.52:1 or 420.46m ²	Yes

The following provides discussion of the relevant issues:

Earthworks

The finished RLs shown on the architectural, stormwater and landscape plans do not match. For example, the finished RLs at the front yard and back yards are shown as 40.5 m AHD and 40.30 m AHD respectively on the Landscape Plan. The stormwater concept plans show the levels as 40.20 to 40.32 m AHD and 44.3 to 43.5 m AHD respectively. Council is therefore not satisfied that the proposed development will not impact neighbouring sites through earthworks or level changes. The proposed development has not demonstrated compliance with clause 6.1 of the ALEP and is recommended for refusal.

5(c) 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	No – see discussion
4 - Solar Access and Overshadowing	Yes
5 - Landscaping	Yes
14 - Contaminated Land	Yes
15 - Stormwater Management	No – see discussion
C – Sustainability	
4 – Tree Preservation and Management	Yes – Subject to Conditions
6 – Tree Replacement and New Tree Planting	Yes – Subject to Conditions
F – Development Category Guidelines	
6 – Boarding Houses and Student Accommodation	Yes

The following provides discussion of the relevant issues:

Good Design

The proposal has been assessed against the performance criteria of Part 2 Good Design within the Inner West Comprehensive Development Control Plan. This section of the DCP outlines that development must:

- *Contribute to its context*
- *Contribute to the quality and identity of the area*
- *Reinforce desirable elements of established street and neighbourhood character*
- *Suit the scale of the street and surrounding buildings*
- *Provides amenity through high quality physical, spatial and environmental design*
- *relates to the environment and context, particularly responding to desirable elements of the existing streetscape or, in areas undergoing substantial change, contributes to the desired future character of the area*

The current proposal has been assessed and does not meet the above performance criteria. The proposed design will not contribute to its context or the quality/identity of the area and the current design does not suit the street or surrounding buildings. As discussed above the design is substantially different from that of neighbouring sites with regards to portions, scale and articulation. The immediate locality which this development is proposed within is not undergoing substantial change and it is likely that this development (if approved) would remain out of context with the immediate surroundings for some time.

In the context of the heritage setting and the Heritage Items the proposal would be out of scale and character with that of the four heritage items in its vicinity. Acceptance of the proposal would diminish the landmark values of No. 78/81 Palace Street by its overwhelming relative scale and bulk, in particular its length and render the diminutive listed houses Nos. 54 and 60, particularly No. 54 opposite the site.

Acceptance of the current design is expected to result in a dominate and diminishing element to an otherwise largely intact and consistent streetscape to Palace Street, the proposal is therefore recommended for refusal.

Stormwater Management

Council's Development Engineer has reviewed the proposal and outline a number of concerns with the proposed stormwater plans. In particular Council's Development Engineer has outlined concerns regarding the location of the proposed OSD1 and OSD2, stating that

these tanks should be relocated to the rear yard to enable them to be better drained by gravity and combined to one tank. Concerns have also been raised with regards to the potential for these tanks to be subject to backwater effect from the surface run off.

Vehicular Parking

The proposed vehicular parking arrangement is non-compliant with the Australian Standards. In particular the proposed small car parking space 2 is not of a sufficient size. The proposed parking arrangement is required to be redesigned to ensure compliance with the Australian Standards and enable proper vehicular access. This redesign may impact the developments potential for onsite parking and may require a redesign of the proposed garage/managers residence above.

Acceptance of the current parking scheme is expected to result in the creation of unusable parking spaces and force occupants to rely on street parking. Parking within the immediate location is already limited and in high demand, it is unreasonable to further increase this demand through acceptance of a development scheme which does not adequately demonstrate compliance with minimum parking rates.

Privacy

The proposal has generally been designed to protect visual privacy for future occupants and neighbouring residents. The proposed building setbacks of the development are generally consistent with that of neighbouring dwellings to ensure minimal visual sightlines into rear private open spaces.

Concern is raised over the proposed sill heights of first floor windows along the east elevation which are currently 800mm above the finished floor level. In order to mitigate this it is recommended that should the proposal be approved then a condition of consent requiring these windows to have a sill height of 1.4m above the finished floor level or obscure glazing to a height of 1.4m above the proposed finished floor level, be incorporated into the consent.

The proposed access balconies along the western elevation have been assessed and are not expected to result in significant privacy impacts for neighbouring residents. These spaces are small in size and only enable access to the front door of the boarding rooms proposed upon the first floor. These spaces are considered to be transitional and are not areas of primary entertaining.

An assessment of the managers terrace above the proposed garage has also revealed that windows within this locality are only 800mm above the finished floor level and that the privacy screen relating to the private open space is only 1.6m high. Such a design is expected to result in loss of privacy for neighbouring sites. Should the application be approved, a condition recommending that windows along the northern elevation be amended or treated to ensure privacy should be imposed. Such a condition has been recommended for the potential consent.

Acoustic Impacts

The proposal seeks consent to construct 7 private lodger courtyards along the eastern boundary of the site, shared with No. 73 Palace Street. This arrangement while acknowledged to provide amenity to future occupants of 75 Palace Street, will result in substantial acoustic impacts for neighbouring residents at 73 Palace Street and is not supported. 73 Palace Street is reliant upon this elevation for window openings, with the other boundary a common wall shared with 71 Palace Street.

The addition of 7 private open spaces along this side elevation will result in 7 separate opportunities for acoustic impacts to the occupants of 73 Palace Street. The location of these private open spaces is within an area that is traditionally a transitional one and not one of high intensity, 73 Palace Street has been constructed with this in mind. The addition of the proposed private open spaces along this elevation will result residents of 73 Palace Street experiencing substantial acoustic impacts from future occupants utilising 7 different private open spaces, which have traditionally been located within rear yards. It is considered that acceptance of these spaces will unreasonably impact acoustic privacy of 73 Palace Street and that the proposal be refused.

Waste Collection

The proposal incorporates a designated area towards the rear of the site for the storage of garbage bins. In this instance the provided waste management plan details that waste collection is to be undertaken by Council and via kerb collection. This proposed method of collection is not supported by Council and is non-compliant with the requirements of clauses 4.1 – 4.9 of Chapter C Sustainability within the Inner West Comprehensive DCP. The intensification of the usage upon the site results in a requirement for 14 garbage bins to service occupants. The applicants proposal to store these 14 bins awaiting collection along the kerb will result in cluttering of the street, loss of parking and a safety hazard for vehicles and pedestrians. The proposal is therefore recommended for refusal.

5(d) 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:

Impact to Streetscape

The proposed development is not in character with the local area or the existing streetscape, acceptance of the development will detrimentally impact the character of the streetscape and the predominant low-density residential character of the area, including the adjoining heritage conservation area and nearby Heritage Items.

Lack of Private Open Space

The proposal is non-compliant with the minimum dimensions of private open space required by the ARH SEPP. This non-compliance results in poor amenity for occupants and increases reliance upon the public domain.

Parking

The proposed parking scheme is non-compliant with the relevant Australian Standards, this non-compliance means that spaces currently proposed are not readily usable and will result in an increase to on-street parking demands.

Acoustic Impacts

The proposal will significantly impact the acoustic privacy of residents at 73 Palace Street and is expected to severely diminish the ability for residents to achieve a reasonable degree of amenity.

5(e) 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(f) Any submissions

The application was notified in accordance with Inner West Comprehensive Development Control Plan (DCP) 2016 for a period of 21 days to surrounding properties. A total of Fifteenth (15) individual submissions and one portion with 63 signatures submissions were received.

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Impact to streetscape

Comment: The proposal has been assessed against clause 30A of the ARH SEPP and the Good Design controls of the DCP. The current design does not meet the intention and controls of these objectives and is not in-keeping with the existing local character. The proposal has been recommended for refusal.

Issue: Traffic and parking impacts

Comment: The development proposes 7 parking spaces which is numerically compliant with the minimum parking rate. However the proposed spaces have been assessed as being non-compliant with the Australian Standards and as such the usable rate of parking is currently unknown. The proposal is therefore recommended for refusal based on this non-compliance.

Issue: Amenity impacts to neighbours (noise, privacy)

Comment: See assessment above.

Issue: Waste collection

Comment: See assessment above.

Issue: Damage to neighbouring sites

Comment: The application is currently recommended for refusal, however should the proposal be approved appropriate conditions to ensure protection of neighbouring sites has been recommended as conditions of consent.

Issue: Concerns over potential occupants

Comment: The type of occupants which may use the proposed premises is not a matter for assessment under the ARH SEPP or Environmental Planning and Assessment Act 1979.

Issue: Impact to property value

Comment: Impact to property value is not a matter of consideration under the Environmental Planning and Assessment Act 1979.

5(g) 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.

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.

Engineering – The application has been assessed by Council Development Assessment Engineer, who outlined concerns regarding the proposed vehicular access, stormwater and level differences between plans. These matters have been outlined above within the main body of the report.

Tree Management – The proposal was reviewed by Council's Tree Management Officer who outlined no objection to the proposal, subject to conditions of consent.

Resource Recovery – Council's Resource Recovery Team have reviewed the proposal and raised concerns over the proposed collection method. The Resource Recovery Team have provided recommended conditions should the proposal be approved.

7. Section 7.11 Contributions

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.

8. Conclusion

The proposal does not generally 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 will result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered not 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. 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. «Application_Number» for demolition of existing structures and construction of a two storey boarding house with 12 rooms (24 lodgers), managers residence and 7 car parking spaces at 75 Palace Street, Ashfield.

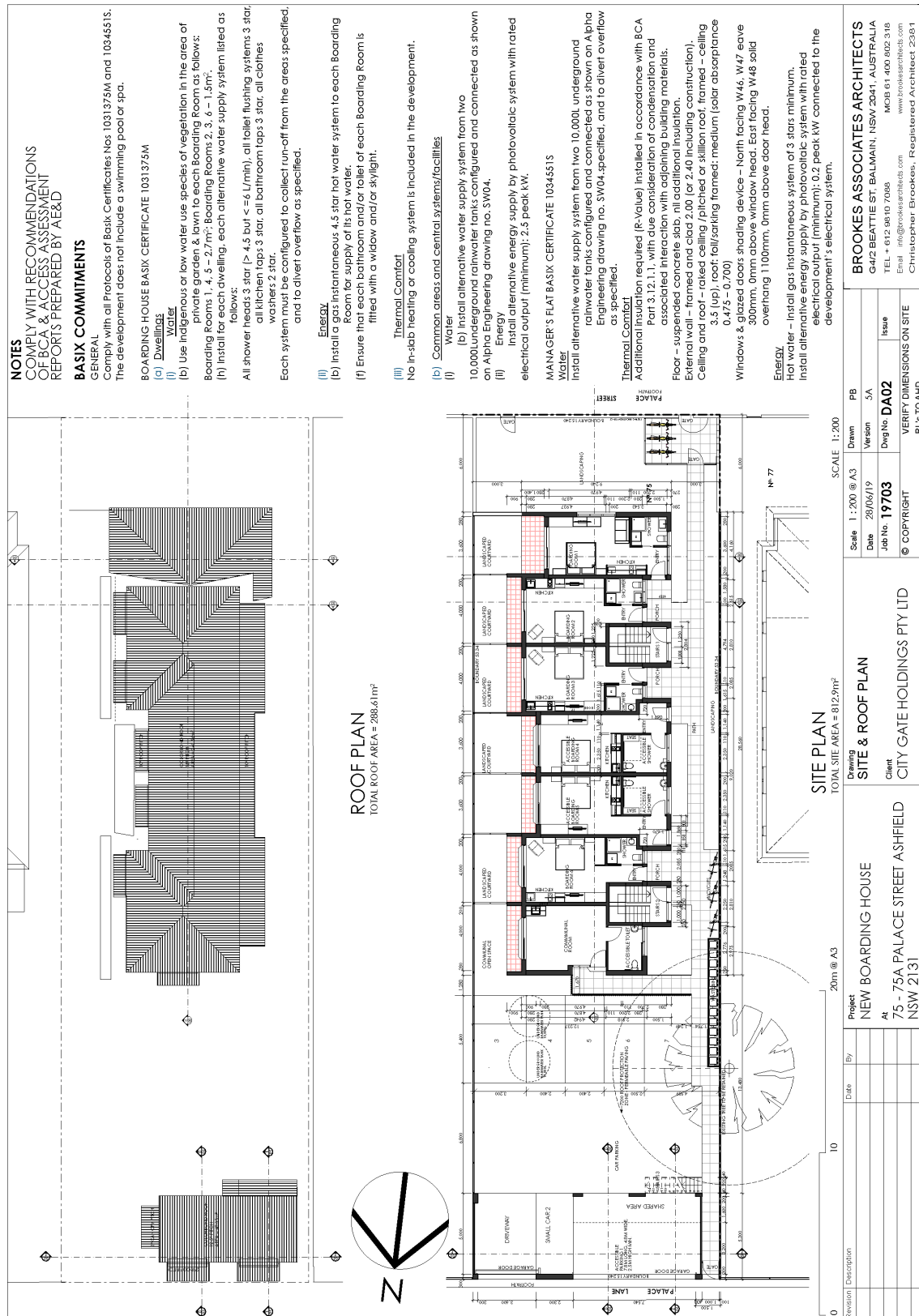
Attachment A – Reasons for Refusal

Attachment A – Reasons for Refusal

The Inner West Local Planning Panel, as the responsible authority, hereby refuses Development Application No. «Application_Number» for demolition of existing structures and construction of a two storey boarding house with 12 rooms (24 lodgers), managers residence and 7 car parking spaces at 75 Palace Street, Ashfield for the following reasons:

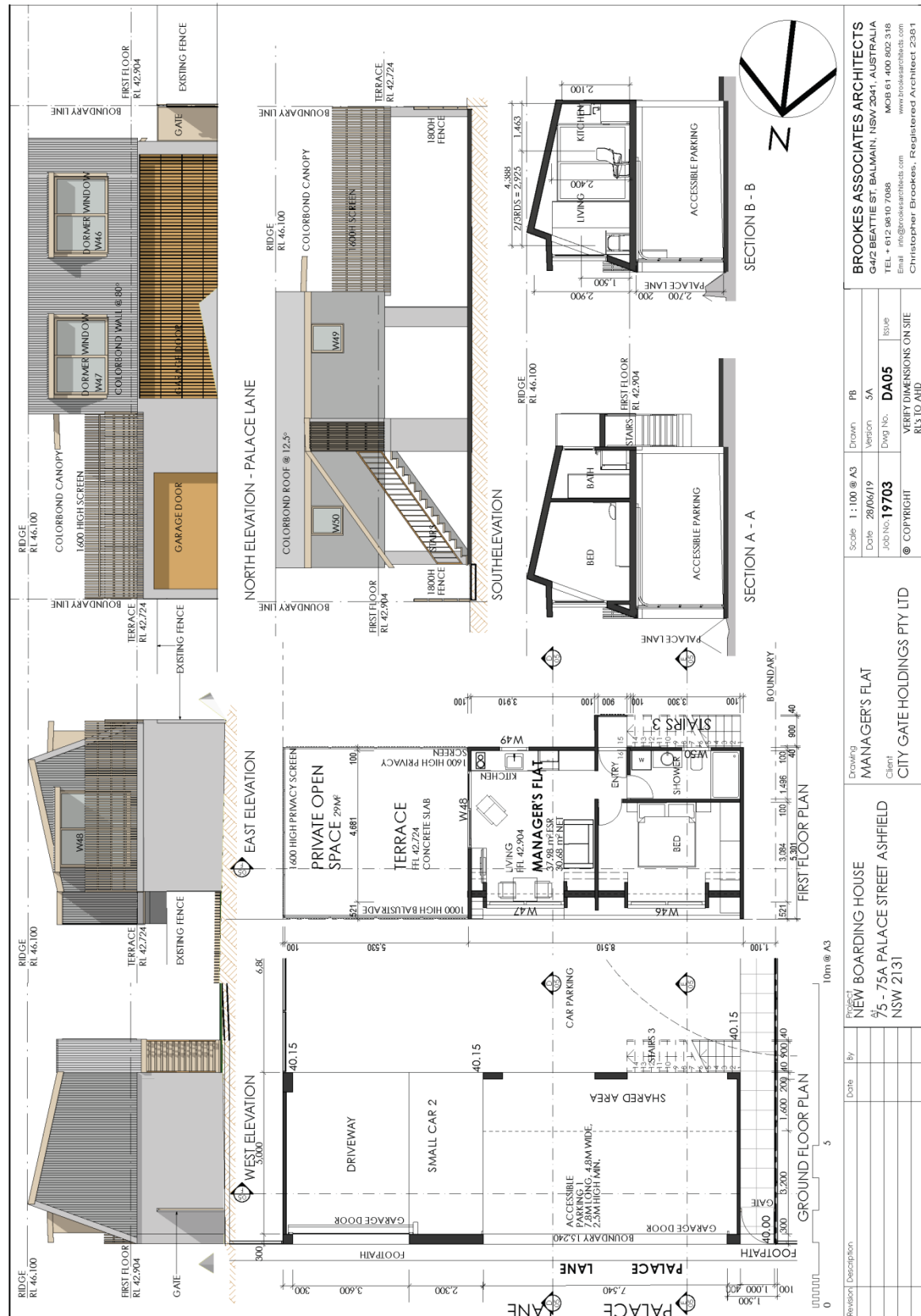
1. The proposal has not satisfactorily demonstrated compliance with Clause 29(2)(e) of the SEPP. Proposed parking spaces are non-compliant with Australian Standards.
2. The proposal is non-compliant with the requirements of Clause 29(2)(d) of the SEPP. The proposal provides inadequate private open space for lodgers. Lodgers utilising rooms 7 – 12 located upon the first floor of the proposed development are expected to be highly reliant upon the required communal space with no access available to other outdoor spaces from their lodgings.
3. The proposal is inconsistent with Clause 30A of the SEPP which outlines that a consent authority must not consent to development unless it has taken into consideration whether the design of the development is compatible with the character of the local area. The proposal is not compatible with the character of the local area and is therefore not supported.
4. The proposal is inconsistent with the aims set out in clause 1.2(2) of the Ashfield Local Environmental Plan 2013 as the proposal does not enhance the amenity and quality of life for local communities, nor does it achieve a high quality form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of the subject locality.
5. The proposal has not demonstrated compliance with the aims and controls set out in clause 6.1 of the Ashfield Local Environmental Plan 2013 as the proposed level changes may disrupt drainage patterns and effect the amenity of adjoining properties.
6. The proposal is contrary to Performance Criteria PC6 of Chapter A, Part 2 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not provide high quality amenity through physical, spatial and environmental design.
7. The proposal is contrary to Clauses 4.1 – 4.9 of Chapter C, Part 3 within the Inner West Comprehensive Development Control Plan 2016. The proposal seeks to store bins awaiting collection within the public domain.
8. The proposal is contrary to Performance Criteria PC2 of Chapter F, Part 6 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not respond to and contribute to its context or reinforce desirable elements of the established street and neighbourhood.
9. 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.
10. 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

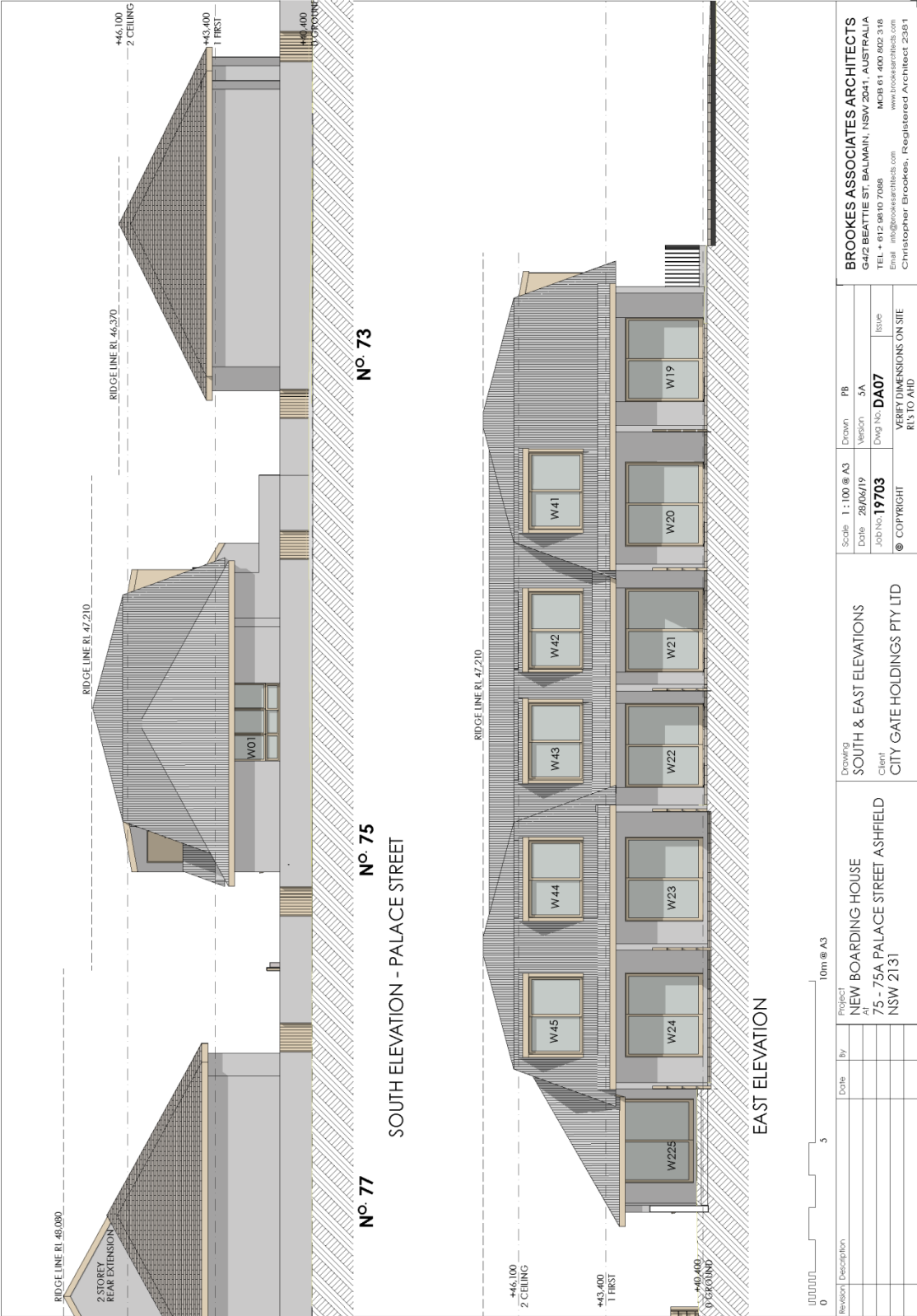


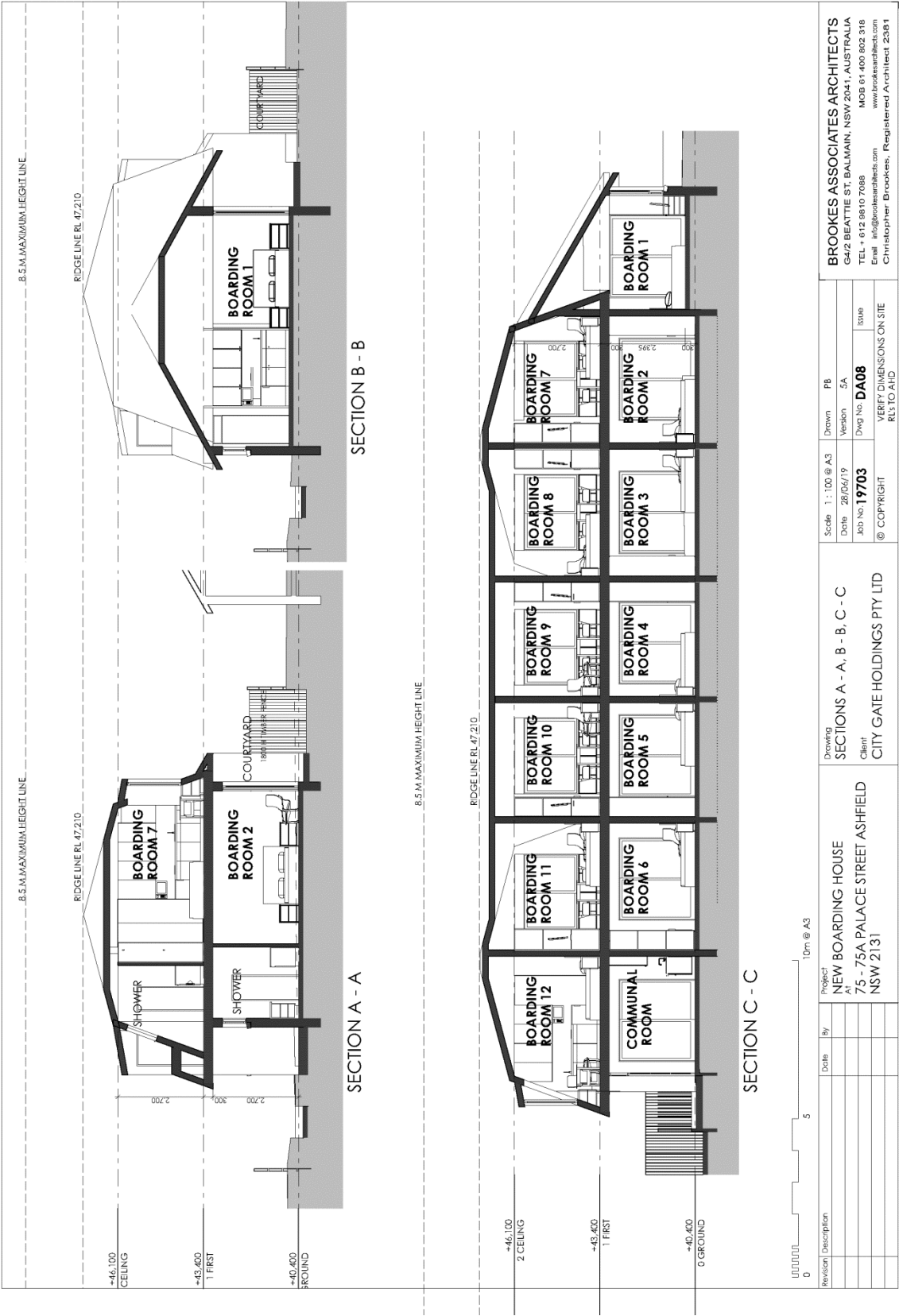


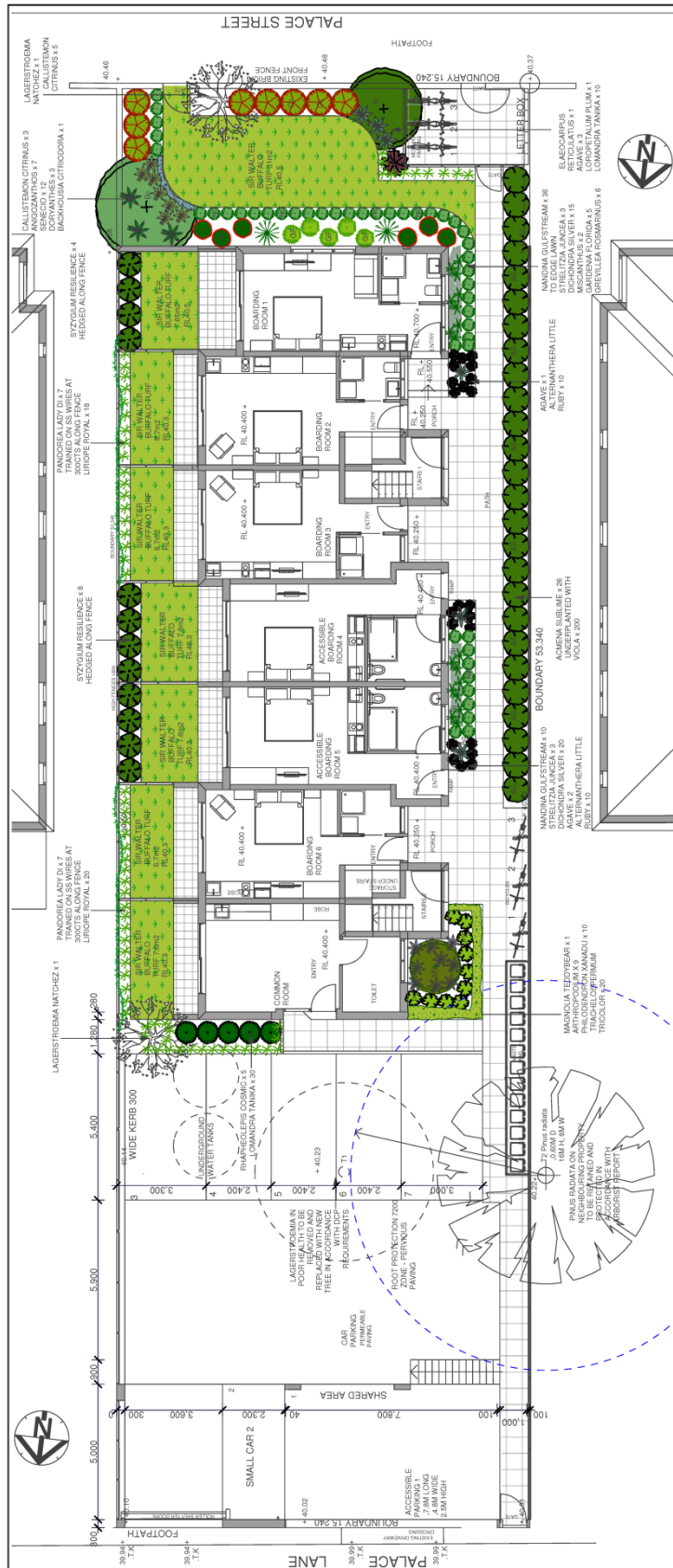












PLANTING SCHEDULE 75-75A Palace St ASHFIELD - 11/04/19						
Botanical Name	Common Name	Plt Size	No	Height	Width	Native/ Exotic
Existing Trees						
Lagotis indica	T1. Corpse Myrtle	To be removed in accordance with arborist report				
Pinus taeda	T2 Pine Tree	To be retained and protected in accordance with arborist report				
Trees						
Leucostoma	8m Lemon scented Myrtle	45lt	1	9m	5m	Native 2 drop
Elaeagnus	Er Blueberry Ash	45lt	1	12m	5m	Locally native
Leucostoma	La. Corpse Myrtle Natchez	45lt	2	8m	6m	Exotic 1 drop
Natchez	MT. Tassie Ironbark Magnolia	45lt	1	4m	1.5m	Exotic 3 drop
All trees must be in 15L bags at time of planting						

Shrubs - 75-75A Palace St ASHFIELD - 19/06/19				
Acacia mitchellii	AS Lilly pilly	200mm	28	5.0m
Agave attenuata	Ag Agave	200mm	6	1.0m
Alternanthera	Ad Little ruby	200mm	20	0.4m
Callistemon citrinus	Cz Scarlet bottlebrush	200mm	8	2.5m
Doryanthea excolia	Do Gymia Lily	200mm	3	2.0m
Gardenia Florida	GF Gardenia	200mm	5	1.0m
Grevillea coccinea	Gr Rosemary Grevillea	200mm	6	0.5-2m
Loropetalum Plum	Lo Fringe Flower	200mm	1	1.5m
Nandina Gullstream	NG Gulf Stream	200mm	46	0.4m
Philodendron Xanadu	PX Xanadu Philodendron	200mm	10	0.9m
Rhipsalis	RC Indian Hawthorn	200mm	5	1.5-2m
Cosmos White	Si Bush Hiss Stylidia	200mm	6	1.5m
Styphion Bialiance	SR Bialiance Lily Pilly	200mm	12	0.3m
All plants to be in 200mm (MIN) pots at time of planting to comply with DCP				

Grasses, Ground Covers & Climbers - 75-75A Palace St ASHFIELD - 19/06/19				
Acrocalymma	Az Kangaroo Paw	140mm	7	1.5m
Antipodium	Ar NZ Rock Lily	140mm	9	0.8m
Matigouri Bay	DI Star Kinky Weed	100mm	35	0.1m
Lion's Head	L Lily Turf	140mm	38	0.3m
Lomandra Tanka	LT Tanka	140mm	40	0.5m
Miscanthus	M Feather Grass	200mm	2	2.0m
Woodsia	ss Wooding Bass	100mm	14	0.5-5m
Sesuvium	ss Blue Creek Slicks	100mm	12	0.25m
T. Jasmirides	TT Variegated Star	140mm	20	0.3m
Tri Colour	VI Jasmirine	140mm	200	0.1m
Volh hederacea	VI Native violet	140mm	200	0.1m



janebritt design

No.39 Susan St Annandale NSW 2038 mob: 0404 065940 email: jane@britt.com.au :drawing

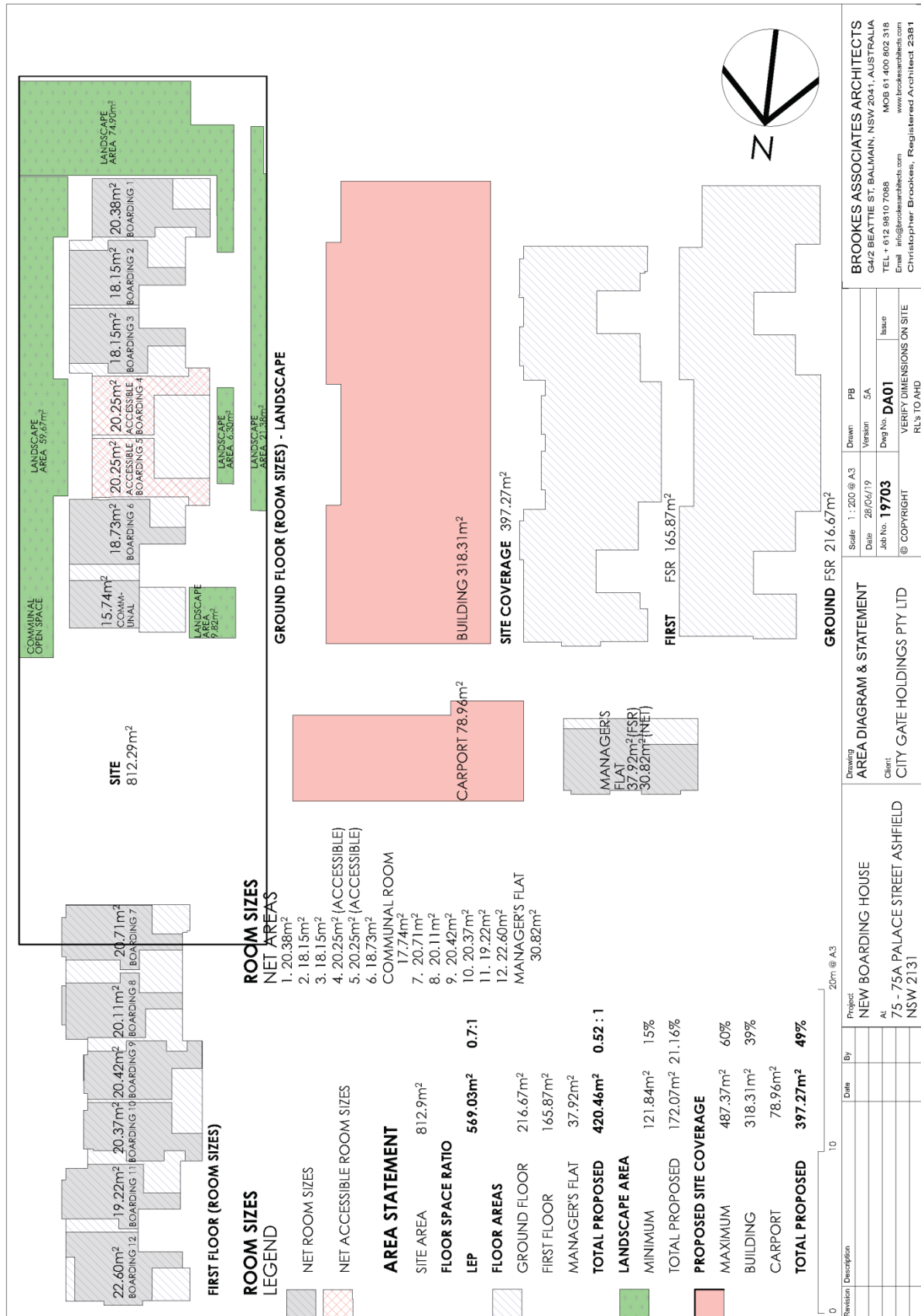
project New Boarding House
No 75-75A PALACE ST ASHFIELD

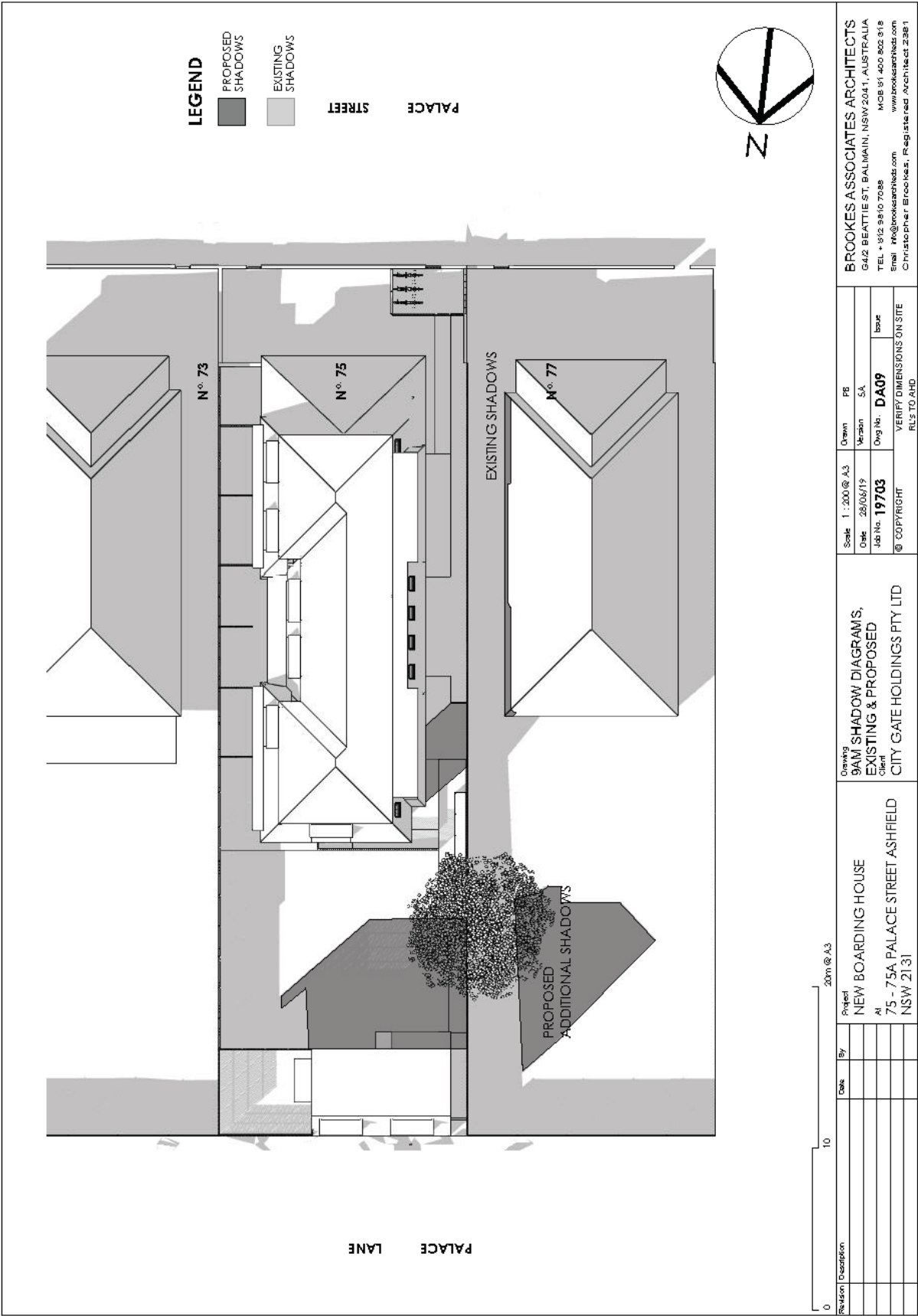
LANDSCAPE PLAN AND SCHEDULE

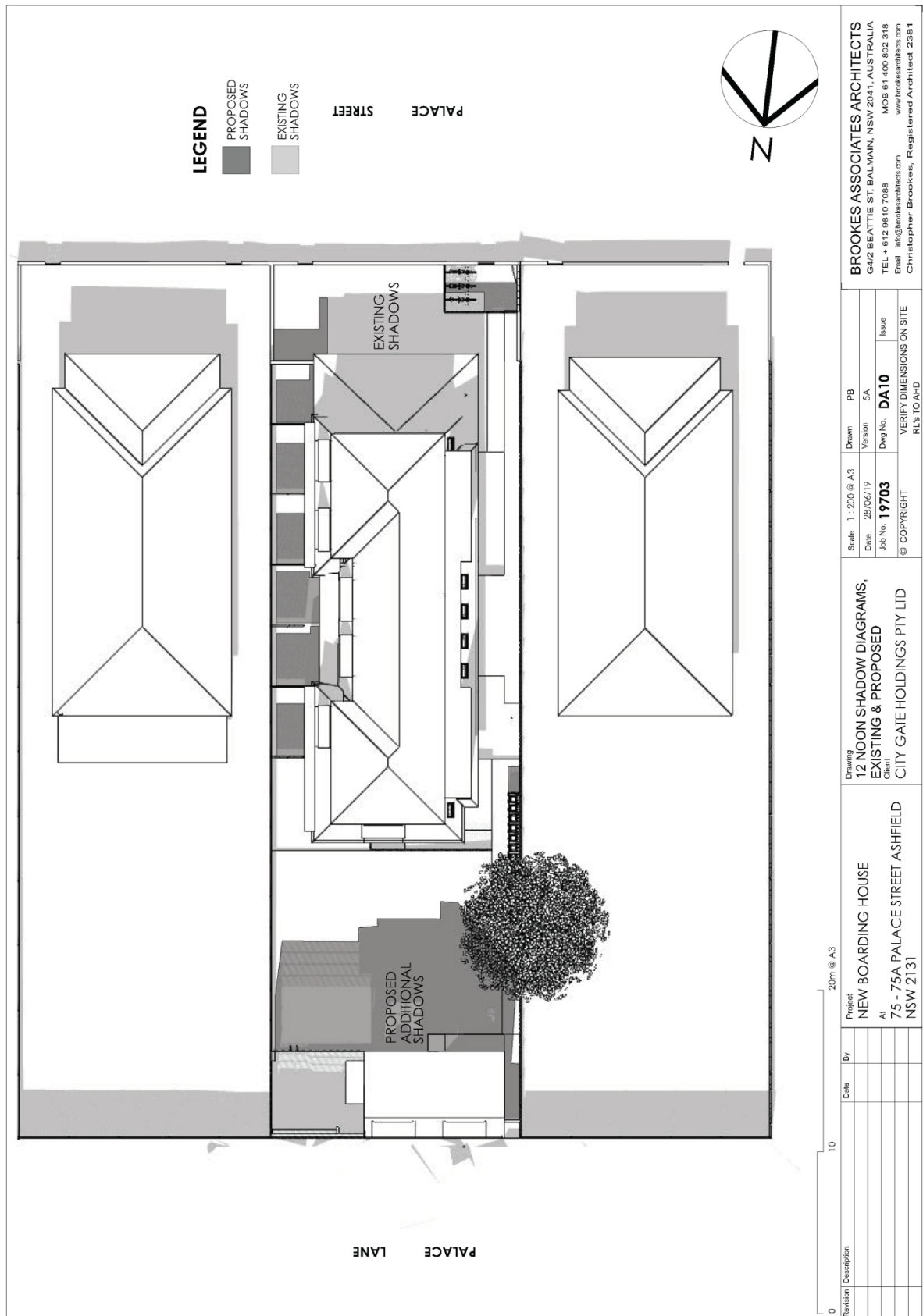
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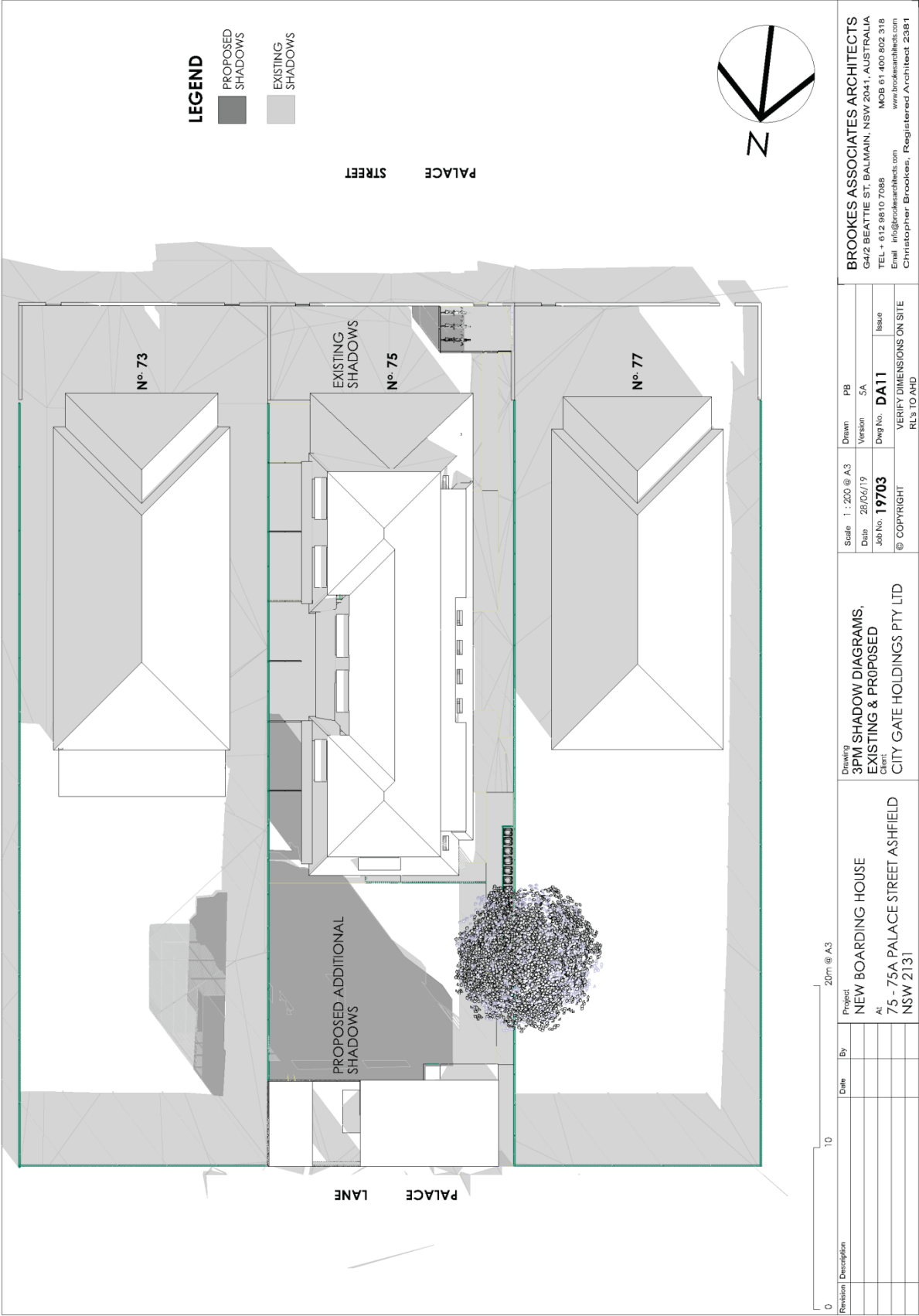
Amendments
A. Preliminary Issue 09/04/19
B. Tree information added 11/04/19
C. Revised issue 19/06/19

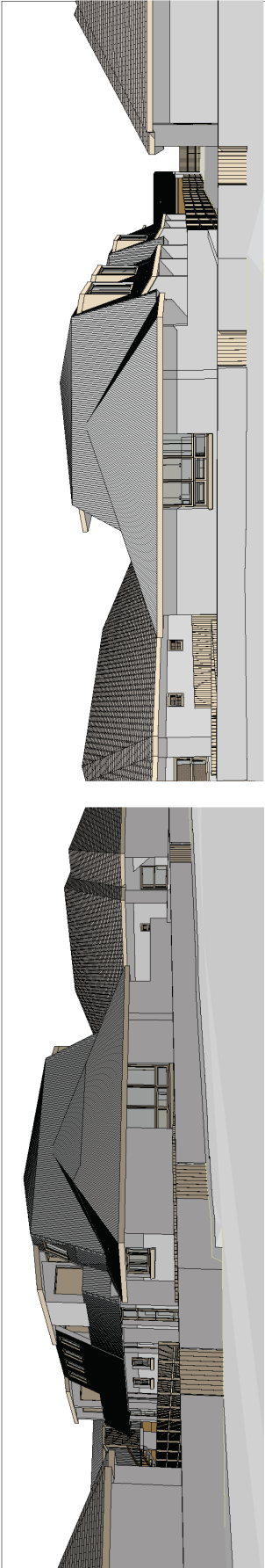
DAL01C











PALACE STREET - SOUTH - WEST VIEW

PALACE STREET - SOUTH - EAST VIEW



PALACE LANE - NORTH - EAST VIEW

Revision	Description	Date	By	Project	Drawing	Scale	Drawn	PE	SA	Issue
				NEW BOARDING HOUSE	PERSPECTIVES					
				AT 75 - 75A PALACE STREET ASHFIELD NSW 2131	Client					
					CITY GATE HOLDINGS PTY LTD					
					© COPYRIGHT					
					VERIFY DIMENSIONS ON SITE					
					RLS TO AID					

Brookes Associates Architects

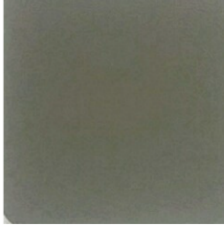



G4/2 Beattie Street Balmain NSW 2041

Web Page: www.brookesarchitects.com Nominated Architect Chris Brookes Reg No 2381 ABN 38 001 224 175Email: info@brookesarchitects.com

Tel. 02 9810 7088

Mob. 0400 802 318

**New Boarding House for City Gate Holdings Pty Ltd
75-75A Palace street Ashfield NSW 2131****SCHEDULE OF MATERIALS, COLOURS & FINISHES****28 June 2019**

<u>ITEM</u>	<u>MATERIAL</u>	<u>COLOUR & FINISH</u>
Roof, Gutters, Garage Doors	Steel	Colorbond Wallaby Low Sheen 
Walls	Face Brick	Equal to Bowral Murray Grey Natural 
Window & Door Frames	Aluminium	Anodised Woodland Grey Low Sheen 
Paving	Concrete	Charcoal, Permeable Root Protection Zone 

Attachment C- Conditions of Consent

Conditions of Consent

Fees

1. 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.

2. Security Deposit

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:	\$8,056.50
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.

General Conditions**3. 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
DA02	Site & Roof Plan	28/6/2019	Brookes Architects Associates
DA03	Ground Floor Plan	28/6/2019	Brookes Architects Associates
DA04	First Floor Plan	28/6/2019	Brookes Architects Associates
DA05	Managers Flat	28/6/2019	Brookes Architects Associates
DA06	North & West Elevation	28/6/2019	Brookes Architects Associates
DA07	South & East Elevation	28/6/2019	Brookes Architects Associates
DA08	Section A-A, B-B, C-C	28/6/2019	Brookes Architects Associates
DAL01C Issue C	Landscape Plan and Schedule	19/6/2019	Jane Britt Design
SW02 Rev. B	Ground Floor Drainage Plan	3/7/2019	Alpha Engineering & Development
SW03 Rev. B	First Floor Roof Drainage Plan	3/7/2019	Alpha Engineering & Development
SW04 Rev. B	Stormwater Sections and Details	3/7/2019	Alpha Engineering & Development
-	Schedule of Materials, Colours and Finishes	28 June 2019	Brookes Architects Associates
Project 8862.1 Rev 01	Building Code of Australia Compliance Assessment Report – Access Assessment Report	19 June 2019	AED Group
-	Plan of Management	November 2018	Kim Burrell

As amended by the conditions of consent.

4. Privacy

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating that Windows W 41 – W 45 and W46 – W 47 have been amended to comply with either point a) or b) below:

- a) Fixed and obscure glazing to a minimum level of 1.4 metres above the floor level;
Or a
- b) Minimum sill height of 1.4 metres above floor level.

5. Boarding House

The development must provide and maintain:

- a) A minimum of two (2) Accessible boarding rooms.
- b) All rooms within the boarding house must be connected to a centralised electricity, water and gas (if installed) service.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Works Outside the Property Boundary

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

13. 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.

Prior to any Demolition**14. 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 following properties must have a dilapidation report undertaken:

- 77 Palace Street, Ashfield
- 73 Palace Street Ashfield

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.

15. 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.

16. 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.

17. 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.

18. 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.

Prior to Construction Certificate

19. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

20. 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.

21. 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 meets the floor area requirements as per the Inner West Comprehensive Development Control Plan (DCP) 2016 Section 3, DS2.10 and have minimum doorways of 1200mm wide to accommodate large items.

22. 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.

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.

23. Stormwater Drainage System

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), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a) The stormwater plans dated 3 July 2019 and prepared by Alpha Engineering Development shall be revised addressing the following points.
 - Considering level issues, relocate the OSD1 to the rear and combine with OSD2.
 - Underground rainwater storage tanks are proposed at the above ground OSD2 system. The rainwater tanks may subject to backwater effect from the surface runoff and therefore located outside the OSD area.
 - The drainage outlet pit and pipes shall be located away from the driveway.
- b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road via the OSD/OSR tanks as necessary.
- c) 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.
- d) Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks.
- e) 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 with the maximum allowable discharge to Council's street gutter limited to 25 litres/second (20 years ARI/100years ARI);

- f) Storage for the 1-year ARI storm event must be provided fully below ground;
- g) Details of the Height vs Storage and Height vs Discharge relationships must be submitted.
- h) Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided.
- i) A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas.
- j) No nuisance or concentration of flows to other properties.
- k) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- l) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- m) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- n) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
- o) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm.
- p) All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings.
- q) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

24. 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 132092.

25. 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.

c)

26. Consolidation of Lots

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that any separate lots comprising the development have been consolidated into one lot and under one title and registered at NSW Land Registry Services.

27. Parking Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a) The carpark shall be amended to provide a standard 90 degree parking arrangements similar to the attached marked up plan. The supporting structures on the carpark spaces and the stairs should be amended to suit this arrangement.
- b) The garage driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- c) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- d) Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- e) The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004.

During Demolition and Construction

28. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

29. 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.

30. 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.

Prior to Occupation Certificate

31. 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.

32. Light Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that a light duty concrete vehicle crossing/s, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations.

33. Parking Signoff

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with certification from a qualified practising Civil Engineer that off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

34. Dilapidation Report – Post-Development

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey and structural condition 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.

35. Public Domain Works

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

36. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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.

37. Stormwater Drainage and Road Works – Certification

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with Certification 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:

- a) All works required to be undertaken on public roads must be designed and constructed in accordance with Council's approved plans.
- b) 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.

38. 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*.

39. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with Certification 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) that:

- a) The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.
- 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 installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) 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 Certifying Authority stamped Construction Certificate plans.

40. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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. 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.
- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

42. Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with evidence that 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.
 - b) Positive Covenant related to on-site stormwater detention and/or retention system.
- The wording in the Instrument must be in accordance with Councils Standard wording.

43. Civil Engineer Verification

Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority must be provided with written verification from a suitably experienced / Chartered/Registered 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), stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans

On-going

44. Operation and Management Plan

The Operation and Management Plan for the on-site detention approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

45. Vehicles Leaving the Site

All vehicles must enter and exit the site in a forward direction.

46. Boarding House

The use of the premises as a boarding house must comply at all times with the following:

- a) The use must comply at all times with the Plan of Management referred to in condition 4 above and as amended by the conditions in this Determination;
- b) A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
- c) A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;

- d) The Plan of Management must not be amended without the prior consent of Council and must be made available to Council officers and the Police upon request;
- e) All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;
- f) The premises must be used exclusively as a boarding house containing a maximum total of 12 lodger's rooms and 1 on-site manager's room with not more than 24 adult lodgers and 1 adult on-site managers residing in the premises at any one time;
- g) Not more than 2 lodgers must occupy each boarding room;
- h) The premises must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;
- i) All common rooms/areas and recreation rooms/areas must be maintained at all times for the use of the lodgers; and
- j) Each self-contained room and shared kitchen must be fitted out with washing up facilities, a cooktop, oven, fridge and storage space with such utilities being maintained in working order at all times.

47. Bin Storage

All bins are to be stored within the site. Bins are to be brought back onto the property within 12 hours of being emptied.

Advisory notes**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.

Chartered/Registered Engineer

An engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).

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
- 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.

Public Domain and Vehicular Crossings

The vehicular crossing and/or public domain works are required to be constructed by your contractor. You or your contractor must complete an application for 'Design of Vehicle Crossing and Public Domain Works – Step 1' form and/or 'Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. 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 at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

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.

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.
- 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
- 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.

Boarding House – Registration with Fair Trading

Boarding houses with two or more residents who have additional needs or five or more residents who do not have additional needs are required to register with the Department of Fair Trading.

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.

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 AS1 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 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

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 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	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 - SITA Environmental Solutions	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.