





# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	MOD/2020/0025
<b>Address</b>	88 Liverpool Road, Summer Hill
<b>Proposal</b>	Modification of approved mixed use building for an additional apartment.
<b>Date of Lodgement</b>	5 February 2020
<b>Applicant</b>	Wil Nino
<b>Owner</b>	MMNG Holdings Pty Ltd
<b>Number of Submissions</b>	One
<b>Value of works</b>	\$1,480,500
<b>Reason for determination at Planning Panel</b>	SEPP 65 affected building
<b>Main Issues</b>	Height of building Floor space ratio Car parking
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Draft Conditions
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Applicants Assessment Against Objectives



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: The objector did not specify what property they lived at.

## 1. Executive Summary

This report is an assessment of the application submitted to Council for the modification of an approved mixed use building for an additional apartment at 88 Liverpool Road, Ashfield. The application was notified to surrounding properties and one (1) submission was received.

The main issues that have arisen from the application include:

- Height of building
- Floor space ratio
- Car parking

The non-compliances are not acceptable given for the reasons discussed in this report and therefore the application is recommended for refusal.

## 2. Proposal

The proposal involves the addition of a new upper level (level 3) one-bedroom apartment on the existing rooftop communal area.

## 3. Site Description

The site is irregular in shape with an area of approximately 318sqm. It has a primary street frontage to Liverpool Road and a secondary frontage to Grosvenor Crescent.

Currently the site is undergoing demolition and excavation works in preparation for construction of the approved building to which this application relates. The site is adjoined by a two (2) storey residential building to the east and is bounded by Liverpool Road to the north and Grosvenor Crescent to the south. On the southern side of Grosvenor Crescent is the railway corridor. The immediate area is largely characterised by two (2) storey residential buildings and motels.

The site is not identified as containing a heritage item and is not located in a heritage conservation area.



Figure 1: Aerial image showing site and surrounding context.

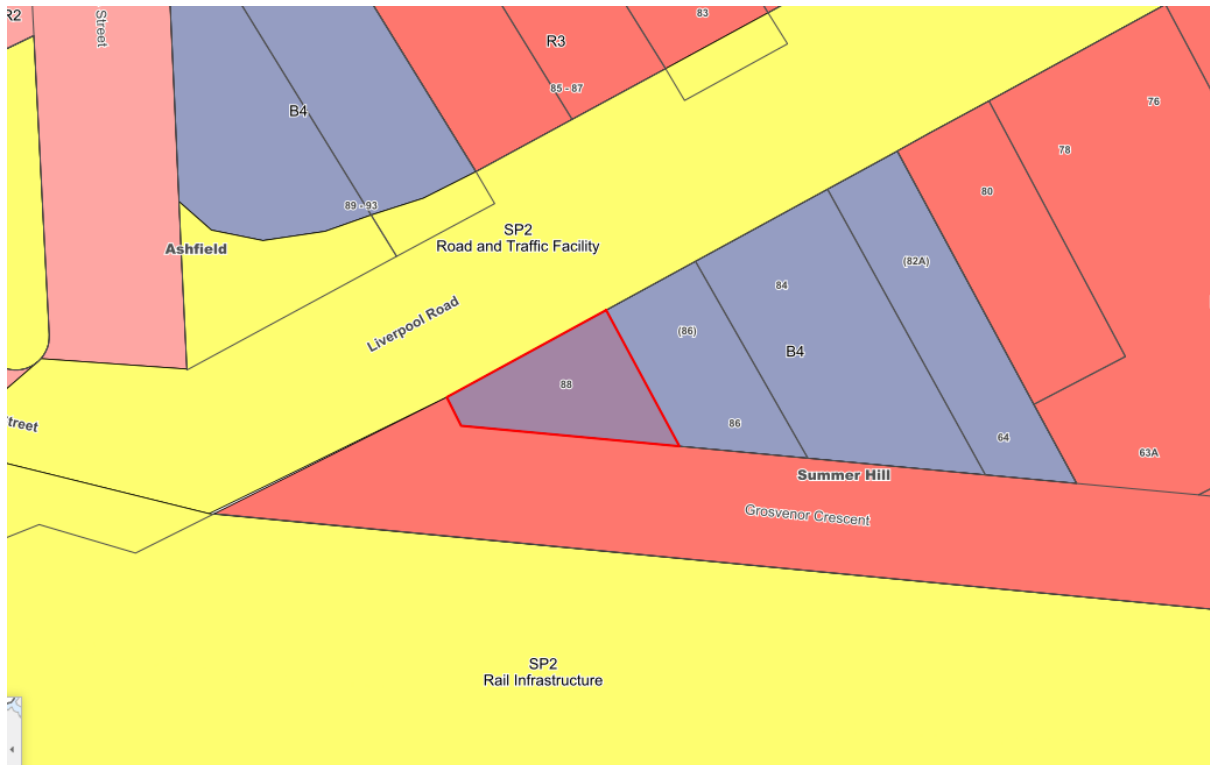


Figure 2: Zoning map.

## 4. Background

### 4(a) Site history

The following application outlines the relevant development history of the subject site.

Application	Proposal	Decision & Date
10.2014.258.1	Demolition of existing buildings and the erection of three storey residential flat mixed use building containing eight dwellings, basement car parking and landscaping with strata subdivision.	Deferred Commencement. 9 December 2014.
10.2014.258.2	The modification included changing the deferred commencement condition requiring each unit to provide at least one (1) accessible bathroom prior to Construction Certificate condition.	Approval. 3 March 2015.
10.2014.258.3	Create new ground floor commercial tenancy in the existing undercroft area. Infill first and second floor south facing terraces, changes to wintergardens, materials/finishes and access.	Approval. 30 July 2018.
10.2014.258.4	Modification to change the ground floor commercial tenancy into a 'SOHO' studio unit, and change approved winter garden screening and external materials.	Partial approval. 4 July 2019. Change of use to SOHO unit not supported.
PLA 2018/76	On 13 March 2019, formal pre-da advice was provided for a proposal to (amongst other things) add an additional unit on the rooftop level (similar to that proposed in the subject application).  The applicant was advised that the proposal was unlikely to be supported – see detailed commentary below.	

### 4(b) Application history

- On 13 March 2019, formal pre-da advice (PLA 2018/76) was provided for a proposal to (amongst other things) add an additional unit on the rooftop level (similar to that proposed in the subject application).

The applicant was advised that the proposal was unlikely to be supported.

The following comments were provided regarding the proposed floor space ratio:

*"In initial consideration of those matters, and noting your comments, it is advised that the density sought through the additional dwelling results in an intensity on your site that is considered to be beyond what the site can now accommodate to satisfy the FSR standard and achieve the objectives of the Zone B4 Mixed Use, particularly the additional bulk, noting also that the proposal is not adequately serviced (shortfall of parking) as discussed below.*

*As a result, it is recommended that the additional floor space is not pursued.”*

The following comments were provided regarding the proposed height of building:

*“Whilst it is accepted that the HOB does not extend beyond the approved lift and pergola, these structures are not considered to add significant bulk and/or envelope to the building as compared to that of the proposed dwelling to the roof.*

*The proposed dwelling to the roof seeks to accommodate the eastern side of the building, extending beyond the front of 86 Liverpool Road and add greater bulk/envelope to the existing building beyond what is anticipated given the HOB. This is not considered to be consistent with the objectives of the standard, particularly in relation to 4.3(2A) where it will be considered gross floor area.”*

The following comments were provided regarding the shortfall of car parking:

*“It is considered that this reliance for a further shortfall is not justified in the circumstances of your site, particularly where you seek a density (FSR) well in excess of the maximum.”*

- On 22 April 2020, after a number of phone discussions with the applicant which highlighted a number of the preliminary issues raised with the proposal, a supporting email was provided by the applicant, providing additional justification for the proposal. In summary, the email raised:
  - The unique circumstances of Covid-19 on the construction industry and financing of projects.
  - Concerns that if the proposal is not supported, the project may not be financially viable to proceed, resulting in a vacant undeveloped site.
  - The proposal represents ‘orderly and economic use and development of land’ in accordance with Objective (c) of the Environmental Planning and Assessment Act 1979.

While the unique circumstances of Covid-19 are acknowledged, the first two points raised by the applicant are not planning considerations. No legislative changes have been made requiring or allowing the consent authority to waive the ordinary merits considerations for this development modification in light of Covid-19 beyond the applicable planning controls.

If the subject proposal has become financially unviable, it is considered that there are alternative schemes for the site that could achieve the ‘orderly and economic use and development of land’. It is noted the site is zoned B4 – Mixed Use, and as such wide diversity of land uses is permissible.

Objective (c) is but one objective of the Act. As discussed in this report, contrary to another, Objective (g) of the Act, the proposal is not considered to promote ‘*good design and amenity of the built environment*’ – most notably in regard to its surrounding context and the desired future character of its neighbourhood.

## 5. Assessment

### SECTION 4.15 and 4.55(2) ASSESSMENT

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 4.15 and 4.55(2) of the Environmental Planning and Assessment Act 1979.

Under Section 4.55 of the Environmental Planning and Assessment Act, 1979, Council, when considering a request to modify a Determination, must:

- (a) be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted;
- (b) consult with any relevant authority or approval body;
- (c) notify the application in accordance with the regulations;
- (d) consider any submissions made; and
- (e) take into consideration the matters referred to in Section 4.15 as are of relevance to the development the subject of the application.

The development being modified is substantially the same development as the development for which consent was originally granted. Where relevant, authorities or bodies were consulted. The application was notified in accordance with the regulations or under Council's Notification Policy.

The following is a summary of the assessment of the application in accordance with the relevant parts of 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. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The following provides further discussion of the relevant issues:

#### **5(a)(vi) 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.

The development is not acceptable having regard to the nine design quality principles. Most notably the proposal fails to achieve Principle 1: Site and Context, Principal 2: Built Form and Scale, and Principal 3: Density the reasons for which are discussed below.

### 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 the DCP 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:

### Car Parking

In accordance with the ADG, the car parking rates of either the relevant DCP or the RMS' 'Guide to Traffic Generating Development' 2002 apply (whichever is less). In this instance, the DCP has the lower car parking generation rates which are as follows:

*Minimum of 1 space for all dwellings*

*Parking for visitors at the rate of 1 space for every 4 dwellings including serviced apartments plus 1 car wash bay.*

The building was approved with eight (8) residential units and seven (7) car spaces, representing a shortfall of one (1) residential car space. The proposal results in nine (9) units and therefore generates the need for nine (9) car spaces, however no additional car spaces are proposed.

Modified consent (10.2014.258.3) was granted on 30 July 2018 for an additional studio unit on the second floor as well as a commercial tenancy on the ground level, both of which would ordinarily require an additional car space each. The provision of no additional car parking was considered acceptable in this instance given that the works better utilised spaces without adding to building envelope above ground level or building height, resulting in a superior urban design outcome. The proximity to public transport and the physical limitations of the basement level were also considered.

Insufficient justification has been provided by the applicant as to why further non-compliance with the car parking provisions is acceptable in the subject application.

It is considered that a further shortfall of on-site car parking is unacceptable given the cumulative impacts on the local road network and setting an undesirable precedent for future surrounding development in the area.

Furthermore, one (1) visitor car parking space is required for every four (4) units. No visitor car parking spaces are provided.

The DCP also requires one (1) car wash bay is required per residential flat building. No car wash bay has been provided.

Four (4) bicycle spaces are provided at ground level, which complies with the requirement for 1 bicycle space per ten (10) units.

### 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% of the site.

- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

**Comment:**

The proposal reduces the approved rooftop communal open space by 66sqm (52%), from 160sqm to 94sqm. Based on a site area of 318sqm, the proposal requires 80sqm of communal open space.

While the proposal complies with the 25% requirement, it significantly reduces the amount and quality of approved communal open space. The modification results in poorer quality and quantity of communal facilities, impacting the overall amenity presently available to the approved units.

Visual Privacy/Building Separation**Comment:**

The proposal complies with the relevant building separation requirements.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

**Comment:**

5 of the 8 approved units (62.5%) received the required sunlight.

The proposed unit will receive at least 2 hours of direct sunlight, resulting in a total 6 of 9 units (66%) receiving the required sunlight, which does not comply with the requirements of the ADG.

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. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

**Comment:**

5 of the 8 approved units (62.5%) received natural cross ventilation.

The proposed unit will achieve natural cross ventilation, resulting in a total 6 of 9 units (66%) receiving natural cross ventilation.



Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope
If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use

**Comment:**

The proposed unit has a minimum ceiling height of 2.7m.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m <sup>2</sup>
1 Bedroom apartments	50m <sup>2</sup>
2 Bedroom apartments	70m <sup>2</sup>
3 Bedroom apartments	90m <sup>2</sup>

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
  - 3.6 metres for studio and 1 bedroom apartments.
  - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

**Comment:**

The proposed 1 bedroom unit has an area of 58sqm and generally complies with the apartment layout requirements of the ADG.

Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
1 Bedroom apartments	8m <sup>2</sup>	2 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 15m<sup>2</sup> and a minimum depth of 3 metres.

**Comment:**

The proposed apartment includes a 21sqm balcony.

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio apartments	4m <sup>3</sup>
1 Bedroom apartments	6m <sup>3</sup>
2 Bedroom apartments	8m <sup>3</sup>
3+ Bedroom apartments	10m <sup>3</sup>

Note: At least 50% of the required storage is to be located within the apartment.

**Comment:**

Adequate storage space has been provided both in the apartment and in the basement level.

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

A BASIX Certificate was not submitted with the application and as such the requirements of the SEPP have not been met.

**5(a)(viii) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)**

*Rail Corridors (Clause 85-87)*

*SEPP Infrastructure* provides guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the *SEPP*

*Infrastructure 2007* relates to the impact of rail noise or vibration on non-rail development, and for a development for the purpose of a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

It is noted that the requirements/recommendations of the Noise Impact Assessment which was supplied with the original application were, in what appears to be error, not incorporated by way of condition into the consent. The Assessment is also dated 26 March 2014, thus the measurement data and conclusions may not be wholly relevant anymore.

Given the above, Council is not satisfied that the relevant noise levels are not exceeded.

The application was referred to Sydney Trains on 29 April 2020 for concurrence in accordance with Clause 86 of the *SEPP Infrastructure 2007*. No response was received at the time of writing this report.

*Development with frontage to classified road (Clause 101)*

The site has a frontage to Liverpool Road, 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 proposed modification does not involve works on the Liverpool Road interface, will not affect the efficiency of the classified road and as such the application is considered acceptable with regard to Clause 101 of the *SEPP Infrastructure 2007*.

*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 20,000 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.

Liverpool Road has an annual average daily traffic volume of more than 20,000 vehicles. A Noise Assessment Report has not been submitted with the base application which demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of the SEPP.

**5(a)(ix) *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005***

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

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

The application was assessed against the relevant clauses of the *Ashfield Local Environmental Plan 2013*.

**(ii) Clause 2.3 - Land Use Table and Zone Objectives**

The site is zoned B4 – Mixed use zone under the *ALEP 2013*. The proposal makes no change to the approved use of the building as a mixed-use building, containing a residential flat building component and a commercial tenancy.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the B4 – Mixed use zone.

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

Standard	Proposal	non compliance	Complies
<b>Height of Building</b> Maximum permissible: 13m	14.1m	1.1m or 8.1%	No (see discussion below)
<b>Floor Space Ratio</b> Maximum permissible: 1:1 or 320m <sup>2</sup>	1.60:1 or 511m <sup>2</sup>	191sqm or 46%	No (see discussion below)

**Clause 4.3 Height of Building**

The building was approved with a height of 14.3m, which represents a variation of 9.5%. However it is noted that the portions of the building over the 13m height control related to a light-weight pergola structure and a stair/lift core overrun, both of which are centrally located on the roof. While the proposal does not increase the maximum height of the building, it adds a 58sqm apartment on the approved rooftop area, which achieves a height of 14.1m.

As the subject application is a Section 4.55 modification, a formal Clause 4.6 request is not required. However, an assessment against the relevant objectives of the zone and development standard is still required.

The applicant provided an assessment against the Objectives of Clause 4.3 Height of buildings development standard and the B4 – Mixed Use Zone which concluded the proposal satisfied all relevant objectives.

The following is an assessment against the Objectives of the B4 – Mixed Use Zone:

- *To provide a mixture of compatible land uses.*
  - The proposal provides a mix of commercial and residential uses, both of which are compatible with the area.
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

- The proposal is close Summer Hill Train Station, a major bus route along Liverpool Road.
- *To enhance the viability, vitality and amenity of Ashfield town centre as the primary business activity, employment and civic centre of Ashfield.*
  - The proposal provides additional employment opportunities as well as enhance its viability and vitality through an increase to the local population.
- *To encourage the orderly and efficient development of land through the consolidation of lots.*
  - N/A – no consolidation of lots is required.

It is considered the development is not in the public interest because it is inconsistent with the objectives of the Height of Building development standard as outlined below:

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

- The upper level has been designed so as to be compatible with the approved building, which was considered a high quality built form.

*(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,*

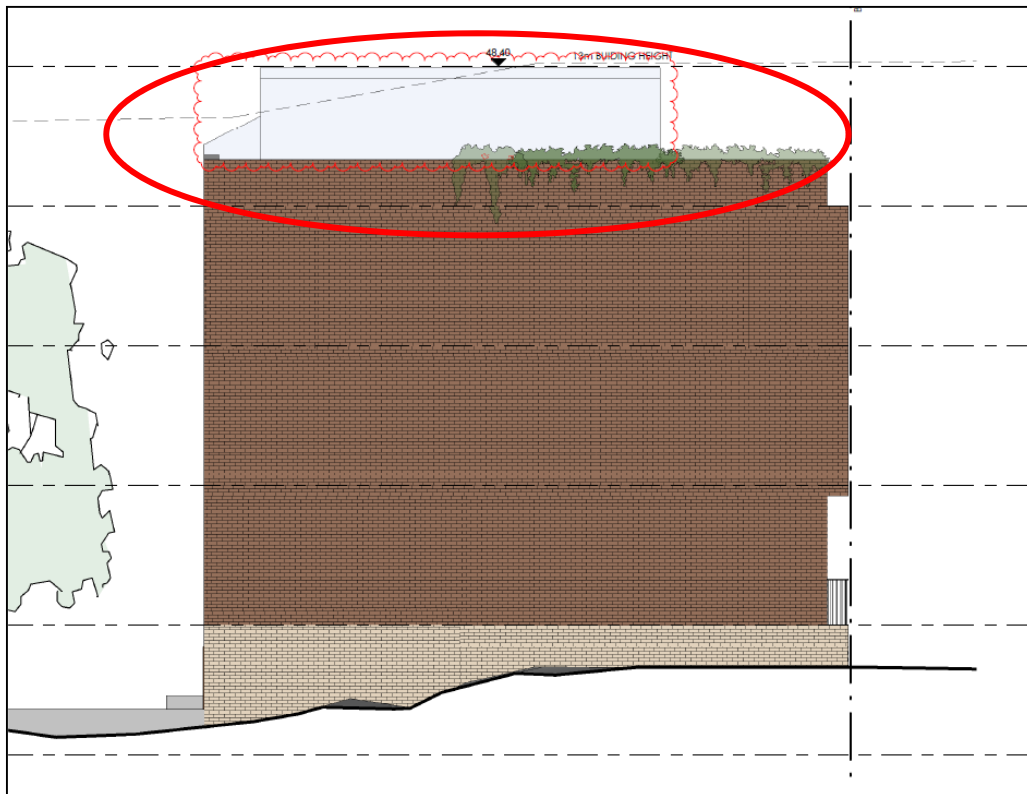
- The majority of additional shadowing falls on the railway corridor to the south.

*(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 proposal includes within a new habitable upper level containing a 58sqm unit and private open space, resulting in a four (storey) building. The proposal results in a poorer transition in built form to the existing two (2) storey residential flat building to the east at No. 86 Liverpool Road. It also results in a poorer built form transition to the height of future development anticipated on the neighbouring sites to the east which have a 13m height control. The additional floor will be readily visible from Liverpool Road and will noticeably add to the visual bulk of the building (see Figure 4 below).

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

- As discussed, the majority of additional shadowing falls on the railway corridor to the south.



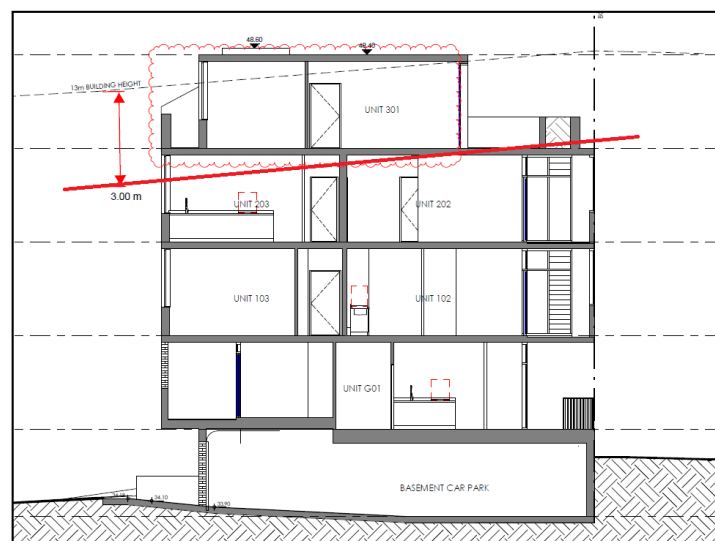
**Figure 4:** Eastern (side) elevation showing the additional floor.

Clause 4.3(2A) Height of Building

Clause 4.3(2A) of the LEP reads as follows:

*(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.*

The proposal includes gross floor area within three (3) metres of the 13m height control (see Figure 5 below) and is therefore contrary to Clause 4.3(2A).



**Figure 5:** Red line showing portion of building within three (3) metres of the 13m height control.

It is noted that the existing building has elements within the three (3) metres and marginally over the 13m height control which include a light-weight pergola structure relating to the rooftop communal open space, as well as a lift and stair overrun. These elements are centrally located on the roof plane and relatively small and/or lightweight, and as such are not readily visible from the public domain nor significantly add to the visual bulk or envelope of the building. They also are not considered gross floor area and thus Clause 4.3(2A) is not applicable to them.

#### Clause 4.4 Floor Space Ratio

The building has an approved FSR of 1.28:1 (453sqm) which represents a variation of 34% (101sqm). The subject proposal adds a further 58sqm of gross floor area in a new habitable third floor.

The additional floor space approved in the modified consent (10.2014.258.3) was approved in part because the it did not increase the building envelope above ground level or building height, but rather 'infilled' underutilised portions of the building. This included a new commercial tenancy in the ground level undercroft, which created a stronger corner presence, as well as the conversion of an upper level enclosed communal open space area to a unit. These changes were considered to result in a better urban design outcome.

As the subject application is a Section 4.55 modification, a formal Clause 4.6 request is not required. However, an assessment against the relevant objectives of the zone and development standard is still required.

The applicant provided an assessment against the Objectives of Clause 4.4 Floor space ratio development standard and the B4 – Mixed Use Zone which concluded the proposal satisfied all relevant objectives.

The following is an assessment against the Objectives of the B4 – Mixed Use Zone:

- *To provide a mixture of compatible land uses.*
  - The proposal provides a mix of commercial and residential uses, both of which are compatible with the area.
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
  - The proposal is close Summer Hill Train Station, a major bus route along Liverpool Road.
- *To enhance the viability, vitality and amenity of Ashfield town centre as the primary business activity, employment and civic centre of Ashfield.*
  - The overall development provides additional employment opportunities as well as enhance its viability and vitality through an increase to the local population.
- *To encourage the orderly and efficient development of land through the consolidation of lots.*
  - N/A – no consolidation of lots is required.

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, as outlined below:

- (a) *to establish standards for development density and intensity of land use,*
  - The upper level has been designed so as to be compatible with the approved building, which was considered a high quality built form.
- (b) *to provide consistency in the bulk and scale of new development with existing development,*
  - The proposed additional gross floor area is located within a new upper level, resulting in a four (storey) building. The proposal results in a poorer transition

in built form to the existing two (2) storey residential flat building to the east at No. 86 Liverpool Road.

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

- N/A - Not within the vicinity of any items of heritage.

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

- The majority of additional shadowing falls on the railway corridor to the south, however the proposal will add additional visual bulk when perceived from neighbouring property 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.

- The proposed additional gross floor area is located within a new upper level, resulting in a four (storey) building. The proposal results in a poorer transition in built form to the existing two (2) storey residential flat building to the east at No. 86 Liverpool Road. It also results in a poorer built form transition to the height of future development anticipated on the neighbouring sites to the east which have a floor space ratio of 1:1 and a 13m height control.

### 5(b) Draft Environmental Planning Instruments

The Draft Inner West Local Environmental Plan 2020 (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 relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

### 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
<b>Section 1 – Preliminary</b>	
B – Notification and Advertising	Yes
<b>Section 2 – General Guidelines</b>	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	Yes – see discussion
4 - Solar Access and Overshadowing	Yes
7 - Access and Mobility	Yes
B – Public Domain	
C – Sustainability	
3 – Waste and Recycling Design & Management Standards	No – see discussion

The following provides discussion of the relevant issues:



**Part 2 Chapter A - Good Design**

As discussed elsewhere, the proposed additional floor does not respond to the existing or desired future built context.

**Part 3 Chapter C – Waste and Recycling****Residential Waste**

The development includes 8 units and would require a minimum of 4 x 240L recycling, 4 x 240L general waste bins.

Adequate space for 8 x 240L bins are provided in the dedicated residential waste storage room.

**5(d) The Likely Impacts**

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality for the reasons discussed in this report.

**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 Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill for a period of 14 days to surrounding properties. A total of one (1) submission was received.

The following issues raised in submissions have been discussed in this report:

- Non-compliance with Height of Building and Floor Space Ratio development standards / insufficient justification – see Section 5(a)(v)
- Non-compliance with car parking requirements – see Section 5(a)(i)
- Not 'substantially the same' – see Section 5

**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.

Approval of the modification is considered 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.

**Urban Design**

Council's Urban Designer does not support the proposal as it does not incorporate the relevant NCC and SEPP 65 Apartment Design Guide requirements in terms of:

1. A floor to ceiling height of 2.7m for residential habitable areas (ADG 4C-1); and
2. A 0.4m structure for acoustic privacy, services, set downs and finishes (NCC and ADG 4C-5).

## 6(b) External

### Sydney Trains

As discussed, the application was referred to Sydney Trains on 29 April 2020 for concurrence in accordance with Clause 86 of the SEPP Infrastructure 2007. No response was received at the time of writing this report.

## 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 an additional contribution is to be paid should be imposed on any consent granted in the event that the modification is supported.

## 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 streetscape and is not considered to be in the public interest.

The application has not been well justified on planning grounds and is considered unsupportable. In view of the circumstances, refusal of the modification 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. MOD/2020/0025 for modification of approved mixed use building for an additional apartment at 88 Liverpool Road, Ashfield for the following reasons.

## Reasons for Refusal

1. The proposal is contrary to the Objectives of Clause 4.3 Height of Buildings in the Ashfield Local Environmental Plan 2013.
2. The proposal is contrary to the Objectives of Clause 4.4 Floor Space Ratio in the Ashfield Local Environmental Plan 2013.
3. The proposal does not satisfy the 'Design Quality Principles' in Schedule 1 of the State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development.
4. The proposal provides insufficient on-site car parking contrary to the Apartment Design Guide and the RMS' 'Guide to Traffic Generating Development' 2002.
5. It has not been submitted with the base application which demonstrates that the development will comply with the LAeq levels and requirements stipulated in Clauses 87 and 102 of the State Environmental Planning Policy (Infrastructure) 2007.
6. The proposal does not demonstrate 'good design' in accordance with Part 2 Chapter A of the Comprehensive Inner West Development Control Plan 2016.
7. A revised BASIX Certificate has not been provided contrary to Clause 115 of the Environmental Planning and Assessment Regulation 200
8. The proposal is not in the public interest.

## Attachment A – Draft Conditions

### CONDITIONS:

#### A ***General Conditions***

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

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

No.	Title	Prepared by	Amendment Date
DA101/C	Basement Floor Plan	Julie Cracknell & Peter Lonergan	18.06.2014
DA102/C	Ground Floor Plan	Julie Cracknell & Peter Lonergan	25.08.2014
DA103/C	First Floor Plan	Julie Cracknell & Peter Lonergan	25.08.2014
DA104/C	Second Floor Plan	Julie Cracknell & Peter Lonergan	25.08.2014
DA105/C	Roof Plan	Julie Cracknell & Peter Lonergan	25.08.2014
DA201/C	Section	Julie Cracknell & Peter Lonergan	25.08.2014
DA301/C	Western Elevation	Julie Cracknell & Peter Lonergan	25.08.2014
DA302/C	Eastern Elevation	Julie Cracknell & Peter Lonergan	25.08.2014
DA303/C	Southern Elevation	Julie Cracknell & Peter Lonergan	25.08.2014
DA304/C	Northern Elevation	Julie Cracknell & Peter Lonergan	25.08.2014
DA501/C	Materials and Finishes	Julie Cracknell & Peter Lonergan	25.08.2014
L01/1-R16319/A	Landscape Planting Plan	Michael Siu Landscape Architects Pty Ltd	10.05.2011
14208/1/0	Index	C.K. Engineering Services	July 2014
14208/2/0	Roof Detail Plan	C.K. Engineering Services	July 2014
14208/3/0	Basement Detail Plan	C.K. Engineering Services	July 2014
14208/4/0	Ground Detail Plan	C.K. Engineering Services	July 2014
14208/5/0	First and Second Detail Plan	C.K. Engineering Services	July 2014
14208/6/0	Erosion and Sediment Control Plan	C.K. Engineering Services	July 2014
SYD14/01133 (A7778621)	Roads and Maritime Services comments	Roads and Maritime Services	23.10.2014

Note: Some of the dates and revision numbers may change subject to compliance with the requirements of the conditions of deferred commencement consent.

As amended by the following drawings but only where 'clouded':

No.	Title	Prepared by	Amendment Date
200 'C'	Basement Floor	Tier Architects	17 July 2018
201 'C'	Ground Floor	Tier Architects	17 July 2018
202 'C'	First Floor	Tier Architects	17 July 2018
203 'C'	Second Floor	Tier Architects	17 July 2018
204 'C'	Roof Floor	Tier Architects	17 July 2018

300 'C'	North Elevation	Tier Architects	17 July 2018
301 'C'	West Elevation	Tier Architects	17 July 2018
302 'C'	South Elevation	Tier Architects	17 July 2018
303 'C'	East Elevation	Tier Architects	17 July 2018
400 'C'	Section AA	Tier Architects	17 July 2018
900 'C'	Materials and Finishes	Tier Architects	17 July 2018

(Amended 30 July 2018 – 10.2014.258.3)

As amended by the following drawings but only where 'clouded':

No.	Title	Prepared by	Amendment Date
202 'A'	First Floor	Tier Architects	25 January 2019
203 'A'	Second Floor	Tier Architects	25 January 2019
300 'A'	North Elevation	Tier Architects	25 January 2019
301 'A'	West Elevation	Tier Architects	25 January 2019
302 'A'	South Elevation	Tier Architects	25 January 2019
303 'A'	East Elevation	Tier Architects	25 January 2019
900 'A'	Materials and Finishes	Tier Architects	25 January 2019

(Amended 9 July 2019 – 10.2014.258.4)

As amended by the following drawings but only where 'clouded':

No.	Title	Prepared by	Amendment Date
204 'A'	Roof Terrace	Tier Architects	27 November 2019
300 'A'	North Elevation	Tier Architects	27 November 2019
301 'A'	West Elevation	Tier Architects	27 November 2019
302 'A'	South Elevation	Tier Architects	27 November 2019
303 'A'	East Elevation	Tier Architects	27 November 2019
900 'A'	Materials and Finishes	Tier Architects	27 November 2019

(Amended 18 May 2020 – MOD/2020/0025)

(1A) Material Changes

The podium level, and winter garden balustrades are to be changed from PGH Cashmere brick to PGH Mowbray Blue brick.

(Added 30 July 2018 – 10.2014.258.3)

(Deleted 9 July 2019 – 10.2014.258.4)

(1B) Shutters

The winter garden shutters must:

- (a) The space between the shutters and winter garden balustrades must be left unfilled.
- (b) Open inwards and not open over public land.
- (c) Have solid louvers and no glazed louvers.
- (d) Be powder-coated and painted a medium grey

(Added 30 July 2018 – 10.2014.258.3)

(Deleted 9 July 2019 – 10.2014.258.4)

**(1C) Commercial waste storage and collection**

(a) A separate waste storage area be provided for the commercial tenancy. This area should not be visible from the public domain, be a minimum of 1.29sqm and not accessible to residents.

(b) Attached or in close proximity to the commercial bin storage area there should be additional commercial space for storage of reusable commercial items such as crates and/or pallets.

(c) The collection point must be located where the collection vehicle can stand safely, at a level gradient and not to obstruct or endanger passage of pedestrians or other vehicles. The collection point must not be on Liverpool Road. Collection time should be restricted so nearby residents are not disturbed.

(d) The business/tenant must have written evidence of a valid contract/s (held on site) for waste and recycling collection for disposal or processing of all waste streams.

*(Added 30 July 2018 – 10.2014.258.3)*

**(1D) Commercial waste storage and collection**

*The architectural elevations must be revised to clearly showing a gap of at least 150mm between all 'winter garden' balustrades and the glass louver frames to ensure the 'winter gardens' cannot be fully enclosed to the satisfaction of Council.*

*(Added 9 July 2019 – 10.2014.258.4)*

**(1E) Unit G03**

*The ground floor unit known as 'Unit G03' is only approved as a commercial premises and must not be used as residential accommodation.*

*(Added 9 July 2019 – 10.2014.258.4)*

**(2) Unconditional Remediation**

The site shall be appropriately remediated to be suitable for the purposes of residential use. The proposed remediation works shall be unconditional and details shall be submitted to Council prior to release of the Construction Certificate.

**(3) Remedial works**

The remedial works recommended in the submitted Remediation Action Plan, shall be completed under the supervision of the consultant who prepared the Remediation Action Plan. Validation reporting from an appropriately qualified person verifying that the site has been fully remediated in accordance with the Remediation Action Plan, must be completed and submitted to Council within 30 days of completion of remediation works.

**(4) Disposal of site soils**

All soils excavated from the subject site are to be classified under the NSW DECC Waste Classification Guidelines (2008). Testing is required prior to offsite disposal. All waste materials must be removed to appropriately licensed waste facilities by a suitably qualified contractor in accordance with NSW DECC (2008) Waste Classification Guidelines. Details of soil excavation, transportation and disposal works must be reported to Council by a suitably qualified consultant. This is to be submitted as part of the validation reporting for the development.

**(5) Soils to be used on site**

Any soil to be reused on site must be tested for contaminants by a suitably qualified consultant. Soils imported onto the subject site for the purpose of backfilling excavation, must be of a standard that is

suitable for the receiving site. Documentation indicating the suitability of these soils must be provided to Council as part of the validation reporting for the development.

**(6) Removal and disposal of storage tanks**

Storage tanks removed from the site must be removed and disposed of in accordance with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 and Australian Standard 4897- 2008: The design, installation and operation of underground petroleum storage systems. Documentation will be required in order to demonstrate compliance with the above documents and must be included in the validation reporting as part of the proposal.

**(7) Validation**

Validation reporting from an appropriately qualified person verifying that the site has been fully remediated in accordance with the recommendations of the Remediation Action Plan, must be completed and submitted to Council within 30 days of completion of the remediation works.

**(8) Roads and Maritime Services Conditions**

The applicant must comply with all the conditions contained in the letter from Roads and Maritime Services dated 23 October 2014 ref: SYD14/01133 (A7778621).

**B Design Changes**

**(1) Materials and finishes**

The proposed rendered masonry noted on the podium level notes as "Wayward Grey" is to be changed to a dry pressed face brick in PGH "Mowbray Blue". No render material is to be used in this location.

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

**(1) Construction and Site Management Plan**

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

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

Where it is proposed to:

- pump concrete from within a public road reserve or laneway, or
- stand a mobile crane within the public road reserve or laneway, or
- use part of Council's road/footpath area,
- pump stormwater from the site to Council's stormwater drains, or

- store waste and recycling containers, skip, bins, and/or building materials on part of Council's footpath or roadway,

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

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

**(2) Erosion & sedimentation control-management plan**

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

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

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

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

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

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

Further information may be obtained from:

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

**(3) Home Building Act 1989 Insurance**

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

**(4) Long service levy**

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

**(5) Sydney Water - Section 73 Compliance Certificate**

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

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



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

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

**(6) Section 94 7.11 Development Contributions**

In accordance with Section 80A(1) Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction Certificate to cater for the increased demand for community infrastructure resulting from the development:

<u>Community Infrastructure Type</u>	<u>Contribution</u>
Local Roads	\$1,031.32 \$3,145.93
Local Public Transport Facilities	\$3,554.54 \$4,471.70
Local Car Parking Facilities	\$0.00
Local Open Space and Recreation Facilities	\$62,508.61 \$78,250.45
Local Community Facilities	\$3,861.26 \$3,517.51
Plan Preparation and Administration	\$2,840.11 \$3,884.30
<b>TOTAL</b>	<b>\$73,795.85 \$93,269.88</b>

<u>Community Infrastructure Type</u>	<u>Contribution</u>
<b>Local Roads</b>	<b>\$3601.40</b>
<b>Local Public Transport Facilities</b>	<b>\$5,080.42</b>
<b>Local Car Parking Facilities</b>	<b>\$0.00</b>
<b>Local Open Space and Recreation Facilities</b>	<b>\$88,241.87</b>
<b>Local Community Facilities</b>	<b>\$4,025.03</b>
<b>Plan Preparation and Administration</b>	<b>\$4,380.27</b>
<b>TOTAL</b>	<b>\$105,328.99</b>

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

$$\$C_c = \frac{\$C_p \times CPI_c}{CPI_p}$$

CPI<sub>p</sub>

Where:

- \$ C<sub>c</sub> is the amount of the contribution for the current financial quarter
- \$ C<sub>p</sub> is the amount of the original contribution as set out in this development consent
- CPI<sub>c</sub> is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published

by the ABS.

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

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

Council's Development Contributions Plan may be viewed at [www.ashfield.nsw.gov.au](http://www.ashfield.nsw.gov.au) or a copy may be inspected at Council's Administration Centre.

(Amended 30 July 2018 – 10.2014.258.3)

**(Amended 18 May 2020 – MOD/2020/0025)**

**(7) Lighting to basement/pedestrian routes-safety**

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

Details to be shown on the construction certificate.

**(8) Access and services for people with a disability – flats/mixed development**

Detailed plans drawn to the scale of 1:50 shall be submitted detailing compliance with the requirements of AS4299 and AS 1428 Part 1 and the provisions of Ashfield Development Control Plan for Access and Mobility (tel. 9716 1800 for a free copy) prior to the issue of a Construction Certificate, showing a minimum of adaptable and accessible units within the development and details of complying levels, ramp slopes, door widths, circulation spaces within the development as follows .

**(9) Strata subdivision certificate to be obtained from Council**

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

**(11) Subdivision Certificate issue requirements**

A subdivision certificate will not be issued until:

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

**(12) Damage deposit/footpath, road, kerb and gutter**

A Damage Deposit of **\$7,400** is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

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

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

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

A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement. Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

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

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

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

The return of the Damage Deposit shall not be refunded until all conditions of Consent have been completed and the Occupation Certificate has been released.

**(13) Design and construction of car parking area**

The car park layout is to be designed and constructed in accordance with Australian Standards AS 2890.1 2004 "Off Street Car Parking" as well as AS2890.6 -2009 Parking Facilities - Off-street parking for people with disabilities.

**(14) Services adjustment or relocation**

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

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

**(15) Stormwater disposal-calculations**

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

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

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

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

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

- (c) All flowpaths both internal and external, which pass through or around the proposed development site, are to be shown on the Construction Certificate plan
- (d) Calculations and details are to be provided to Council showing that provisions have been made to ensure runoff from all storms up to the 100 year ARI, which cannot be conveyed within the piped drainage system (including pits and including overflows from roof gutters) is safely conveyed within formal or informal overland flow paths to the detention storage facility. Where it is not practicable to provide paths for overland flows the piped drainage system should be sized to accept runoff up to and including the 100-year ARI.
- (f) The depth and location of all services within the area affected by the development (i.e. gas, water, sewer, electricity, Telstra, etc) shall be confirmed by the applicant on site prior to the release of the Construction Certificate.
- (g) All garbage and waste areas must drain to the sewer and not the stormwater system.

**(16) Stormwater detention storage facility**

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

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

**(17) Footpath/laneway- photographs to be submitted**

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

**(18) Accessible Bathrooms**

The dwellings shall have at least one (1) bathroom that is capable of being adaptable for a person with a disability. Plans indicating that at least one bathroom in each dwelling is capable of being adaptable in the future in accordance with AS 1428.1 shall be provided to the Principal Certifying Authority (PCA) for approval with the submission of a Construction Certificate.

This condition does not override the requirement to provide an adaptable unit.

*Condition C(18) Added 26 February 2015*

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

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

**(2) Requirement for a Construction Certificate**

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

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
  - (i) Council; or
  - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

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

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

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

**(3) Inspections required by Principal Certifying Authority**

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

**(4) Building location - check survey certificate**

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

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

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

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

- (a) must preserve and protect the building from damage, and

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

Notes:

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

**(6) Sydney Water approval**

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

**(7) Structural Engineering Details**

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

**(8) Dilapidation Reports**

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

**(9) Site fencing/security**

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

**(10) Erosion, dust, topsoil and sediment control**

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

**(11) On site detention system – check survey**

**REQUIREMENTS DURING CONSTRUCTION:**

Prior to the construction of an on-site detention system involving permanent construction work (eg construction of concrete slabs, walls, pipe-systems or pits etc, and prior to the placement of any concrete for ground floor, car park or garages ) a "check survey from a registered surveyor" must be forwarded to the Council indicating compliance with the approved plans before any concrete pour is approved by the relevant Council building surveyor or Authorised Certifier.

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

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

***E* Conditions that must be complied with during construction or demolition****(1) Building materials and equipment - storage/placement on footpath/roadway - Council approval**

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

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

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

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

- (a) stating that unauthorised entry to the work site is prohibited; and
- (b) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.

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

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

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

**(4) Demolition requirements/standards**

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

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance

with the requirements of the Work Cover Authority.

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

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

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

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

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



manufacturer's instructions, the BCA and AS 3740.

**(6) Safety Glazing - BCA**

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

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

**(7) BASIX Requirements**

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

**(8) Footpath, kerb and gutter reconstruction**

The public footpath and verge outside the site both on Liverpool Road and Grosvenor Crescent shall be completely reconstructed to the requirements of Council's Works & Infrastructure Department at the applicant's expense. This work shall be carried out prior to the release of the Occupation Certificate.

The alignment levels for these works shall be obtained in writing from Council's Engineering Department at a prescribed fee of \$678.50 calculated at \$11.50 per metre of site frontage at least two (2) weeks prior to the levels being required.

The applicant shall meet the full cost for the relocation of any street signs etc, which may be affected during the construction stage. The applicant shall also meet the full cost for the replacement of these signs back to their original place once site construction is completed.

**(9) Redundant vehicular crossings-removal and replacements**

All redundant vehicular crossings shall be removed and replaced with concrete footpath, concrete kerb and concrete gutter at no cost to Council at the applicant's expense. This work shall be carried out prior to the release of the Occupation Certificate.

**(10) Vehicle access driveways**

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

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

**(11) Road opening permit- Council controlled lands**

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

**(12) Traffic control on public roads**

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

**(13) Engineering staff to inspect roadworks/drainage**

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

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

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

**(14) Spoil and building materials on road and footpath**

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

**(15) Stormwater runoff-collection/discharge**

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

Stormwater outlets to the street kerb shall have a maximum diameter of 100mm.

**(16) Stormwater runoff**

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

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

nil

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

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

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

**(2) Engineering conditions to be satisfied prior to the issue of occupation certificate**

Prior to the release of the Occupation Certificate when the on-site building works are completed there are three (3) conditions that must be satisfied.

They are:

- (a) *Work-As-Executed Plans*

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

- location

- pipe diameter
- gradient
- pipe material i.e. PVC or EW etc
- orifice size
- trash screen at orifice
- all buildings (including floor levels) and finished ground and pavement surface levels

(b) *Engineer's Certificate*

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

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

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

A "Restriction-as-to-User" is to be placed on the title of the subject property to indicate the location and dimensions of the detention area. This is to ensure that works, which could affect the function of the stormwater detention system, shall not be carried out without the prior consent in writing of the Council.

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

**(3) Positive Covenant-stormwater detention/surface flow paths-occupation certificate**

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the

- (a) surface flow path
- (b) finished pavement and ground levels
- (c) prevent the erection of any structures or fencing
- (d) on-site stormwater detention system

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

***H Conditions that are ongoing requirements of development consents***

**(1) Approved use**

The premises shall not be used for any purpose other than that stated in the Development Application, i.e. without the prior consent of the Council.

**(2) Live rock bands prohibited**

No live rock bands shall perform on the premises.

***I Advisory Notes***

**(1) Other approvals**

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

- an Application for Approval under Section 68 of the *Local Government Act 1993* for any proposed activity under that Act, including any erection of a hoarding. All such applications must comply with the *Building Code of Australia*.
- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.  
**Note:** An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.
- an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.

## **(2) Works and requirements of other authorities**

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.
- Energy Australia has a requirement for the approval of any encroachments including awnings, signs, etc over a public roadway or footway. The Engineer Mains Overhead Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.
- Telstra has requirements concerning access to services that it provides.

## **(3) Application for a Construction Certificate**

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

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

## **(4) Modifications to your consent - prior approval required**

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

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

***Reason for the imposition of conditions***

Unrestricted consent would be likely to cause injury:

- a) to the amenity of the neighbourhood
- b) to the heritage significance of the area
- c) to the heritage significance of the property
- d) to the amenity of the neighbourhood due to the emission of noise
- e) to the amenity of the neighbourhood due to the creation of a traffic hazard

and further, would not be in the public interest.

***Compliance with Building Code of Australia***

- (1) All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- (2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 or 188.

**NOTES**

- (i) This approval does not relieve an applicant of the obligation to obtain any other approval required under Section 68 of the Local Government Act, 1993 and Ordinances or Section 78A of the Environmental Planning & Assessment Act, 1979 or any other Act or Regulation.
- (ii) Further approval(s) – see above, may be required in addition to this development consent. Plans and specifications submitted for building works must comply with the Building Code of Australia, any relevant condition of development consent and/or other code or requirement of Council at the time of approval.

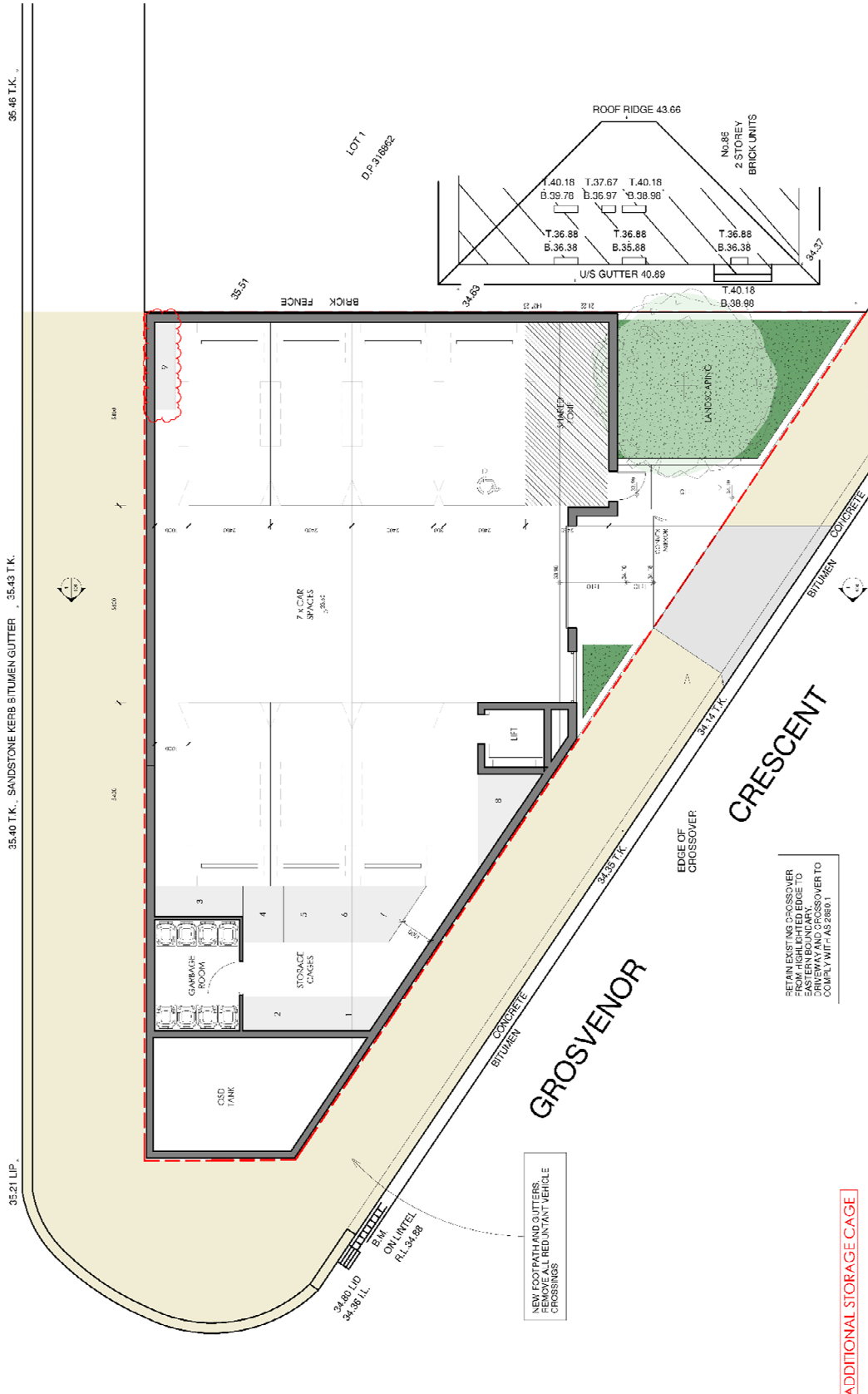
Ask Council if you are unsure of what procedures you need to follow.

**SECTIONS 82A, 97 AND 95 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979**

You are advised that:

- Under the provisions of Section 82A of the Environmental Planning and Assessment Act, 1979, an applicant may request Council to review a determination of the applicant's development application, other than an application for designated development. Any request for a review must be made within six (6) months of the date on which the applicant received notice, given in accordance with the regulations, of the determination of the application and be accompanied by the fee prescribed in Section 257 of the Regulations.
- If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.
- Under the provisions of Section 95 of the Environmental Planning and Assessment Act, 1979, unless the development, which is the subject of this consent, is commenced within five (5) years from the date of determination, the consent will lapse.





CLIENT: **WILLIAMS PARTNERSHIP**  
 PROJECT: **34 GROSVENOR CRESCENT**  
 TITLE: **BASEMENT FLOOR**  
 DATE: **2000**  
 DRAWN: **[Signature]**  
 CHECKED: **[Signature]**  
 SCALE: **1:100**

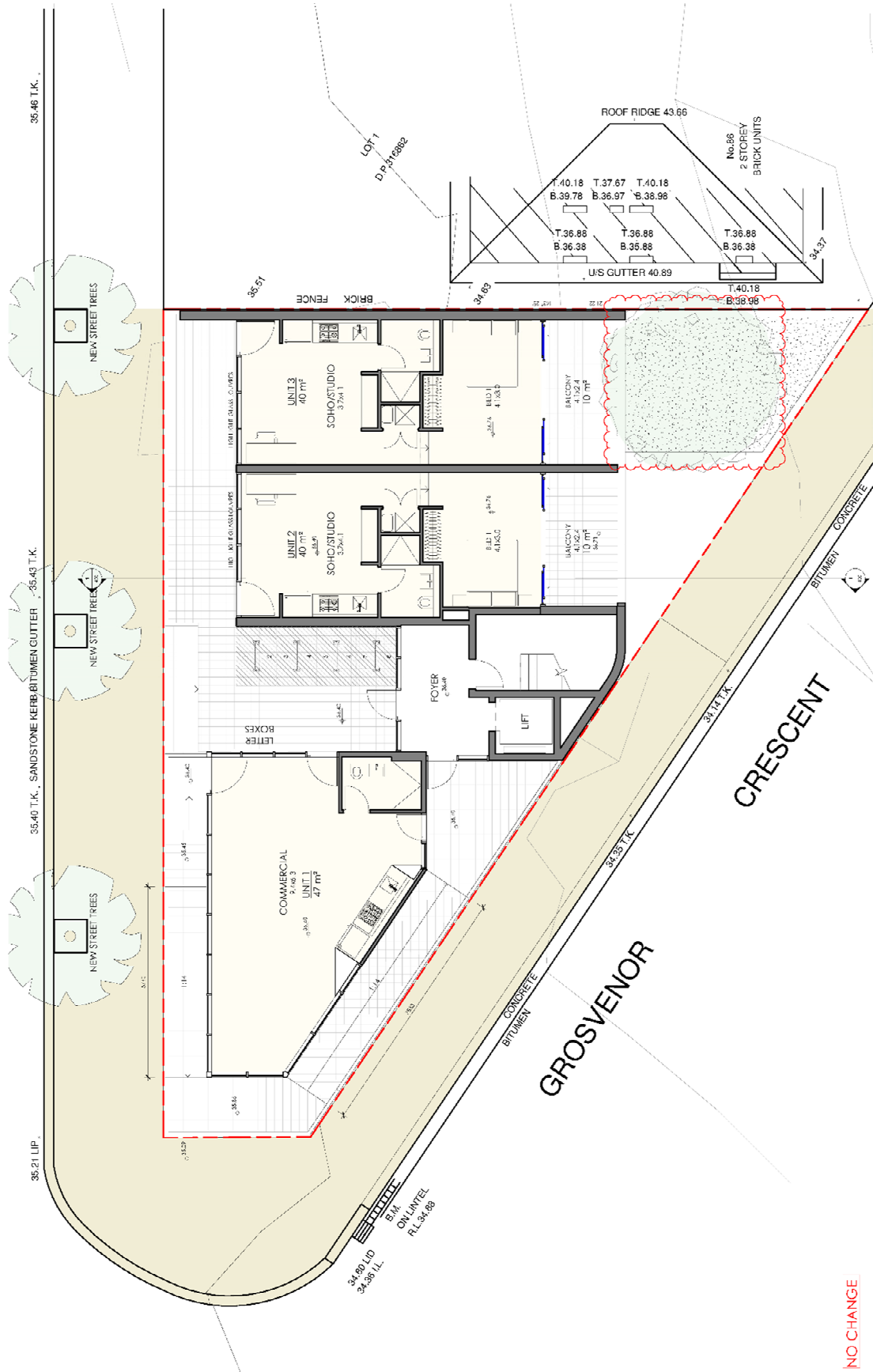
**TIER ARCHITECTS**  
 ARCHITECTS  
 10/100 GROSVENOR CRESCENT  
 SYDNEY NSW 2000  
 PHONE: (02) 9550 1234  
 FAX: (02) 9550 1235  
 WWW: www.tierarchitects.com.au

NO.	DATE	DESCRIPTION

RETAIN EXISTING CROSSOVER FROM HIGHLIGHTED EDGE TO EASTERN BOUNDARY. REMOVE EXISTING CROSSOVER TO COMPLETELY AS SHOWN.

**ADDITIONAL STORAGE CAGE**

**BASEMENT FLOOR**

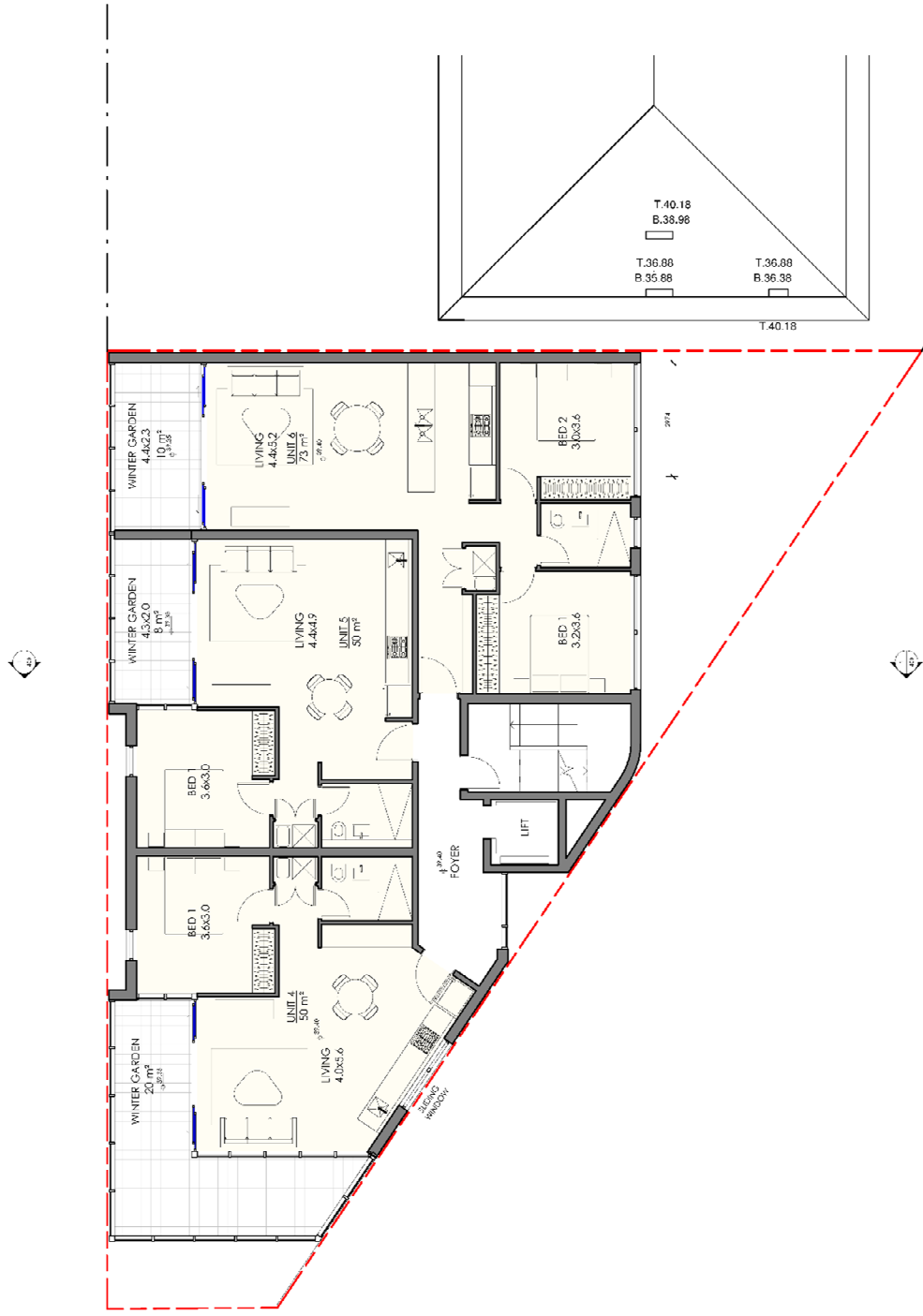


NO CHANGE  
 GROUND FLOOR

C 3.1	NO. 201	DATE 21/12
PROJECT 48 (Kempsey Road) SUNNYHILL	CLIENT	DATE 201
TITLE GROUND FLOOR	DATE 201	

**TIER ARCHITECTS**  
 ARCHITECTS  
 11 GOSWORTHY ROAD, GOSWORTHY NSW 1530  
 TEL: (02) 9372 1111  
 FAX: (02) 9372 1112  
 WWW: www.tierarchitects.com.au





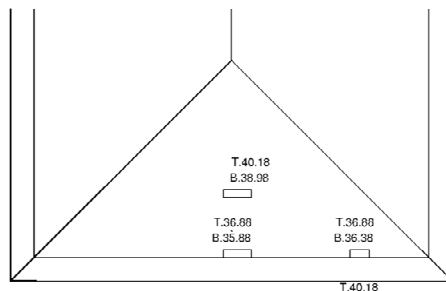
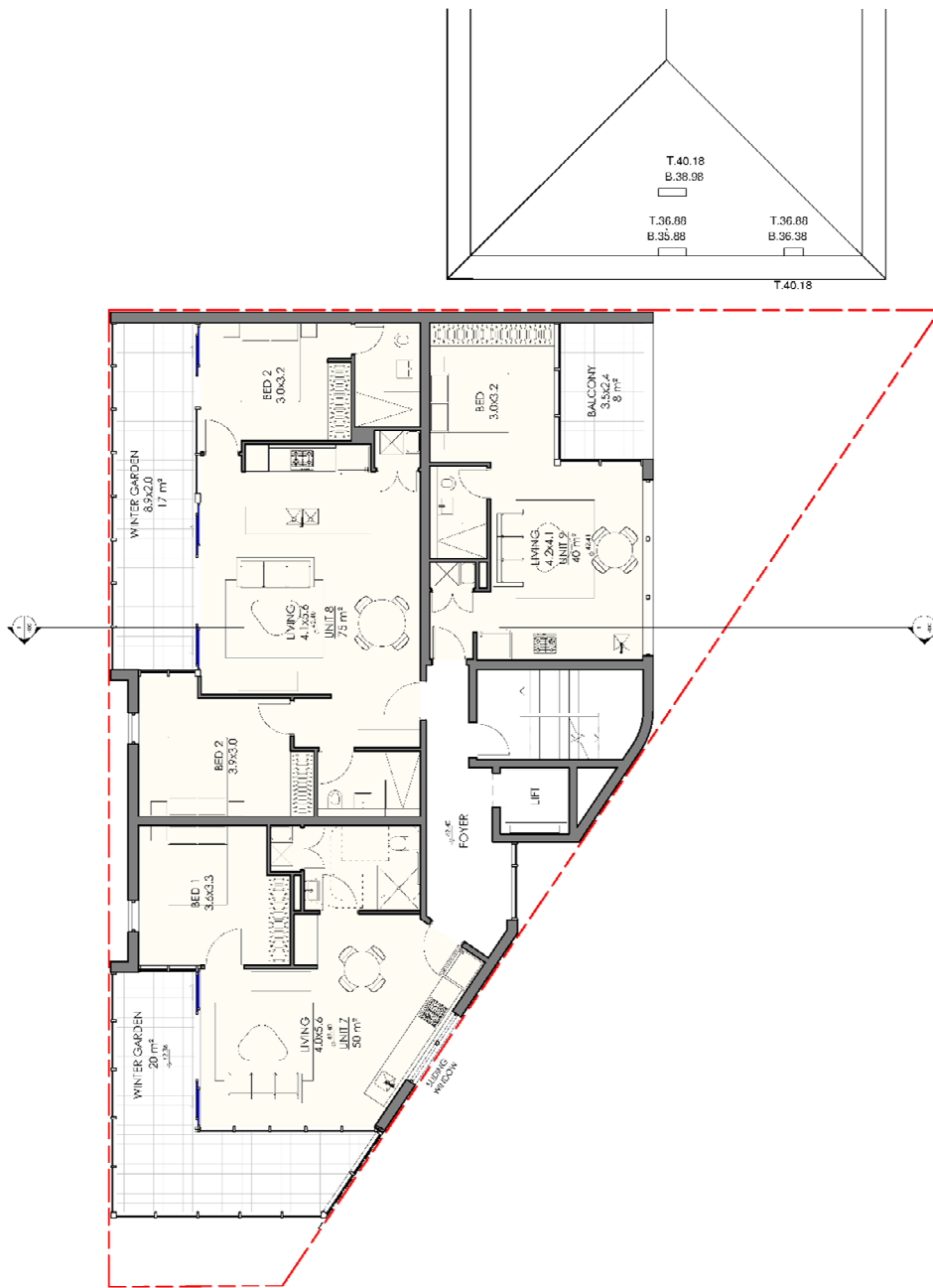
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CLIENT	PROJECT	DATE
ARCHITECTS	RESIDENTIAL DEVELOPMENT - 1	2022

**TIER ARCHITECTS**  
 ARCHITECTS  
 www.tierarchitects.com.au

DATE	DESCRIPTION

FIRST FLOOR



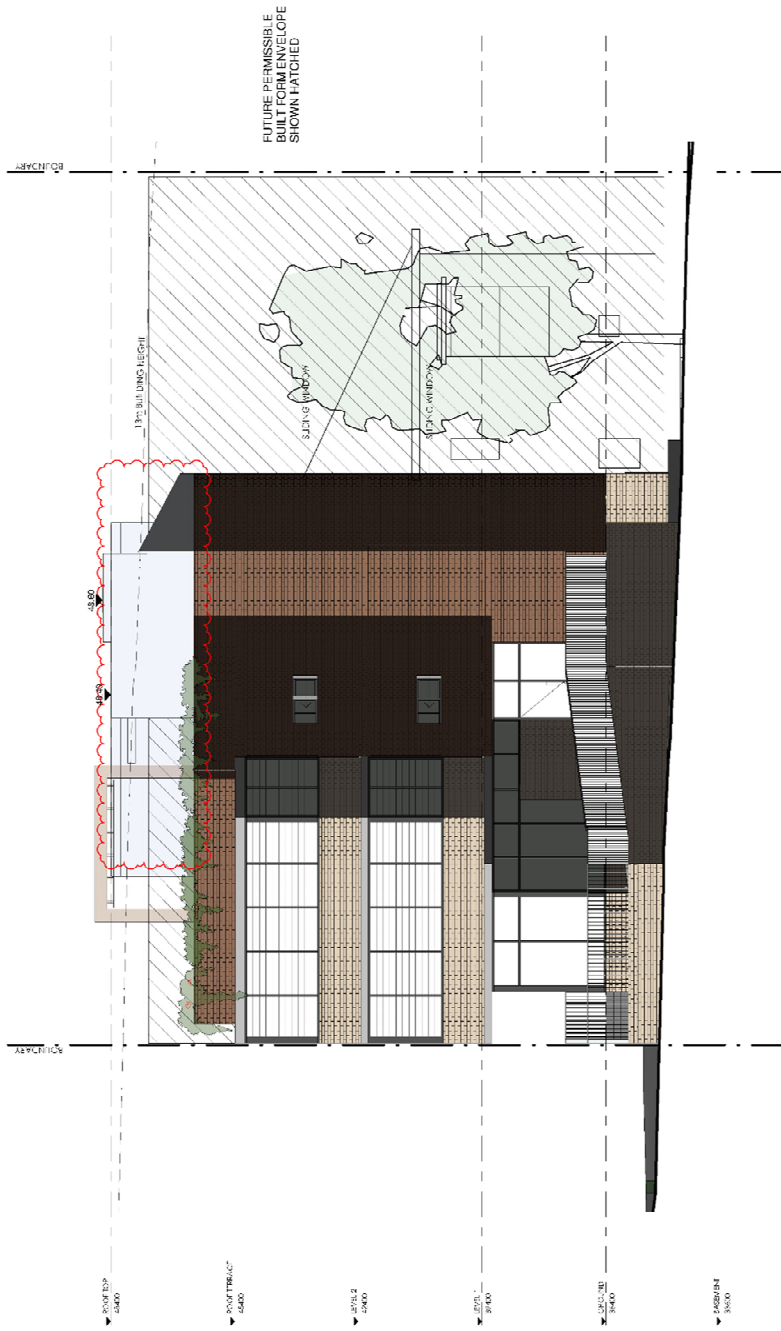
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**TIER ARCHITECTS**  
 ARCHITECTS  
 203  
 203  
 203

SECOND FLOOR







- ADDITION OF ONE BEDROOM APARTMENT ON ROOF LEVEL

**TIER ARCHITECTS**

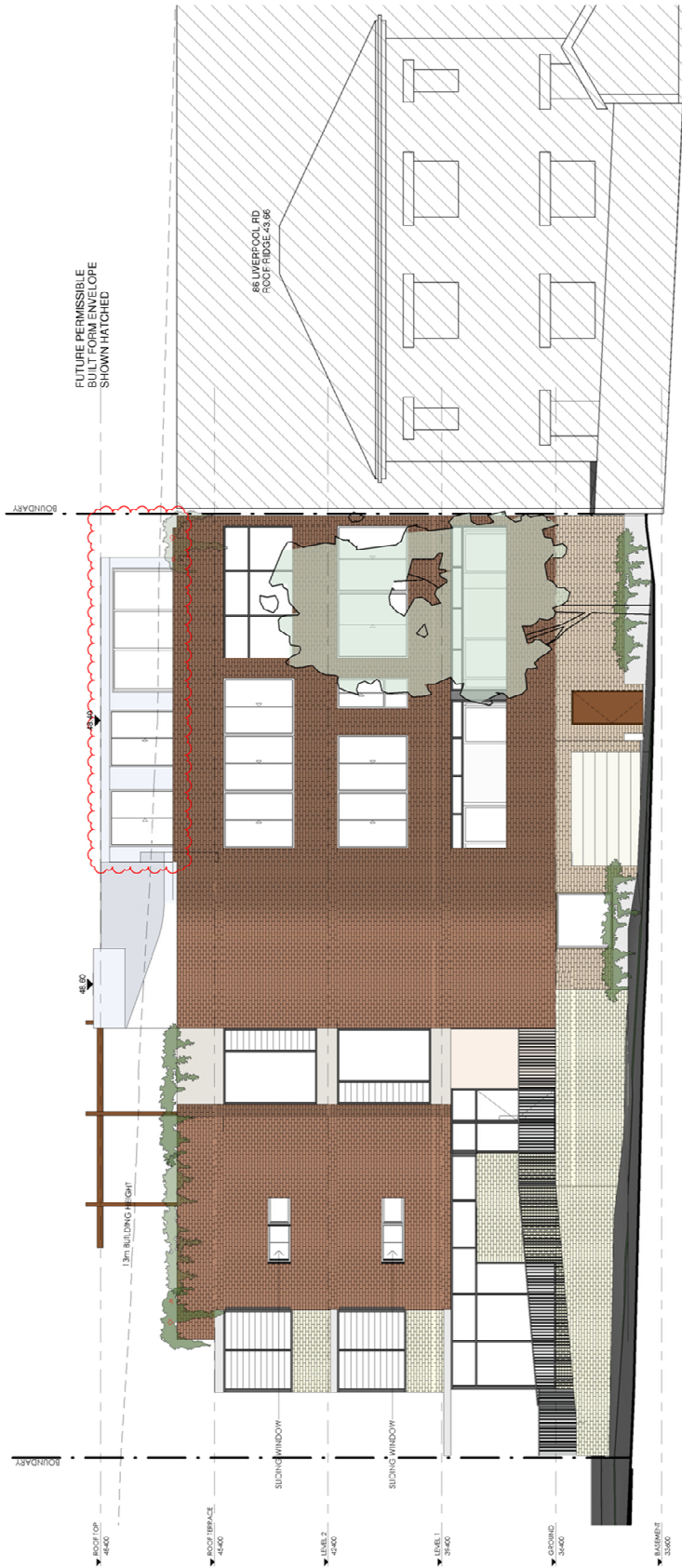
REGISTERED ARCHITECTS

MEMBER OF THE ARCHITECTS BOARD OF AUSTRALIA

1501 DATE DESCRIPTION

NO.	DATE	DESCRIPTION	SCALE
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2	17/04/24	WEST ELEVATION	1:100
3	17/04/24	WEST ELEVATION	1:100
4	17/04/24	WEST ELEVATION	1:100
5	17/04/24	WEST ELEVATION	1:100
6	17/04/24	WEST ELEVATION	1:100
7	17/04/24	WEST ELEVATION	1:100
8	17/04/24	WEST ELEVATION	1:100
9	17/04/24	WEST ELEVATION	1:100
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CLIENT: 88 Liverpool Road (DRAFT) HILL  
 PROJECT: WEST ELEVATION  
 DRAWING NO: 301



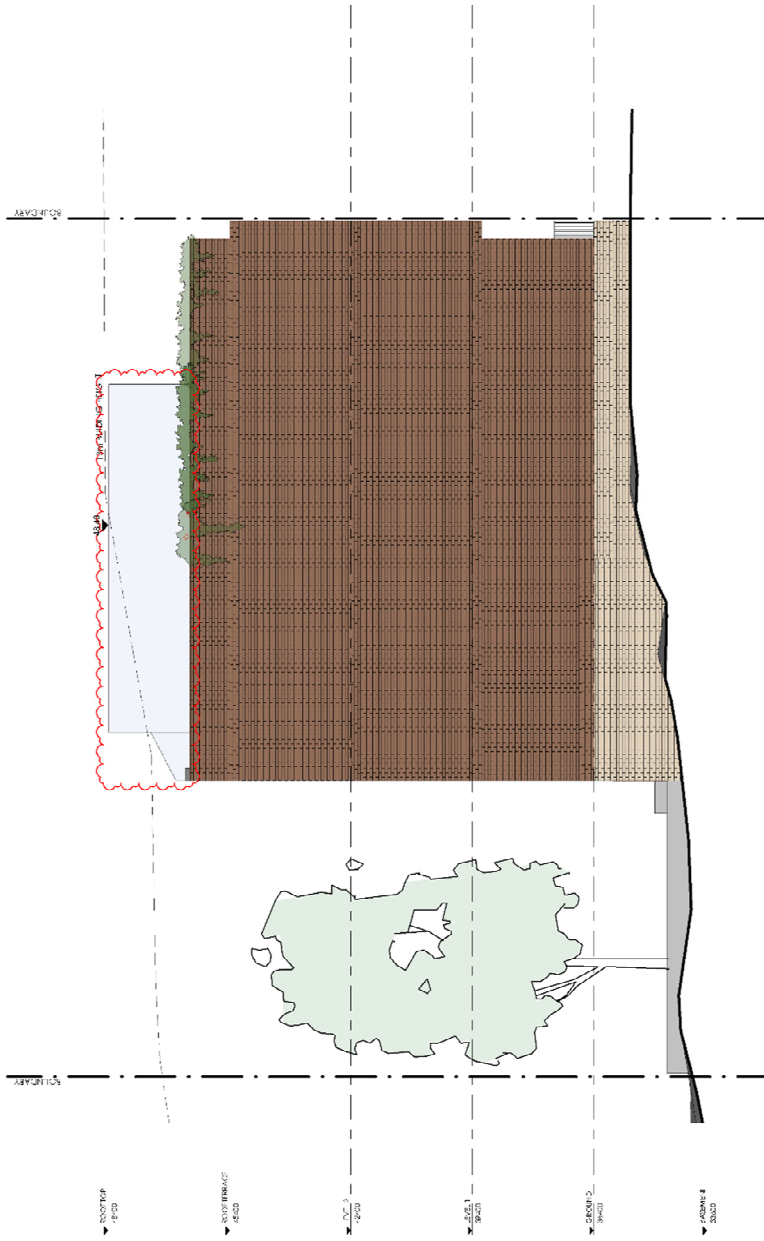
- ADDITION OF ONE BEDROOM APARTMENT ON ROOF LEVEL

CLIENT	DATE	DRAWN
PROJECT	18/09/2018	AS 1:100
TITLE	30/2	DATE

**TIER**  
ARCHITECTS  
PHONE 0875 1081 | 100/101 COOKS STREET SYDNEY NSW 2008

NO.	DATE	DESCRIPTION
1	18/09/2018	ISSUED FOR PERMIT

SOUTH ELEVATION



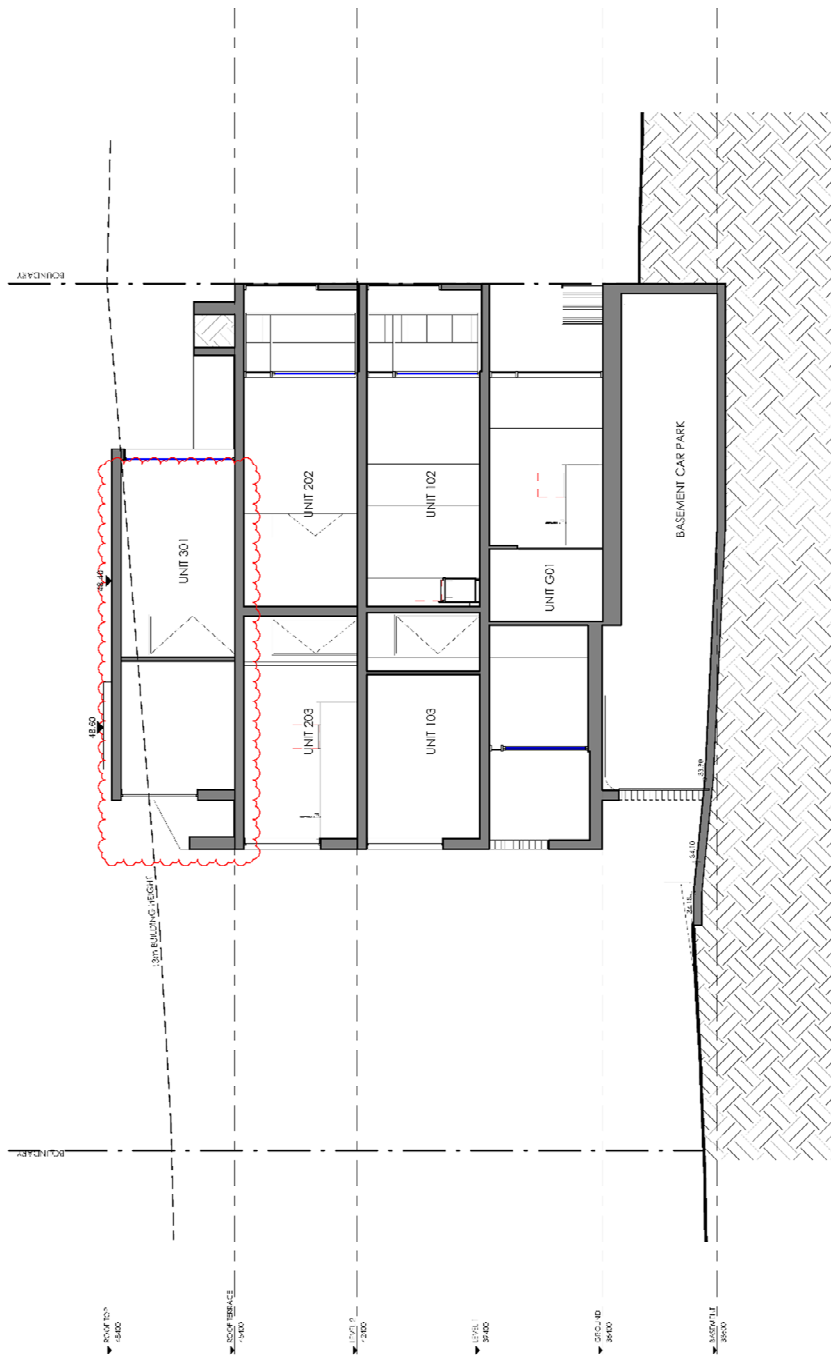
- ADDITION OF ONE BEDROOM APARTMENT ON ROOF LEVEL

CLIENT	DATE	SCALE
PROJECT	NO. OF SHEETS	SHEET NO.
FILE	DATE	303

**TIER**  
ARCHITECTS  
ARCHITECTS  
ARCHITECTS

NO.	DATE	DESCRIPTION

EAST ELEVATION



- ADDITION OF ONE BEDROOM APARTMENT ON ROOF LEVEL

SECTION AA

TIER ARCHITECTS  
 ARCHITECTS  
 10/11-13/15 WOODS ROAD, WOODS VILLAGE NSW 1503  
 PHONE: 02 9330 1111  
 WWW.TIERARCHITECTS.COM.AU

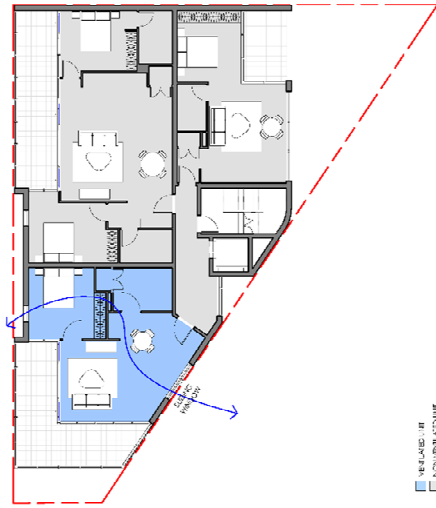
DATE: 20/01/2017  
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 DESCRIPTION: SECTION AA

CLIENT	UNIVERSITY OF WOLLONGONG
PROJECT	30 UNIVERSITY BUILDING PHASE 2
TITLE	SECTION AA
DWG NO.	400
DATE	20/01/2017
DESCRIPTION	SECTION AA



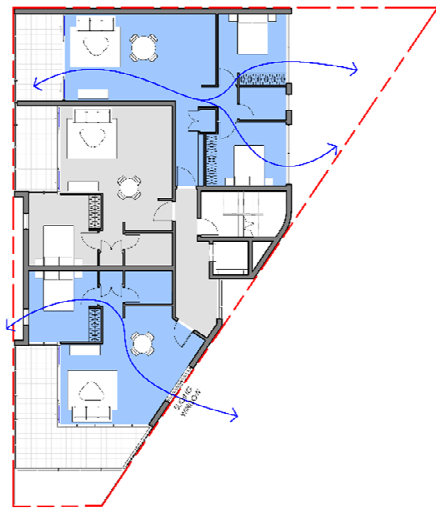




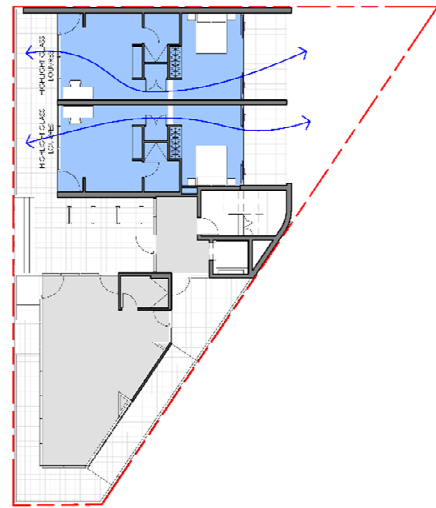


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■ NON-VENTILATED

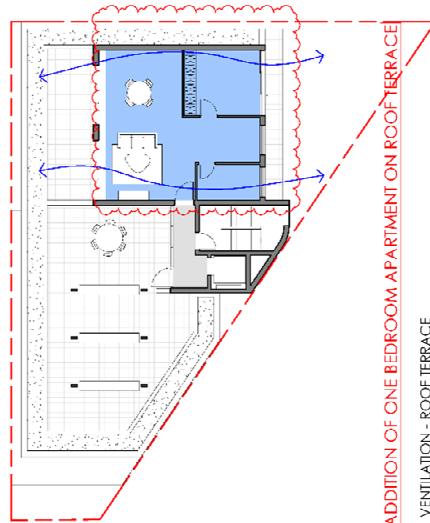
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1 : 200



2 VENTILATION - LEVEL 1  
1 : 200



1 VENTILATION - GROUND  
1 : 200

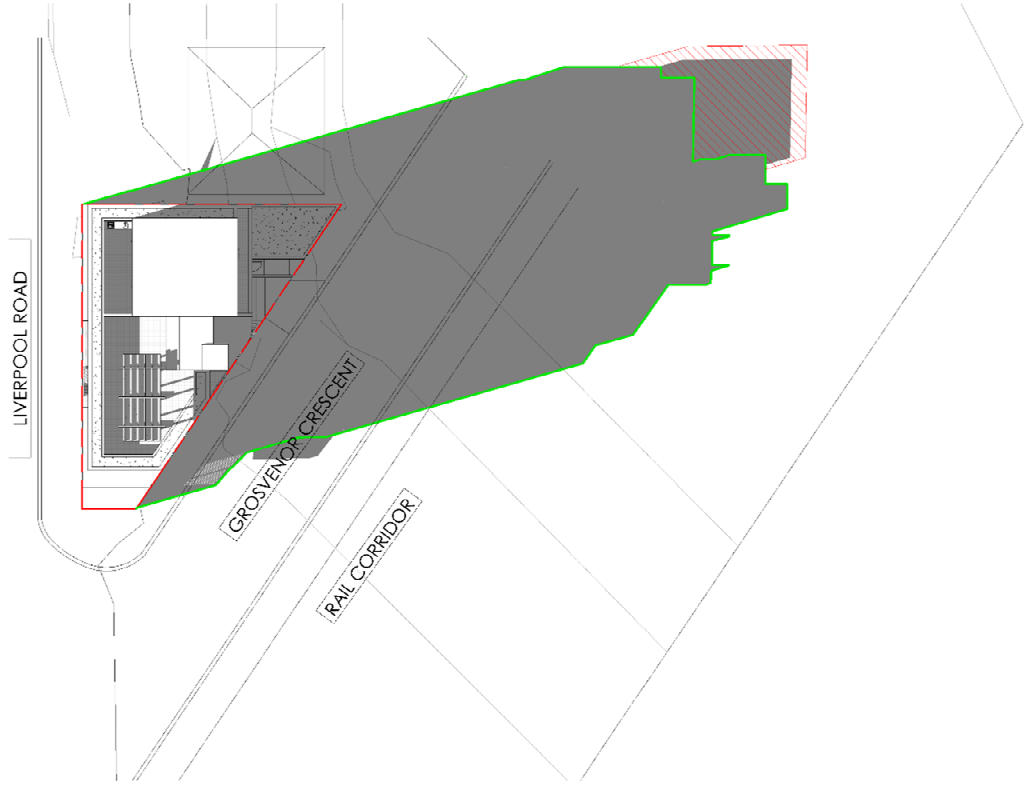


4 ADDITION OF ONE BEDROOM APARTMENT ON ROOF TERRACE  
VENTILATION - ROOF TERRACE  
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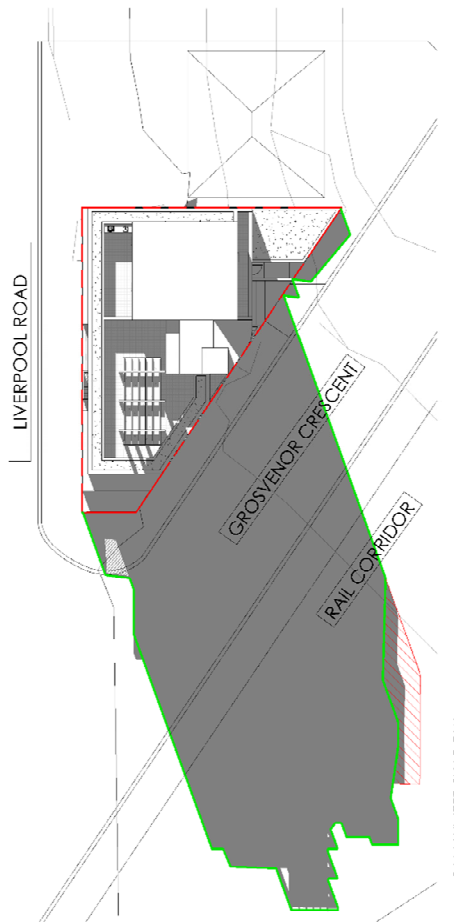
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■ NON-VENTILATED

CROSS VENTILATION

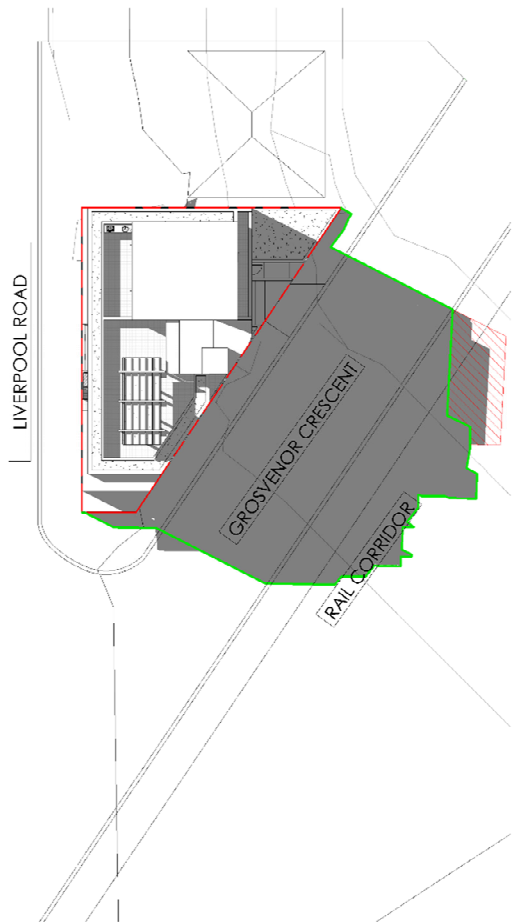
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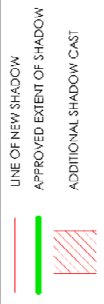
3 3PM WINTER SHADOW  
1 : 350



1 9AM WINTER SHADOW  
1 : 350



2 12PM WINTER SHADOW  
1 : 350



SHADOWS

CLIENT	88 Liverpool Road Liverpool
PROJECT	88 Liverpool Road Liverpool
TITLE	3 STORES
DATE	2018
SCALE	1:350
PROJECT NO.	600

**TIER ARCHITECTS**
  
 ARCHITECTS

ISSUE	DATE	DESCRIPTION
1	2018/01/01	APPROVED EXTENT OF SHADOW
2	2018/01/01	ADDITIONAL SHADOW CAST
3	2018/01/01	ADDITIONAL SHADOW CAST

**2 MATERIALS - NORTH ELEVATION**  
1 : 200

**3 MATERIALS - WEST ELEVATION**  
1 : 200

**4 MATERIALS - EAST ELEVATION**  
1 : 200

**4 MATERIALS - SOUTH ELEVATION**  
1 : 200

**1 MATERIALS - EAST ELEVATION**  
1 : 200

1. P13B1Q  
LIVED WHITE QUARTER

2. PG118  
WAYWARD GREY

3. BRICK  
AUSTRAL BRICKS - BOWRAL BROWN

4. PODIUM LEVEL BRICK  
FGH - CASHMERE

5. RAILING  
STEEL VERTICAL BALUSTRADE

6. DOORS  
POWDERCOATED ALUMINIUM

7. WINDOWS  
POWDERCOATED LOUVER WINDOWS

**TIER ARCHITECTS**  
ARCHITECTS  
PROVIDING ARCHITECTURAL SERVICES TO THE COMMUNITY SINCE 1988

**MATERIALS AND FINISHES**

DATE	ISSUE	DESCRIPTION

CLIENT	DATE	SCALE	STATUS
88 Liverpool Road DANMUR HILL	18/07/2018	1:200	CREATED
TITLE	MATERIALS AND FINISHES	PAGE No.	9/00

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## Attachment C- Applicants Assessment Against Objectives

As demonstrated in the above table, the proposed modified development fully complies with the provisions of the ALEP 2013 with the exception of:

- Cl. 4.3 Height of buildings;
- Cl. 4.3(2A) Height of buildings; and
- Cl. 4.4 Floor space ratio.

Although clause 4.6 is not a relevant consideration for a cl. 4.55 modification application, it is nevertheless necessary to consider the performance of the proposal against the objectives of both the zone and the relevant development standards for which variation is sought; refer to the below table for this analysis.

Justification of contravention of development standards against development standard and zone objectives		
Clause	Objectives	Justification
<b>4.3</b>	<b>Height of buildings</b>	
(a)	to achieve high quality built form for all buildings,	The additional dwelling would not be visible from Liverpool Road and would not alter the built form from that aspect. Although it would be visible from Grosvenor Crescent, it would have an identical height and setback to the immediately adjacent approved fire stair, lift shaft and lobby on that elevation and would consequently present a more uniform and consistent façade.
(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 proposal would not materially alter the exposure to sky or daylight for existing buildings or public areas. The small amount of additional shadow would generally be cast over the railway corridor and not impact the neighbouring properties.
(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 site is located on a pivotal corner and adjacent other sites of the same zoning and general height and floor space development standards. Given that it is not located immediately adjacent sites with a lower scale or density, it is not necessary for it to provide a transition of scale to them. It does, nevertheless, provide a scale transition to the corner and both street frontages by setting back the top level elements so that the building reads as only three storeys. Given the corner location on a busy road with good access to public transport, it is appropriate for the site to accommodate a higher land use intensity.
(d)	to maintain satisfactory solar access to existing buildings and public areas.	The proposal would not alter solar access to adjacent buildings or any significant public space given that any additional overshadowing would be cast upon either Grosvenor Crescent or the rail corridor.
<b>4.4</b>	<b>Floor Space Ratio</b>	
(a)	to establish standards for development density and intensity of land use,	The proposed density and intensity of use is consistent with the desired future character of the zone and the locality.
(b)	to provide consistency in the bulk and scale of new development with existing development,	The modification would be consistent in scale with the top of the stair, lobby and lift shaft of the existing consent.
(c)	to minimise adverse environmental impacts on heritage conservation areas and heritage items,	There are no heritage conservation areas or heritage items in the immediate vicinity of the site.
(d)	to protect the use or enjoyment of adjoining properties and the public domain,	The proposed modification would not impact the amenity of either adjacent properties or the public domain in respect of overshadowing, bulk and scale or privacy.

(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.	The locality is one which is undergoing substantial change and as such the visual relationship with existing development is of lesser relevance.
<b>2.3</b>	<b>Zone B4 – Mixed Use</b>	
	To provide a mixture of compatible land uses.	The proposal would continue to provide a compatible mixture of both residential and commercial land uses.
	To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	The proposal would continue to provide integration of residential and commercial development in a location well served by public transport and in close proximity to the town centre.
	To enhance the viability, vitality and amenity of Ashfield town centre as the primary business activity, employment and civic centre of Ashfield.	The proposed addition of another dwelling would further enhance the viability of Ashfield Town Centre.
	To encourage the orderly and efficient development of land through the consolidation of lots.	No lot consolidation is necessary, in particular given that the development as a whole has already been approved in a substantially similar form.

**5.2.6.6 Summary:**

Given the above, the proposed modification is considered to be consistent with the objectives and specific provisions of the applicable environmental planning instruments.

**5.3 Section 4.15(1)(a)(ii) – Draft Environmental Planning Instruments**

There are no draft environmental planning instruments applicable to the site.

**5.4 Section 4.15(1)(a)(iii) – Development Control Plans**

Development control plans applicable to this proposal include:

- Inner West Development Control Plan 2016.

**5.4.1 Inner West Development Control Plan 2016**

The proposed modified development is subject to the provisions of the *Inner West Development Control Plan 2016* (IWDCP 2016).

Inner West Development Control Plan 2016 Summary Compliance Table					
No.	Standard	Required	Approved	Proposed	Complies
<b>A</b>	<b>Miscellaneous</b>				
<b>A-2</b>	<b>Good Design</b>				
PC1	Good design principles	Development must satisfy the good design principles elaborated in this clause.	Building is of a contemporary aesthetic but follows traditional architectural compositional practice.	The aesthetic of the modified development would be substantially the same as that approved.	Y
<b>A-4</b>	<b>Solar Access and Overshadowing</b>				
PC1	Development optimises solar access to living rooms and principal private open	- To achieve adequate levels of amenity for existing residents. - To ensure appropriate levels of solar access to adjoining and nearby properties.	The proposal would primarily overshadow Grosvenor Crescent and the railway.	The modified proposal would continue to cast shadow primarily overshadow Grosvenor Crescent and the railway and	Y