




 DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2021/0267			
Address	2 Clissold Street ASHFIELD NSW 2131			
Proposal	Demolition of existing dwelling/associated structures and construction of a new two (2) storey six (6) room boarding house with associated on-grade parking.			
Date of Lodgement	09 April 2021			
Applicant	Kink Architects			
Owner	Fauna Street Investments Pty Ltd			
Number of Submissions	5			
Value of works	\$631,200.00			
Reason for determination at Planning Panel	Demolition of a local heritage item			
Main Issues	Heritage conservation			
Recommendation	Approval			
Attachment A	Recommended conditions of consent			
Attachment B	Plans of proposed development			
Attachment C	Heritage Impact Statement			
Attachment D	Council letter regarding heritage listing			
				
LOCALITY MAP				
Subject Site		Objectors		N ↑
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application (as revised) submitted to Council for demolition of existing dwelling/associated structures and construction of a new two (2) storey six (6) room boarding house with associated on-grade parking at 2 Clissold Street, Ashfield.

The original application was notified to surrounding properties in accordance with Council's policy and 5 submissions were received in response.

The main issue that has arisen from the application include:

- Heritage conservation.

The proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies (SEPPs), *Ashfield Local Environmental Plan 2013 (ALEP 2013)* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill (IWDCP 2016), respectively.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

2. Proposal

The application (as revised) seeks development consent for demolition of an existing dwelling/associated structures and construction of a new two (2) storey six (6) room boarding house with associated on-grade parking. Specifically, the following is proposed:

- Demolition of all existing structures;
- Construction of a 2-storey building for the purposes of a boarding house comprising the following:
 - Ground floor: 4 x boarding rooms with self-contained bathroom, laundry and kitchen facilities (3 x singles and 1 x accessible double), communal room, stairs to the first floor and an entry point from Clissold Street and the laneway, respectively; and
 - First floor: Stairs to the ground floor and 2 x double boarding rooms with self-contained, bathroom, laundry and kitchen facilities each serviced by a private balcony.
- 3 car parking spaces (including 1 accessible space with associated shared zone), 2 motorcycle spaces and 2 bicycle spaces, which are all accessed directly from the laneway; and
- General site, landscaping, and public domain works.

3. Site Description

The site is located on the corner Clissold Street and an adjoining laneway. It consists of 1 allotment that is generally regular in shape, which is legally described as Lot X in Deposited Plan (DP) 394410.

The site has a total area of approximately 389 square metres (sqm) with a frontage to Clissold Street of approximately 10.67 metres (m), in addition to a corner splay of 2.16m and a frontage to the laneway of approximately 30.48m.

The site supports a single storey, masonry dwelling, a masonry garage and a series of awning structures. The site is devoid of mature or significant trees. Adjoining the site immediately to the west is a single storey garage and associated driveway. Further east of the site on the opposite side of the laneway is a 2-storey masonry building containing a garage on the ground floor and secondary dwelling on the first floor.

The subject site is listed as a local heritage item (no. 85) under the *ALEP 2013*. In addition, the site is located within the Victoria Square Conservation Area (C23) under the *ALEP 2013*.

The locality comprises a mix of residential accommodation, including residential flat buildings (RFBs) and dwelling houses.

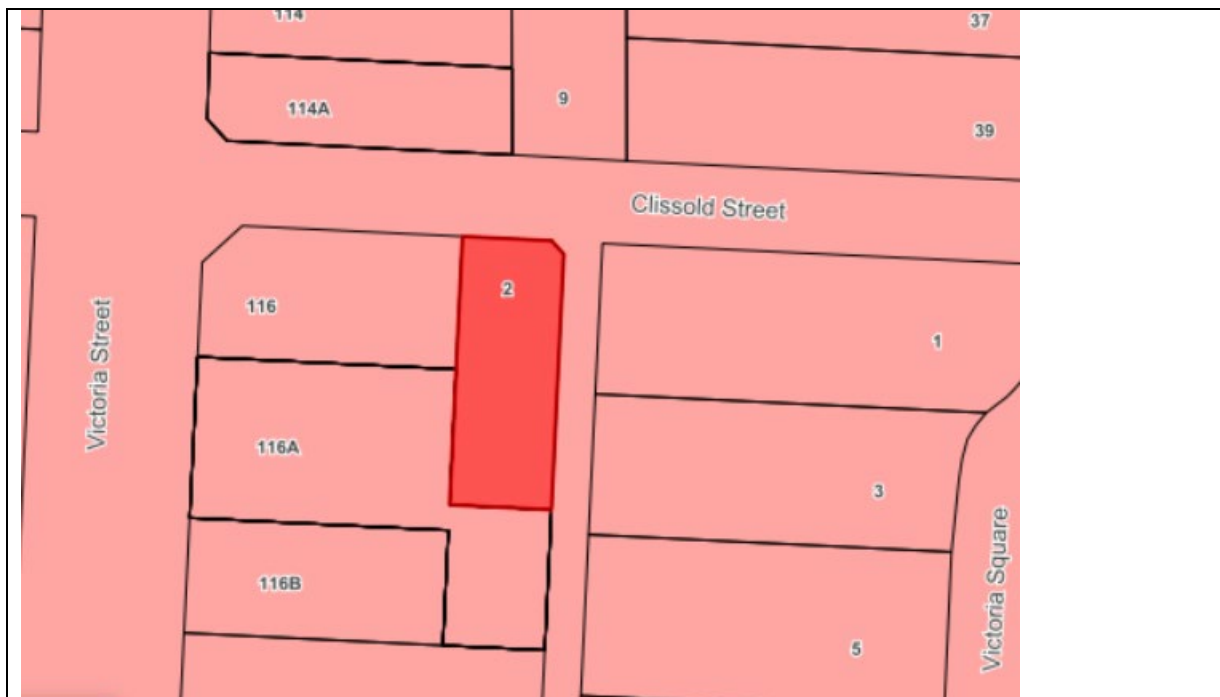


Figure 1: Zoning Map of the subject site (highlighted in dark red).



Figure 2: Image of the subject site.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
Application No. 6.1963.4606.1	Partially enclosed verandah.	Approved on 20/08/1963
Application No. 6.1978.34.1	Brick fence.	Approved on 07/02/1978
Application No 9.2019.80.1	Construct seven-bedroom boarding home with four car spaces and two motorcycle spots.	Advice issued 14/01/2020

4(b) Application history

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

Date	Discussion
09/04/2021	Application lodged.
20/04/2021	Application notified.
20/05/2021	Request for information (RFI) letter issued to the Applicant requiring the following amendments or information: <ul style="list-style-type: none"> • Design revisions to improve heritage conservation outcomes; • Clarification of the extent of the floor space ratio (FSR) variation under the <i>ALEP 2013</i>; • Provision of gross floor area (GFA) plans; • Confirmation of room sizes and layouts; • Revised shadow diagrams; • Further detailing of existing public domain conditions; • Design revisions to improve waste management outcomes; • Identification of air-conditioning unit locations; and • Design revisions to improve sustainability outcomes.
16/06/2021	Revised plans and additional information submitted in response to Council's RFI request issued on 20/05/2021.
26/07/2021	Meeting held between Council DA Assessment Team and Applicant to discuss matters relating to heritage conservation, FSR compliance and privacy.
26/07/2021	RFI letter issued to the Applicant requiring the following amendments or information: <ul style="list-style-type: none"> • Design revisions to ensure compliance with the FSR development standard under the <i>ALEP 2013</i>; • Design revisions to improve heritage conservation outcomes; and • Design revisions to improve privacy outcomes.
10/08/2021	Revised plans submitted in response to Council's RFI request issued on 26/07/2021. <u>Note:</u> These plans, in addition to the previously submitted information, form the basis of the assessment outlined below under Part 5.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land (SEPP 55)*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)*;
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)*;
- *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)*;
- and
- *Ashfield Local Environmental Plan 2013 (ALEP 2013)*.

The following provides further discussion of the relevant issues:

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

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

The site has not been used in the past for activities which could have potentially contaminated it. It is considered that the site will not require remediation in accordance with *SEPP 55*.

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

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

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

The *Vegetation SEPP* concerns the protection/removal of vegetation identified under it and gives effect to the local tree preservation provisions of Council’s Tree Management Development Control Plan (TMDCP).

The site is devoid of significant vegetation. Conditions are recommended requiring the planting of 5 x 45 litre sized trees on the site to assist to increase the canopy within the area. Conditions are recommended to protect trees located on nearby properties and to ensure the design of the proposal allows for the longevity of the trees required to be planted on the site.

Considering the above, the proposal is deemed acceptable with respect to the *Vegetation SEPP* and the TMDCP, subject to the imposition of conditions mentioned above, which have

been included in the recommendation.

5(a)(iv) State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) provides controls relating to various matters relating to height, floor space ratio, landscaped area, solar access, and private open space requirements for various types of affordable rental housing, including boarding houses.

An assessment of the proposal against the abovementioned relevant provisions is carried out hereafter:

Part 2 New affordable rental housing (Division 3 Boarding Houses)

Clause 29 of ARH SEPP 2009 stipulates that the following standards cannot be used to refuse consent:

Standard	Proposed	Compliance
<p>(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:</p> <p>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</p> <p>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</p> <p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>	<p>The following is acknowledged with respect to this matter:</p> <ul style="list-style-type: none"> • The site contains an area of approximately 389sqm; and • A floor space ratio (FSR) of 0.5:1 or 194.5qm is permitted under Clause 4.4 of ALEP 2013. <p>RFBs are not permissible with consent in the site's R2 Low Density Residential zoning (R2 Zone) under ALEP 2013. Further, the subject site contains a heritage item under ALEP 2013.</p> <p>Therefore, the proposal is not entitled to the bonus under this Clause.</p>	<p>N/A</p>
<p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument</p>	<p>The proposal complies with the maximum building height development standard of 8.5m applicable to the site under ALEP 2013.</p>	<p>Yes</p>

<p><i>for any building on the land,</i></p>		
<p><i>(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</i></p>	<p>The front setback is proposed to be landscaped with plants and turfing, which is considered compatible with the surrounding streetscape.</p>	<p>Yes</p>
<p><i>(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i></p>	<p>A communal living room on the ground floor is proposed to be serviced by a skylight, which will receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	<p>Yes</p>
<p><i>(d) private open space if at least the following private open space areas are provided (other than the front setback area):</i> <i>(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</i> <i>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</i></p>	<p>The proposed private open space (POS) exceeds the minimum area requirements and complies with the minimum dimension's requirements. In this regard, approximately 50sqm is proposed within the rear setback as POS.</p>	<p>Yes</p>
<p><i>(e) parking if:</i> <i>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</i> <i>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</i> <i>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</i> <i>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</i></p>	<p>The development is not proposed to be carried out by or on behalf of a social housing provider.</p> <p>The proposal complies with this standard, as it provides the required 3 car parking spaces (including 1 accessible space).</p>	<p>Yes</p>
<p><i>(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</i> <i>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</i> <i>(ii) 16 square metres in any other case.</i></p>	<p>Each boarding room exceeds the relevant minimum size standard.</p>	<p>Yes</p>

(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Each boarding room has private kitchen, laundry and bathroom facilities.	Yes
(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Noted.	Noted.

In addition, Clause 30 of ARH SEPP 2009 outlines that consent must not be granted unless Council is satisfied with the following standards for boarding houses:

Standard	Proposed	Compliance
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following: (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A suitable communal living room is provided on the ground floor.	Yes
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	All boarding rooms have a maximum gross floor area of below 25sqm (excluding private kitchen and bathroom facilities).	Yes
(c) no boarding room will be occupied by more than 2 adult lodgers,	No boarding room is capable of accommodating more than 2 adult lodgers. A condition of consent has been included in the recommendation to reaffirm this requirement.	Yes, subject to condition
(d) Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger	Each boarding room is provided with private kitchen, laundry and bathroom facilities.	Yes
(1)(e) If the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager	The proposed boarding house has the capacity to accommodate 9 lodgers. As such, a room for a boarding house manager is not required.	N/A
(g) If the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use	The land on which the boarding house is located is zoned residential.	N/A
(1)(f) At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms (1 bicycle space and 1 motorcycle space required)	The proposal complies with this requirement, as 2 spaces each are provided for bicycles and motorcycles, respectively.	Yes

(i) Clause 30A – Boarding houses in Zone R2 Low Density Residential

Clause 30AA stipulates that consent is not to be granted to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone

unless it is satisfied that the boarding house has no more than 12 boarding rooms.

The development complies with the above requirement, as a total of 6 boarding rooms are proposed.

(ii) Clause 30A – Character of local area

The *ARH SEPP 2009* requires the consent authority to consider whether the design of proposed boarding house development is compatible with the character of the local area.

The following is noted with respect to the design of the development:

- The building adopts a traditional form and presentation that is sympathetic to nearby development, which includes features such as a vertically proportioned openings and a hipped roof form with a gable element over the stairwell;
- The development has been sited in an appropriate manner, which includes the adoption of suitable setbacks that are consistent with nearby development and that allows for articulation of the first floor building mass;
- The proposal provides sufficient landscaped areas within the front setback, which complements the front gardens of nearby properties;
- A suitable material and colour palette is proposed, which includes red-brown face brick, grey roof tiles and white timber picket fencing, which will allow the building to complement the character of buildings within the streetscape and locality;
- As demonstrated further within this report, the proposal will have an acceptable amenity impact on nearby by development in terms of overshadowing and privacy; and
- As outlined further within this report, the proposal readily complies with the relevant provisions under the *ALEP 2013*, including with the height and FSR development standards, ensuring it is compatible with the desired future character of the area.

Given the above, the development is compatible with the character of the area and satisfies Clause 30A under the *ARH SEPP 2009*.

(iii) (Part 4 – Miscellaneous) Clause 52 – No subdivision of boarding house

Clause 52 stipulates that consent is not to be granted for the strata subdivision or community title subdivision of a boarding house. The application does not propose any form of subdivision of the boarding house. Notwithstanding, a condition has been included in the recommendation that prohibits the subdivision of the boarding house in perpetuity.

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

The application was assessed against the following relevant clauses of the *ALEP 2013* in the table below.

Clause	Proposed	Compliance
Clause 1.2 Aims of Plan	<p>The proposal is consistent with the relevant aims of the plan as follows:</p> <ul style="list-style-type: none"> • As detailed further within this report, the proposal conserves the cultural heritage of the area; • The proposal assists to provide for increased housing choice in a suitable location; and 	Yes, subject to conditions

	<ul style="list-style-type: none"> The proposal has proper regard for environmental constraints and subject to conditions, will have an acceptable impact on the amenity of the surrounds. 	
<p>Clause 2.3 Zone objectives and Land Use Table</p> <p><i>R2 Low Density Residential (R2 Zone)</i></p>	<p>The proposal satisfies this Clause as follows:</p> <ul style="list-style-type: none"> The application seeks consent for the construction of a boarding house, which is a permissible land use under the site's R2 Zone; and The proposal is consistent with the relevant objective of the zone as follows: <ul style="list-style-type: none"> The proposal assists to provide for the housing needs of the community within a low-density residential environment. 	Yes
<p>Clause 2.7 Demolition requires development consent</p>	<p>The proposal satisfies the Clause as follows:</p> <ul style="list-style-type: none"> Demolition is proposed, which is permissible with consent; and Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions
<p>Clause 4.3 Height of building (max. 8.5m)</p>	<p>The application proposes a compliant building height of 8.1m.</p>	Yes
<p>Clause 4.4 Floor space ratio (max. 0.5:1 (194.5sqm))</p>	<p>The application proposes a compliant FSR of 0.49:1 or 194sqm.</p>	Yes
<p>Clause 4.5 Calculation of floor space ratio and site area</p>	<p>The site area and floor space ratio for the proposal has been calculated in accordance with the Clause.</p>	Yes
<p>Clause 5.10 Heritage conservation</p> <p>Victoria Square Conservation Area (C23)</p>	<p>The proposal satisfies this Clause as follows:</p> <ul style="list-style-type: none"> The site is identified as a local heritage item (no. 85) and is located within the Victoria Square Conservation Area (C23) under <i>ALEP 2013</i>; However, the listing of the site is considered an anomaly, which may have been made in error. This is evidenced by the existing dwelling on the site being constructed in the 1950s, with unremarkable features and characteristics, nor is it known for its use by a notable person/s; Further, the dwelling on the site is considered not to espouse the important characteristics of the Victoria Square Conservation Area, nor was it constructed during a key period of its development; The Draft Inner West Local Environmental Plan 2020 (IWLEP) includes the removal of the site's listing from its heritage schedule, which is discussed further below; A suitable HIS was submitted with the application that demonstrates that the proposal will have an acceptable impact on the heritage significance of the site and surrounds; and 	Yes

	<ul style="list-style-type: none"> The proposal has been designed to conserve and complement the heritage significance and character of the surrounds, as discussed under Section 5(a)(iv)(ii) further above. 	
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5(b) Draft Environmental Planning Instruments

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

- Draft State Environmental Planning Policy (Housing 2021) (Housing SEPP 2021); and
- Draft Inner West Local Environmental Plan 2020 (IWLEP 2020).

The following provides further discussion of the relevant issues:

(i) Draft State Environmental Planning Policy (Housing 2021) (Housing SEPP 2021)

The Draft Housing SEPP 2021 was placed on public exhibition commencing on 2 August 2021 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the EP&A 1979.

The Draft Housing SEPP 2021 contains the following draft provisions that are relevant to the proposal and that differ from current provisions under ARH SEPP:

Division 2 Boarding houses

22 Boarding houses permitted with consent

(1) Development for the purposes of a boarding house may be carried out with consent on land on which development for the purposes of a boarding house is permitted with consent under another environmental planning instrument.

(2) Development for the purposes of a boarding house must not be carried out on land in Zone R2 Low Density Residential or an equivalent land use zone unless—
 (a) for land in the Greater Sydney region—the land is within an accessible area, or
 (b) otherwise—all or part of the development is within 400m walking distance of land in Zone B2 Local Centre or Zone B4 Mixed Use, or an equivalent land use zone.

The proposal satisfies the above draft clause as follows:

- The subject site is located within an R2 Zone under the ALEP 2013 and is within the Greater Sydney Region;
- The site is located within approximately 65m walking distance from bus stops located further to the west on Clissold Street; and
- The bus stops meet the service requirements as per the **accessible area** definition under this instrument.

23 Non-discretionary development standards—the Act, s 4.15

(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—

(a) for development on non-heritage land in a zone in which residential flat buildings are permitted—a floor space ratio not exceeding—

- (i) the maximum permissible floor space ratio for residential accommodation on the land, and*
- (ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,*

(b) if paragraph (a) does not apply—a floor space ratio not exceeding the maximum permissible floor space ratio for residential accommodation on the land,

The site contains a heritage item and is located within a heritage conservation area. Further, RFBs are not permissible within the site's R2 Zone under the ALEP 2013. Therefore, the proposal is not entitled to a bonus under the above draft clause.

As discussed previously, the site complies with the maximum permissible FSR for the site under the ALEP 2013.

23 Non-discretionary development standards—the Act, s 4.15

(2)(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,

Multi-dwelling housing is not permissible having regard to the site's R2 Zone under ALEP 2013. The development complies with the minimum landscaping requirements for dwelling houses (28% of the site area) under IWDCP 2016, which are the dominant permissible land use within the immediate surrounds of the site and of which the development is akin to.

23 Non-discretionary development standards—the Act, s 4.15

(2)(f) for a boarding house containing 6 boarding rooms—
(i) a total of at least 30m² of communal living area, and
(ii) minimum dimensions of 3m for each communal living area,

(2)(h) communal open spaces—
(i) with a total area of at least 20% of the site area, and
(ii) each with minimum dimensions of 3m,

The proposal does not comply with the above draft requirements, as a communal living area of at least 30sqm x 3m has not been provided (17.4sqm x 3m, proposed), nor have communal open spaces been provided that amount to at least 20% of the site area (52.5sqm or 13.4% proposed).

Notwithstanding, it is acknowledged that the above are draft non-discretionary standards and as detailed within this report, the proposal is compliant with or exceeds the relevant provisions relating to these matters.

Further, the proposal provides boarding rooms that exceed the minimum area requirements for both single and double rooms, in addition to providing 3 areas of POS in the form of balconies. These measures are considered to assist to offset the above-mentioned variations.

24 Standards for boarding houses

(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—
(h) the minimum lot size for the development is not less than—

(i) for development on land in Zone R2 Low Density Residential—the minimum lot size requirements for manor houses under a relevant planning instrument, or 600m²,

25 Must be used for affordable housing in perpetuity

(1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity—

(a) the boarding house will be used for affordable housing, and

(b) the boarding house will be managed by a registered community housing provider.

(2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority.

In relation to the above amendment under draft Clause 24(1)(h)(i), it noted that the site's area does not amount to the minimum 600sqm requirement. Notwithstanding, as demonstrated within this report, the proposal is considered to provide a satisfactory amount of parking, landscaping, amenity and open space for future occupiers, whilst maintaining suitable levels of amenity for surrounding residents. In addition, it complies with the requirements with respect to these matters under existing SEPPs, the *ALEP 2013* and *IWDPC 2016*.

In relation to the above amendment under draft Clause 25(1)(a) and (b), this would empower the consent authority to impose conditions of consent requiring rental income to be within the definition of affordable housing under the *EP&A Act 1979* and requiring the premises to be operated by a community housing provider. It is acknowledged that this amendment would not alter the form or scale of the development if it were in operation.

Overall, in considering the weight of this instrument it should be noted that this is a draft SEPP that has been exhibited but not made. In this case the drafting of the final instrument is not available, as it would be with a draft LEP amendment awaiting ministerial consideration. The certainty of the amendment is lessened as the final form is not available and in consideration of submissions received during the exhibition period, the Minister may make the instrument in a form that differs to the requirements under the draft instrument.

In considering the case law in *Terrace Tower Holdings Pty Limited v Sutherland Shire Council* [2003] NSWCA 289 it should be noted that the application does not undermine the intent of the instrument in a substantial way (as in *Lizard Apple Pty Ltd v Inner West Council* [2019] NSWLEC 1146). As a result, it is not considered that the Draft Housing SEPP presents an impediment to the granting of a consent of the subject proposal.

(ii) Draft Inner West Local Environmental Plan 2020 (IWLEP 2020)

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

The development is considered acceptable having regard to the relevant provisions of the Draft IWLEP 2020. Further, the Draft IWLEP 2020 has removed the subject site as a local heritage item, however; it remains within the Victoria Square Heritage Conservation Area (C-03-23).

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of the IWDCP 2016.

Part	Performance Criteria (PC) & Design Solution (DS)	Proposed	Compliance
Chapter A – Miscellaneous			
Part 1 – Site and Context Analysis			
General	<p><i>PC1. Development is well designed, deriving from and respecting site and desirable neighbourhood characteristics, and reinforcing the character of the LGA.</i></p> <p><i>DS1.1 Development is supported by a Site and Context Analysis that has a level of detail appropriate to its scale and likely impact.</i></p> <p><i>DS1.2 A brief written statement describing and explaining how the design response derives from and responds to the key features of the site and neighbourhood</i></p>	The application is supported by suitable site and contextual analysis and includes a statement of how the design responds to the site and neighbourhood.	Yes
Part 2 – Good Design			
Context	<p><i>PC1. Development:</i></p> <ul style="list-style-type: none"> · <i>responds and contributes to its context</i> · <i>contributes to the quality and identity of the area</i> · <i>in areas of relatively stability, reinforces desirable element of established street and neighbourhood character</i> · <i>in areas undergoing substantial change, contributes to the creation of the identified desired future character</i> <p><i>DS1.1 No design solution is provided. Each Development Application is to respond to a Site Analysis and will be assessed and determined on its own individual merits</i></p>	The design is considered to appropriately respond and contribute to its context. The design contributes to the quality and identity of the area by proposing a form that is in harmony with surrounding residential development. The development is consistent with the desired future character as expressed within the development controls.	Yes
Scale and Built Form	<p><i>PC2. Development has a scale:</i></p> <ul style="list-style-type: none"> · <i>that suits the scale of the street and the surrounding buildings</i> · <i>in areas undergoing substantial change, contributes to the creation of the identified desired future character</i> <p><i>PC2.1 Development has a built form that:</i></p>	The development adopts a 2-storey scale, which is consistent with nearby buildings in the immediate context.	Yes

	<ul style="list-style-type: none"> · is appropriate for the site and the building's purpose in terms of building alignments, proportions, building type and building elements · defines the public domain · contributes to the character of streetscapes and parks, including their views and vistas · provides internal amenity and outlook <p>DS2.1 No design solution is provided. Each Development Application is to respond to a Site Analysis and will be assessed and determined on its own individual merits</p>		
Density	<p>PC3. Development has a density that is:</p> <ul style="list-style-type: none"> · appropriate for a site and its context in terms of floor space yields (or number of units) · sustainable and consistent with the existing density in an area, or in areas undergoing substantial change, are consistent with the stated desired future density <p>DS3.1 Compliance is required with the Ashfield LEP 2013.</p>	As outlined previously, the proposal complies with the FSR development standard under the ALEP 2013.	Yes
Resource, energy and water efficiency	<p>PC4. Development:</p> <ul style="list-style-type: none"> · makes efficient use of natural resources, energy and water throughout its full life cycle · uses appropriate and sustainable materials <p>has a sustainable layout and built form, including in accordance with passive solar design principles</p> <ul style="list-style-type: none"> · includes soil zones for vegetation and reuse of water <p>DS4.1 The proposal complies with BASIX and/or the design is capable of compliance with the Building Code of Australia Energy Provisions</p>	<p>The development proposes a solar photovoltaic system on its western roof plane. All rooms are designed with suitably located and sized openings to ensure satisfactory access to natural light and ventilation. Natural materials are proposed including timber and masonry and sufficient areas of landscaping and deep soil have been provided.</p> <p>A BASIX certificate is provided with the application.</p>	Yes
Landscape	<p>PC5. Development incorporates landscaping that:</p> <ul style="list-style-type: none"> · integrates with buildings · builds on the existing site's natural and cultural features in responsible and creative ways · enhances micro-climate, tree 	The proposal meets the requirement of ARH SEPP in terms of landscape area in the front setback, which is consistent with nearby properties.	Yes, subject to condition.

	<p><i>canopy and habitat values,</i></p> <ul style="list-style-type: none"> · <i>presents a positive image to the streetscape</i> · <i>contributes to neighbourhood character</i> · <i>promotes appropriate levels of privacy and respect for neighbours' amenity</i> <p><i>DS5.1 No design solution is provided. Each Development Application is to respond to a Site Analysis and will be assessed and determined on its own individual merits</i></p>	<p>The landscape plan submitted illustrates the provision of adequate soft landscaping throughout the site. A condition is included within the recommendation requiring the landscape plan to be revised to correspond with the current set of architectural drawings.</p>	
<p>Amenity</p>	<p><i>PC6. Development:</i></p> <ul style="list-style-type: none"> · <i>provides amenity through high quality physical, spatial and environmental design</i> · <i>has access to:</i> <ul style="list-style-type: none"> - <i>sunlight</i> - <i>natural ventilation</i> - <i>visual privacy</i> - <i>acoustic privacy</i> - <i>storage</i> - <i>indoor and outdoor space</i> - <i>outlook and views</i> · <i>has ease of access for all age groups and degrees of mobility</i> · <i>has efficient layouts and has appropriate room dimensions and shapes</i> <p><i>DS6.1 No design solution is provided. Each Development Application is to respond to a Site Analysis and will be assessed and determined on its own individual merits</i></p>	<p>The amenity of the rooms proposed is generally above what is typically provided within a new generation boarding house. Refer to <i>ARH SEPP</i> assessment further above for details.</p> <p>Suitable indoor and outdoor spaces have been provided, as per the relevant discussions within this report.</p> <p>The openings proposed are considered modest in their extent and are suitably setback from nearby boundaries or appropriately screened by dividing fences.</p> <p>The proposed first floor, front and rear balconies are screened on their sides by louvred elements to direct views into the site or toward the public domain.</p> <p>The openings on the first floor, eastern elevation have their bottom panes treated with obscure glazing.</p> <p>Further, standard conditions are recommended to assist in managing potential adverse acoustic impacts and to ensure the adherence with the Plan of Management (POM) submitted.</p>	<p>Yes, subject to conditions</p>

<p>Safety and security</p>	<p><i>PC7. Development:</i></p> <ul style="list-style-type: none"> · <i>optimises safety and security, both internal to the development and for the public domain</i> · <i>maximises overlooking of public and communal spaces while maintaining internal privacy</i> · <i>avoids dark and non-visible areas</i> · <i>maximising activity on streets</i> · <i>provides clear, safe access points</i> · <i>provides quality public spaces that cater for desired recreational uses</i> · <i>provides lighting appropriate to the location and desired activities</i> · <i>provides clear definition between public and private space</i> <p><i>DS7.1 No design solution is provided. Each Development Application is to respond to a Site Analysis and will be assessed and determined on its own individual merits</i></p>	<p>The design provides for an acceptable level of passive surveillance and balance of privacy with security.</p>	<p>Yes</p>
<p>Aesthetics</p>	<p><i>PC8. Development:</i></p> <ul style="list-style-type: none"> · <i>has an appropriate composition and architectural standard, including its building elements, textures, materials and colours</i> · <i>relates to the environment and context, particularly responding to desirable elements of the existing streetscape or, in areas undergoing substantial change, contributes to the desired future character of the area</i> <p><i>DS8.1 Development complies with the relevant parts of this DCP in relation to streetscape outcomes</i></p>	<p>The architectural style of the development is appropriate in its context, which is compatible with the character of the surrounds. This matter was addressed under the <i>ARH SEPP</i> assessment further above.</p>	<p>Yes</p>
<p>Part 4 – Solar Access and Overshadowing</p>			
<p>Overshadowing</p> <p>Note: the DCP lacks controls for overshadowing for boarding house. However in the absence of the requirements for RFB are used for the purpose of considering an acceptable impact.</p>	<p><i>PC1. Development optimises solar access to living rooms and principal private open space of neighbouring properties</i></p> <p><i>DS1.1 Whichever is the lesser, development:</i></p> <ul style="list-style-type: none"> · <i>maintain existing levels of solar access to adjoining properties Or</i> · <i>ensures living rooms and principal private open space of adjoining properties receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June</i> 	<p>The development meets the requirements for internal solar access within <i>ARH SEPP</i>.</p> <p>With respect to overshadowing of neighbouring properties, the proposed development allows for a minimum of 2 hours of direct sunlight between 9am and 3pm on 21 June.</p>	<p>Yes</p>

	<p><i>DS1.2 Applications are to show:</i></p> <ul style="list-style-type: none"> · <i>plans of affected buildings and rooms, plans of affected open space, site plan, and the parts of the development causing the shadowing</i> · <i>elevations of affected rooms and degree of shadowing to relevant walls and windows</i> <p><i>DS1.3 Private Open Space referred to in Clause DS 1.1 is to be an area which is adjacent living areas.</i></p>		
Part 5 – Landscaping			
Character	<p><i>PC1.1 To maintain and enhance the landscape character of the LGA</i></p> <p><i>DS1.1 Where a street or a neighbourhood has a character that is derived from or strongly influenced by existing vegetation, in particular street trees, similar species are planted on site, except where the existing species are undesirable species listed in the Ashfield Street Tree Policy and Ashfield Town Centre Public Domain Plan</i></p> <p><i>PC1.2 To reinforce the visual landscape character of streets that have a distinct planting pattern, in particular those that are heritage listed</i></p> <p><i>DS1.2 Landscaping is located, arranged and is selected from species that are compatible with the dominant visual character of the street</i></p>	The proposal includes appropriate landscaping in the front setback that reinforces the greater landscape character of the area.	Yes
Function and appearance	<p><i>PC2. To create attractive, functional and safe environments, in particular within the public domain</i></p> <p><i>DS2.1 Landscaping provides visual interest through form, texture and variations in seasonal colour</i></p>	The proposed landscape plan is acceptable in addressing the design standards. As discussed previously, a condition of consent is included in the recommendation requiring the landscape plan to be updated to correspond with the current iteration of architectural plans.	Yes, subject to condition

	<p><i>DS2.2 Landscaping areas are open to the sky</i></p> <p><i>DS2.3 Landscaping forward of the front building line does not obstruct views from windows of main living areas to the adjoining public footpath</i></p> <p><i>DS2.4 Landscaping increases residential amenity, in particular through providing shade in summer and allowing sunlight in winter and screening views to undesirable or noisy features such as rail lines</i></p>		
Maintenance	<p><i>PC3. To provide robust, low maintenance landscaping</i></p> <p><i>DS3.1 Unless they are a key part of the visual landscape character of the street, landscaping does not include species that cause a safety hazard or inconvenience such as through invasive or disruptive, root systems, excessive dropping of flowers or excessive risk of falling branches</i></p> <p><i>DS3.2 Vegetation is to tolerate an urban setting, including pollution and low water conditions</i></p>	The proposed landscape plan is acceptable in addressing the design standards for low maintenance landscaping. This will be reinforced via recommended consent conditions.	Yes, subject to condition
Part 5 – Landscaping (Environmental performance)	<p><i>PC4. To enhance the environmental performance of the LGA by increasing on-site stormwater infiltration, increasing tree cover and providing additional habitat for urban wildlife</i></p> <p><i>DS4.1 Landscaping areas maximise the amount of impermeable surfaces that enable stormwater to be absorbed into the ground on site, including grassed areas and planting beds</i></p> <p><i>DS4.2 Landscaping includes a minimum of 1 tree that is able to have a spreading canopy within 10 years of planting</i></p>	<p>The proposal provides for an acceptable level of impervious areas on the site with suitable tree planting.</p> <p>A condition is included in the recommendation requiring the provision of 5 x tree plantings to assist to replenish the canopy within the area.</p>	Yes, subject to conditions
Significant vegetation	<i>C5. To retain, protect and integrate significant vegetation within</i>	There is no existing vegetation on the site.	Yes, subject to conditions

	<p><i>development</i></p> <p><i>DS5.1 Established significant vegetation removed due to disease or old age and/or damaged during construction is replaced with mature vegetation of the same or similar species</i></p> <p><i>DS5.2 Buildings, carparks and driveways are sited and designed to enable the retention and long term performance of significant on-site vegetation</i></p>	<p>Conditions are included in the recommendation to ensure the protection of trees on neighbouring properties.</p>	
<p>Part 6 – Safety by Design</p>			
<p>General</p>	<p><i>PC1. Development is sited and designed in accordance with the principles of Crime Prevention Through Environmental Design (CPTED), including consideration of:</i></p> <ul style="list-style-type: none"> <i>· surveillance</i> <i>· legibility</i> <i>· territoriality</i> <i>· vulnerability</i> <p><i>DS1.2 Development provides for passive casual surveillance of areas of adjoining public domain and communal private open space</i></p> <p><i>DS1.3 Abrupt or significant changes in level in the public domain are not created</i></p> <p><i>DS1.4 Clear delineation is provided between the public and private domain</i></p> <p><i>DS1.5 Building and dwelling entries are legible from the public domain</i></p> <p><i>DS1.6 The intended use of, and navigation within, the public domain is legible, with wayfinding signage provide</i></p> <p><i>DS1.7 Adequate night lighting is provided to all areas of the public domain</i></p>	<p>The proposal provides for suitable passive surveillance and has an acceptable interface with the public domain.</p>	<p>Yes</p>

	<i>DS1.8 A concentration of uses that have the potential for elevated risk of personal or property crime is avoided</i>		
Part 7 – Access and Mobility			
Section 2			
General	<i>DS4.1 Refer to relevant SEPP’s (State Environmental Planning Policies) for particular requirements for access, and to the Building Code of Australia (BCA). For example, the Affordable Housing SEPP and Seniors Living SEPP both have accessibility criteria that need to be met.</i>	The proposal provides for suitable levels of accessibility to meet the requirements of the Building Code of Australia (BCA) for a Class 3 building and provides the required quantum of accessible rooms, in addition to an accessible parking space. This will be reinforced by recommended conditions of consent.	Yes, subject to conditions
Part 8 –Parking			
Section 2			
Car parking standards for people with disabilities	<i>PC1. The following requirements are for use in determining the minimum number of parking spaces required for people with disabilities at different types of facilities. Where information on the likely demand for parking spaces for people with disabilities is available, it should be used. Calculations are to be rounded up or down to the nearest whole number as applicable - Refer to Table 3. Access to spaces for people with a disability must also comply with the provisions of Part A7 – Access and Mobility</i> <i>DS1.1 Car parking for people with disabilities shall be provided at a minimum rate of 5 designated spaces per 100 spaces as calculated from the car-parking requirement in Table 3.</i> <i>S1.3 Irrespective of DS 1.1 and DS1.2 above, provision is to be made for a minimum of 1 designated space for people with disabilities in any car park with a capacity of more than 10 spaces as calculated from the carparking requirement in Table 3.</i>	The proposal provides for 1 accessible space.	Yes

	<p><i>DS1.4 Spaces for people with disabilities are to be signposted at a height of 1.5m, line marked with the international symbol and located as close as possible to the nearest ramp, lift or entrance</i></p>		
Bicycle and motorcycle parking	<p><i>PC2. The Inner West Council strongly encourages the use of bicycles and motorcycles as a contribution to more environmentally sustainable transport. Local trips by cycle are often a realistic form of transport. In all areas new development must make adequate provision for cycles to ensure this sustainable mode of transport can be easily used by occupiers of new residential and commercial property</i></p> <p><i>DS2.1 Bicycle and motorcycle parking is to be as detailed below. If your use is not specifically mentioned the nearest comparable use will apply</i></p> <p><i>Boarding House:</i></p> <p><i>1 per 4 bedrooms (employees/occupants)</i></p> <p><i>1 per 16 bedrooms (Visitors)</i></p> <p><i>DS2.2 Motorcycle parking spaces 2.5m x 1.3m are required in addition to those for bicycles and are to be provided for sites containing 25 or more car parking spaces at the rate of 1 space per 25 car parking spaces in a communal area accessible to residents/staff/visitors or other users of the parking facility. Calculations are to be rounded up or down to the nearest whole number</i></p>	As outlined previously, the proposal includes 2 bicycle and motorcycle spaces, respectively, which complies with the requirements of ARH SEPP. In the event of an inconsistency the SEPP ARH prevails.	Yes
Parking rates for specific land uses	<p><i>S3.1 Car parking rates for specific land uses must be in accordance with Table 3 – Car Parking Rates</i></p> <p><i>DS3.2 Definition of gross floor area Except where otherwise described</i></p>	The proposal provides for 3 parking spaces, which complies with this requirement.	Yes

	<p><i>in Table 3, a carparking rate per square metre of gross floor area is to be calculated.</i></p> <p><i>DS3.4 Calculation Advice When calculating the total required number of car parking spaces (including car parking spaces required for people with disabilities and bicycle and motor cycle parking spaces) - if the result is not a whole number, it must be rounded UP or DOWN the nearest whole number . For Example – 2.5 spaces = 3 spaces required 4.4 spaces = 4 spaces required.</i></p> <p><i>Boarding House:</i></p> <p><i>1 parking space per resident employee and 0.5 parking spaces per boarding room</i></p>		
Section 3			
Design Principles	<p><i>4.1 Design and location requirements are:</i></p> <ul style="list-style-type: none"> <i>· Integrate adequate parking spaces with surrounding facilities and existing circulation patterns.</i> <i>· Separate visitor and resident or employee parking areas.</i> <i>· Locate entrances and exits away from busy intersections and to minimise reductions in on-street parking.</i> <i>· Minimise extensive filling operations by designing with topography.</i> <i>· Minimise the number of entrances and exits.</i> <i>· In residential zones entries to underground car parks are to be setback behind the building line and located at the side or rear of buildings. They are not to be visible from the street front. Provide adequate setback for landscaping between the driveway and relevant boundaries.</i> <i>· Off street visitor and resident parking in excess of the minimum requirement should be designed in such a way as to allow alternative uses when not needed for parking e.g. car washing, storage, Excess parking may be counted as floorspace if in Council’s view it will contribute to the bulk of the building or affect landscape</i> 	<p>The proposal is acceptable in terms of circulation and the applicable design requirements, which will be reinforced by recommended consent conditions.</p>	<p>Yes, subject to conditions</p>

	<p>quality, or the building as a whole will adversely affect neighbouring properties.</p> <ul style="list-style-type: none"> · Parking bays in multi-unit developments must be provided for persons with disabilities. - (refer to Part A7- Access and Mobility) 		
Appearance	<p>DS5.1</p> <ul style="list-style-type: none"> · Design parking areas so that they are an integral part of the overall building design. Locate surface car parks at rear of buildings. · Provide underground car parking on larger sites over 1000m2 . · Create active, interesting street frontages and enhance safety and security at street level by locating uses that will screen carparking areas within buildings so that they are not directly visible from the street. . · Excavations for driveways in front garden areas in residential zones is not characteristic of the LGA. The first six metres of any driveway shall be at grade. This will improve both appearance and pedestrian safety. 	The design provided is suitable in terms of integrating the carparking into the design and streetscape, given its location directly from the laneway, in addition to its setbacks from Clissold Street.	Yes
Designing for pedestrian and people with a disability	<p>S6.1 The design of the parking area and the general access to the site should consider the needs of pedestrians, with the following design considerations:</p> <ul style="list-style-type: none"> · Pedestrian entrances should be clearly visible, conveniently located, and well lit and should have minimal conflict with vehicular traffic. Conflict points should be made safe with the use of contrasting materials, footpath/road markings, designated crossing areas, bollards and similar devices. · Parking areas should be designed to minimise pedestrian/vehicular conflict, with pedestrian routes clearly identified to facilities such as lifts, stairs, exits and street access points. 	The design provides for suitable levels of accessibility for persons with a disability.	Yes
Parking space dimensions – land use	<p>DS7.1 Recommended parking space dimensions vary with the type of use as set out in Table 4 below and the Figures that follow.</p>	The proposal is compliant, which will be reinforced by consent condition.	Yes, subject to conditions
Parking Aisles, Angle Parking Spaces and Blind Aisles	<p>S8.1 Parking aisle dimensions relate to the width of the parking spaces. This will vary with the angle of parking and the type of user. Blind aisle dimensional requirements are also variable</p>	The proposal is compliant with AS2890:2004.	Yes

	<i>depending on design.</i>		
Driveways- width and location	<i>DS12.1 Refer to Section 3 of Australian Standard AS 2890.1:2004 for driveway width and location requirements relating to different types of users.</i>	The proposal is compliant, which will be reinforced by consent condition.	Yes, subject to conditions
Driveways - gradients and level	<i>DS13.1 The maximum gradient on a driveway or ramp is to be 1:20 (5%) across the property line and for at least the first 6m into the site. For general driveways/ramps other than domestic driveways, up to 20m in length, the maximum gradient is to be 1:5 (20%), while for lengths in excess of 20m the maximum gradient is to be 1:6 (16.7%).</i>	The proposal is compliant, which will be reinforced by consent condition.	Yes, subject to conditions
Drainage and filtration	<i>DS23.1 All car parking areas/driveways must have adequate drainage for run-off and seepage.</i>	Standard conditions have been included in the recommendation to address this requirement.	Yes, subject to conditions
Bicycle Parking	<i>PC24. The two principle sources of technical information regarding bicycle parking facilities are: · Australian Standards AS 2890.1:2004 & AS2890.3 that describe facilities that will provide safe, secure, convenient parking for motor cycles and bicycles respectively. See diagrams below. · Guide to Traffic Engineering Practice Part 14-Bicycles produced by AUSTROADS, the national association of road transport and traffic authorities in Australia.</i>	Standard conditions have been included in the recommendation to address this requirement.	Yes, subject to conditions
Location of bicycle parking facilities	<i>PC25. The location of bicycle parking facilities is critical. If they are not conveniently placed, cyclists will ignore them and use other objects to secure their bicycles. DS25.1 Cyclists should be able to park close to their destinations, generally within a few metres and at most, within 30 metres. Wherever car parking is provided there will also be a need for bicycle parking. Informal bicycle parking can give an indication of places where bicycle-parking facilities are required. DS25.2 Bicycle parking areas can be created by conversion of car parking spaces. Three rails,</i>	The location of the bicycle spaces in the dedicated parking area is considered appropriate.	Yes

	<i>accommodating six bicycles, can be installed in the space required for one car.</i>		
Appearance and maintenance of bicycle parking facilities	<i>DS27.1 Bicycle parking facilities should be attractive and well designed. They should be constructed from materials requiring minimal maintenance. Bicycle parking rails are available in a range of styles and finishes from local manufacturers and suppliers.</i>	The design of the bicycle spaces in the dedicated parking area is considered appropriate.	Yes
Part 14 – Contaminated Land			
Contaminated Land	<p><i>PC1. Development minimises the risk of harm to people, property or the environment from land contamination</i></p> <p><i>DS1.1 Development complies with State Environmental Planning Policy 55 –Remediation of Land Development applications are to submit all required documentation and analysis that demonstrates the extent or otherwise of any level of contamination, which is necessary to be examined and assessed. This is to include any future steps or action that might be required for remediation of the land.</i></p> <p><i>DS1.2 Development applications for the demolition or alteration of existing buildings where hazardous materials such as asbestos are possible are to be supported by a Hazardous Material Survey</i></p>	Refer to SEPP 55 discussion further above.	Yes
Part 15 – Stormwater Management			
General	<p><i>PC1. Development: Where consent is required at Development Application stage for stormwater drainage , or guidance for stormwater design is required, development is to comply with the provisions contained in Section 2.25 of the Marrickville DCP 2011.</i></p> <p><i>DS1.1 Comply with the applicable sections and provisions contained in Section 2.25 of the Marrickville DCP 2011.</i></p>	Standard conditions are included in the recommendation to ensure the appropriate management of stormwater.	Yes, subject to conditions
Chapter C – Sustainability			
Section 6: Commercial development types: Specific provisions			
Accommodation and Boarding	<i>S7.1 Premises used for non-private accommodation are to</i>	A condition is included in the recommendation	Yes, subject to conditions.

<p>Houses</p>	<p><i>ensure that additional space is allocated for the interim storage of waste mattresses, and TVs and other electronic waste in addition to space for waste and recycling bins.</i></p> <p><i>DS7.3 Class 3 Boarding Houses shall make provision on-site for a Waste Source Separation and Storage Area, with details shown on the development application drawings.</i></p> <p><i>DS7.8 Any Waste Source Separation and Storage Area (bin bay or room) for Boarding Houses is to be located behind the building line, and enclosed to minimise odour or noise disturbance for adjoining properties. If storage is proposed, and subsequently approved by Council, forward of the building line, it is to be screened from view from the streetscape to minimise any visual impact (see Guide 2: Waste Source Separation and Storage Area).</i></p>	<p>requiring the provision of a bulky waste storage area. A dedicated and suitable waste area is provided adjacent to the parking area.</p> <p>The proposed development is acceptable for private waste collection as a Class 3 boarding house, subject to conditions of consent, which have been included in the recommendation.</p>	
<p>Part 4 – Tree Management</p>			
<p>6. Trees on Development Sites</p>	<p><i>C12 All development proposals must be designed to maintain or improve the urban forest values of the site by minimising the impact on tree/s and planting compensatory tree/s for tree/s that are proposed for removal. This requirement applies to Council owned trees and trees on private or other property and adjoining land.</i></p>	<p>As discussed previously, conditions recommended to protect trees on neighbouring sites and for the provision of 5 x trees to assist to replenish the canopy within the area.</p>	<p>Yes, subject to conditions</p>
<p>5.4 Tree Planting Requirements</p>	<p><i>C8 Council will require replacement tree/s to be planted as a condition of any consent to remove a tree to effectively maintain the urban forest canopy across the LGA. Where replacement of trees is approved, Council prefers that trees that are removed are replaced on the site with a suitable replacement canopy tree and in a suitable location onsite. However, there may be circumstances when there is no suitable location on site (for example, in the case of small backyards); a financial contribution</i></p>	<p>Refer to comment above.</p>	<p>Yes, subject to conditions</p>

	<p><i>will be required to be paid to support public tree planting. Fees are set out in Council's fees and charges.</i></p> <p><i>C9 Replacement tree/s must be maintained in a healthy and vigorous condition until they are protected by this Part.</i></p> <p><i>C10 A person must not fail to plant, protect or care for a replacement tree which is required to be established as a condition of consent issued by Council.</i></p> <p><i>C11 The following minimum tree planting requirements are required for any new development sites:</i></p> <p><i>exceed 300m² - minimum of two (2) trees</i> <i>Tree container size and mature tree height will be determined by Council and will generally be based on available land space and land zoning canopy targets, a preference is placed on advanced container sizes.</i></p>		
<p>Suitability of new or replacement trees</p>	<p><i>PC1. Where a new tree is proposed to be planted within a development or is replacing an existing tree, the proposed tree:</i></p> <ul style="list-style-type: none"> <i>· responds to site conditions</i> <i>· is compatible with its context</i> <i>· provides for visual amenity and environmental benefits</i> <i>· does not have unacceptable potential to cause harm or nuisance to people or property</i> <p><i>DS1.1 Council will determine the appropriateness of proposed plantings based on consideration of:</i></p> <ul style="list-style-type: none"> <i>· species of proposed tree and/or cultivar</i> <i>· size</i> <i>· location on the site</i> <i>· appropriateness of the species in relation to its surrounding context</i> <i>· proximity to surrounding structures</i> <i>· site constraints</i> 	<p>This matter has been conditioned.</p>	<p>Yes, subject to conditions</p>
<p>Chapter E1 – All Heritage Items and Conservation Areas (except Haberfield)</p>			

Part 2 - Heritage Items			
-	-	<p>As addressed previously, the site is currently listed as a local heritage item under <i>ALEP 2013</i>. The building on the site and all ancillary structures are proposed to be demolished.</p> <p>The site's listing is an anomaly, which appears to have been made in error. In this regard, the site has been removed as a local heritage item under the Draft <i>IWLEP 2020</i>.</p> <p>Given the above, an assessment of the proposal against the heritage item provisions under this Part is not required.</p>	N/A
3.4 Infill Development within a Heritage Conservation Area			
Objectives	<p><i>O1 To ensure development within a HCA is compatible with the surrounding built form and urban pattern by addressing the Area Character Statement and responding sympathetically to:</i></p> <p><i>a) topography and landscape;</i> <i>b) views to and from the site;</i> <i>c) significant subdivision patterns and layout;</i> <i>d) front and side setbacks;</i> <i>e) the type, siting, form, height, bulk, roofscape, scale, materials and details of adjoining or nearby contributory buildings;</i> <i>f) the interface between the public domain and building alignments and property boundaries; and</i> <i>g) colour schemes that have a hue and tonal relationship with traditional colour schemes</i></p>	This matter has been addressed under the <i>ARH SEPP</i> character discussion further above.	Yes
Controls	<p><i>C1 New infill buildings in a heritage conservation area are not to be designed as a copy or replica of other buildings in the area, but are to complement the character of the heritage conservation area by sympathetically responding to the matters identified in (O1)(a) to (g) above.</i></p> <p><i>C2 Infill development is not to include garages and car access to the front elevation to the principle</i></p>	This matter has been addressed under the <i>ARH SEPP</i> character discussion further above.	Yes

	<p><i>street frontage of the development where these are not characteristic of the HCA.</i></p> <p><i>C3 Infill development in heritage conservation areas is to respond positively to the setting and special character of the area, as outlined in the relevant Area Character Statement.</i></p> <p><i>C4 The bulk, height, scale and building envelope of infill development must be consistent with nearby contributory buildings and that of the heritage conservation area as a whole.</i></p> <p><i>C5 Where infill development is adjacent to or in the vicinity of a building that is intrusive in design or excessive in height, conformity is inappropriate and will not be supported by Council.</i></p> <p><i>C6 Solid to void ratios of elevations (that is the shape and extent of windows and door openings in relation to the scale of walls) are to be consistent with nearby contributory items.</i></p> <p><i>C7 Street facing balconies are generally not supported.</i></p>		
<p>Part 4 Particular Building Types and Building Elements for Heritage Items and Contributory Buildings within Heritage Conservation Areas</p>			
-	-	<p>This matter is discussed further above under 'Part 2 – Heritage Items'. As such, assessment under this Part is not required.</p>	N/A
<p>Part 8 Demolition</p>			
<p>Objectives</p>	<p><i>O1 Buildings that are Heritage Items or are Contributory buildings are to be retained. Demolition will only be considered in exceptional circumstances.</i></p> <p><i>O2 Where demolition of a building that is a Heritage Item or is within a Heritage Conservation Area is proposed, documentation requirements in this section are to be adhered to.</i></p> <p><i>O3 Minor demolition as part of a proposal for alterations or additions will be considered by</i></p>	<p>This matter has been addressed under the Clause 5.10 ALEP 2013 discussion further above.</p>	<p>Yes</p>

	<p><i>Council on a merit basis based on the impact of the demolition on the significance of the place. Generally it is expected that demolition of significant parts of a building would be limited to the rear of the property and will not affect the main or street elements of the building.</i></p>		
<p>Controls</p>	<p>Heritage items and Contributory buildings</p> <p><i>C2 Where in exceptional circumstances a development application proposes the full or substantial demolition of a heritage item, or a contributory building the Heritage Impact Statement is to:</i></p> <p><i>a) the demolition must adequately justify why the demolition is warranted and is acceptable, including the impacts of demolition on the significance of the place or Heritage Conservation Area. include a report by a suitably qualified structural engineer if the demolition is proposed on the basis of poor structural condition; and</i></p> <p><i>b) include a pest inspection report if the building is a weatherboard building and the condition of the building is cited as a reason for demolition.</i></p> <p><i>c) Note: Council reserves the right to commission independent heritage, structural engineers or other expert reports in relation to any proposed demolition of a heritage item or contributory building in order to assist with proposal assessment.</i></p> <p><i>C3 Where partial demolition to facilitate alterations and additions (or similar) is proposed include in the SOHI an assessment of the impact on heritage values of that work, including any alternative solutions that may have been considered.</i></p> <p><i>C4 If demolition is approved Council will require a full archival recording of the property to NSW OEH Heritage Division standards.</i></p> <p>Neutral and Detracting buildings</p> <p><i>C1 Where demolition of a neutral or detracting building is proposed:</i></p>	<p>This matter has been addressed under the Clause 5.10 ALEP 2013 discussion further above.</p>	<p>Yes</p>

	<p>a) <i>The application must include the design of the new development proposed for the site; and</i></p> <p>b) <i>A SOHI establishing that the demolition does not have an adverse impact on the adjoining buildings (that is both physical and contextual impacts) and how the new building addresses the heritage values of the precinct within which it is located (refer to requirements for infill buildings).</i></p>		
Chapter F – Development Category Guidelines			
Part 6 – Boarding Houses and Student Accommodation			
Context	<p><i>PC1. Context Development is well designed, deriving from and respecting site and desirable neighbourhood characteristics, and reinforcing the character of the LGA</i></p> <p><i>DS1.1 Development is supported by a Site and Context Analysis prepared in accordance with Part A1 – Site and Context Analysis of this DCP</i></p>	The proposed development is supported by appropriate contextual analysis.	Yes
Good design	<p><i>PC2. Development:</i></p> <ul style="list-style-type: none"> <i>· responds and contributes to its context</i> <i>· contribute to the quality and identity of the neighbourhood</i> <i>· in areas of relatively stability, reinforces desirable element of established street and neighbourhood character</i> <i>· in areas undergoing substantial change, contributes to the creation of the identified desired future character</i> <p><i>DS2.1 Development addresses Part A2 – Good Design of this DCP</i></p>	The proposed development responds and contributes to its context and is appropriate in terms of the streetscape character. The development is considered to satisfy the Good Design sections that are able to be applied having due regard to the operation of ARH SEPP.	Yes
Room Sizes, Indoor Recreation Areas & Facilities	<p><i>PC3. Development meets the expected standards for boarding rooms, indoor recreation areas & facilities.</i></p> <p><i>DS3.1 Compliance is required by the relevant provisions of the Affordable Rental Housing SEPP 2009, ‘BASIX’ SEPP and/or the Building Code of Australia as</i></p>	See consideration of ARH SEPP assessment.	Yes

	<i>applicable.</i>		
Universal access	<p><i>PC4. Development provides universal access</i></p> <p><i>DS4.1 Access for people with disabilities is to be provided as required under the Building Code of Australia.</i></p>	The proposal provides for suitable accessibility.	Yes
Car parking	<p><i>PC5. Development provides an amount of carparking that caters for the forecast needs of residents and minimises the cost of housing provision.</i></p> <p><i>DS5.1 Car parking complies with car parking provisions for Boarding Houses contained within the ARHSEPP</i></p>	Refer ARH SEPP assessment.	Yes
Plan Management of	<p><i>PC6. Development:</i></p> <ul style="list-style-type: none"> <i>· operates in a manner that maintains a high level of amenity for lodgers and surrounding residents</i> <i>· comprises an appropriate form of onsite management with responsibility for the operation, administration, cleanliness and fire safety of the premises</i> <p><i>DS6.1 An Operational Plan of Management is to be submitted with each development application for a boarding house</i></p>	<p>The proposal provides a POM that is considered appropriate. However, a condition is included within the recommendation requiring the POM to be updated to correspond with the revised design to be approved by Council before the operation of the premises.</p> <p>Further, conditions are included in the recommendation requiring the adoption of suitable measures to manage potential adverse amenity impacts that may arise.</p>	Yes, subject to conditions.
On-site Management	<p><i>PC8. An on-site manager is provided to be responsible for the efficient operation and administration of the Boarding House</i></p> <p><i>DS8.1 All new boarding houses have a live-in, on-site manager</i> <i>Note: details of the manager must be provided to Council and the nominated person must be contactable 24 hours per day, 7 days a week. Any changes are to be notified to Council immediately</i></p>	The ARH SEPP overrides this requirement.	N/A
Waste	<i>PC9. Appropriate waste and recycling facilities are provided which meet Council and Environmental Protection Authority</i>	Standard conditions have been included within the recommendation to address this matter.	Yes, subject to conditions

	<p><i>(EPA) requirements</i></p>		
<p>Fire Safety</p>	<p><i>PC10. The safety of boarding house occupants is ensured in the event of fire.</i></p> <p><i>DS10.1 A copy of the annual fire safety statement and current fire safety schedule for the premises must be prominently displayed in the boarding house entry/reception area.</i></p> <p><i>DS10.2 A floor plan must be permanently fixed to the inside of the door of each sleeping room to indicate the available emergency egress routes from the respective sleeping room</i></p> <p><i>DS10.3 Prior to releasing an occupation certificate for the building, an Emergency Management and Evacuation Plan must be prepared for the building and approved by the Principal Certifying Authority</i></p> <p><i>DS10.4 Staff shall be trained in relation to the operation of the approved Emergency Management and Evacuation Plan</i></p> <p><i>DS10.5 Premises providing shared accommodation must provide annual certification for the following:</i></p> <ul style="list-style-type: none"> <i>· essential fire safety measures to comply with the Environmental Planning and Assessment Regulation 2000;</i> <i>· compliance with the Operational Plan of Management approved for the premises;</i> <i>· maintenance registers required by this plan; Compliance with Emergency Management and Evacuation Plans required by the Building Code of Australia; and</i> <i>· a floor plan must be permanently fixed to the inside of the door of each bedroom and that indicates the available emergency egress routes from the respective sleeping room</i> 	<p>These standards can be appropriately addressed at the CC and OC stage of the development.</p>	<p>Yes, subject to conditions</p>

Additional safety measures	<i>PC11. Additional safety measures: Additional safety and security measures have been considered as part of the proposal</i>	The POM provided includes appropriate security measures.	Yes
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5(e) The Likely Impacts

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

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

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

The application as originally submitted was notified in accordance with Council's policy. In response, 5 submissions were received raising the following matters, which have been addressed within this report:

- (i) Acoustic and visual privacy;
- (ii) Boarding house manager requirements;
- (iii) Contamination;
- (iv) Compatibility with the character of the area;
- (v) Heritage conservation;
- (vi) Landscaping;
- (vii) POM;
- (viii) Setbacks;
- (ix) Traffic & parking; and
- (x) Waste management.

The following additional matters raised by the submissions received are addressed in the table below.

Matter	Comment
Asbestos removal	Advisory notes have been included within the recommendation with respect to the appropriate removal of asbestos in accordance with the relevant legislative requirements.
Construction impacts	Standard construction hours are included in the recommendation to protect the amenity of the surrounds by restricting early morning and late-night construction works. It is considered there is no scope under the current relevant legislation or regulations to delay construction of the proposal or limit construction to specific or reduced hours during the day. With respect to impacts caused by vehicles associated with the construction of the proposal, any incidents with respect to this issue that may arise should be reported to Council for investigation.
Community safety/anti-social behaviour	There is no specific evidence to suggest that the proposal will result in adverse community safety impacts or anti-social behaviour. Notwithstanding, the conditions included in the recommendation

	and the POM submitted includes measures to assist with maintaining suitable levels of community safety.
FSR variation/Clause 4.6 request	As detailed within this report, the proposal has been revised to ensure compliance with the <i>ALEP 2013</i> FSR development standard. As such, a Clause 4.6 request is not required to be considered.
Inaccurate or incomplete documentation	It is considered sufficient details and information have been submitted with the application to allow for a complete assessment of the application.

Note: As per Council's Community Engagement Framework, the revised plans and additional information did not require notification, as the revised proposal resulted in similar or reduced impacts to that of the original proposal.

5(h) The Public Interest

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

The proposal is not 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.

- Development Engineering;
- Environmental Health;
- Heritage & Urban Design;
- Resource Recovery; and
- Urban Forests.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$9,759.89 would be required for the development under Ashfield Section 94 Development Contributions Plan. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in the relevant SEPPs, *ALEP 2013* and *IWDCP 2016*, respectively.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

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*, grant consent to Development Application No. 2021/0267 for demolition of existing dwelling/associated structures and construction of a new two (2) storey six (6) room boarding house with associated on-grade parking at 2 Clissold Street ASHFIELD NSW 2131 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

ATTACHMENT A – RECOMMENDED CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Drawing No. and Revision	Plan Name	Date Issued	Prepared by
Existing/Demolition Plan + Site / Roof Plan, A.200, Revision C	Architectural Plans	10/08/2021	Kink Architects
Floor Plans, A.300, Revision C	Architectural Plans	10/08/2021	Kink Architects
Elevations, A.400, Revision C	Architectural Plans	10/08/2021	Kink Architects
Sections, A.500, Revision C	Architectural Plans	10/08/2021	Kink Architects
Landscape Concept Plan, 21026 DA 1, Revision A	Landscape Plan	29/02/2021	Vision Dynamics
Stormwater Plan, ZP356-SW01, Sheet 1 of 2, Revision C	Stormwater Plans	01/04/2021	Zeta Engineering
Stormwater Plan - Notes, ZP356-SW01, Sheet 2 of 2, Revision C	Stormwater Plans	01/04/2021	Zeta Engineering
Certificate no.: 1189071S	BASIX Certificate	24/03/2021	Sustainability-Z

21042_ADR_DA_v1.0	Accessibility Report	29/03/2021	ABE Consulting
-	BCA Report	31/03/2021	Design Right Consulting
-	Heritage Impact Statement	29/03/2021	NBRS Architecture Heritage
Reference no.: 21031, Issue A	Traffic & Parking Impact Assessment	March 2021	TTPA
Revision A	Plan of Management	March 2021	-
Revision A	Waste Management Plan	March 2021	-

As amended by the conditions of consent.

The architectural plans shall prevail in terms of any inconsistency between the plans and documents.

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with revised plans demonstrating the following:

- a. A revised landscape plan compiled by a suitably qualified person that corresponds with the approved architectural plans referenced in condition 1 and any relevant condition listed in this consent;
- b. A revised stormwater plan compiled by a suitably qualified person that corresponds with the approved architectural plans referenced in condition 1 and any relevant condition listed in this consent;
- c. The first floor windows on the eastern elevation are treated with fixed obscured glazing for their bottom panes; and
- d. Treatment of the window on the western elevation servicing the stairwell being treated with fixed obscure glazing.

FEES

3. Security Deposit - Custom

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

Security Deposit:	\$8,266.00
Inspection Fee:	\$236.70

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

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

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

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

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

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate written evidence must be provided to the Certifying Authority that a monetary contribution of \$9,759.89 indexed in accordance with the

relevant former Ashfield Council Development Contributions Plan has been paid to the Council.

The above contribution is the contribution applicable as at 17/08/2021.

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

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

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

Community Infrastructure Type:	Contribution \$
Local Roads	\$1,096.77
Local Public Transport Facilities	\$3,273.36
Local Public Car Parking	\$0.00
Local Open Space and Recreation	\$0.00
Local Community Facilities	\$2,774.32
Plan Preparation and Administration	\$2,615.44
TOTAL	\$9,759.89

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

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

Payment methods:

The required contribution must be paid either **by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions); cash (to a maximum of \$10,000)**. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

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

5. Long Service Levy

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

GENERAL CONDITIONS

6. Boundary Alignment Levels

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

7. Tree Protection

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

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

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

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

8. Car Parking

The development must provide and maintain within the site:

- a. 2 car parking spaces must be paved and line marked;
- b. 1 car parking space, for persons with a disability must be provided and marked as a disabled car parking space;
- c. 2 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times; and
- d. 2 Bicycle storage capacity within the site.

9. Boarding House

The development must provide and maintain:

- a. A minimum of 1 accessible boarding room; and
- b. All rooms within the boarding house must be connected to a centralised electricity, water and gas (if installed) service.

10. Waste Management Plan

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

11. Erosion and Sediment Control

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

12. Verification of Levels and Location

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

13. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION**14. Hoardings**

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

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered

inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

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

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

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

16. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties (including 116 Victoria Street, Ashfield and 116A Victoria Street, Ashfield) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

17. Advising Neighbors Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

18. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE

19. Dilapidation Report – Pre-Development – Minor

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

20. Stormwater Drainage System – Minor Developments (OSD is not required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No. ZP356-SW01 prepared by Zeta Engineering Pty Ltd and dated 1 April 2021, as amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from the 10,000L rainwater tank, by gravity to the kerb and gutter in the street. It appears the grate in the Lane Way is not connected to the Council pipe system. Therefore site drainage connection to the grate is not permitted;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm event. Major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks;
- f. The design plans must detail the proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- g. An overland flowpath must be provided within the setback to the side boundary;
- h. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- i. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- j. The design must make provision for the natural flow of stormwater runoff from adjacent properties;
- k. No nuisance or concentration of flows to other properties;
- l. A silt arrestor pit (Enviro Pod 200) must be installed inside the property, adjacent to the boundary, for the stormwater outlet; and
- m. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

21. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The construction of heavy duty vehicular crossing to the vehicular access location;
- b. New concrete footpath and kerb and gutter along the frontages of the site (if damaged or missing). The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer;
- c. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary; and
- d. Installation of a stormwater outlet to the kerb and gutter.

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

22. Bin Storage Area - Residential

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

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

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

23. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that there is a dedicated space of minimum 3 square metres for the interim storage of unwanted bulky household items waiting for collection. This area must have minimum doorways of 1200mm wide to accommodate large items.

24. Waste Transfer Route

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

25. Paving/Decking Within the Vicinity of Trees

Prior to the issue of the Construction Certificate, the Certifying Authority must be provided with amended Landscape Plans demonstrating that the two (2) Motorcycle Parking Spaces are constructed from a pervious material and in a way so as to ensure that moisture infiltration and gaseous exchange is available to proposed two (2) tree plantings.

26. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

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

27. Fibre-ready Facilities

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

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

28. Access Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an Access Management Plan prepared by an Accredited Access Consultant. The Access Management Plan must address:

- a. Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether the Standards apply to the affected part;
- b. Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia;
- c. Assessment and identification of non-compliances with the Disability Standards 2010 and/or the BCA where applicable and provide recommendations to achieve compliance with the relevant performance requirements;
- d. Accessible car parking spaces should be provided, where applicable, in accordance with Part D3.5 of BCA Vol; and
- e. Any exemptions, alternative solutions or deemed-to-satisfy provisions affecting access.

29. Structural Details and Design

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

DURING DEMOLITION AND CONSTRUCTION**30. Documentation of Demolition and Construction Waste**

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

31. Contamination – New Evidence

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

32. Construction Hours – Class 2-9

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

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

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

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

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

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

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

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

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

33. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE

34. Public Domain Works

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

- a. Heavy duty concrete vehicle crossing at the vehicular access location; and
- b. Other works subject to the *Roads Act 1993* approval.

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

35. No Encroachments

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

36. Protect Sandstone Kerb

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

37. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

A minimum of five (5) x 45 litre size trees have been planted as per the landscape plan and that the two (2) Motorcycle car spaces are constructed from pervious material. The tree stock is to conform to AS2303—*Tree stock for landscape use*.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

38. Smoke Alarms - Certification to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the building complies with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

39. Non-combustible Cladding – Class 2-9 Buildings

Prior to the issue of an Occupation Certificate the Principal Certifier must be provided with suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the National Construction Code (NCC).

40. Products Banned Under the Building Products (Safety) Act 2017

Prior to the issue of any Occupation Certificate, the Principal Certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the *Building Products (Safety) Act 2017* or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the *Building Products (Safety) Act 2017*.

41. Skylights

Prior to the issue of an Occupation Certificate, the Principal Certifier must verify that any skylights are parallel to the roof plane, are non-reflective and use a frame colour that is the same the surrounding roof colour.

42. Solar Panels

Prior to the issue of an Occupation Certificate, the Principal Certifier must verify that the solar panels have the same pitch and angle as the roof plane.

43. Revised Plan of Management

Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that:

- a. A revised Plan of Management has been submitted and endorsed by Council that adopts the measures listed in the relevant conditions of this consent.

ON-GOING**44. Bin Storage**

All bins are to be stored within the site. Bins are to be returned to the property within 12 hours of having been emptied.

45. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

46. Tree Establishment

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

47. Boarding House

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

- a. The use must comply at all times with the Plan of Management referred to in condition 1 above and as amended by the conditions in this Determination;
- b. A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
- c. A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;
- d. The Plan of Management must not be amended without the prior consent of Council and must be made available to Council officers and the Police upon request;
- e. All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;
- f. The premises must be used exclusively as a boarding house containing a maximum total of 6 lodger's rooms with not more than 9 adult lodgers residing in the premises at any one time;
- g. Not more than 2 lodgers must occupy each boarding room, except in single rooms where a maximum of 1 lodger is allowed;
- h. The premises must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;

- i. All common rooms/areas and recreation rooms/areas must be maintained at all times for the use of the lodgers;
- j. The outdoor communal area is permitted to be used between the hours of 7:00am to 10:00pm Monday to Sunday; and
- k. Each self-contained room must be fitted out with washing up facilities, laundry facilities, a cooktop, oven, fridge and storage space with such utilities being maintained in working order at all times.

48. Plan of Management - Operation

The operation of the premises complying at all times with the approved Plan of Management (referenced in condition 43 of this consent). The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

49. No Subdivision Permitted

Subdivision in any form of the boarding house is not permitted.

ADVISORY NOTES

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

Health Premises Registration – Generic

The premises are required to be registered with Council's Environment Health Team in accordance with the following relevant legislation:

- a. Boarding House / Shared Accommodation - *Boarding Houses Act 2012* and the *Local Government (General) Regulation 2005*.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Consent of Adjoining property owners

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Arborists standards

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

Tree Protection Works

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

Tree Pruning or Removal (including root pruning/mapping)

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

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by

this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Statement for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Statement must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Boarding House – Registration with Fair Trading

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

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where

children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact “Dial Prior to You Dig” prior to commencing any building activity on the site.


Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council’s GIS Team before being displayed.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of “Soils and Construction”
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro

		www.diySAFE.nsw.gov.au	
		Information on asbestos and safe work practices.	
NSW Office of Environment and Heritage	131 555		
		www.environment.nsw.gov.au	
Sydney Water	13 20 92		
		www.sydneywater.com.au	
Waste Service - SITA Environmental Solutions	1300 651 116		
		www.wasteservice.nsw.gov.au	
Water Efficiency Labelling and Standards (WELS)		www.waterrating.gov.au	
WorkCover Authority of NSW	13 10 50		
		www.workcover.nsw.gov.au	
		Enquiries relating to work safety and asbestos removal and disposal.	





FOR D.A ONLY
NOT FOR CONSTRUCTION

DATE: 12/10/2014
DRAWN BY: J. SMITH
CHECKED BY: J. SMITH
SCALE: AS SHOWN

SHADOW DIAGRAM - EQUINOX - 9AM

SHADOW DIAGRAM - EQUINOX - 12PM

SHADOW DIAGRAM - EQUINOX - 3PM

PROJECT: 2013 WESTPORTER STREET
ADDRESS: 2013 WESTPORTER STREET
SUBJECT: 2013 WESTPORTER STREET
APPLICANT: KINK ARCHITECTS

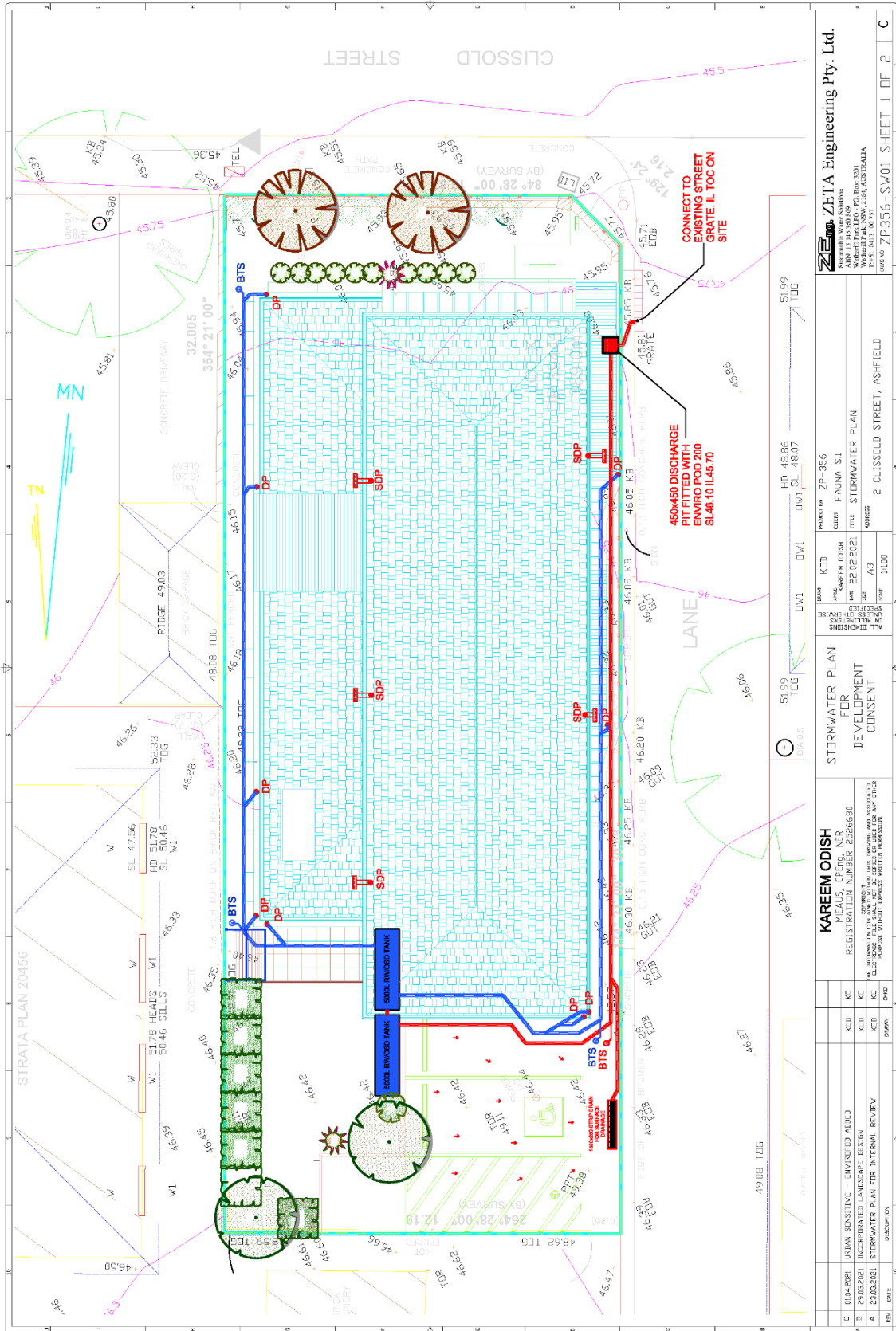
KINK ARCHITECTS
KINK ARCHITECTS
10/1100 WESTPORTER STREET
SYDNEY NSW 1570
PH: 02 9550 1100
WWW.KINKARCHITECTS.COM.AU

DATE: 12/10/2014
DRAWN BY: J. SMITH
CHECKED BY: J. SMITH
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PROJECT: 2013 WESTPORTER STREET
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DATE: 12/10/2014
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SCALE: AS SHOWN



KAREEM ODISH MEALS (PFRM) PTY LTD REGISTRATION NUMBER 2526680 10/100 WARRIUM PALE NSW 2120 AUSTRALIA PHONE: 02 9330 9999 EMAIL: INFO@KAREEMODISH.COM.AU		ZETA Engineering Pty. Ltd. 1/151 WARRIUM PALE NSW 2120 AUSTRALIA PHONE: 02 9330 9999 EMAIL: INFO@ZETAENGINEERING.COM.AU	
PROJECT NO: ZP-326 CLIENT: FAUNA S.L. PROJECT: STORMWATER PLAN DATE: 22/02/2021 DRAWN: A3 CHECKED: A3 SCALE: 1:100	STORMWATER PLAN FOR DEVELOPMENT CONSENT 2 CLISSOLD STREET, ASFIELD		
REV. DATE C 01/04/2021 URBAN SENSITIVE - ENVIRONMENT ADDED B 29/03/2021 INCORPORATED LANDSCAPE DESIGN A 23/02/2021 STORMWATER PLAN FOR INTERNAL REVIEW	DWGNO ZP-326-SW01	SHEET NO 1 OF 2	C

Attachment C- Heritage Impact Statement



HERITAGE IMPACT STATEMENT

2 Clissold Street, Ashfield



March 2021

NBR S&PARTNERS PTY LTD

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Cover Image: The subject property seen from Clissold Street (Source: NBR Architecture)

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Nominated Architects
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ISSUED	REVIEW	ISSUED BY
29 March 2021	Client Review	Brad Vale

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HERITAGE IMPACT STATEMENT FOR 2 CLISSOLD STREET, ASHFIELD

1.0 INTRODUCTION

1.1 BACKGROUND

This Heritage Impact Statement has been prepared in accordance with the standard guidelines of the NSW Heritage Division to accompany an application for redevelopment at 2 Clissold Street, Ashfield. The site comprises a 1950s texture-brick house on the corner with a lane between Victoria Street and Victoria Square.

The proposal involves removal of the existing site improvements and construction of a two-store detached boarding house with seven residential rooms.

Details of the development proposal have been prepared by Kink Architects.

The subject house is listed as an item of local heritage significance on Schedule 5 of the *Ashfield Local Environmental Plan (LEP) 2013* as heritage item No. 85. It is also located within the Victoria Square Conservation C23. However, the listing on Schedule 5 appears to be an error and no reasoning can be found for the listing after consultation with Inner West Council.

Nonetheless, this Heritage Impact Statement reviews the proposal in terms of the relevant heritage provisions of the *Ashfield LEP 2013* and the requirements of the Ashfield Development Control Plan (DCP) 2013, and the Impact Assessment Criteria guidelines endorsed by the NSW Heritage Council.

1.2 METHODOLOGY

This Heritage Impact Statement has been prepared in accordance with the guidelines set out in the *Australia ICOMOS Charter for Places of Cultural Significance*, 2013, known as The Burra Charter, and the New South Wales Heritage Office (now the Heritage Division of the NSW Office of Environment and Heritage) publication, NSW Heritage Manual.

The Burra Charter provides definitions for terms used in heritage conservation and proposes conservation processes and principles for the conservation of an item. The terminology used, particularly the words *place*, *cultural significance*, *fabric*, and *conservation*, is as defined in Article 1 of The Burra Charter. The NSW Heritage Manual explains and promotes the standardisation of heritage investigation, assessment and management practices in NSW.

1.3 SITE LOCATION

The site faces Clissold Street and is on the western corner at the intersection with a lane between Victoria Street and Victoria Square, to the east of the intersection of Victoria Street and Clissold Street, Ashfield. The site is identified as Lot X in DP394410 by the NSW Land Registry Services (LRS) (see below).

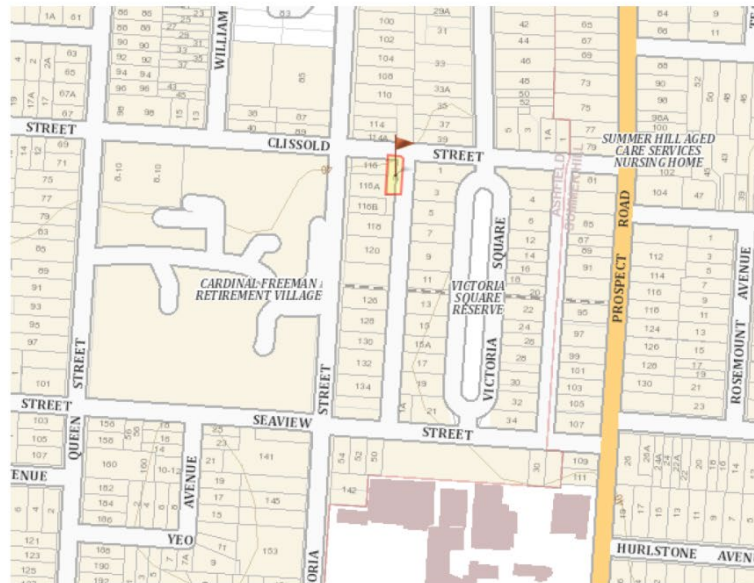


Figure 1: Street map with the subject site outlined in red. (Source: NSW LRS, SIX Maps, maps.six.nsw.gov.au)



Figure 2: Aerial photograph with the subject site outlined in red. (Source: NSW LRS, SIX Maps, maps.six.nsw.gov.au)

1.4 AUTHORSHIP

This report was prepared by Brad Vale, Senior Heritage Consultant, using research and a history written by Nicole Cama, Historian, all of NBR SARCHITECTURE.



1.5 LIMITATIONS

This report is limited to the assessment of potential impacts on the European cultural heritage values of the site and does not include Aboriginal and Archaeological assessment. This report only addresses the relevant planning provisions that relate to heritage.

1.6 COPYRIGHT

Copyright of this report remains with the author, NBR ARCHITECTURE. Unless otherwise noted, all images are by the author.

2.0 DOCUMENTARY EVIDENCE

2.1 ABORIGINAL HISTORY

The traditional owners of the inner west area of Sydney, encompassing the suburb of Ashfield, are the Gadigal and Wangal (also Wanngal) peoples of the Eora Nation. The Wangal people's territory stretched from the western outlet of Darling Harbour (initially named Long Cove) and west along the southern shores of the Parramatta River.¹ Governor Arthur Phillip described the clan's territory in a letter in 1790:

The south side of the harbour from the above-mentioned cove [Long Cove] to Rose Hill, which the natives call Parramatta, the district is called Wann, and the tribe, Wanngal.²

2.2 THE VICTORIA SQUARE SUBDIVISION

The subject was originally part of a 19-acre allotment granted to John Miller on 10 December 1794.³ It eventually formed part of a 12-acre allotment purchased by William Henson, a successful gold prospector, alderman of the first Ashfield Borough Council and later member of the NSW Legislative Assembly, in 1867.⁴ The property was bound by Ashfield (Victoria) and Napier (Clissold) streets, and Prospect and Sea View (Seaview) Roads.

In 1876 the property was subdivided by the Sydney Permanent Freehold Land and Building Society into 48 allotments and named 'Victoria Square', which featured a symmetrical design reflective of the residential garden squares seen throughout London. The subject site was part of lots 37 and 38. The subdivision plan (Figure 4) notes the site offers:

...a most extensive view...taking in the Macquarie Light House, North Shore Heights, Town Hall...and is in the neighbourhood of the mansions of Messrs. Bartlett, Bowker, Clissold and others. The Recreation Reserve [Central nature strip of Victoria Square]...is a novelty in the suburbs...⁵

Lots 37, 38 and part of lot 39 along with seven other allotments, were purchased by architect, Alexander Leckie Elphinstone, in June 1880. In the early 1880s, he designed and constructed mansions on his allotments, including the Victorian Italianate style villa at numbers 118 and 120 Victoria Street.⁶ It is possible Elphinstone constructed the mansion which previously occupied lots 37, 38 and part of lot 39.

¹ Valerie Attenbrow, *Sydney's Aboriginal Past: Investigating the Archaeological and Historical Records*, 2nd ed (Sydney, NSW: University of New South Wales Press, 2010), 26.

² 'Letter from Governor Phillip to Lord Sydney, 13 February 1790', in *Historical Records of Australia*, vol. 1 (Sydney, NSW: The Library Committee of the Commonwealth Parliament, 1914), 160.

³ NSW Land Registry Services, Certificate of Title, 1955, Vol 7149, Fol 235.

⁴ 'C23 Victoria Square, Ashfield & Summer Hill Heritage Conservation Area', Draft Comprehensive Inner West DCP 2016 (Inner West Council, 2016), 187; 'Mr William Henson (1826 - 1903)', Parliament of New South Wales, accessed 11 March 2021, https://www.parliament.nsw.gov.au/members/Pages/profiles/henson_william.aspx.

⁵ 'Victoria Square, Ashfield Heights' (13 May 1876), Z/SP/A8/20, State Library of New South Wales.

⁶ 'C23 Victoria Square, Ashfield & Summer Hill Heritage Conservation Area', 187.

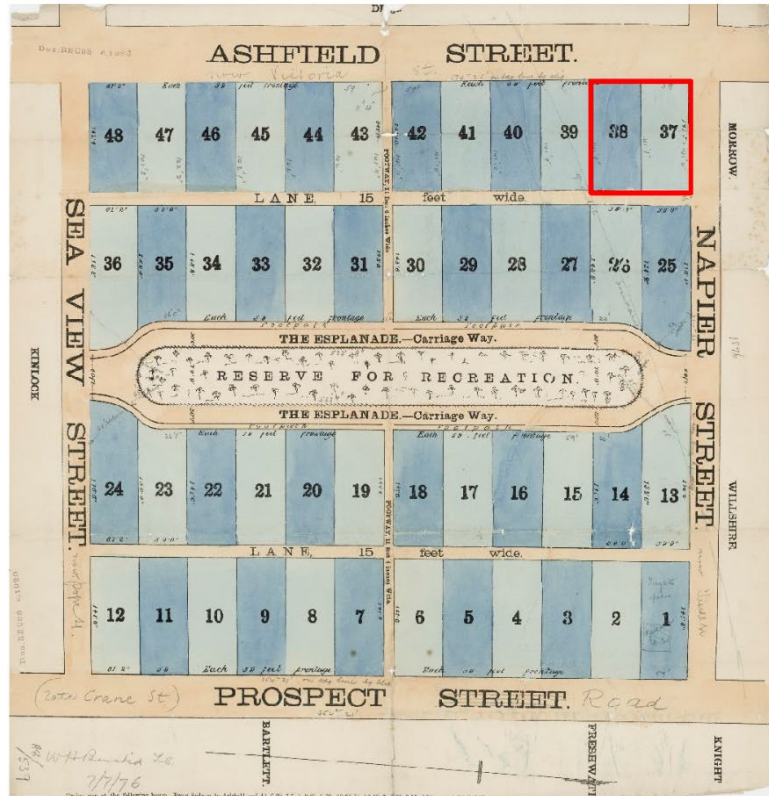


Figure 3: Victoria Square, Ashfield subdivision plan showing location of subject site (outlined) and Napier (Clissold) Street and Ashfield (Victoria) Street, (Source: State Library of New South Wales, Z/SP/A8/539)

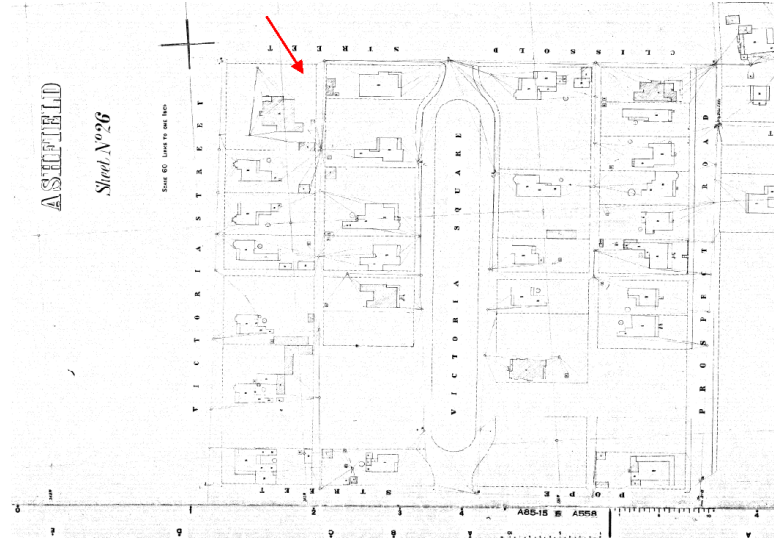


Figure 5: Victoria Square allotment as seen on a Water Board block plan, 1890s, showing the approximate location of the subject site (Source: Ashfield Municipal Council, 2013 Inner West Council Local History Collection, Sheet no. 26, BRN 222941)

2.3 HISTORY OF THE SUBJECT SITE

The water board plan and a 1943 aerial photograph (Figure 6) reveal a mansion once occupied a generous allotment encompassing the subject site. The property was mortgaged to Edward Brown Holt, bank manager, in March 1884 before it was then transferred to the law clerk, theatrical manager and soldier, Gustave Mario Ramciotti in March 1890.⁷

It was transferred to a number of individuals throughout the early Twentieth Century before Neil Francis Lumsden, a clerk from Manly, became the proprietor in November 1947. The property was then transferred to Camden College in May 1947. In July 1949 the property was transferred from Camden College to Alexander Thomson Calman, a company director from Ashfield, and Nettie Vera Pearl Calman, as joint tenants.⁸

⁷ NSW Land Registry Services, Certificate of Title, 1882, Vol 570, Fol 236.

⁸ NSW Land Registry Services, Certificate of Title, Vol 5759, Fol 37.



Figure 6: Aerial photograph, 1943 featuring the subject site (outlined) on the grounds of an earlier mansion possibly constructed in the 1880s and demolished in about the early 1950s (Source: NSW Spatial Services, SIX Maps)

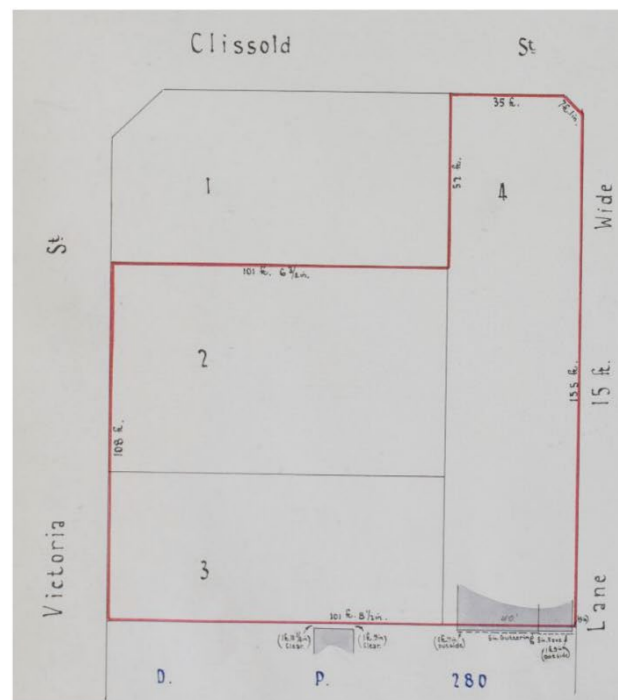


Figure 7: Lot 4 (subject site) as it appears on the Certificate of Title for Herbert Horace Dening, March 1955 (Source: NSW Land Registry Services, Certificate of Title, Vol 7149, Fol 235)



Figure 8: Aerial photograph showing the house at the subject site (outlined) alongside the adjoining properties (lots 1-3), 25 June 1961 (Source: NSW Spatial Services, Historical Imagery Viewer, sheet no. 9130, film 1042, frame 5018)

In March 1954 lots 37, 38 and part of 39 were transferred to Herbert Horace Dening, a builder, who then re-subdivided it into lots 1, 2, 3 and 4 (the subject site) and developed four dwellings on the property.⁹ Herbert Dening was born in 1911 in the district of Petersham to Jane and Herbert Dening.¹⁰ Dening's work as a builder involved constructing residential properties throughout the inner west area from about the 1930s to the 1950s. He was based at Lyons Road, Five Dock from the 1930s and then Dalhousie Street, Haberfield in the 1950s.¹¹ He died on 3 July 1980, age 69.¹²

On 31 August 1954, Dening submitted a building application for a brick dwelling to be constructed on lot 4 (subject site), Clissold Street. The building register notes the dwelling would include reinforced concrete foundations and terracotta roof tiles, at an estimated construction value of £4,300. The application was approved on 21 September 1954. Dening submitted the other applications in the same year: lot 1 on 25 February (£4,500), lot 2 on 31 August (£4,500), and lot 3 on 25 February (£4,500).¹³ A 1961 aerial (Figure 6) shows the house at 2 Clissold Street, alongside 116 Victoria Street, for which the building application was approved earlier in March 1954.

⁹ NSW Land Registry Services, Certificate of Title, 1955, Vol 6946, Fol 45.

¹⁰ NSW Births Deaths Marriages, Registration no. 8187/1911.

¹¹ 'Opportunities for Business', *Construction*, 15 March 1939, 21, <http://nla.gov.au/nla.news-article222854634>; 'Opportunities for Business', *Construction*, 15 October 1941, 15, <http://nla.gov.au/nla.news-article222862199>; 'Opportunities for Business', *Construction*, 9 September 1953, 9, <http://nla.gov.au/nla.news-article222898474>.

¹² 'Notice of Intended Distribution of Estate', *Government Gazette of the State of New South Wales*, 8 April 1988, 2186, <http://nla.gov.au/nla.news-article231295950>.

¹³ Ashfield Council Building Register, 1952-54, progressive no. 1331, 1332, 1474, 1475 and assessment no. 1929, 2422, Inner West Council Archives, Call no. 438995.

In July 1956 the property, then labelled lot X totalling 15 and a quarter perches (Figure 9), was transferred to John McPherson, a taxi proprietor of Ashfield.¹⁴ On 30 April 1956 McPherson submitted a building application for a brick garage (estimated value of £200) to be constructed on the property, which was approved on 15 May.¹⁵

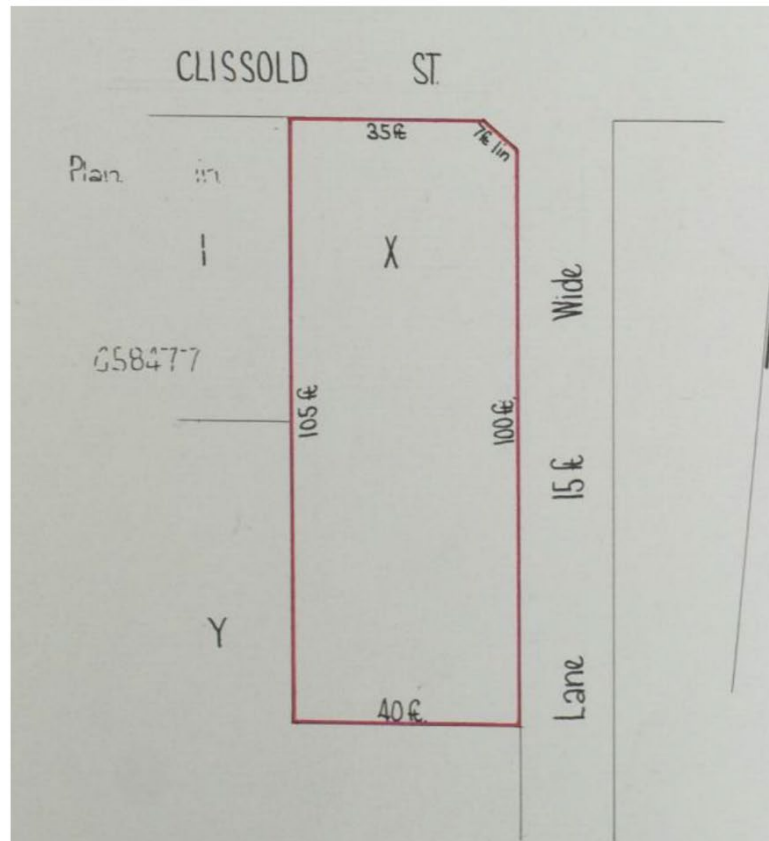


Figure 9: Lot X (subject site) when it was transferred to John McPherson, July 1956 (Source: NSW Land Registry Services, Certificate of Title, Vol 7149, Fol 235)

¹⁴ NSW Land Registry Services, Certificate of Title, 1955, Vol 7149, Fol 235.

¹⁵ Ashfield Council Building Register, 1954-57, progressive no. 1880, assessment no. 269, Inner West Council Archives, Call no. 438987.

3.0 PHYSICAL EVIDENCE

3.1 SITE CONTEXT

The precinct of Ashfield surrounding the subject site, is characterised by the impact of several phases of development since the 1870s. The land is close to flat and so supports a subdivision grid with a grand City Beautiful gesture nearby at Victoria Square, where a dedicated linear park is the centre of a road circuit. This precinct was popular in the late Nineteenth Century for wealthy people building their mansion with a garden setting and public transport to the city. In the Twentieth Century, several of these mansions were adapted for institutional uses or demolished. In the inter-war period, many vacant blocks were infilled with detached houses or in the case of Clissold Street blocks of walk-up flats.

The site is on the corner of Clissold Street and a laneway between Victoria Street and Victoria Square. It is occupied by a detached single-storey house constructed in 1956. The allotment was formed by a subdivision in the 1950s that was associated with the demolition of a Victorian period mansion on a large allotment that was broken into four allotments. The property is surrounded by other houses and a block of flats that were constructed in the late 1950s.



Figure 10: 1930s flats at 114A Victoria Street are opposite the subject site to the north.



Figure 11: view from near the rear of the subject site looking south-west between garages at the rear of properties facing Victoria Street, looking towards the back verandahs of the Victorian mansion at 118 Victoria Street.



Figure 12: the house at 116 Victoria Street was built by the same builder as the subject house, around the same time.



Figure 13: these flats at 116A Victoria Street were built by the same builder as the subject house, around the same time using a similar palette of materials.

3.2 DESCRIPTION OF THE EXTERIOR

The subject site features a 1950s single-storey detached house constructed with reinforced concrete footings, walls of red texture brick with steel-framed windows. Thin Roman bricks are used in a soldier course for the sills. The roof is generally hipped and clad with glazed terra cotta tiles. There is one feature gable facing the front, whose pediment is clad with profiled aluminium. The front door is accessed via a path from Clissold Street. The floor and roof structure are constructed of conventional timber framing.

The front terrace is a concrete slab supported on brick perimeter walls in poor condition. The slab is clad with dull red and yellow tiles that had been in production since the 1920s. The terrace has a low balustrade made of wrought iron with feature volutes. The front fence is a low-height retaining wall with piers and stepped in-fill walls. It is in very poor structural condition.



Figure 14: the northern front of the house facing Clissold Street. (Source: NBRSArchitecture 2019):



Figure 15: close up of the northern front of the house.



Figure 16: the east side of the house facing the lane.



Figure 17: the rear of the house faces south towards a courtyard and separate garage.



Figure 18: the brick front fence shows uneven settlement and likely impact damage.

3.3 DESCRIPTION OF THE INTERIOR

The entry is short and bends to the left as one enters. The living room is on the right as one enters, and has a large picture window looking over the front garden. The bathroom retains its 1950s fixtures, while the kitchen appears to have been renovated c1980. The internal walls are rendered brick, including single-brick internal walls. The joinery is largely still varnished. Most cornices are simple cove profiles, but that in the living room has a slightly more complex profile.



Figure 19: the living room looks over the front terrace and garden.

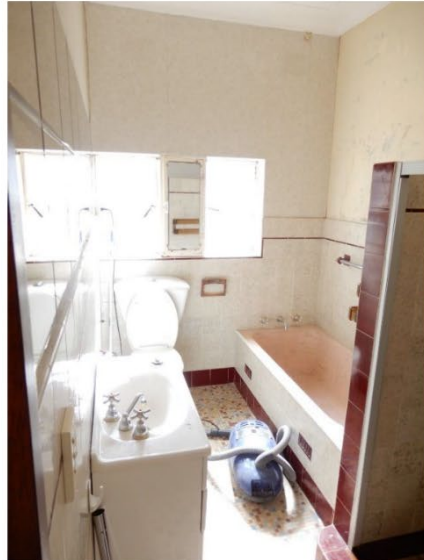


Figure 20: the main bathroom



Figure 21: the cabinetry followed 20-year old design trends.



Figure 22: the fireplace has slim Roman bricks in a style popular since the 1930s.



Figure 23: the kitchen was renovated c1980



Figure 24: the interior of the detached garage.

3.4 VIEWS

The house is visible from nearby locations in the public domain. Being a single-storey building among many two-storey residential buildings, the house does not have extensive views, and nor is it visible from far away. There are no distant views or vistas available from, or of, the subject site.



4.0 ESTABLISHED HERITAGE SIGNIFICANCE

4.1 HERITAGE STATUS

The reasoning for the heritage listing is not clear and is very unlikely to be connected to the architecture of the subject house. There is some information about the site in the Ashfield Development Control Plan.

Inner West Council have mentioned the possibility that the listing is a mistake in correspondence REQ2019-090477 of 19/11/2019. However, this is not an admission, and it is up the owner to prove that it should not be listed as a heritage item. The Draft Comprehensive Inner West DCP 2016 mentions that the site is a local heritage item, and generously describes it as being in the "Post-War Sydney Bungalow" style. This is not a style that is commonly heritage listed.

The superseded *Ashfield Local Environmental Plan 1985* is available on line, and curiously it includes 2 Clissold Street on "Schedule 7 Heritage items and conservation areas". This listing is in an early format and includes columns about whether an item is listed a heritage item, or whether as part of a heritage conservation area. In 1985, when the house was about thirty years old, it is listed as part of a heritage conservation area.

Map ref no	Address	Whether listed as a heritage item or as deferred	Whether listed as part of a heritage conservation area (CA)
--	2 Clissold Street	House	
C	2 Clissold Street		Victoria Square CA
C	2 Clissold Street		Victoria Square CA

It seems possible that the property was noted as being in the conservation area, and then this note wandered into a local heritage listing.

The subject house is listed as an item of local heritage significance on Schedule 5 of the *Ashfield Local Environmental Plan (LEP) 2013* as heritage item No. 85. It is also located within the Victoria Square Conservation C23 and in the distant vicinity of the following heritage items listed in Schedule 5 of the Ashfield *LEP 2013*:

- Plantings in Victoria Street (between Norton and Seaview Streets), Ashfield (plantings) – Item No: 319; and
- 118 Victoria Street, Ashfield (House) - Item No: 331 .
- 120 Victoria Street, Ashfield (House) - Item No: 332 .

Each heritage listed item in the vicinity of the subject site is visually and physically separated from the site by intervening development.

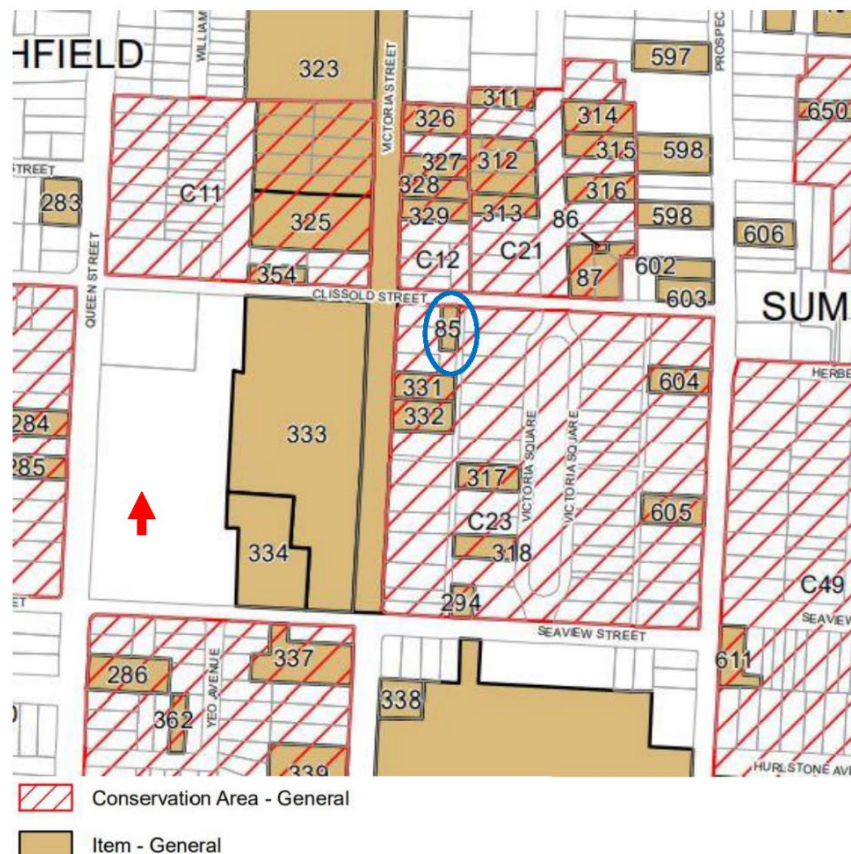


Figure 25: Excerpt from the Ashfield LEP 2013 heritage map. The subject site is circled blue and is identified as heritage item No. 85. (Source: Ashfield LEP 2013, Heritage Map HER_002)

4.2 SIGNIFICANCE OF THE VICTORIA SQUARE CONSERVATION AREA C23

The following Statement of Significance for the Victoria Square Conservation Area is sourced from the website of Inner West Council, Draft Comprehensive Inner West DCP 2016:

The Victoria Square Heritage Conservation Area is of local heritage significance.

The Victoria Square Heritage Conservation Area is of historical significance as a representative upmarket late 19th century model subdivision with large residential lots centred around a central reserve and featuring north-south oriented main street and rear laneways and an east-west pedestrian pathway. Victoria Square remains illustrative of the original 1876 subdivision concept, retaining the central reserve, the laneways, and many of the original large allotments, along with fourteen late 19th century houses, which now sit in a context of Federation, Inter-war period, 1940s and some later buildings. The area remained incompletely developed at the end of the 19th century (particularly at the

southern end), and its development reflects re-subdivision or redevelopment of early sites in the period 1900-1940s.

Victoria Square has historical associations as the place of residence of prominent late 19th century citizens including : Sir Alexander Stuart (1824-1886), merchant and politician (resident of "Arundel", 2 Victoria Square in 1886); James T. Allan (1831-1912) explorer and pastoralist (a resident in 1890 on the west side of Victoria Square); and Gustave Mario Ramciotti (1861-1927) law clerk, theatrical manager and soldier, a resident of "Arden" on the western side of Victoria Square in 1890).

The subdivision has historical associations with prominent local residents including Alderman William Henson, alderman on the first Ashfield Borough Council and land owner at the time of the 1876 subdivision; and with architects Thomas Rowe (architect of the houses at Nos. 83 and 85 Prospect Road built in 1877); Alexander Leckie Elpinstone Junior (architect of the villas at Nos. 118 Victoria Street and 120 Victoria Street constructed in 1880); and Charles Slatyer (possibly the architect of the house at 17 Victoria Square).

The area is of aesthetic significance for its distinctive 1876 subdivision pattern with its central reserve, generous original allotments and north-south street and laneway pattern, for the original late 19th century houses of various Victorian period architectural styles and for the houses constructed in the Federation to 1940s period in various architectural styles illustrating the later development of the subdivision.

Victoria Square is rare as a late 19th century upmarket subdivision.

The subject property contributes nothing to the focus of the historical and aesthetic values of the conservation area. The 1950s house fits into the theme of 'later development of the subdivision', but this later subdivision is not the reason for the area becoming a conservation area.

4.3 SIGNIFICANCE OF ITEMS IN THE VICINITY

The street plantings along Victoria Street (Between Norton and Seaview Streets) are listed on the NSW Heritage Database and Schedule 5 of the *Ashfield LEP 2013*, without further listing information. The plantings form a fine avenue of Canary Island palms. These palms are the trees with heritage significance, but Council has created an alternating rhythm with more recent planting of melaleuca trees and water gums planted on the verge between each palm that grows along the edge of the road zone.



Figure 26: the Canary Island palms along Victoria Street are a local heritage item within the vicinity of the subject site, but probably not within view of the completed building.

The house at 118 Victoria Street, Ashfield is listed on the NSW Heritage Database and Schedule 5 of the *Ashfield LEP 2013*, without any further listing information. Nonetheless, it is clearly a significant late Victorian mansion that is largely intact and one of a pair.



Figure 27: the house at 118 Victoria Street is a heritage item. It is one of a pair designed in a Victorian Free Gothic / Filigree style. This photograph was taken by Ashfield Council evidently some decades ago. The thick planting in the front garden makes it difficult to photograph the house now, so this is the best image available.

The house at 118 Victoria Street, Ashfield is listed on the NSW Heritage Database and Schedule 5 of the *Ashfield LEP 2013*, without any further listing information. Nonetheless, it is clearly a significant late Victorian mansion that is largely intact and one of a pair.

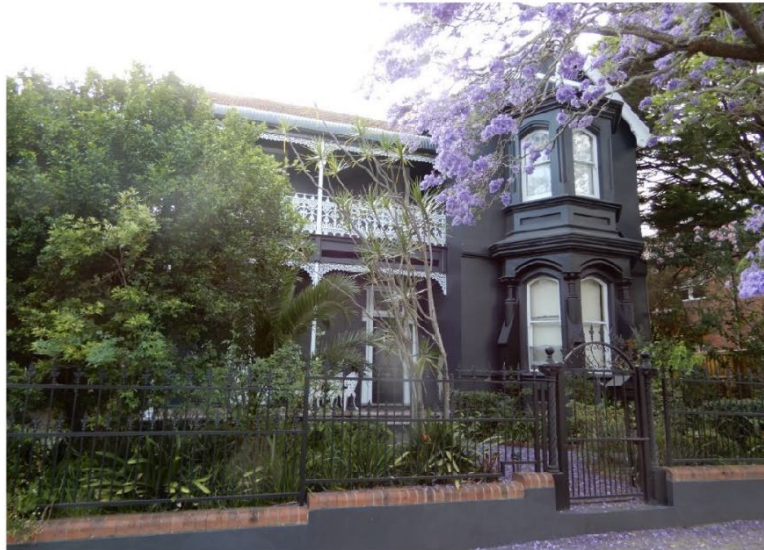


Figure 28: the house at 120 Victoria Street is a heritage item and one of a pair designed in a Victorian Free Gothic / Filigree style.

5.0 ASSESSMENT OF CULTURAL SIGNIFICANCE

5.1 ASSESSMENT AGAINST SIGNIFICANCE CRITERIA

An assessment of how the subject site relates to the criteria established by the NSW Heritage Office (now the Heritage Division of the NSW Office of Environment and Heritage)¹⁶ is provided below. It considers the historical context and physical evidence of the subject site, which have been presented in the preceding sections of this report.

Criterion (a) An item is important in the course, or pattern, of NSW's cultural or natural history (State significance); OR An item is important in the course, or pattern, of the local area's cultural or natural history (local significance).

The site is within the 1876 subdivision by the Sydney Permanent Freehold Land and Building Society named 'Victoria Square' that featured a grand suburban design reflecting prestigious residential garden squares in Great Britain and the United States at the time. The subject site was part of a characteristic large allotment for a grand late Victorian house. The house is part of a 1950s phase of further subdivision and construction of four residential buildings by builder Herbert Denning.

The subject site is not a prominent part of the 1876 subdivision and contains no fabric from the Nineteenth Century. The 1950s development phase is consistent across four sites but is not significant due to its young age, and lack of distinctive character. The place does not satisfy this criterion at a local level.

Criterion (b) An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (State significance); OR An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of the local area (local significance).

The place demonstrates the work of local builder Herbert Denning, who built the subject house and its three contemporaneous neighbours. Denning was not a person of such prominence or distinction that the place would satisfy this criterion at a local level.

Criterion (c) An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (State significance); OR An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area (local significance).

The house is typical of 1950s and early 1960s housing built in all developing suburban areas of that period in New South Wales. The houses and flats built in this precinct do not demonstrate innovation or excellence in design. They were likely drawn by, or under the instruction of the builder and reflect housing trends that had emerged in the inter-war period earlier. The place does not satisfy this criterion at a local level.

Criterion (d) An item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons (State significance); OR An item has strong or special association with a particular community or cultural group in the area for social, cultural or spiritual reasons (local significance).

The place has no known associations with any significant community group. The place does not satisfy this criterion at a local level.

¹⁶ NSW Heritage Office, *Assessing Heritage Significance*, NSW Heritage Manual 2, 2001

Criterion (e) An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (State significance); OR An item has potential to yield information that will contribute to an understanding of the area's cultural or natural history (local significance).

The site could contain some relics remaining from the rear of the late Victorian mansion and its outbuildings that were on this site until c1954. Any such remains (if found) would likely add very little knowledge to what is already available in the documentary evidence. The construction of the extant house has disturbed the site considerably. As such, the site has little potential to reveal archaeological works or relics of local or state significance. The extant structures on the site are ordinary and commonly found in residential areas across the state. The place does not satisfy this criterion at a local or state level.

Criterion (f) An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (State significance); OR An item possesses uncommon, rare or endangered aspects of the area's cultural or natural history (local significance).

The place does not contain anything that is rare in the Inner West local government area. The place does not satisfy this criterion at a local level.

Criterion (g) An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments (State significance); OR An item is important in demonstrating the principal characteristics of a class of the area's cultural or natural places; or cultural or natural environments. (local significance).

While the place does demonstrate speculative suburban housing in the 1950s, this is not an identified significant building type that would qualify for local listing. The place does not satisfy this criterion at a local level.

5.2 STATEMENT OF SIGNIFICANCE

The place is loosely associated with the subdivision of the area for suburban housing in 1876, but it does not contain any period fabric which contributes to an understanding of this subdivision. The site contains no known fabric connecting it to the late Victorian house previously on a larger allotment. The extant house is an ordinary red texture brick home with a tiled hip roof and several common fashion features of the 1950s. It appears to have been designed by its builder, Herbert Denning as a speculative redevelopment in a group of other residential. The place is not associated with a significant person or group. The subject site does not meet the threshold for local or state listing as a heritage item. The place does not contribute aesthetic or historical values to the Victoria Square Conservation Area.

5.3 ARCHAEOLOGICAL POTENTIAL

The 1950s disturbance of the site is likely to have removed remains of the back wall of the late Victorian house that was previously on the subject site. Any remains of footings of a late Victorian house's back wall and service buildings would be of limited heritage value and would not necessarily add to information available in the documentary evidence about this place.

6.0 THE PROPOSAL

The proposed development, designed by Kink Architects, includes the following:

- Demolition of the house and other site improvements;
- Construction of a detached two-storey boarding house with seven accommodation rooms, common facilities, at grade parking and landscape areas. The building would be constructed of face brick walls with black aluminium framed windows, white weatherboard cladding on the upper level and a grey tile roof with a slate shingle profile. The balustrade and fencing would be in black metal.

The aim of the proposal is to develop the site to provide low-cost housing in a boarding house form.

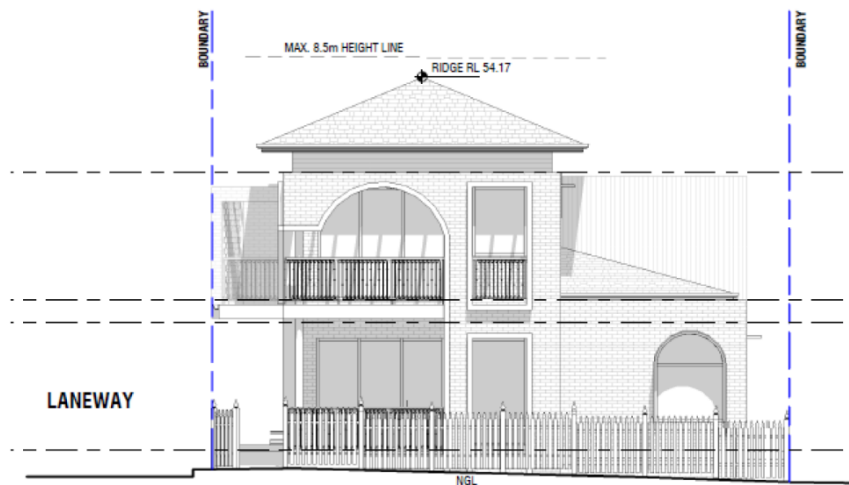


Figure 29: Proposed Clissold Street Elevation. (Source: Kink Architects)

6.1 DOCUMENTATION EVALUATED

The following drawings, prepared by Kink Architects, were reviewed as part of the preparation of this report:

DRAWING NO.	DRAWING TITLE	ISSUE	DATE
A 200	Site and Roof Plan	A	31.03.2021
A 300	Floor Plans	A	31.03.2021
A 400	Elevations	A	31.03.2021

7.0 ASSESSMENT OF HERITAGE IMPACT

7.1 INTRODUCTION

This Heritage Impact Statement has been prepared in relation to the following impact assessment criteria: the *Ashfield Local Environmental Plan (LEP) 2013*, the *Ashfield Development Control Plan (DCP) 2013* and the New South Wales Heritage Office (now NSW Heritage Division) guidelines, *Altering Heritage Assets and Statements of Heritage Impact*, contained within the NSW Heritage Manual.

7.2 EVALUATION OF THE GUIDELINES OF THE NSW HERITAGE DIVISION

The following assessment is based on the assessment criteria set out in the NSW Heritage Office (now Heritage Division) publication 'Statements of Heritage Impact', contained within the NSW Heritage Manual. The standard format has been adapted to suit the circumstances of this application.

The following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons:

- The proposed boarding house will continue the residential use of the land and relate to multi-unit housing projects of two storeys built in close proximity in the 1930s and 1960s;
- The two-storey scale is appropriate among nearby buildings of two storeys. However, the boarding house would be slimmer with a much smaller bulk than the nearby blocks of flats so it will resemble a one-family house when seen from the public domain. The materials and design idioms are traditional to domestic work so that the building will be appropriate infill development.

The following aspects of the proposal could detrimentally impact on heritage significance. The reasons are explained as well as the measures to be taken to minimise impacts:

- The development would remove a nominal local heritage item. However, this local heritage listing appears to have been an error following its listing as an element within a conservation area. The site has been tested against the NSW heritage criteria and found not to satisfy any of the criteria. NBRSArchitecture is convinced that the site should not be listed as a heritage item because it has no heritage significance. The removal of the house and all site improvements will not have an adverse impact on the heritage resources of Ashfield, the Victoria Square Conservation Area or the Inner West local government area.

7.2.1 DEMOLITION OF A BUILDING OR STRUCTURE

- *Have all options for retention and adaptive reuse been explored?*
- *Can all the significant elements of the heritage item be kept and any new development be located elsewhere on the site?*
- *Is demolition essential at this time or can it be postponed in case future circumstances make it retention and conservation more feasible?*
- *Has the advice of a heritage consultant/specialist been sought? Have the consultant's recommendations been implemented? If not, why not?*

Comment:

The place contains an ordinary red texture brick house that was likely designed by its builder. It is a very common housing type across New South Wales in all suburban areas that were expanding in the early post-war decades. The house is not architecturally distinguished and has no associations with distinguished persons or community groups. NBRSArchitecture sees no heritage basis to object to the demolition of the house and the other site

improvements. As such the house could be replaced with a different building designed as infill within a conservation area, which would have no adverse impact on the heritage values of the conservation area

7.2.2 CHANGE OF USE

- *Has the advice of a heritage consultant or structural engineer been sought? Has the consultant's advice been sought? Has the consultant's advice been implemented? If not, why not?*
- *Does the existing use contribute to the significance of the heritage item?*
- *Why does it need to be changed?*
- *What changes to the fabric are required as a result of the change of use?*
- *What changes to the site are required as a result of the change of use?*

Comment:

The use of the land would change from a one-family house to a boarding house with seven accommodation rooms. This would occur through the redevelopment of the site. This is a small change that is unlikely to be noticeable in the conservation area, and is indeed appropriate considering the multi-unit housing that has existed nearby since the 1930s.

7.2.3 NEW DEVELOPMENT ADJACENT TO A HERITAGE ITEM (INCLUDING ADDITIONAL BUILDINGS AND DUAL OCCUPANCIES)

- *How is the impact of the new development on the heritage significance of the item or area to be minimised?*
- *Why is the new development required to be adjacent to heritage item?*
- *How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?*
- *How does the new development affect views to, and from, the heritage item? What has been done to minimise negative effects?*
- *Is the development sited on any known, or potentially significant archaeological deposits? If so, have alternative sites been considered? Why were they rejected?*
- *Is the new development sympathetic to the heritage item? In what way (eg form, siting, proportions, design)?*
- *Will the additions visually dominate the heritage item? How has this been minimised?*
- *Will the public, and users of the item, still be able to view and appreciate its significance?*

Comment:

The boarding house designed by Kink Architecture would have a two-storey scale similar to the 1930s flats on the opposite side of Clissold Street, and a similar scale to the 1960s flats over the southern boundary. However, the massing of the proposal would be much smaller than these nearby blocks of flats. The boarding house would have a domestic scale and character. The selected materials (face brick and a tiled roof) are traditional in this conservation area, and make for appropriate infill development in a conservation area. The development will not interfere with any public view towards a heritage item or contributory element within the conservation area.

7.3 HERITAGE OBJECTIVES OF THE ASHFIELD LEP 2013

The proposed development is acceptable from a heritage perspective for the following reasons:

- The development would have no impact on built fabric with heritage significance;
- The development would retain views between the public domain and heritage items / contributory elements within the conservation area.

- There will be no adverse impact on the established heritage significance of the Victoria Square Conservation Area.

The proposal is, therefore, considered to be consistent with the relevant heritage objectives of the Ashfield *LEP 2013*, which are:

5.10 Heritage conservation

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Ashfield,*
(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

7.4 HERITAGE GUIDELINES OF THE ASHFIELD DCP 2013

The Ashfield DCP 2013 supports the *Ashfield LEP 2013* by providing additional objectives and development standards for properties within Heritage Conservation Areas.

7.4.1 HERITAGE CONSERVATION AREAS

The subject property is located within the Name Heritage Conservation Area, for which the Ashfield *DCP 2013* contains the following guidelines:

3.4 Infill Development within a Heritage Conservation Area

Objectives

To ensure development within a HCA is compatible with the surrounding built form and urban pattern by addressing the Area Character Statement and responding sympathetically to:

- topography and landscape;
- views to and from the site;
- significant subdivision patterns and layout;
- front and side setbacks;
- the type, siting, form, height, bulk, roofscape, scale, materials and details of adjoining or nearby contributory buildings;
- the interface between the public domain and building alignments and property boundaries; and
- colour schemes that have a hue and tonal relationship with traditional colour schemes.

Comment:

The proposed development is effectively infill development because the site has negligible heritage significance and the removal of the house and other site improvements will have no adverse impact on the heritage resources of Ashfield or the Inner West LGA. The residential use is appropriate of the area. The setback to Clissold Street is similar to the setback of buildings at the neighbouring properties facing this street. The scale is not taller than nearby buildings, though the overall massing would be smaller than the nearby blocks of flats. The hip roof and materials selection (face brick and tile with black metal palisade fencing) are appropriate in this precinct.

The boarding house would have no adverse impact on views within the Victoria Square Conservation Area, and no impact on its layout. The existing site has no significant landscaping. See the landscape plan by Vison Dynamics Landscape Design dated 29 February 2021 for details of the scheme to provide an appropriate garden setting. This includes planting five small trees among other shrubs and ground covers.



Controls	The Design Response
<p><i>C1 New infill buildings in a heritage conservation area are not to be designed as a copy or replica of other buildings in the area, but are to complement the character of the heritage conservation area by sympathetically responding to the matters identified in (O1)(a) to (g) above.</i></p>	<p>Complies. The boarding house development would be quietly contemporary in the conservation area. The design employs traditional materials (face brick and a hip tiled roof) using traditional architectural devices in a contemporary idiom. The building would be clearly of its time.</p>
<p><i>C2 Infill development is not to include garages and car access to the front elevation to the principle street frontage of the development where these are not characteristic of the HCA.</i></p>	<p>Complies.</p>
<p><i>C3 Infill development in heritage conservation areas is to respond positively to the setting and special character of the area, as outlined in the relevant Area Character Statement.</i></p>	<p>Complies. The development is quite distant from the Victorian houses that are the focus of significance for the conservation area. The boarding house adopts the face brick and hipped tiled roof form of the mid-twentieth-century buildings close to this site in an appropriate manner. The sandstone guttering would be retained.</p>
<p><i>C4 The bulk, height, scale and building envelope of infill development must be consistent with nearby contributory buildings and that of the heritage conservation area as a whole.</i></p>	<p>Complies.</p>
<p><i>C5 Where infill development is adjacent to or in the vicinity of a building that is intrusive in design or excessive in height, conformity is inappropriate and will not be supported by Council.</i></p>	<p>Not applicable.</p>
<p><i>C6 Solid to void ratios of elevations (that is the shape and extent of windows and door openings in relation to the scale of walls) are to be consistent with nearby contributory items</i></p>	<p>Complies. The fenestration has a vertical emphasis, which is appropriate in the conservation area.</p>
<p><i>C7 Street facing balconies are generally not supported.</i></p>	<p>The street facing balconies are small in scale, similar to the size of balconies in Victorian period homes. Each balcony would be screened by a perforated wall to limit overlooking and give the impression of a solid building. Balconies facing the street are part of the aesthetic and historical values of the Victoria Square Conservation Area, and so are appropriate in this context.</p>

8.0 CONCLUSION

The house on the subject property appears to have been listed in error. It does not have heritage significance. **NBRSARCHITECTURE** recommends that Inner West Council removes 2 Clissold Street, Ashfield from Schedule 5 of the LEP when the Comprehensive Inner West LEP is prepared.

The proposed redevelopment of this property for a boarding house will have an acceptable impact on the heritage significance of the Victoria Square Conservation Area and the heritage items in the vicinity. This is on account of the controlled form, scale and materials selection of the proposal, ensuring that the building will be visually recessive and will not dominate the streetscape.

All existing views to and from the other heritage items and contributory buildings in the vicinity, and the character of the Conservation Area will be retained and conserved.

The proposed minor alterations are consistent with the heritage objectives of the *Ashfield LEP 2013* and the Ashfield DCP 2013. I commend the heritage aspects of this development to Inner West Council.

Yours Faithfully,
NBRSARCHITECTURE.



Brad Vale
Senior Heritage Consultant

Attachment D – Council letter regarding heritage listing

4 March 2020
Storey and Gough Lawyers
PO Box 2406
NORTH PARRAMATTA NSW 1750

Dear Mr Gough,

Re : 2 Clissold Street Ashfield

I refer to your letter of 18 December 2019 (Ref. CCG190387) seeking that 2 Clissold Street Ashfield be removed from Schedule 5 of Ashfield Local Environmental Plan 2013 on the basis it is considered an error and asking Council to investigate this.

Council has checked its records. The prior Ashfield LEP 1985 contained reference to the site in its Schedule 7 as being within a Heritage Conservation Area but did not list the site as a Heritage Item. For the exhibition of the Draft Ashfield LEP 2012 the explanatory Council Heritage maps showing existing and proposed Heritage Items did not show the site as a proposed Heritage Item. Also, we have not found any inventory sheets in previous heritage studies proposing the site as a Heritage Item. However the site was listed as a proposed Heritage Item in the exhibited Draft Ashfield LEP 2012 written instrument and Heritage Map, and this continued to be contained in the Ashfield LEP 2013 gazetted on 23 Dec 2013 by the then Department of Planning and Environment.

Council submitted to the Department in December 2019 a planning proposal for the Inner West Council LEP 2020 which will consolidate the contents of the former Ashfield, Marrickville and Leichardt Council LEPs. Subject to the Department's gateway process for planning proposals, this is likely to go on public exhibition in Autumn 2020. It is suggested that a submission be made to the public exhibition to request the changes you seek to the new draft LEP. Details of the public exhibition will be made available online at <https://yoursay.innerwest.nsw.gov.au/>.

As the property is within the Victoria Square Heritage Conservation Area the Heritage provisions of the ALEP 2013 and Part E1 of the Inner West (Ashfield) DCP 2016 will continue to apply to the site and certain work will require development consent from Council. For any minor works Council has a process where building owners can seek an exemption from the need to lodge a Development Application. The Heritage Exemption application

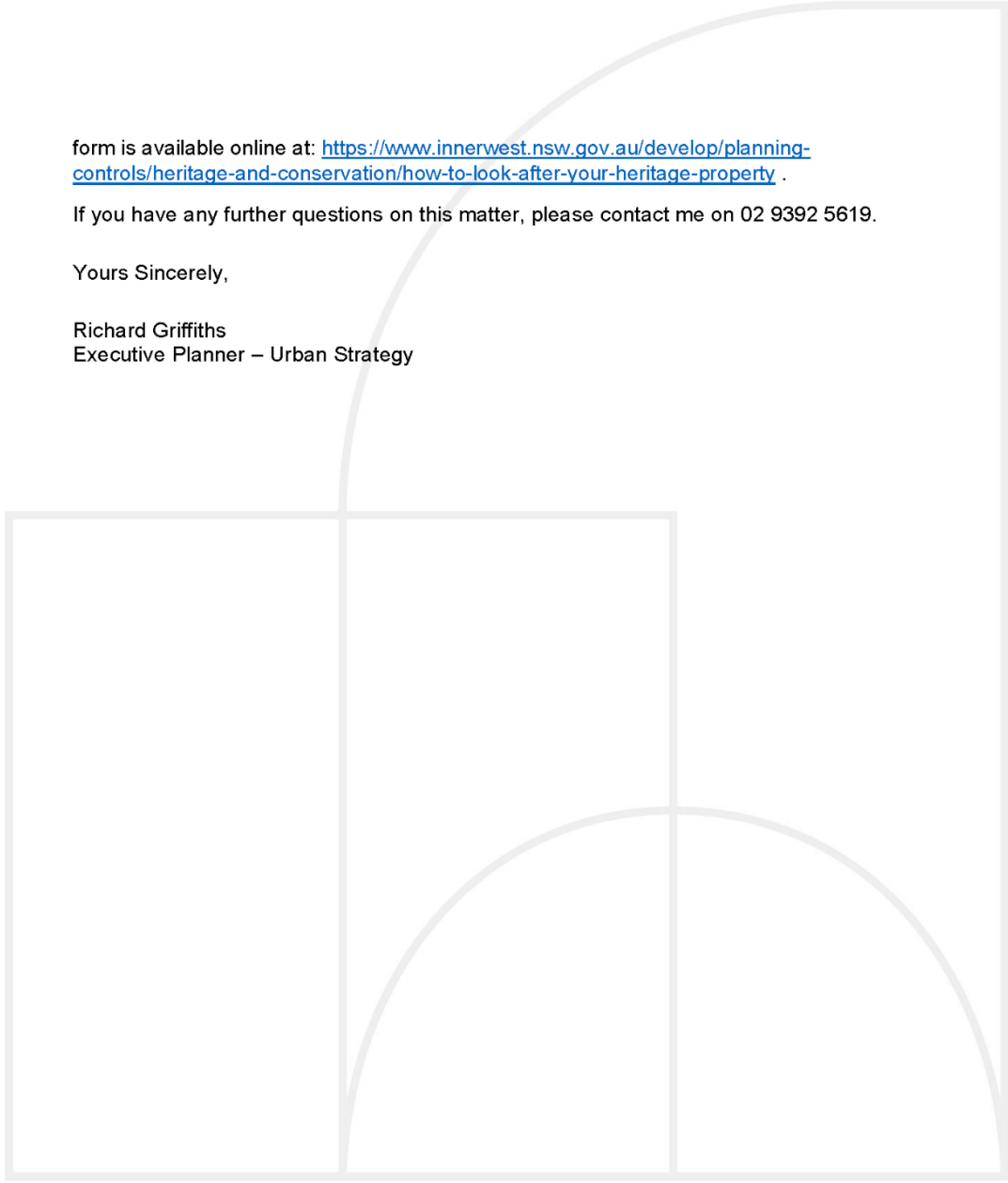


form is available online at: <https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/how-to-look-after-your-heritage-property> .

If you have any further questions on this matter, please contact me on 02 9392 5619.

Yours Sincerely,

Richard Griffiths
Executive Planner – Urban Strategy



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