

 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2021/0651
<b>Address</b>	1 The Esplanade ASHFIELD NSW 2131
<b>Proposal</b>	Construction of a mixed use development comprising of ground level commercial premises and a 77 room boarding house with managers residence over basement parking.
<b>Date of Lodgement</b>	28 July 2021
<b>Applicant</b>	Appwam Pty Ltd
<b>Owner</b>	Appwam Pty Ltd
<b>Number of Submissions</b>	Initial: 17
<b>Value of works</b>	\$9,985,044.00
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10% Number of submissions
<b>Main Issues</b>	Affordable Housing, Height, Floor Space Ratio, Design, Parking, Amenity Impacts
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Reasons for refusal
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Draft conditions in the event of approval by Panel
<b>Attachment D</b>	Architectural Excellence Panel (AEP) Minutes







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Created on 2/03/2022  
Map Scale: 1:2000

**LOCALITY MAP**

Subject Site		Objectors	
Notified Area		Supporters	

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

## 1. Executive Summary

This report is an assessment of the application submitted to Council for construction of a mixed use development comprising of ground level commercial premises and a 77 room boarding house with managers residence over basement parking at 1 The Esplanade Ashfield NSW 2131.

The application was notified to surrounding properties and 17 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Non-compliance with Clause 4.3A – Exception to maximum height of buildings in Ashfield town centre development standard. No clause 4.6 provided to vary this standard.
- Non-compliance with Clause 4.4 – Floor Space Ratio development standard. No clause 4.6 provided to vary this standard.
- A lack of car parking and inadequacy of waste areas and management. Application has not adequately demonstrated how waste collection will occur.
- Non-compliance with a number of boarding house standards and amenity provisions within State Environmental Planning Policy (Affordable Rental Housing) 2009 and State Environmental Planning Policy (Housing) 2021, including being inconsistent with the character of the area.
- Lack of information regarding contextual analysis and urban design, resulting in adverse amenity impacts.
- Non-compliance with setback and public domain requirements within Chapter D, Part 1 of the Inner West Comprehensive Development Control Plan 2016.
- A portion of the development encroaches over Council land.

The application fails to demonstrate the site is suitable for the proposed development. The application is unsupportable and in view of the circumstances refusal of the application is recommended.

## 2. Proposal

The proposal seeks demolition of existing buildings and construction of a mixed use ten (10) storey boarding house containing ground floor commercial/retail premises and 77 boarding rooms, manager's room, common room with roof terrace private open space and three basement levels which contain a total of 41 parking spaces, 15 motorbike spaces and 16 bicycle racks.

### 3. Site Description

The subject site is located on the southern side of The Esplanade, between Chessell Lane and Fox Lane. The site consists of three (3) allotments and is generally “L – Shaped” with a total area of approximately 984.4sqm and is legally described as Lot 1 DP 130519 (1 The Esplanade Ashfield), Lot 1 DP 215361 (2-4 The Esplanade Ashfield) and Lot 21 DP 719197 (287 Liverpool Road Ashfield).

The site has a frontage to The Esplanade of 28.46m and a secondary frontage to the Esplanade of 21.11m. The site is affected by a number of easements including a 2.5m wide right of way along the eastern boundary.

The development site, being the buildings fronting The Esplanade only (excluding the built development on Lot 21) supports a one and two storey painted brick commercial building and a two storey brick commercial building.

The adjoining properties to the east which front The Esplanade support a two storey brick residential flat building and two storey commercial buildings while adjoining properties fronting Liverpool Road support two to three storey mixed use brick buildings.

The subject site is not listed as a heritage item nor is it located within a Heritage Conservation Area. The property is not identified as a flood prone lot.

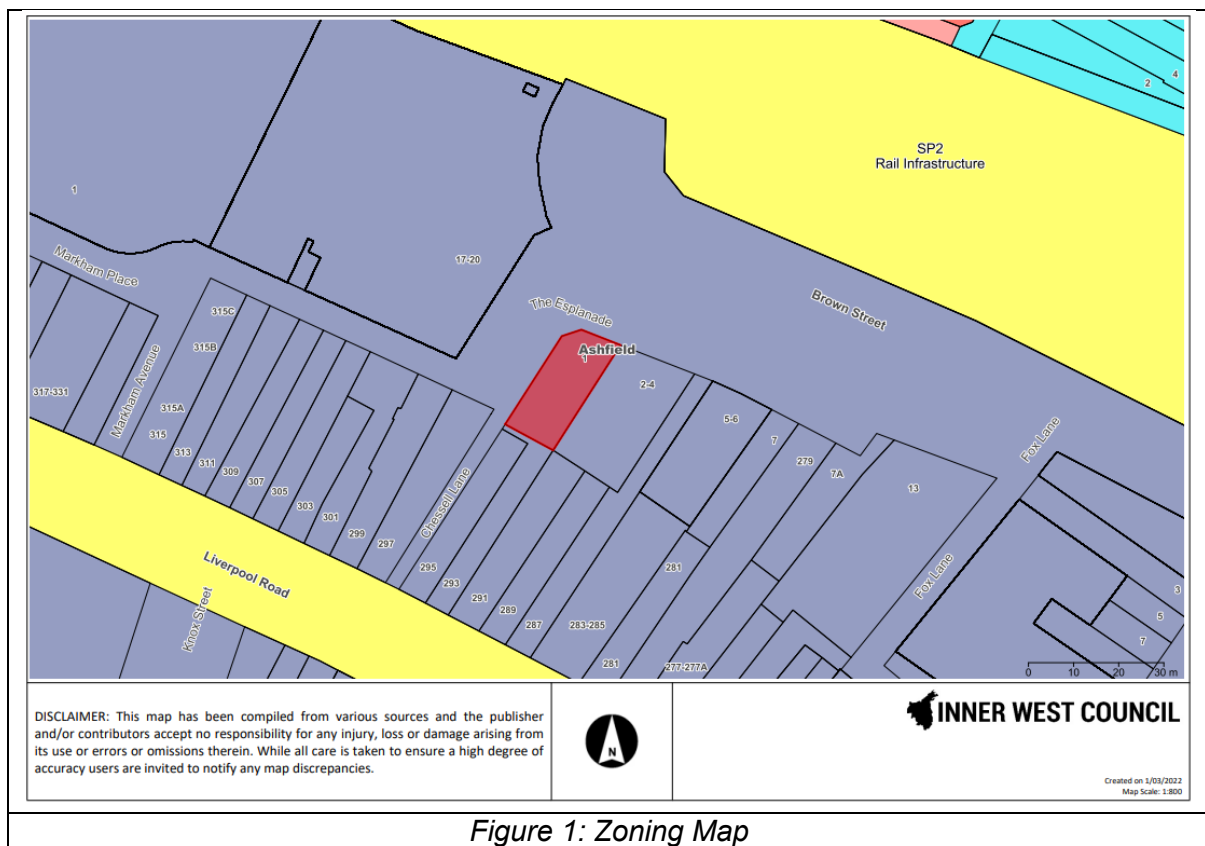


Figure 1: Zoning Map

## 4. Background

### 4(a) Site history

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

#### Subject Site

##### 1 The Esplanade ASHFIELD NSW 2131

Application	Proposal	Decision & Date
016.2018.00000103.001	Place of Public Entertainment	28/11/2018 Approved
011.2018.00000011.001	Change of use to a licensed food & drink premises.	16/07/2018 Approved

##### 2-4 The Esplanade ASHFIELD NSW 2131

Application	Proposal	Decision & Date
010.2011.00000201.002	s.96 modification to DA 10.2011.201.1 - Amend the relevant conditions relating to hours of operation and allow the use of the site 24 hours, 7 days a week	18/07/2013 Approved
012.2011.00000201.001	Fit out & Signage- Internal fit out for a Gymnasium and the installation of a signage	02/02/2012 Approved
010.2011.00000028.001	Change of use to a Nepalese restaurant.	24/03/2011 Approved

##### 287 Liverpool Road ASHFIELD NSW 2131

Application	Proposal	Decision & Date
012.2009.00000004.001	Restaurant- Interior fitout to the existing restaurant and alterations.	09/10/2009 Approved

#### Surrounding properties

Not applicable

### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
28/07/2021	Application lodged.
05/08/2021 – 26/08/2021	Application notified.
09/11/2021	<p>Letter provided to applicant requesting withdrawal of the application due to the following concerns:</p> <ul style="list-style-type: none"> <li>• Non-compliance with ALEP 2013 – Height of Buildings</li> <li>• Non-compliance with ALEP 2013 – FSR</li> <li>• Contamination – No RAP provided as recommended by the Detailed Site Investigation</li> <li>• Non-compliance with IWCDCP 2016 – Ashfield Town Centre Precinct and Public Domain Controls</li> <li>• Waste Management</li> <li>• Non-compliance with Car Parking and Traffic Impacts</li> <li>• Stormwater Management</li> <li>• Non-compliance with the ARHSEPP - boarding house and amenity provisions.</li> </ul>
25/11/2021	Council officers met with the applicant to discuss the concerns raised in the letter dated 09/11/2021.
30/11/2021	In accordance with Council’s Development Advisory and Assessment Policy, 21 days was provided to submit additional information to address the issues raised. No information was submitted.
06/12/2021	Further email correspondence with the applicant regarding potential withdrawal of the application and advising determination of application based on the information available to Council.
22/12/2021	The applicant submitted a Remediation Action Plan (RAP) via the NSW Planning Portal. No further additional information was submitted.

The applicant has not indicated they wish to withdraw the application and no additional information, besides a RAP, has been provided to address the issues raised. As discussed throughout this report, based on the information originally submitted with the application, the proposal is considered unsatisfactory and recommended for refusal.

## 5. Assessment

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

### 5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The following provides further discussion of the relevant issues:

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

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

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

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. To ensure that these works are undertaken, it is recommended that conditions are included in any consent granted in accordance with Clause 7 of *SEPP 55*.

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

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) provides requirements for boarding house development and the relevant provisions are considered below.

It is noted that the subject application was lodged prior to the commencement of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) on 26 November 2021 and due to the savings provisions, the ARHSEPP is the applicable instrument. However, the provisions of the Housing SEPP are considered under Part 5(c) of this report.

**Division 3 – Boarding Houses**

Clause	Standard	Proposed	Compliance
26 - Zone	The site is zoned R1, R2, R3, R4, B1, B2, B4	The site is zoned B4 Mixed Use	Yes
29 (1) - FSR	3.6:1 or 3,556.8sqm	3.72:1 or 3446.243sqm	No – refer to discussion below
29 (2)(a) Height	23m (ALEP 2013)	30.7m	No – refer to discussion below

29 (2)(b) Landscaped Area	Consistent with streetscape	The site has a nil setback to the front boundary, and this does not provide for landscaping. This is consistent with the streetscape.	Yes
29(2)(c) Solar Access	Min 3 hours direct sunlight between 9am-3pm for at least one communal living room	Communal room located on upper level with northern aspect and would receive more than 3 hours of direct sunlight between 9am and 3pm.	Yes
29 (2)(d) Private Open Space	At least one of the following is provided (not in the front setback): <ul style="list-style-type: none"> <li>• 20sqm minimum dimension of 3 metres for use of lodgers</li> <li>• 8sqm minimum dimension of 2.5metres adjacent to mangers room for manager</li> </ul>	<ul style="list-style-type: none"> <li>• 155 sqm of private open space is provided accessible from the common room on the upper level for the use of all lodgers.</li> <li>• 18 sqm of private open space is provided accessible from the caretaker's room on the upper most level</li> </ul>	Yes
29 (2)(e) Parking	<ul style="list-style-type: none"> <li>• 0.5 spaces per boarding room</li> <li>• 1 space for each on site boarding manager</li> </ul>	<ul style="list-style-type: none"> <li>• 77 rooms and 1 boarding manager = 39.5 car parking spaces are required for the boarding house component</li> <li>• 13.1 car parking spaces are required for the commercial component</li> <li>• Total of 41 car parking spaces provide resulting in a shortfall of 10.6 spaces</li> </ul>	No – refer to discussion below
29 (2)(f) Accommodation Size	Excluding private kitchen and bathroom facilities each single lodger room is a minimum of 12sqm and 16sqm in any other case	All boarding rooms are proposed with a minimum area of 16sqm	Yes
30 (1)(a) Communal Room	If more than 5 rooms are proposed there is at least 1 common room	1 common room is provided on the upper most level	Yes
30 (1)(b) Maximum room sizes	No boarding room will have a gross floor area of more than 25sqm excluding private kitchen or bathrooms	No boarding room including the caretaker room exceeds 25sqm	Yes
30 (1)(c) Maximum occupation	No more than 2 adult lodgers with occupy each room	A maximum of 2 adult lodgers is proposed to occupy each room	Yes

30 (1)(d) Adequate facilities	Adequate bathroom and kitchen facilities are available for use of each lodger	Each lodger has been provided with their own private kitchen and bathroom	Yes
30 (1)(e) Manager	If there are more than 20 lodgers an on site dwelling must be provided for a boarding house manager	The proposal provides for a maximum of 154 lodgers and a boarding house managers room is provided on the upper most level	Yes
30 (1)(f) Commercial Land	If the site is zones primarily for commercial purposes the ground floor cannot be used for residential uses	No residential use of the ground floor is proposed	Yes
30 (1)(h) Bicycle and Motorcycle parking	A minimum of 1 bicycle space and 1 motorcycle space is provided per 5 boarding rooms	16 bicycle and 15 motorcycle space are provided for the 77 rooms proposed	Yes

(i) Clause 29(1) – Floor Space Ratio

Clause 29(1) of the ARH SEPP reads as follows:

- (1) *A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than—*
- (a) *the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*
- (b) *if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or*
- (c) *if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—*
- (i) *0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
- (ii) *20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.*

The maximum FSR applicable to the site is 3:1 under ALEP 2013. Residential flat buildings are permissible in the B4 zone and the site does not contain a heritage item. Under the ARHSEPP 2009 the site is permitted to obtain an addition 20% FSR. This brings the sites maximum FSR to 3.6:1 or 3,556.8sqm.



The application proposes a non-compliant FSR of 3.72:1 or 3446.243sqm which represents a variation of 3.1% or 110.6sqm. Clause 29 provides for standards that cannot be used to refuse consent related to density and scale. In this case the development exceeds the maximum FSR for development on the land under ALEP 2013 and Clause 29(1) does not create any impediment to refusing consent on the grounds of density and scale. The variation to the development standard is discussed in further detail under Section 5(b) of this report.

(ii) Clause 29(2)(a) – Height

Clause 29(2)(a) of the ARH SEPP reads as follows:

*A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:*

- (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 for any building on the land*

The maximum building height applicable to the site is 23m under ALEP 2013. While Clause 4.3A of ALEP 2013 enables a height bonus of 7m for developments which contain affordable housing, the application was not supported with documentation demonstrating that any portion of the proposed development constitutes affordable housing as defined by the ARHSEPP or ALEP; and as such no height bonus is afforded under Clause 4.3A of the ALEP 2013.

The application proposes a non-compliant building height of 30.7m which represents a variation of 33.50% or 7.70m. Clause 29 provides for standards that cannot be used to refuse consent related to density and scale. In this case the development exceeds the maximum building height for development on the land under ALEP 2013 and Clause 29(2)(a) does not create any impediment to refusing consent on the grounds of density and scale. The variation to the development standard is discussed in further detail under Section 5(b) of this report.

(iii) Clause 29(2)(e) – Parking

The development requires the provision of 39.5 car parking spaces for the boarding house under Clause 29(2)(e) of ARHSEPP. An additional 13.1 car parking spaces are required for the commercial component of the development under Chapter A, Part 8 of IWCDP 2016; resulting in a total of 52.6 car parking spaces.

The development provides 41 car parking space accessible from The Esplanade which are unallocated to either commercial or residential components. Insufficient information has been provided regarding the proposed parking arrangements, accessibility of the site and separation between uses. The application has also failed to demonstrate compliance with the off-street parking requirements set out by Australian Standard AS 2890.1-2004 having particular regard to vehicle and pedestrian safety, accessibility of service vehicles, waste management, ramp gradients, headroom clearances, manoeuvrability and turning circles and minimum dimensional requirements.

Given the above, the development results in a shortfall of 10.6 parking spaces. While the site is in an accessible area and serviced by public transport, a complete lack of compliant and functional parking on site cannot be supported due to the limited availability of on street parking in the surrounding area. Additionally, the development does not attempt to off-set the shortfall of car parking through the provision of increased motorcycle and bicycle parking for use by the lodgers, noting that the motorcycle and bicycle parking requirements are substantially increased by the recently gazetted Housing SEPP.

Overall, the development does not provide the prescribed car parking required by the ARH SEPP or Chapter A, Part 8 of IWCDP 2016 and the proposed number of car parking space is not functional due to non-compliance with AS 2890.1-2004. The shortfall in car parking is likely to result in adverse traffic, parking and amenity impacts within the locality and the development does not include any other mitigation measures to adequately address the car parking shortfall. Parking non-compliances are discussed in further detail under Section 5(d) of this report.

As such, the application is recommended for refusal.

(iv) Clause 30A – Character of the Local Area

Clause 30A of SEPP ARH states:

*“A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.”*

In considering the compatibility with the character of the area the applicable test is taken from the planning principal in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191, discussed hereunder:

***Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.***

The main impact to surrounding development is considered to be the effect of bulk and dominance of the building upon The Esplanade. The proposed cantilever above the ground floor commercial component of the building and the nil front setback of the upper levels is unacceptable and presents adverse bulk to the public domain and The Esplanade which is further exacerbated by a breach to the FSR development standard.

Additionally, IWCDP 2016 requires that new development provide a development setback from The Esplanade to allow for a pedestrian footpath and other public domain works, and that this area be dedicated to Council. The Esplanade is a major pedestrian throughfare and new development within the Ashfield Town Centre Precinct is required to provide public domain works and suitable building setback. The development fails to provide a setback of 3 metres or greater in order to accommodate a footpath to be dedicated to Council.

***Is the proposal's appearance in harmony with the buildings around it and the character of the street***

The appearance of the building to The Esplanade would not be in harmony with surrounding buildings. The lack of an upper level setback would result in a prominent and highly visual upper level that imposes upon the public domain, pedestrian thoroughfare and the adjoining buildings. The proposed cantilever of the upper levels and lack of an adequate setback to the front boundary results in a visually dominant building to The Esplanade, which is inconsistent with surrounding development and is not in keeping with the desired future character of the Ashfield town centre or The Esplanade. The development's visual bulk as a result of the upper level can be directly linked to the non-compliant gross floor area of the proposal which further adds to the lack of harmony with its surroundings.

An overall assessment finds that the development is not considered to be compatible with desired future the character of the area and as a result the application is not supported.

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

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

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

***Rail Corridors (Clause 85-87)***

*SEPP Infrastructure* provides guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the *SEPP Infrastructure 2007* relates to the impact of rail noise or vibration on non-rail development, and for a development for the purpose of a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

An acoustic report accompanied the application and assessed the potential acoustic impacts of rail noise on the proposed development. The report contains recommendations to be incorporated into the proposed development in order to mitigate acoustic impacts and should be referenced as part of any consent granted.

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

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

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

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

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

*The Landscape Plan prepared by Paul Scrivener dated 16/07/2021, indicate the retention of three (3) street trees located on the western end of The Esplanade street trees, at the rear entrance to Chessell Lane.*

*Consultation with public and private team members finds agreement on the removal and replacement of these trees, which should result in a sustainable, net positive outcome for the community. The existing trees have moderate-low retention value and will be significantly impacted by the development.*

*The landscape plan is to be updated showing removal of the 3 trees and replacement with 2 advanced trees as conditioned. No other trees are impacted by the proposal.*

Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* subject to the imposition of conditions, which have been included in the recommendation of this report.

5(b) *Ashfield Local Environment Plan 2013 (ALEP 2013)*

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

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre
- Clause 4.3B - Ashfield town centre – maximum height for street frontages for certain land
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 6.1 - Earthworks

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

The site is zoned B4 Mixed Use under the *ALEP 2013*. The *ALEP 2013* defines the development as:

***mixed use development*** means a building or place comprising 2 or more different land uses.

and,

***boarding house*** means a building or place—

(a) that provides residents with a principal place of residence for at least 3 months, and

- (b) that contains shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (c) that contains rooms, some or all of which may have private kitchen and bathroom facilities, and
- (d) used to provide affordable housing, and
- (e) if not carried out by or on behalf of the Land and Housing Corporation—managed by a registered community housing provider, but does not include backpackers’ accommodation, co-living housing, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The development is permitted with consent within the land use table. However, the development is not consistent with the objectives of the B4 zone as discussed below.

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

Standard	Proposal	Non compliance	Complies
<p><b>Height of Building</b></p> <p><b>Clause 4.3 - Height of Building</b> Maximum Permissible: 23m</p> <p><b>Clause 4.3(2A)</b> applies to land in B4 and limits areas which may be counted towards FSR at a maximum height of 20m or 3m below the maximum height limit</p> <p><b>Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre</b> Additional bonus: 7m</p>	<p>30.7m</p> <p>Gross floor area proposed above 20m height limit</p> <p>N/A – proposal does not meet requirements of this Clause and therefore, does not benefit from additional height</p>	<p>33.50% or 7.70m</p> <p>53.50% or 10.7m</p> <p>N/A</p>	<p>No – refer to discussion below</p> <p>No – refer to discussion below</p> <p>N/A – refer to discussion below</p>
<p><b>Floor Space Ratio</b></p> <p><b>Clause 4.4 - Floor Space Ratio (ALEP 2013)</b> Maximum permissible under ARHSEPP: 3.6:1</p>	<p>3.72:1 or 3446.243sqm</p>	<p>3.1% or 110.6sqm</p>	<p>No – refer to discussion below</p>

(vii) Clause 4.3 - Height of Building and Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre

Clause 4.3 of the ALEP 2013 prescribes a maximum building height of 23m. As noted in the table above, the application proposes a building height of 30.7m which results in a variation of 33.50% or 7.70m.

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. A written request has not been submitted to Council in accordance with Clause 4.6(4)(a)(i) of *ALEP 2013* to justify the proposed contravention of the development standard. Therefore, the development has failed to adequately demonstrate that the proposed variation to the development standard is acceptable in accordance with Clause 4.6 of *ALEP 2013*.

It is noted that the proposal relies on an additional height bonus of 7 metres provided by Clause 4.3A of ALEP 2013. However, the height bonus is only available if the development contains affordable housing. Council is not satisfied the development constitutes affordable housing, noting that a boarding house development does not automatically constitute affordable housing. Having regard to the definition of affordable housing under Clause 6 of the ARHSEPP, affordable housing must be demonstrated to be rented below the median rental for the area. The application was not supported with documentation demonstrating that any portion of the proposed development constitutes affordable housing as defined by the ARHSEPP; therefore, Clause 4.3A of ALEP 2013 is not applicable to the proposal.

Furthermore, in considering the additional building height under Clause 4.3A of ALEP 2013, Council has resolved that all affordable housing within the Ashfield Town Centre which relies on the height bonus must be managed by a community housing provider and the affordable housing must form part of the development indefinitely (i.e. is not limited to 10 years as is the case under the ARHSEPP in some circumstances). In this regard, the development was not supported with information demonstrating any portion of the site will be managed by a community housing provider nor that any portion of the development will be dedicated to affordable housing indefinitely.

It is also noted that Clause 4.3(2A) of ALEP 2013 applies to the development and requires the topmost 3 metres of any development within Zone B4 must not include areas of gross floor area (GFA). The proposal includes habitable areas which form part of the GFA of the building within 3m of the height limit. Given the maximum building height is 23m and the proposal does not benefit from a height bonus, the development proposes GFA beyond the 20m height limit set out by this Clause.

Overall, the application has failed to demonstrate the proposal constitutes affordable housing and it is considered that the development is eligible for the additional building height afforded by Clause 4.3A of ALEP 2013. The design of the proposal has not provided an adequate response to the requirements of Clause 4.3 of the ALEP 2013 and does not provide a suitable built form in terms of bulk and scale, solar access, streetscape, pattern of development and compatibility with the character of the area.

(ix) Clause 4.4 - Floor Space Ratio

Clause 4.4 of the ALEP 2013 prescribes a maximum Floor Space Ratio (FSR) of 3:1. As noted in the table above, the application proposes a FSR of 3.72:1 which results in a variation of 3.1% or 110.6sqm.

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. A written request has not been submitted to Council in accordance with Clause 4.6(4)(a)(i) of *ALEP 2013* to justify the proposed contravention of the development standard. Therefore, the development has failed to adequately demonstrate that the proposed variation to the development standard is acceptable in accordance with Clause 4.6 of *ALEP 2013*.

Furthermore, existing floorplans of the two-storey building fronting Liverpool Road, which is located on the site and is proposed to be retained, have not been provided and as such, the full extent of the proposed FSR variation could not be calculated.

The design of the proposal has not provided an adequate response to the requirements of Clause 4.4 of the ALEP 2013 and does not provide a suitable built form in terms of bulk and scale, streetscape, pattern of development and compatibility with the character of the area.

(x) Clause 4.6 - Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard/s:

- Clause 4.3 - Height of buildings
- Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre
- Clause 4.4 - Floor space ratio

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. A written request has not been submitted to Council in accordance with Clause 4.6(4)(a)(i) of *ALEP 2013* to justify the proposed contravention of the development standard. Therefore, the development has adequately failed to demonstrate that the proposed variation to the development standards are acceptable in accordance with Clause 4.6 of *ALEP 2013*.

### 5(c) Draft Environmental Planning Instruments

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

- Draft Inner West Local Environmental Plan 2020
- *State Environmental Planning Policy (Housing) 2021* (draft at the time of lodgement of this application)

The following provides further discussion of the relevant issues:

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

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

The Draft IWLEP 2020 contains substantially the same provisions relating to height of buildings and floor space ratio as ALEP 2013 and as such the proposal would remain inconsistent with the objectives of these provisions for the reasons discussed earlier in this report.

However, the Draft IWLEP 2020 also contains provisions for the inclusion of amended/new clauses which are applicable to the proposal as discussed below:

(i) Clause 1.2 – Aims of the Plan

Clause 1.2 prescribes the following aims of Draft IWLEP 2020:

- (a) *to ensure development applies the principles of ecologically sustainable development,*
- (b) *to mitigate the impact of climate change and adapt to its impacts,*
- (c) *to protect, enhance and sustainably manage biodiversity, natural ecosystems, water resources, ecological processes and urban forest,*
- (d) *to ensure that the risk to the community in areas subject to urban and natural hazards is minimised,*
- (e) *to ensure that existing and future residents, visitors and workers have access to sustainable transport including walking and cycling, social and community infrastructure, services and public open space,*
- (f) *to retain, protect and increase industrial and employment land and enhance the function and vitality of centres,*
- (g) *to promote accessible and diverse housing types to support people at all stages of life, including the provision and retention of affordable housing,*
- (h) *to identify, protect and conserve environmental and cultural heritage and significant local character,*
- (i) *to achieve a high-quality urban form and open space in the public and private domain by ensuring new development exhibits architectural and urban design excellence,*
- (j) *to protect and enhance the amenity, vitality and viability of Inner West for existing and future residents, workers and visitors,*
- (k) *to protect and enhance significant views and vistas from the public domain and promote view sharing from and between private dwellings,*
- (l) *to prevent adverse social, economic and environmental impacts including cumulative impacts.*

The proposal is generally considered to be consistent with the above aims of Draft IWLEP 2020 with the exception of aims g), i) and j).



The development is not considered to provide affordable housing, contrary to aim g), for the following reasons:

- The development relies on building height and floor space ratio bonuses which are designed to encourage affordable housing and the development is not proposed to be affordable housing.

The development is not considered to promote a high standard of design, contrary to aim i), for the following reasons:

- The development present adverse bulk and scale to the locality and would be inconsistent with the desired future character of the area being significantly over the allowable building height and FSR controls.
- The development presents adverse bulk and scale to The Esplanade because of the non-compliant setbacks, large cantilever and nil boundary setback of the upper levels to The Esplanade, noting that some portions of the building also encroach over the front property boundary.
- The proposal lacks an urban design strategy, has poor massing, does not provide a suitable active frontage to The Esplanade and presents large and visually uninteresting walls to the public domain as identified by Council's Architectural Excellence and Design Review Panel.

The development is not considered to protect and enhance the amenity for existing and future residents, workers and visitors, contrary to aim i), for the following reasons:

- The proposal lacks sufficient information regarding overshadowing impacts to neighbouring properties.
- The proposal lacks sufficient car parking which has the potential to result in adverse traffic and parking impacts within the locality.
- The proposal does not include any required public domain works or infrastructure to The Esplanade which impacts pedestrian safety and the future amenity of the area.

The development does not demonstrate consistency with the provisions of Clause 1.2 of Draft IWLPP 2020 the provisions of which are considered imminent and certain as the draft instrument is awaiting ministerial consideration and gazettal. As such, the application is recommended for refusal.

(ii) Clause 2.3 – Land Use Table and Zone Objectives

The site is zoned B4 Mixed Use under the *ALEP 2013*. The *ALEP 2013* defines the development as a *boarding house* and *commercial premises*. The development remains permitted with consent within the land use table under the draft IWLEP 2020.

However, the draft B4 zone includes amended objectives which includes the following:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support the renewal of specific areas by providing for a broad range of services and employment uses without adversely impacting on the role or viability of nearby centres*
- *To facilitate a high standard of urban design and pedestrian amenity that creates open and lively facades, contributes to achieving a sense of place for the local community and caters for the needs of all ages and abilities.*

For the reasons discussed throughout this report in relation to consistent with the aims of the plans, building height and floor space ratio, the proposal is not considered to integrate with the desired future character of the area and lacks the required public domain works and active street frontage to The Esplanade which does not facilitate a high standard of design or pedestrian amenity. The development is not consistent with the objectives of the B4 zone within Draft IWLEP 2020, the provisions of which are considered imminent and certain as the draft instrument is awaiting ministerial consideration and gazettal. As such, the application is recommended for refusal.

*5(c)(ii) State Environmental Planning Policy (Housing) 2021*

On 26 November 2021, the Housing SEPP was gazetted and came into force, repealing the ARH SEPP. However, at the time of this development application being lodged, the Housing SEPP was in draft form only and due to the saving provisions within Schedule 7(2), the ARH SEPP remains the applicable instrument.

However, in accordance with *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979* the Housing SEPP is a matter for consideration as it was in a draft form at the time of lodgement of this application. The matters within the Housing SEPP are considered to have significant weight given the imminency and certainty of their ministerial consideration and adoption, having been gazetted during the assessment of this application.

The relevant provisions are considered below.

**Division 2 – Boarding houses**

Clause	Standard	Proposed	Compliance
26 - Zone	May be carried out on land where boarding house permitted	Boarding house permitted with consent in B4 zone.	Yes

24(2)(a) - FSR	3:1 or 2953.2sqm	3.72:1 or 3446.243sqm	No – proposal does not meet the definition of boarding house under the new SEPP
24(2)(e) Solar Access	Min 3 hours direct sunlight between 9am-3pm for at least one communal living room	Communal room located on upper level with northern aspect and would receive more than 3 hours of direct sunlight between 9am and 3pm.	Yes
24(2)(f) Communal living area	For a boarding house containing more than 6 boarding rooms a total of at least 30sqm of communal living area plus 2sqm for each room more than 6. $77 \times 2 = 154\text{sqm} + 30\text{sqm} = 184\text{sqm}$  minimum dimensions of 3m for each communal living area	1 common room of 60sqm is provided on the upper most level with a living area of approximately 45.5sqm	No
24(2)(h) Communal open spaces	a total area of at least 20% of the site area, and each with minimum dimensions of 3m	<ul style="list-style-type: none"> <li>• 20% = 197sqm of private open space required.</li> <li>• 155sqm of private open space is provided accessible from the common room on the upper level for the use of all lodgers.</li> </ul>	No – refer to discussion below
24(2)(i) Parking	0.2 spaces per boarding room in accessible areas	<ul style="list-style-type: none"> <li>• 77 rooms = 15.4 car parking spaces required for boarding house component</li> <li>• 13.1 car parking spaces are required for the commercial component</li> <li>• Total of 28.5 car parking spaces required</li> <li>• Total of 41 car parking spaces provided</li> </ul>	Yes
25(1)(a) Maximum room sizes	No boarding room will have a gross floor area of more than 25sqm excluding private kitchen or bathrooms	No boarding room including the caretaker room exceeds 25sqm	Yes

25(1)(b) Maximum occupation	No more than 2 adult lodgers with occupy each room	A maximum of 2 adult lodgers are proposed to occupy each room	Yes
25(1)(c) Adequate facilities	Adequate bathroom and kitchen facilities are available for use of each lodger	Each lodger has been provided with their own private kitchen and bathroom	Yes
25(1)(e) Business zoned land	If the site is zones primarily for business purposes the ground floor cannot be used for residential uses	No residential use of the ground floor is proposed	Yes
25(1)(f) Communal Room	If at least 6 rooms are proposed there is at least 1 common room	1 common room is provided on the upper most level	Yes
25(1)(h) Accommodation Size	Excluding private kitchen and bathroom facilities each single lodger room is a minimum of 12sqm and 16sqm in any other case	All boarding rooms are proposed with a minimum area of 16sqm	Yes
25(2)(a) Compatibility with local and/or desired future character	The design of the boarding house will be compatible with the desirable elements of the character of the local area, or for precincts undergoing transition, the desired future character of the precinct	Development is inconsistent with existing and desired future character of the Ashfield town centre or The Esplanade	No – refer to Section 5(a)(ii)
25(2)(c) Building separation	If the boarding house has at least 3 storeys the building will comply with the minimum building separation distances specified in the Apartment Design Guide	The proposal would comply with ADG building separation	Yes
25(2)(d) Motorcycle Parking	At least 1 motorcycle parking space will be provided for every 5 boarding room	15 motorcycle parking space are provided for the 77 rooms proposed	Yes
25(2)(e) Bicycle parking	At least 1 bicycle parking space will be provided for each boarding room	16 bicycle parking space are provided for the 77 rooms proposed	No, see discussion below
26(1) Must be used for affordable housing in perpetuity	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, the boarding house will be used for affordable housing, and, the boarding house will be managed by a registered community housing provider.	The development is not proposed to be affordable housing.	No – refer to Section 5(a)(ii) and discussion below

A number of provisions within the ARH SEPP and the Housing SEPP are similar and therefore the development remains non-compliant with a number of provisions including FSR and compatibility with local and/or desired future character. These non-compliances are considered unacceptable for the reasons discussed earlier in this report in consideration of ARH SEPP.

However, the proposal is also inconsistent with additional measures within the Housing SEPP including an undersized communal open space and a shortfall in bicycle parking. In order to provide the amenity and services envisaged by the Housing SEPP the scale and form of the development would need to be substantially altered to achieve the prescribed communal open space and bicycle parking required. In addition, the form of the development would also need to be altered considerably to ensure compatibility with the local and desired future character of the area.

Overall, it is considered that amendments may require repositioning of bulk and scale, changes in building height and amendments to the size and number of rooms. As such, 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 is considered to undermine the intent of the instrument in a substantial way as the form of the development would be fundamentally different to that of the proposed development.

Additionally, boarding houses under the Housing SEPP are required to be held as affordable housing in perpetuity and managed by a registered not for-profit community housing provider. The application is not proposed to be affordable housing as required by Clause 26(1). It is noted that this requirement would not alter the form and scale of the development. However, it would substantially alter the management and operation of the proposal and should the development not be affordable, the proposal would likely be considered a different form of development under the Housing SEPP, such as Co-Living. Notwithstanding this, the proposal would still not conform to the prescribed controls.

Having regard to the above, the proposed development is inconsistent with the provisions of the Housing SEPP and is therefore recommended for refusal.

#### 5(d) Development Control Plans

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

IWCDCP 2016	Compliance
<b>Section 1 – Preliminary</b>	
B – Notification and Advertising	Yes
<b>Section 2 – General Guidelines</b>	
A – Miscellaneous	
1 - Site and Context Analysis	No - refer to discussion below
2 - Good Design	No - refer to discussion below
4 - Solar Access and Overshadowing	No - refer to discussion below

5 - Landscaping	Yes
6 - Safety by Design	Yes
7 - Access and Mobility	Yes
8 - Parking	No - refer to Section 5(a)(ii) and discussion below
10 - Signs and Advertising Structures	Yes
11 - Fencing	Yes
13 - Development Near Rail Corridors	Yes
14 - Contaminated Land	Yes
15 - Stormwater Management	No - refer to discussion below
B – Public Domain	No - refer to discussion below
C – Sustainability	
1 – Building Sustainability	Yes
2 – Water Sensitive Urban Design	No - refer to discussion below
3 – Waste and Recycling Design & Management Standards	No - refer to discussion below
4 – Tree Preservation and Management	Yes - refer to Section 5(a)(i)
5 – GreenWay	N/A
6 – Tree Replacement and New Tree Planting	Yes - refer to Section 5(a)(i)
D – Precinct Guidelines	
1 – Ashfield Town Centre	No - refer to discussion below
F – Development Category Guidelines	
6 – Boarding Houses and Student Accommodation	No - refer to discussion below

The following provides discussion of the relevant issues:

(i) Chapter A, Part 1 – Site and Context Analysis and Chapter A, Part 2 – Good Design

The proposal has been assessed against the performance criteria of Chapter A, Part 1 and Part 2 within the IWCDCP 2016. This section of the DCP outlines that development must:

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

The application was referred to Council's Architectural Excellence and Design Review Panel (AEDRP) who raised significant concerns with the design of the development including the following:

- *The proposal is largely documented and presented in isolation from its context. Limited urban design detail and justification is provided regarding the proposed site planning, massing, setbacks and separation distances.*
- *The proposal does not establish an appropriate built form relationship with the potential future development on the adjoining properties. Given the limited urban design and contextual analysis, it is unclear whether future development will be compromised in terms of solar access, residential amenity, visual impact and privacy.*
- *The proposal does not establish an appropriate built form interface or separation from the southern boundary which raises potential built form amenity impacts and fire separation issues with the adjoining properties.*
- *The proposed building massing as the upper levels cantilever over the 2 storey building base, which is recessed from The Esplanade street alignment. The design approach is not a suitable built form response for the subject site, given the pedestrian-friendly scale and character of The Esplanade, as the projected upper levels will create an overbearing visual impact on The Esplanade.*

Given the above, the development has not adequately responded to the performance criteria of good design and context analysis within the IWCDCP 2016, particularly in terms of context, scale and built form, amenity, safety and aesthetics. As such, it is considered that the proposed design does not contribute to its context or the quality/identify of the area and the current design does not suit the street or surrounding buildings.

As such, the application is recommended for refusal.

(ii) Chapter A, Part 4 – Solar Access and Overshadowing

The proposal does not comply with the requirements of Chapter A, Part 4 of the IWCDCP 2016 as the proposal lacks sufficient information and detail in order for Council to assess the solar access and overshadowing impacts of the proposal. DS1.2 requires the submission of shadow diagrams containing the following detail:

***DS1.2 Applications are to show:***

- *plans of affected buildings and rooms, plans of affected open space, site plan, and the parts of the development causing the shadowing*
- *elevations of affected rooms and degree of shadowing to relevant walls and windows*

The shadow diagrams submitted with the application do not differentiate between existing and proposed shadowing, do not identify the location of windows, do not specify the use of rooms serving impacted windows or identify the location of neighbouring private open space. Furthermore, elevational diagrams have not been provided to illustrate the overshadowing impact to neighbouring glazing.

As a result, Council is unable to undertake a full and proper assessment of overshadowing and solar access and determine compliance with the following relevant controls:

***DS1.1 Whichever is the lesser, development:***

- *maintain existing levels of solar access to adjoining properties Or*
- *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*

Given the above, Council cannot be satisfied that the development will result in adequate amenity surrounding dwellings in relation to solar access or that the development is consistent with the requirements of Chapter A, Part 4 of the IWCDCP 2016.

As such, the application is recommended for refusal.

(iii) Chapter A, Part 8 – Parking

As discussed under Section 5(a)(ii) of this report, the development does not provide the prescribed car parking required by the ARH SEPP or Chapter A, Part 8 of IWCDCP 2016 and the proposed number of car parking space is not functional due to non-compliance with AS 2890.1-2004. The shortfall in car parking is likely to result in adverse traffic, parking and amenity impacts within the locality and the development does not include any other mitigation measures to adequately address the car parking shortfall.

In addition, the proposal has not been appropriately designed with regard to pedestrian safety. The application was not accompanied with detailed information regarding sightlines at the exits of the driveway to Council's footpath demonstrating compliance with AS 2890.1 Section 3.2.4. As such, the proposal has failed to demonstrate that the design of the parking facility and access will provide clear sightlines and ensure the safety of pedestrians. These concerns are exacerbated by the proposal's non-compliance with the public domain requirements discussed previously. The lack of appropriate building setbacks, grass verge and public access footpath result in unacceptable public amenity and pedestrian safety.

As such, the application is recommended for refusal.

(iv) Chapter A, Part 15 - Stormwater Management and Chapter C, Part 2 – Water Sensitive Urban Design

The proposal does not comply with the requirements of Section 2.17 and 2.25 of the Marrickville DCP 2011 (MDCP 2011) of which the IWCDCP 2016 is reliant upon for assessing



stormwater management. The proposal lacks sufficient information and detail in order for Council to assess the stormwater impacts of the proposal.

In particular, the following information was not submitted:

- On site detention calculations to determine storage volume and orifice sizes.
- Details regarding flooding and downstream pipe capacity and site drainage.
- Pumping pit volume calculations based on the geotechnical report findings on soil infiltration and surface flows from the driveway crossing.
- A water sensitive urban design plan and supporting documentation to ensure the treatment measures meet Council's water quality targets.

Given the above, Council cannot be satisfied that the development will result in adequate amenity for future occupants and surrounding dwellings in relation to stormwater management. The application has failed to demonstrate that the development would be consistent with the objectives and controls prescribed under these sections of the IWDCP 2016.

Subsequently, the application is recommended for refusal.

(v) Chapter C, Part 3 - Waste and Recycling Design & Management Standards

The proposal does not comply with the requirements of Chapter C, Part 3 of the IWDCP 2016 which prescribes requirements for waste management for new developments.

Insufficient information has been provided with the application to demonstrate that the size of bins, storage areas and waste collection points have been designed in accordance with Council's requirements. The Waste Management Plan states that 1100L bins to be used and emptied on site with front loading vehicles from Chessel Lane. However, given that there is no vehicular access provided via Chessel Lane, it is likely that the waste collection point will be The Esplanade adjacent to residential waste storage room. It is also unclear how waste will be transported from the commercial waste storage room or where the collection point will be for commercial or residential components.

Furthermore, insufficient information has been provided to demonstrate that an independently contracted waste collection or Council waste collection vehicles will be able to access and pick up waste without adversely affecting pedestrian or vehicle use of The Esplanade.

Insufficient information has been provided regarding the following aspects of the proposed:

- Collection points for residential and commercial waste.
- Confirmation that the subject site(s) have legal right to use the existing right of way to transport commercial waste bins to the collection point.

- Calculations regarding the number of bins and frequency of collections to be undertaken which meets waste generation requirements for the proposed commercial area.
- Dimensions of the proposed residential and commercial bin storage rooms, demonstrating that the waste storage rooms are able to store the proposed number of bins and have sufficient area so bins can be manoeuvred.
- Location of an additional area on site for the temporary storage of re-usable items such as pallets, milk crates.
- Locations of waste holding rooms which are to be provided on each level.
- Details demonstrating that the development is capable of accommodating Council waste collection.

As such, the proposal is considered inconsistent with the relevant provisions of this Part of the IWCDCP 2016 and the application is recommended for refusal.

(i) Chapter B – Public Domain and Chapter D, Part 1 - Ashfield Town Centre

Design Solution DS3.1 within the DCP requires that the development provide a development setback from The Esplanade to allow for a pedestrian footpath and other public domain works, and that this area be dedicated to Council. The DCP envisages The Esplanade as a major pedestrian thoroughfare and new development within the Precinct must respond to this.

Currently, the development provides no public domain works to The Esplanade and does not provide a suitable building setback. The development would need to provide a setback of 3 metres or greater in order to accommodate a footpath and verge in accordance with Australian Standards and dedicate this portion of land to Council. The development setback is required for the full height of the building, and the currently proposed cantilever of the upper level over the ground floor at The Esplanade is not in keeping with the desired future character of the town centre or The Esplanade.

The development does not provide any public domain works to The Esplanade or a suitable setback as required by the IWCDCP 2016 and results in poor integration and public amenity.

As such, the application is recommended for refusal.

(vi) Chapter F, Part 6 – Boarding Houses and Student Accommodation

The requirements within Chapter F, Part 6 of the IWCDCP 2016 are reflected in the provisions of the ARHSEPP and as such any non-compliances discussed within Section 5(a)(ii) of this report are also non-compliances with Part 6, for example room sizes, compatibility with local character and parking. As discussed in previous sections, insufficient information has been

provided with the application regarding contextual analysis, urban design and waste management which represent further non-compliances under this part of the IWCDCP 2016.

Overall, the proposal is considered inconsistent with the relevant provisions of this Part of the IWCDCP 2016 and the application is recommended for refusal.

#### 5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality and is not within the public interest. The application is therefore recommended for refusal.

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

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

- The development would result in a building that is significantly over the allowable height of buildings and floor space ratio development standards which results in a building scale that is inconsistent with the character of the area and would result in adverse impact on the public domain, particularly to The Esplanade.
- The lack of a suitable setback to The Esplanade, lack of public domain works will result in adverse amenity impacts to The Esplanade and does not contribute to the improvement of the Ashfield Town Centre.
- The shortfall of car parking and lack of waste management procedures will result in adverse amenity impacts to the locality as a result of traffic, parking and access impacts.
- The lack of information surrounding overshadowing would result in adverse amenity impacts on adjoining properties.
- The lack of suitable urban design considerations and contextual information, along with the concerns raised by Council's AEDRP indicates the development would adversely impact the public domain and is not of a high quality design.

#### 5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 21 days to surrounding properties. A total of 17 submissions were received in response to the notification.

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

- Contamination / Hazardous Materials – refer to Section 5(a)(i)
- Compliance with ARHSEPP – refer to Section 5(a)(ii)
- Solar Access and Overshadowing – refer to Section 5(a)(ii) and Section 5(d)

- Overdevelopment (FSR) – refer to Section 5(a)(vii)
- Height, Bulk and Scale – refer to Section 5(a)(ii) and Section 5(b)
- Traffic and Parking – refer to Section 5(a)(ii) and Section 5(d)
- Inconsistent with the desired future character – refer to Section 5(a)(ii)
- Development is not affordable housing – refer to Section 5(a)(ii) and 5(c)(ii)
- Waste Management – refer to Section 5(d)

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Depreciation of Property Values

Comment: This is not a matter for consideration under Section 4.15 of EP&A Act 1979, nor is there any evidence to suggest that the proposal would reduce property values of neighbouring development.

Issue: Loss of heritage significance / impact on heritage conservation

Comment: The subject site is not located within a Heritage Conservation Area, nor is the existing building identified as a Heritage Item.

Issue: Disturbance/traffic/noise impacts to surrounding properties and The Esplanade during demolition and construction.

Comment: Suitable standard conditions are imposed on development consents to ensure a construction traffic management plan is adhered to and any potential construction impacts are appropriately managed. However, the application is not supported for other reasons outlined in this report.

Issue: Noise pollution due to number of residents and roof top facilities

Comment: The application was supported by an acoustic report which was reviewed by Council's Health Officer who raised no concern regarding noise impacts associated with the proposed development. However, the application is not supported for other reasons outlined in this report.

Issue: Development not appropriately notified (notification letter did not provide a detailed schedule of proposed works and was only notified in English)

Comment: All development applications are notified with the description of the development provided by the applicant at the time of lodgement. Details of all proposed works are publicly available on Council's website. The submission has been forwarded to Council's Admin Team to investigate opportunities to notify development application in other languages.

Issue: Boarding house developments encourage dangerous people and the types of residents who are prone to crime, violence, drug use and noise. The development will encourage increased gathering in the public domain, and parties, noise, music and drug use in the park opposite the site.

Comment: The proposed development was supported by a plan of management and a social impact assessment. These documents were reviewed and considered to be well founded. The proposed development seeks consent for a 'new age' boarding house - to be self-managed and operated within the private rental market, not operated by a social housing provider. Furthermore, the proposal provides opportunities for increased casual surveillance of The Esplanade and sufficient security measures for the safety of boarders onsite. Overall, while the application is not supported for other reasons outlined in this report, it is considered that the type of development would not encourage dangerous people or unlawful behaviour and it is unreasonable for this to be considered a reason for refusal.

Issue: Loss of district and outlook views from No. 17-20 The Esplanade

Comment: The view loss provisions of the ALEP2013 rely on the planning principle *Tenacity Consulting v Warringah Council* and protect significant and/or landmark views rather than outlook or district views. While the proposal may result in some loss of outlook or district views, the application is not supported for other reasons outlined in this report which include height, bulk and scale.

Issue: Population density, oversupply of accommodation and number of boarding houses in area

Comment: Concern is raised that a number of other boarding house have been approved within the vicinity of the site and that the proposal would contribute to increased population density and an oversupply of accommodation. Boarding houses are a permissible use in the B4 Mixed Use zone which encourages higher density land uses and as such must be considered on the merits of each application. However, the application is not supported for other reasons outlined in this report.

Issue: Size of accessible rooms is insufficient

Comment: The size of the proposed accessible rooms appears compliant and would be subject to conditions of consent requiring compliance with the Building Code of Australia and Disability (Access to Premises — Buildings) Standards 2010 as part of any future consent granted. However, the application is not supported for other reasons outlined in this report.

Issue: Acoustic privacy

Comment: The application was accompanied by an acoustic report and a plan of management both of which have adequately demonstrated that noise impacts between uses within the development will be appropriately mitigated and, that any noise impacts caused by the development will be appropriately managed.

Issue: Visual privacy

Comment: As discussed in Section 5(d) of this report, insufficient information has been provided with the application regarding contextual analysis and urban design and as such, Council cannot be satisfied that the development will result in adequate visual privacy for

between the subject site and surrounding properties. As such, the application is recommended for refusal.

#### 5(h) The Public Interest

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

The proposal is contrary to the public interest.

## 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
- Urban Forest
- Environmental Health
- Urban Design
- Building Certification
- Architectural Excellence Panel
- Community Services / Social Planning
- Traffic Committee
- Waste Management

### 6(b) External

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

- NSW Police – Crime Prevention (comments not received)

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

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

## 8. Conclusion

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

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

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

## 9. Recommendation

- A. The applicant has not made a written request pursuant to Clause 4.6 of the *Ashfield Local Environmental Plan 2013*. Therefore, the Panel is not satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will not be in the public interest because the exceedance is inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2021/0651 for Construction of a mixed use development comprising of ground level commercial premises with a 77 room boarding rooms with managers residence over basement parking at 1 The Esplanade, Ashfield subject to the reasons for refusal listed in Attachment A.

## Attachment A – Reasons for Refusal

1. The application has not provided a written justification under Clause 4.6 of the *Ashfield Local Environmental Plan 2013* in order for Council to consider the proposed breach to the Floor Space Ratio development standard under Clauses 4.4 of the *Ashfield Local Environmental Plan 2013*.
2. The application has not provided a written justification under Clause 4.6 of the *Ashfield Local Environmental Plan 2013* in order for Council to consider the proposed breach to the Height of Buildings development standard under Clauses 4.3 or 4.3A of the *Ashfield Local Environmental Plan 2013*.
3. The proposed development is inconsistent with the following Clauses of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 29(1) - Floor Space Ratio, in that the proposal exceeds the maximum floor space ratio specified by the applicable environmental planning instrument (*Ashfield Local Environmental Plan 2013*)
  - b. Clause 29(2)(a) - Height, in that the proposal exceeds the maximum building height specified by the applicable environmental planning instrument (*Ashfield Local Environmental Plan 2013*)
  - c. 29 (2)(e) Parking – in that the proposal does not provide the requisite number of car parking spaces
  - d. Clause 30A - Character of local area, in that the design of the boarding house is not compatible with the character of the local area.
4. The proposed development is inconsistent with the following Clauses of *Ashfield Local Environmental Plan 2013*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 4.3 - Height of Buildings, in that the development exceeds the maximum building height applicable to the site.
  - b. Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre, in that the development does not constitute affordable housing as defined by Clause 6 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* and therefore is not eligible for additional height afforded under the Clause and the development includes habitable floor area within the top-most 3 metres of the building.
  - c. Clause 4.4 - Floor Space Ratio, in that the development exceeds that maximum floor space ratio applicable to the site.



- d. Clause 4.6 - Exceptions to Development Standards, in that the written justification has not been provided to consider breaches to the Height of Building and Floor Space Ratio development standards.
5. The proposed development is inconsistent with the following Clauses of draft *Inner West Local Environmental Plan 2020*, pursuant to Section 4.15 (1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 1.2 - Aims of the Plan, in that the proposal does not provide affordable housing, does not protect residential amenity or promote a high standard of design
  - b. Clause 2.3 - Land Use Table and Zone Objectives, in that the development does not display a design quality that integrates with the desired future character and is inconsistent with the objectives of the B4 Mixed Use zone.
  - c. Clause 4.3 - Height of Buildings, in that the development exceeds the maximum building height applicable to the site.
  - d. Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre, in that the development does not constitute affordable housing as defined by Clause 6 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* and therefore is not eligible for additional height afforded under the Clause and the development includes habitable floor area within the top-most 3 metres of the building.
  - e. Clause 4.4 - Floor Space Ratio, in that the development exceeds that maximum floor space ratio applicable to the site.
  - e. Clause 4.6 - Exceptions to Development Standards, in that the written justification has not been provided to consider breaches to the Height of Building and Floor Space Ratio development standards.
6. The proposed development is inconsistent with the following Clauses of *State Environmental Planning Policy (Housing) 2021*, pursuant to Section 4.15 (1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 24 - Non-discretionary development standards, in that the development exceeds the allowable floor space ratio, does not provide the requisite communal open space and there is a shortfall of car parking.
  - b. Clause 25 - Standards for boarding houses, in that the development is not compatible with the local and desired future character and there is a shortfall of bicycle parking.
  - c. Clause 26 - Must be used for affordable housing in perpetuity, in that the boarding house is not proposed to be affordable housing.


7. The proposed development does not comply with the following Parts of the Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
  - a. Chapter A, Part 1 – Site and Context Analysis, in that the development overall is presented in isolation from its context.
  - b. Chapter A, Part 2 - Good Design, in that the development overall is inconsistent with the performance criteria for good design.
  - c. Chapter A, Part 4 – Solar Access and Overshadowing, in that insufficient information has been provided demonstrating compliance with performance criteria for protecting neighbouring solar access.
  - d. Chapter A, Part 8 - Parking, in that the development has a shortfall of carparking which would result in adverse traffic, parking and amenity impacts.
  - e. Chapter A, Part 15 - Stormwater Management and Chapter C, Part 2 – Water Sensitive Urban Design in that, proposal lacks sufficient information and detail in order for Council to assess the stormwater impacts of the proposal.
  - f. Chapter C, Part 3 - Waste Design and Management, in that the application lacks information surrounding waste management and would result in access and amenity impacts to the public domain.
  - g. Chapter D, Part 1 - Ashfield Town Centre, in that the development does not provide any public domain works to The Esplanade or a suitable setback and results in poor integration and public amenity.
8. The application as submitted has not provided adequate information in order to undertake a full and proper assessment of the application in accordance with the *Environmental Planning & Assessment Act 1979* in that the following has not been provided with the application:
  - a. Diagrams demonstrating the level of overshadowing to neighbouring private open space and glazing.
  - b. An urban design analysis, concept massing of adjoining properties and generally contextual information to enable as assessment of the overall design and consistency with the Good Design Performance Criteria of the DCP.

9. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
10. Having regard to submissions received and the adverse environmental impacts of the proposal, the application as proposed is not in the public interest, pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*.





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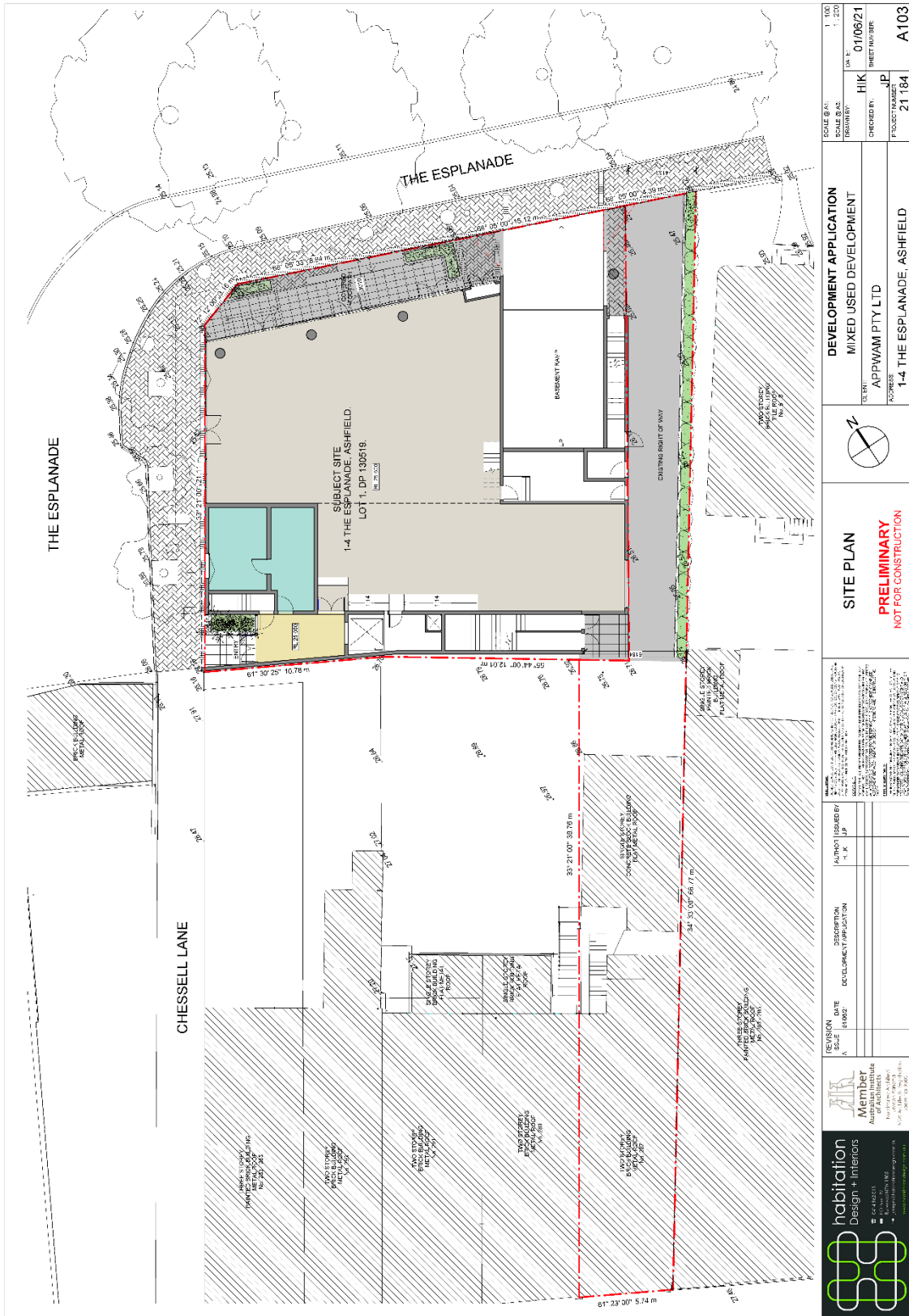
G. GARDIN  
Principal Architect  
1/270 GARDIN STREET  
SYDNEY NSW 2000

**MEMBER**  
Member  
of the  
Architects  
of New South Wales  
No. 123456789

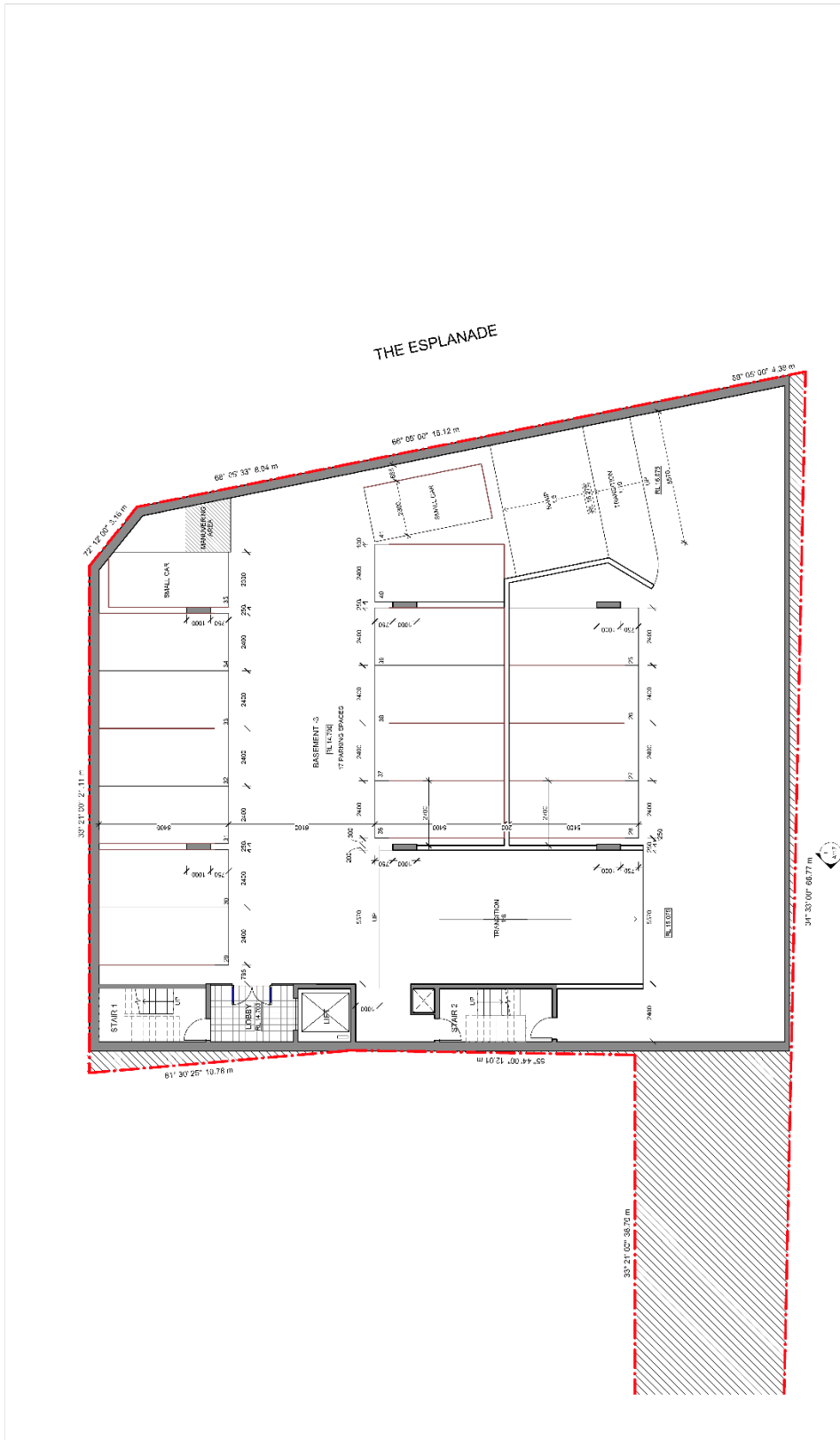
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**COVER PAGE**  
**PRELIMINARY**  
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<p><b>DEVELOPMENT APPLICATION</b> MIXED USED DEVELOPMENT</p>	<p>SCALE @ A1: SCALE @ A2: DRAWN BY: DATE: 01/06/21</p>
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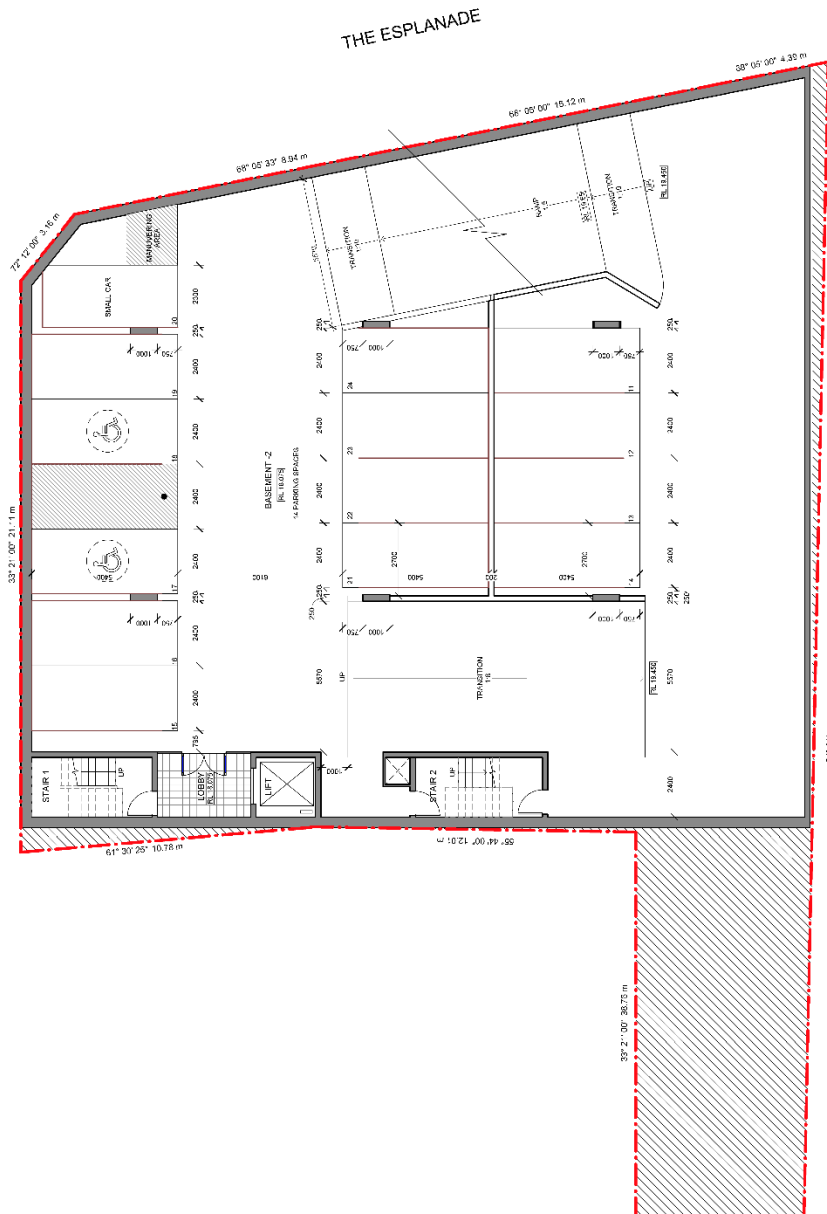


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<p><b>DEVELOPMENT APPLICATION</b>                  MIXED USED DEVELOPMENT  <b>CLIENT</b> APPWAM PTY LTD  <b>ADDRESS</b> 1-4 THE ESPLANADE, ASHFIELD</p>													
<p><b>SITE PLAN</b>  <b>PRELIMINARY</b>                  NOT FOR CONSTRUCTION</p>													
<p><b>REVISION</b></p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/06/21</td> <td>ISSUED FOR PERMIT</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	10/06/21	ISSUED FOR PERMIT	<p><b>APPROVAL</b></p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/06/21</td> <td>ISSUED FOR PERMIT</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	10/06/21	ISSUED FOR PERMIT
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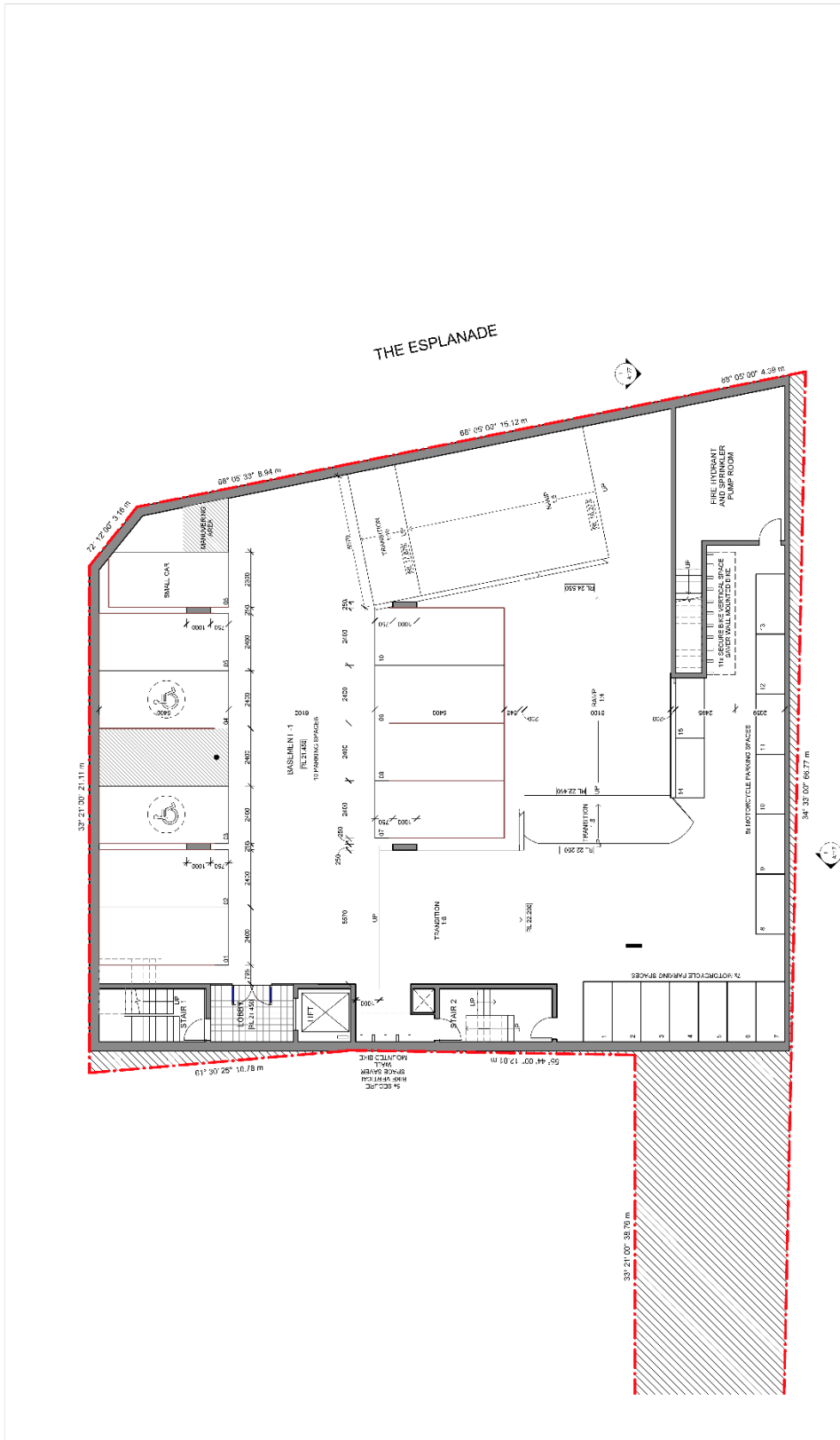


 <p>habitation Design + Interiors</p> <p>G. GARDH Principal Architect M. MURPHY Principal Architect</p>		<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/06/21</td> <td>ISSUED FOR PERMIT</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	10/06/21	ISSUED FOR PERMIT	<p>APPROVED BY</p> <p>G. GARDH</p>	<p>SCALE: 1:100</p> <p>DATE: 10/06/21</p> <p>PROJECT NAME: 21/184</p>
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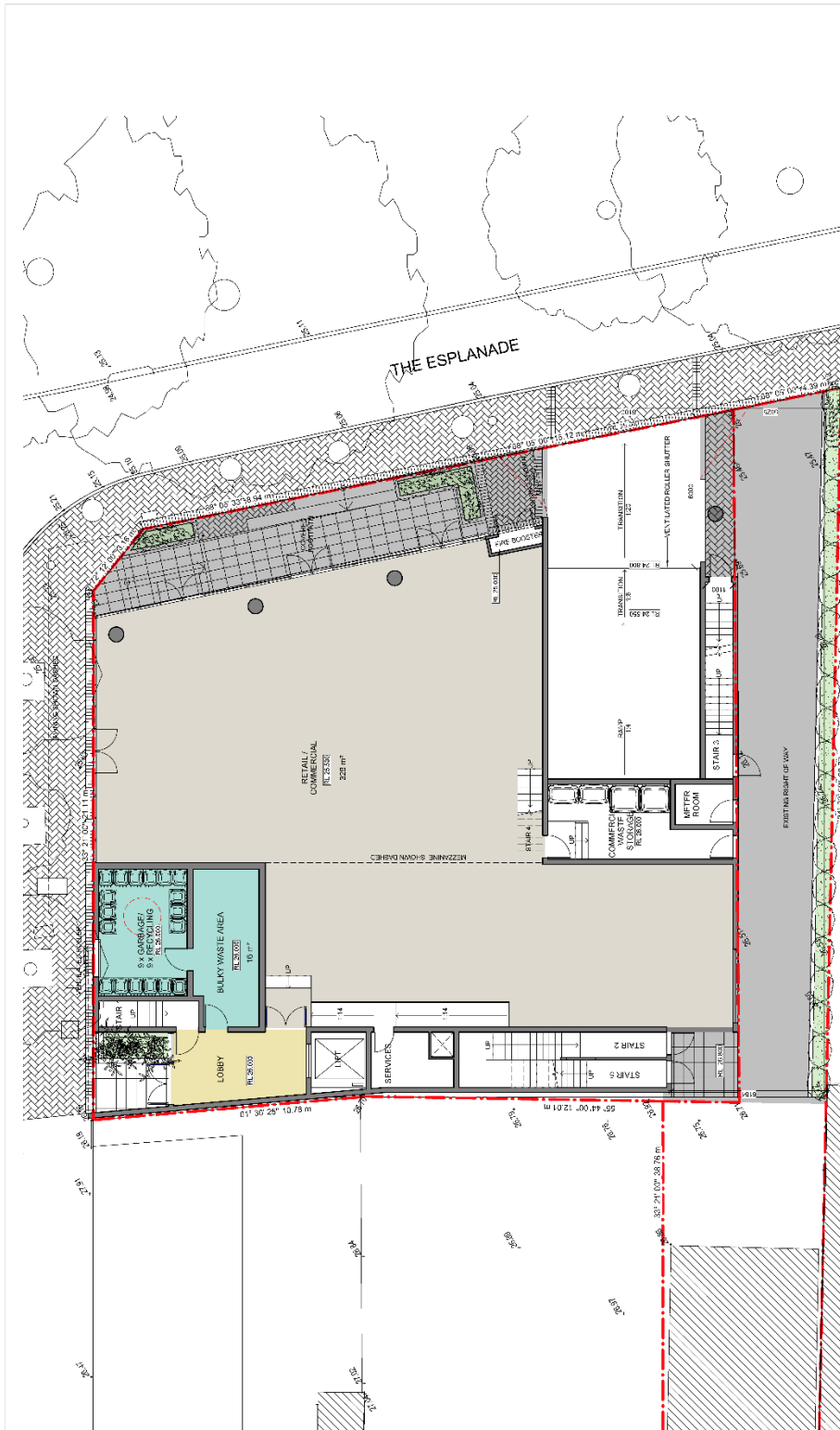




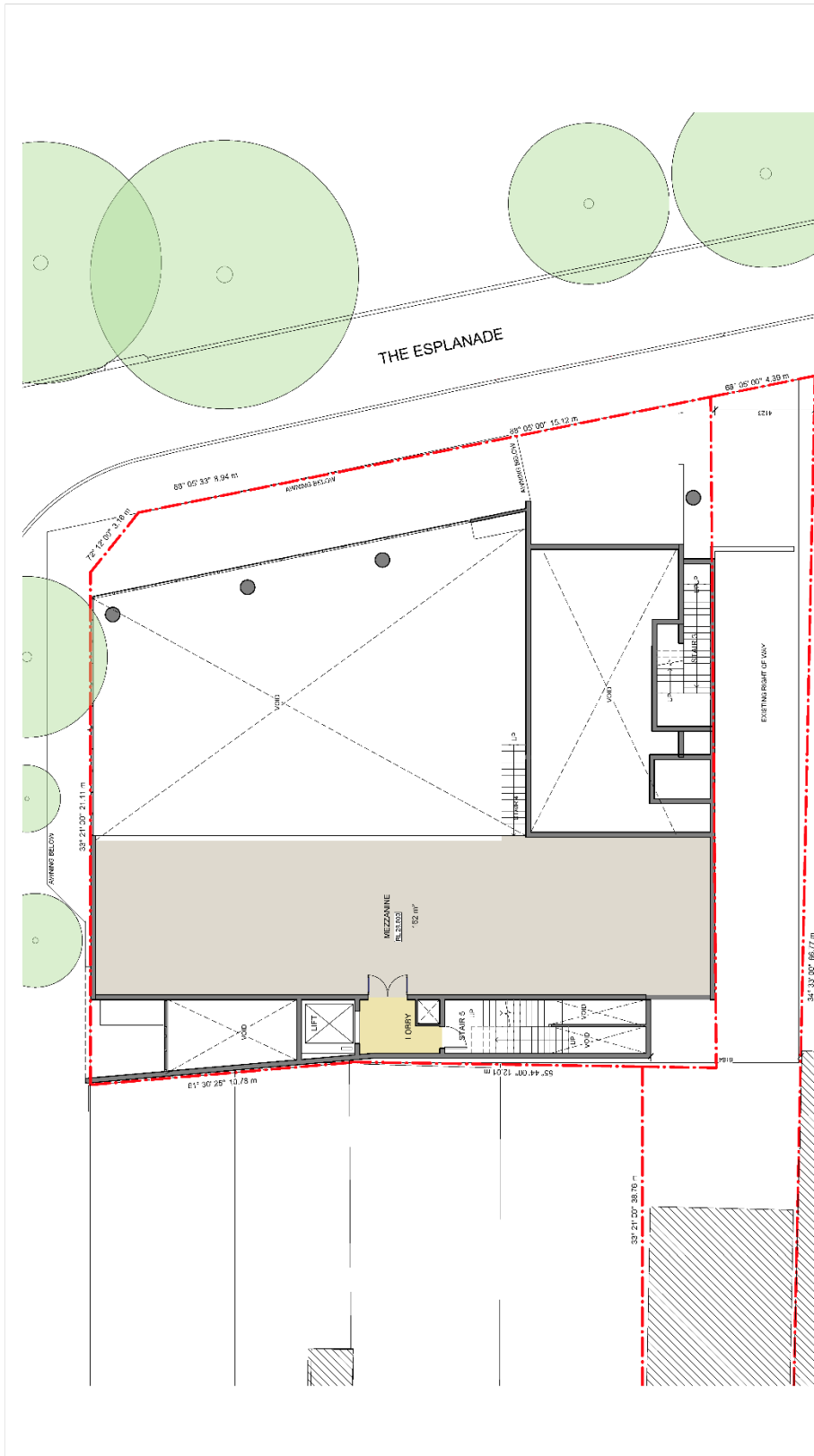
<p>habitation Design + Interiors</p> <p>G. GARDH REGISTERED ARCHITECT MEMBER OF THE ARCHITECTS ACT 1993</p>	<p><b>REVISION</b></p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>14/06/21</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	14/06/21	ISSUED FOR CONSTRUCTION	<p><b>PROJECT INFORMATION</b></p> <p>PROJECT NAME: 1-4 THE ESPLANADE, ASHFIELD</p> <p>CLIENT: APPWAM PTY LTD</p> <p>ADDRESS: 1-4 THE ESPLANADE, ASHFIELD</p>	<p><b>SCALE &amp; DATE</b></p> <p>SCALE: 1:150</p> <p>DATE: 01/06/21</p>
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<p><b>MEMORANDUM</b></p> <p>This document is the property of the Architect. It is to be used only for the project and site specified. It is not to be reproduced, copied, or distributed without the written consent of the Architect. The Architect does not accept any liability for the use of this document for any purpose other than that for which it was prepared.</p>	<p><b>DEVELOPMENT APPLICATION</b></p> <p>MIXED USED DEVELOPMENT</p>	<p><b>DESIGNED BY</b></p> <p>HIK</p>	<p><b>PROJECT NUMBER</b></p> <p>21184</p>						



<b>REVISION</b> NO. DATE / ISSUE 1 01/06/21	<b>DESCRIPTION</b> DEVELOPMENT APPLICATION	<b>APPROVED / DRAWN BY</b> T.K. / J.P.	<b>SCALE</b> 1:75 1:150
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<b>PROJECT NAME</b> 1-4 THE ESPLANADE, ASHFIELD		<b>CLIENT</b> APPWAM PTY LTD	<b>CHECKED BY</b> J.P.
<b>DATE</b> 01/06/21		<b>ADDRESS</b> 1-4 THE ESPLANADE, ASHFIELD	<b>PROJECT NUMBER</b> 21 154
<b>PROJECT NUMBER</b> 21 154		<b>SHEET NUMBER</b> A106	



<p>habitation Design + Interiors</p> <p>11 GARDEN ROAD, NEWSPRINGS NSW 1585 TEL: 02 9339 0999 WWW.HABITATIONDESIGN.COM.AU</p>		<p>REVISION NO. DATE PROJECT</p>	<p>DESCRIPTION DEVELOPMENT APPLICATION</p>	<p>APPROVED / DRAFTER BY T.K. / J.P.</p>	<p>DATE 11/06/21</p>	<p>SCALE @ A1 1:75 SCALE @ A2 1:150</p>
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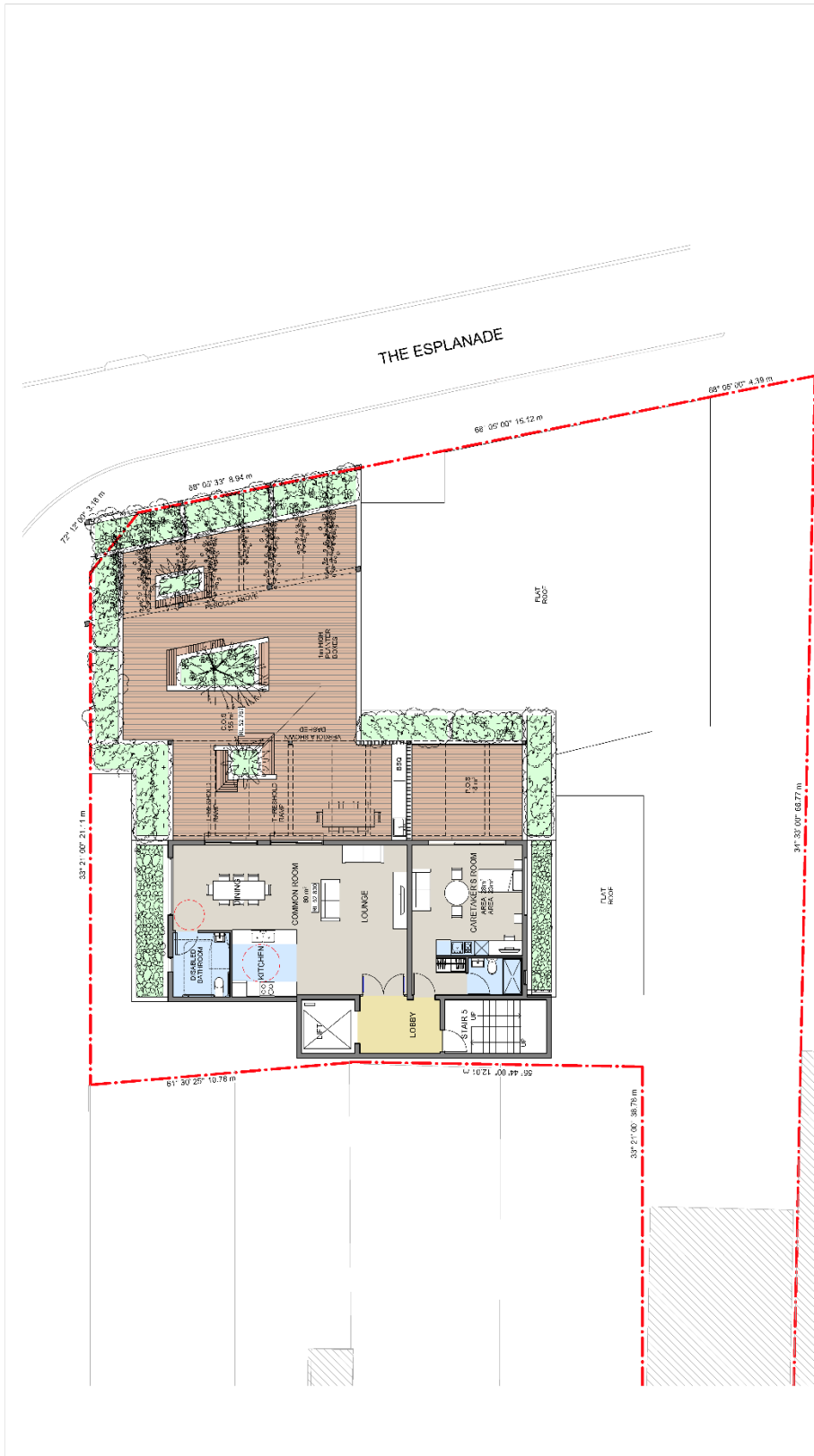
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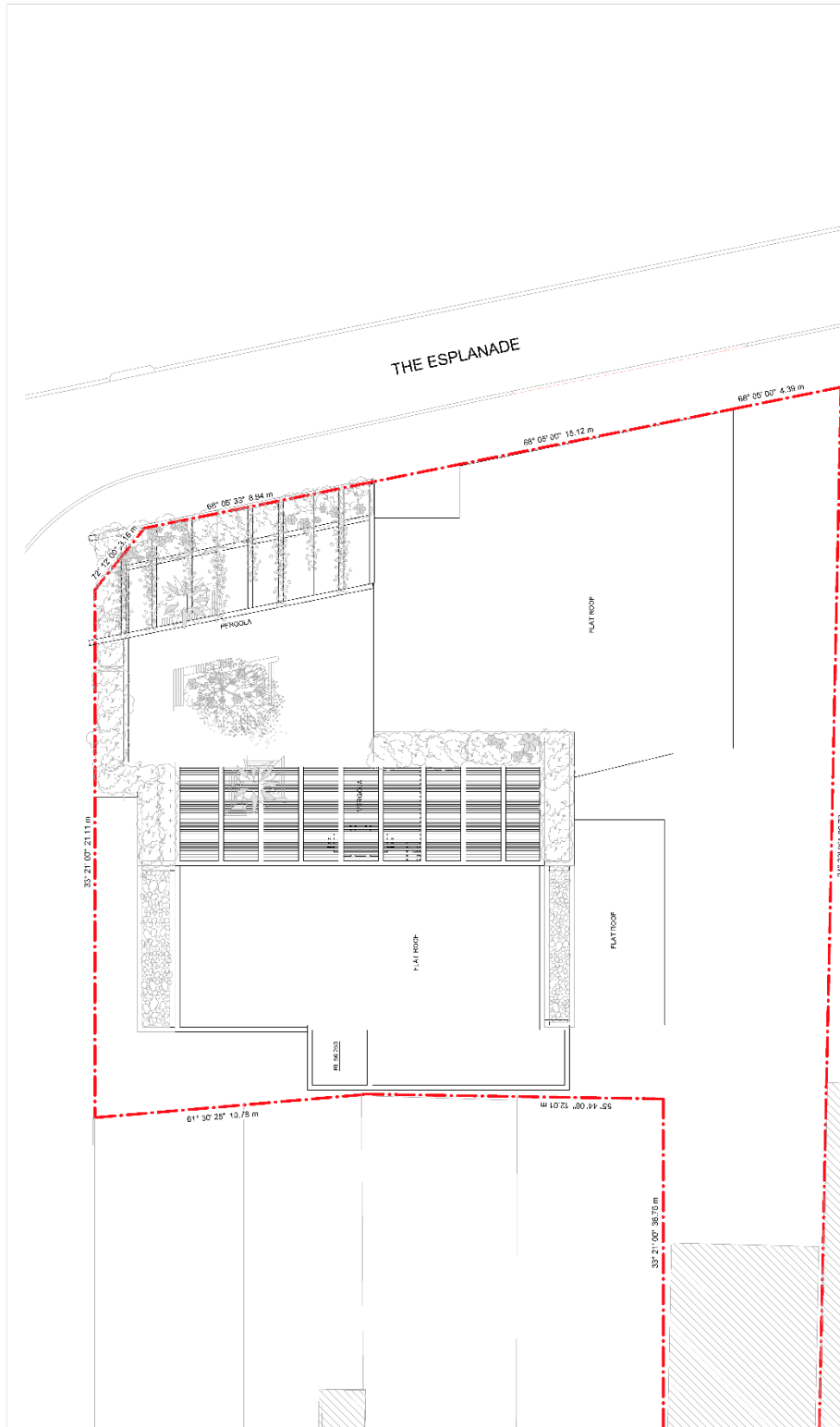
 <p>habitation Design + Interiors</p> <p>G. GARDIN Principal Architect B. BARNETT Architect www.habitation.com.au</p>	 <p>Member Architect No. 14078 No. 14079</p>	REVISION	DATE	DESCRIPTION	APPROVED (NAME BY)	SCALE (B.A.T)	
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LEVEL 1 PRELIMINARY NOT FOR CONSTRUCTION				DRAWN BY HIK 01/06/21 SHEET NUMBER			
APPWAM PTY LTD 1-4 THE ESPLANADE, ASHFIELD				CHECKED BY JP PROJECT NUMBER 21154			



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<p>LEVEL 8</p> <p><b>PRELIMINARY</b></p> <p>NOT FOR CONSTRUCTION</p>										



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Principal Architect  
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**Member**  
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/ /

DESCRIPTION: DEVELOPMENT APPLICATION  
GENERAL: 1:150

DATE: 01/06/21

PROJECT NAME: 21/184

CLIENT: APPWAM PTY LTD

ADDRESS: 1-4 THE ESPLANADE, ASHFIELD

SCALE: 1:150

DESIGNER: HIK

DRAWN BY: HIK

CHECKED BY: JP

PROJECT NUMBER: A112

**ROOF PLAN**

**PRELIMINARY**

**NOT FOR CONSTRUCTION**

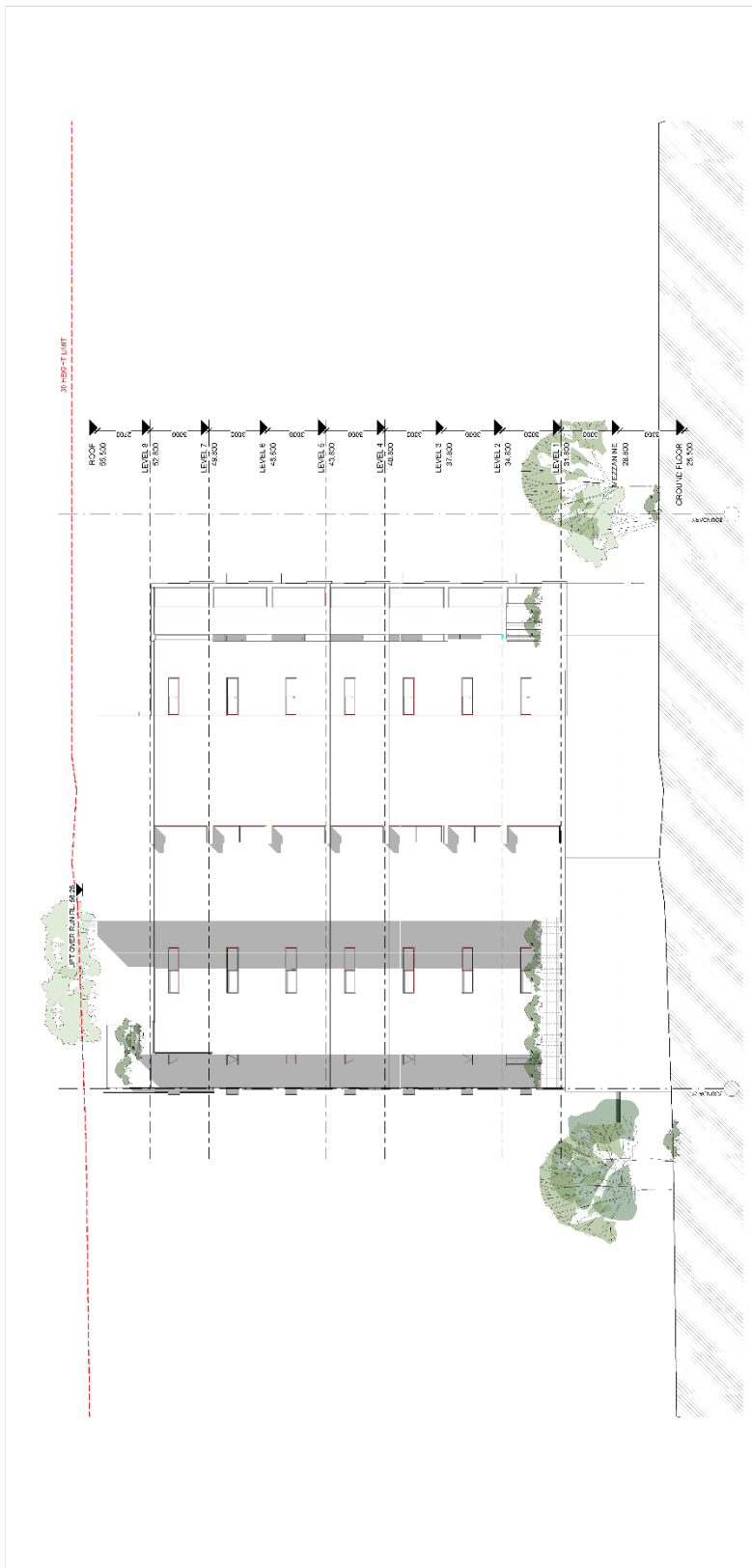




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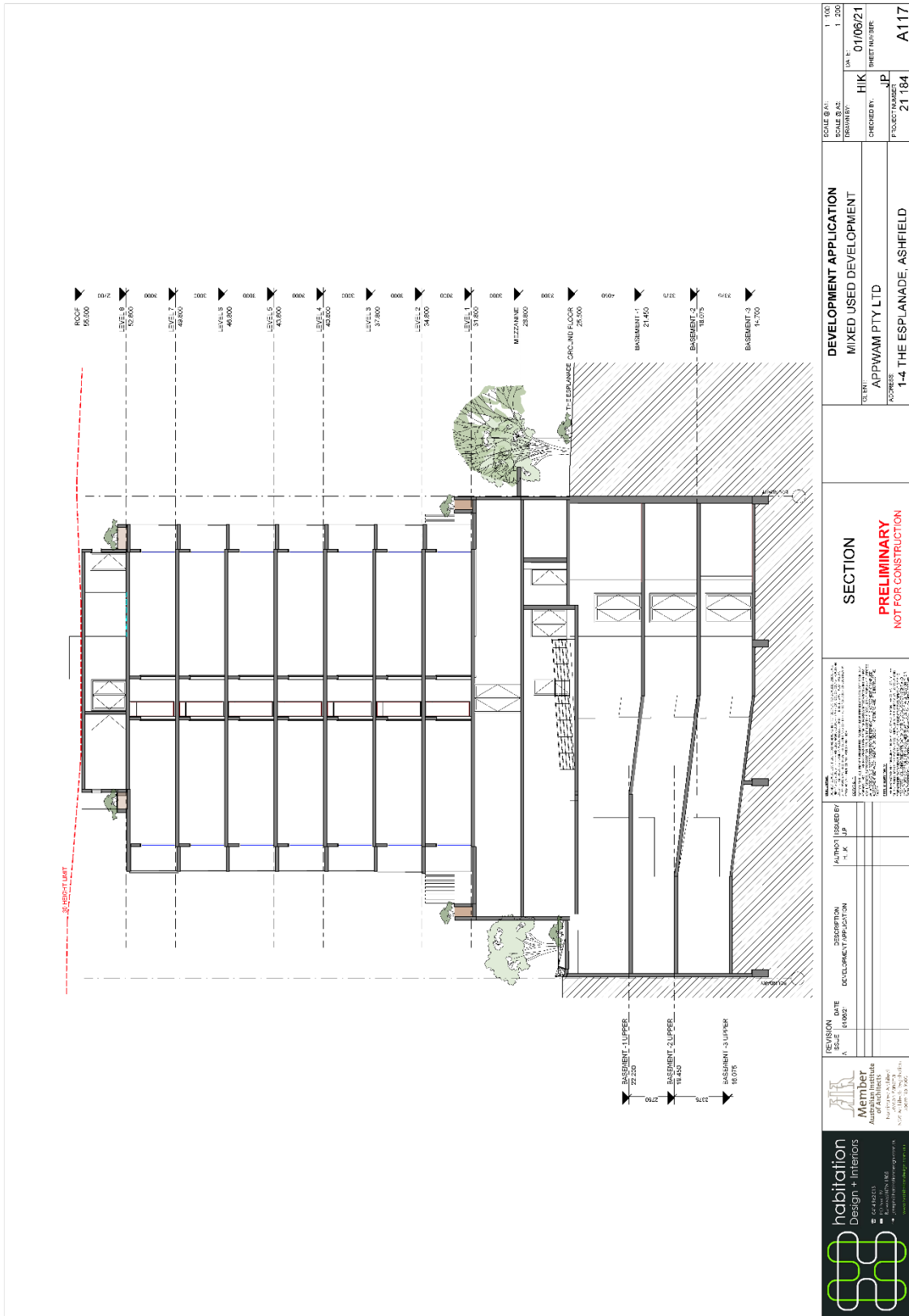
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G. GARDH PROJECT MANAGER 02 9550 2200 www.habitation.com.au		Member Australian Institute of Architects No. 123456789 1/1/2018 to 31/12/2020		PROJECT NUMBER 21154		SHEET NUMBER 01/06/21		CHECKED BY JP		SCALE (B.A.2) 1:200	
APPWAM PTY LTD ADDRESS 1-4 THE ESPLANADE, ASHFIELD		DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT		CLIENT APPWAM PTY LTD ADDRESS 1-4 THE ESPLANADE, ASHFIELD		DRAWN BY HIK		SCALE (B.A.1) 1:100		SCALE (B.A.2) 1:200	



 <p>habitation Design + Interiors</p> <p>G. GARDH Architectural &amp; Interior Design 1/51, FORTNEY STREET, SYDNEY NSW 2000 www.habitationdesign.com.au</p>		 <p>RIBA Member Architect No. 42568-UK No. 1587-NSW</p>		<table border="1"> <thead> <tr> <th>REVISION</th> <th>DATE</th> <th>DESCRIPTION</th> <th>DRAWN BY</th> <th>CHECKED BY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/06/21</td> <td>CONSTRUCTION</td> <td>JK</td> <td>JP</td> </tr> </tbody> </table>		REVISION	DATE	DESCRIPTION	DRAWN BY	CHECKED BY	1	10/06/21	CONSTRUCTION	JK	JP	<p><b>South Elevation</b> PRELIMINARY NOT FOR CONSTRUCTION</p>		<p>DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT</p> <p>CLIENT: APPWAM PTY LTD ADDRESS: 1-4 THE ESPLANADE, ASHFIELD</p>		<table border="1"> <tr> <td>SCALE: B.A1</td> <td>1:100</td> </tr> <tr> <td>SCALE: B.A2</td> <td>1:200</td> </tr> <tr> <td>DISCIPLINE:</td> <td>HK</td> </tr> <tr> <td>DRAWN BY:</td> <td>JK</td> </tr> <tr> <td>CHECKED BY:</td> <td>JP</td> </tr> <tr> <td>PROJECT NUMBER:</td> <td>21_184</td> </tr> <tr> <td>SHEET NUMBER:</td> <td>A115</td> </tr> </table>		SCALE: B.A1	1:100	SCALE: B.A2	1:200	DISCIPLINE:	HK	DRAWN BY:	JK	CHECKED BY:	JP	PROJECT NUMBER:	21_184	SHEET NUMBER:	A115
REVISION	DATE	DESCRIPTION	DRAWN BY	CHECKED BY																															
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				REVISION NO. DATE 1 1/10/21		DESCRIPTION DEVELOPMENT APPLICATION		APPROVAL ISSUED BY T.K. JP		SCALE @ A1: 1:100 SCALE @ A2: 1:200 DRAWING: 01/06/21 SHEET NUMBER: HIK					
G. GARDH ARCHITECT 1/100 THE ESPLANADE, ASHFIELD NSW 2116		PROJECT NUMBER 21 154		DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT		CLIENT: APPWAM PTY LTD		CHECKED BY: JP		PROJECT NAME: 1-4 THE ESPLANADE, ASHFIELD					
EAST ELEVATION PRELIMINARY NOT FOR CONSTRUCTION				NOTES: 1. THIS DRAWING IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. 3. ALL LEVELS ARE TO FINISH UNLESS OTHERWISE SPECIFIED. 4. ALL MATERIALS AND FINISHES ARE TO BE AS SHOWN ON THE DRAWING. 5. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS 2011. 6. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL REGULATIONS 2017. 7. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL PLUMBING REGULATIONS 2017. 8. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL GAS REGULATIONS 2017. 9. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL MECHANICAL REGULATIONS 2017. 10. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL TILING REGULATIONS 2017. 11. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL PAINTING REGULATIONS 2017. 12. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL CARPETING REGULATIONS 2017. 13. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL JOINERY REGULATIONS 2017. 14. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL GLAZING REGULATIONS 2017. 15. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL ROOFING REGULATIONS 2017. 16. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL CONCRETE REGULATIONS 2017. 17. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL MASONRY REGULATIONS 2017. 18. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL METALWORK REGULATIONS 2017. 19. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL WOODWORK REGULATIONS 2017. 20. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL GARDENING REGULATIONS 2017.				DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT		CLIENT: APPWAM PTY LTD		CHECKED BY: JP		SCALE @ A1: 1:100 SCALE @ A2: 1:200 DRAWING: 01/06/21 SHEET NUMBER: HIK	



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NO.	DATE	DESCRIPTION										
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<p>Member of the Institute of Architects</p>		<p>SECTION</p> <p><b>PRELIMINARY</b></p> <p>NOT FOR CONSTRUCTION</p>	<p>DEVELOPMENT APPLICATION</p> <p>MIXED USED DEVELOPMENT</p>	<p>CLIENT</p> <p>APPWAM PTY LTD</p>	<p>SCALE @ A1</p> <p>SCALE @ A2</p> <p>SCALE @ A3</p> <p>1:100</p> <p>1:200</p> <p>1:300</p>	<p>DATE</p> <p>01/06/21</p>						
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VIEW 1




VIEW 2



VIEW 3



ENTRANCE VIEW



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10/15/2021  
Brisbane QLD  
www.habitationdesign.com.au

REVISION  
TABLE

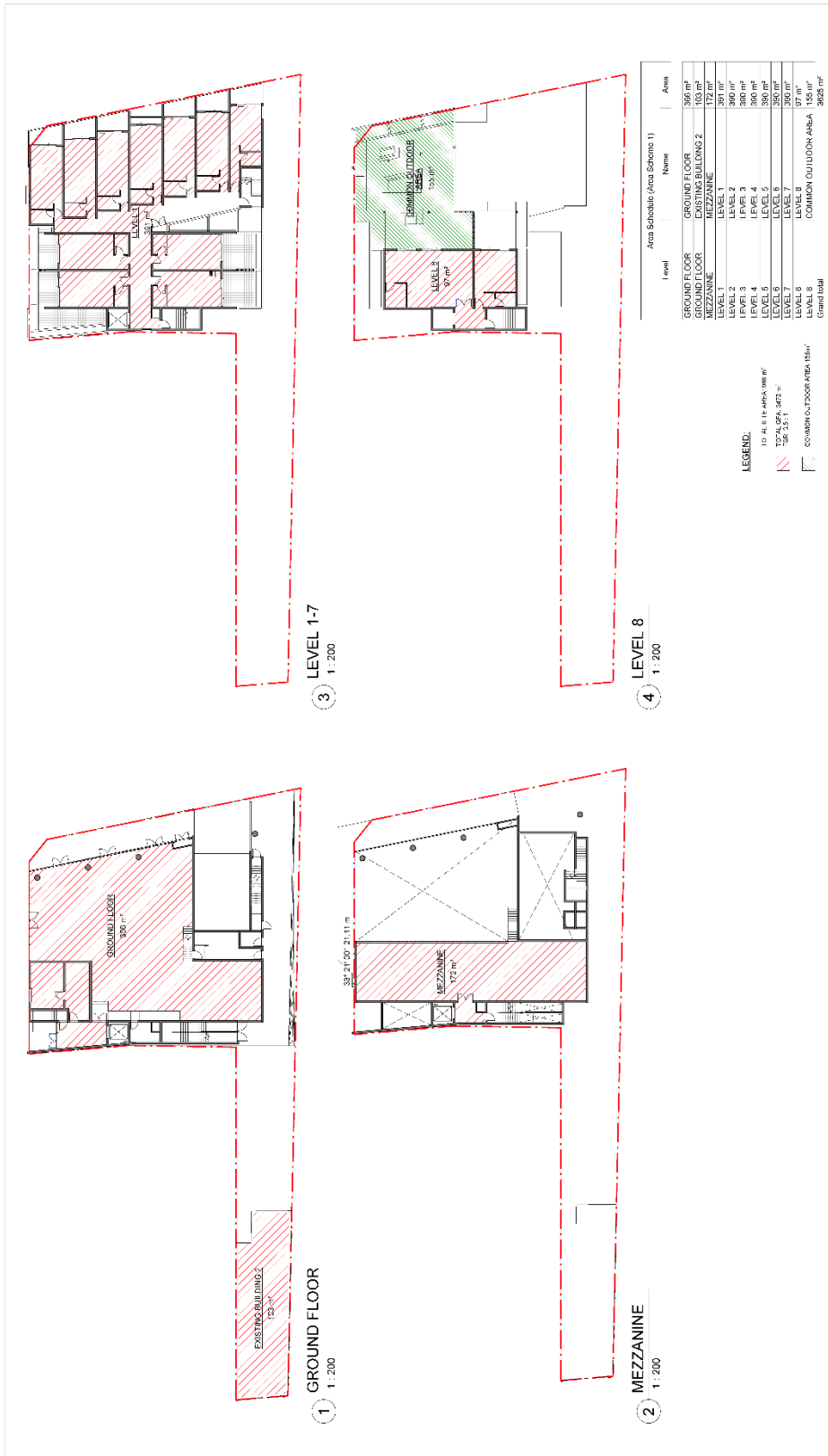
REVISION	DATE	DESCRIPTION	AUTHOR	ISSUED BY

**3D PERSPECTIVES**  
**PRELIMINARY**  
**NOT FOR CONSTRUCTION**

**DEVELOPMENT APPLICATION**  
MIXED USED DEVELOPMENT

**CITY/RT:** APPWAM PTY LTD  
**ADDRESS:** 1-4 THE ESPLANADE, ASHFIELD

SCALE @ A1  
SCALE @ A3  
DRAWN BY: HIK  
DATE: 01/06/21  
SHEET NUMBER: JP  
PROJECT NUMBER: 21 184  
SHEET NUMBER: A118



Level	Name	Area
GROUND FLOOR	GROUND FLOOR	366 m <sup>2</sup>
GROUND FLOOR	EXISTING BUILDING 2	103 m <sup>2</sup>
MEZZANINE	MEZZANINE	172 m <sup>2</sup>
LEVEL 1	LEVEL 1	366 m <sup>2</sup>
LEVEL 2	LEVEL 2	366 m <sup>2</sup>
LEVEL 3	LEVEL 3	366 m <sup>2</sup>
LEVEL 4	LEVEL 4	366 m <sup>2</sup>
LEVEL 5	LEVEL 5	366 m <sup>2</sup>
LEVEL 6	LEVEL 6	366 m <sup>2</sup>
LEVEL 7	LEVEL 7	366 m <sup>2</sup>
LEVEL 8	LEVEL 8	155 m <sup>2</sup>
COMMON OUTDOOR AREA	COMMON OUTDOOR AREA	155 m <sup>2</sup>
GROUND TOTAL		3662 m <sup>2</sup>

LEGEND:  
 10 ALU 6 1/2" PATENT WIRE MESH  
 250 25 25 1.402 1"  
 300 30 30 1.402 1"  
 COMMON OUTDOOR AREA 155m<sup>2</sup>  
 GROUND TOTAL

SCALE B.1:1 1:200  
 SCALE B.2:2 1:100  
 DRAWN BY: HIK  
 SHEET NUMBER: 01/06/21  
 CHECKED BY: JP  
 PROJECT NUMBER: A119

DEVELOPMENT APPLICATION  
 MIXED USED DEVELOPMENT  
 CLIENT: APPWAM PTY LTD  
 ADDRESS: 1-4 THE ESPLANADE, ASHFIELD

CALCULATIONS SHEET  
**PRELIMINARY**  
 NOT FOR CONSTRUCTION

REVISION

NO.	DATE	DESCRIPTION
1	10/06/21	ISSUED FOR PERMIT

ARCHITECT

NAME	DATE	DESCRIPTION
APPWAM PTY LTD	10/06/21	ISSUED FOR PERMIT

habitation  
Design + Interiors

Member of Architects  
 No. 123456789  
 No. 123456789  
 No. 123456789



LEGEND:

- EXISTING SHADOW
- PROPOSED SHADOW
- EXISTING AND PROPOSED SHADOW OVERLAP
- PLANNING STRUCTURE

1 SHADOW DIAGRAM JUNE 21 9AM  
1:200

 <p>habitation Design + Interiors</p> <p>G. GARDIN Principal Architect 1/150 The Esplanade, Ashfield NSW 1585</p>	 <p>Member of the Institute of Architects NSW</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>REVISION</th> <th>DATE</th> <th>DESCRIPTION</th> <th>APPROVED BY</th> </tr> <tr> <th>NO.</th> <th>INDEX</th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REVISION	DATE	DESCRIPTION	APPROVED BY	NO.	INDEX							<p><b>SHADOW DIAGRAM</b> 9AM <b>PRELIMINARY</b> NOT FOR CONSTRUCTION</p>		<p><b>DEVELOPMENT APPLICATION</b> MIXED USED DEVELOPMENT</p> <p>CLIENT: APPWAM PTY LTD ADDRESS: 1-4 THE ESPLANADE, ASHFIELD</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>SCALE @ A1:</td> <td>1:200</td> </tr> <tr> <td>SCALE @ A2:</td> <td>1:400</td> </tr> <tr> <td>DESIGNED BY:</td> <td>HIK</td> </tr> <tr> <td>CHECKED BY:</td> <td>JP</td> </tr> <tr> <td>DATE:</td> <td>01/06/21</td> </tr> <tr> <td>SHEET NUMBER:</td> <td>21 154</td> </tr> <tr> <td>PROJECT NUMBER:</td> <td>A120</td> </tr> </table>	SCALE @ A1:	1:200	SCALE @ A2:	1:400	DESIGNED BY:	HIK	CHECKED BY:	JP	DATE:	01/06/21	SHEET NUMBER:	21 154	PROJECT NUMBER:	A120
REVISION	DATE	DESCRIPTION	APPROVED BY																													
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LEGEND:

- EXISTING SHADOW
- PROPOSED SHADOW
- EXISTING AND PROPOSED SHADOW OVERLAP
- DEVELOPED STRUCTURE

1 SHADOW DIAGRAM JUNE 21 10AM  
1:200

**habitation**  
Design + Interiors

G. GARDH  
Principal Architect  
1/150 THE ESPLANADE, ASHFIELD  
NSW 2118

REVISION	DATE	DESCRIPTION	ISSUED BY
1	21/06/21	SHADOW DIAGRAM	J.P.

**WARNING:** THIS SHADOW DIAGRAM IS A PRELIMINARY REPRESENTATION OF THE SHADOWS CAST BY THE PROPOSED DEVELOPMENT. IT IS NOT TO BE USED AS A BASIS FOR ANY DECISIONS. THE SHADOWS CAST BY THE PROPOSED DEVELOPMENT WILL BE DETERMINED BY THE ACTUAL DESIGN AND ORIENTATION OF THE DEVELOPMENT AT THE TIME OF CONSTRUCTION.

**SHADOW DIAGRAM**  
10AM  
**PRELIMINARY**  
NOT FOR CONSTRUCTION



<b>DEVELOPMENT APPLICATION</b>	
MIXED USED DEVELOPMENT	
CLIENT:	APPWAM PTY LTD
ADDRESS:	1-4 THE ESPLANADE, ASHFIELD
SCALE @ A1:	1:200
SCALE @ A2:	1:400
DESIGNED BY:	HIK
CHECKED BY:	JP
SHEET NUMBER:	21 184
PROJECT NUMBER:	A121



SCALE @ A1	1:200
SCALE @ A2	1:400
SCALE @ A3	1:800
DATE	01/06/21
DRAWN BY	HIK
CHECKED BY	JP
SHEET NUMBER	21 184
PROJECT NUMBER	A122

<b>DEVELOPMENT APPLICATION</b>	MIXED USED DEVELOPMENT
<b>CLIENT</b>	APPWAM PTY LTD
<b>ADDRESS</b>	1-4 THE ESPLANADE, ASHFIELD



**SHADOW DIAGRAM 11AM**  
**PRELIMINARY**  
**NOT FOR CONSTRUCTION**

**NOTES:**  
 1. THIS SHADOW DIAGRAM IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION.  
 2. SHADOWS ARE CALCULATED USING A SUN PATH CALCULATOR.  
 3. SHADOWS ARE SHOWN AT 11AM ON JUNE 21ST.  
 4. SHADOWS ARE SHOWN ON THE SURROUNDING STREETS AND ADJACENT PROPERTIES.  
 5. SHADOWS ARE SHOWN ON THE PROPOSED BUILDING FOOTPRINT.  
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REVISION	DATE	DESCRIPTION	APPROVED	ISSUED BY
1	21/06/21	SHADOW DIAGRAM	HIK	JP

**habitation**  
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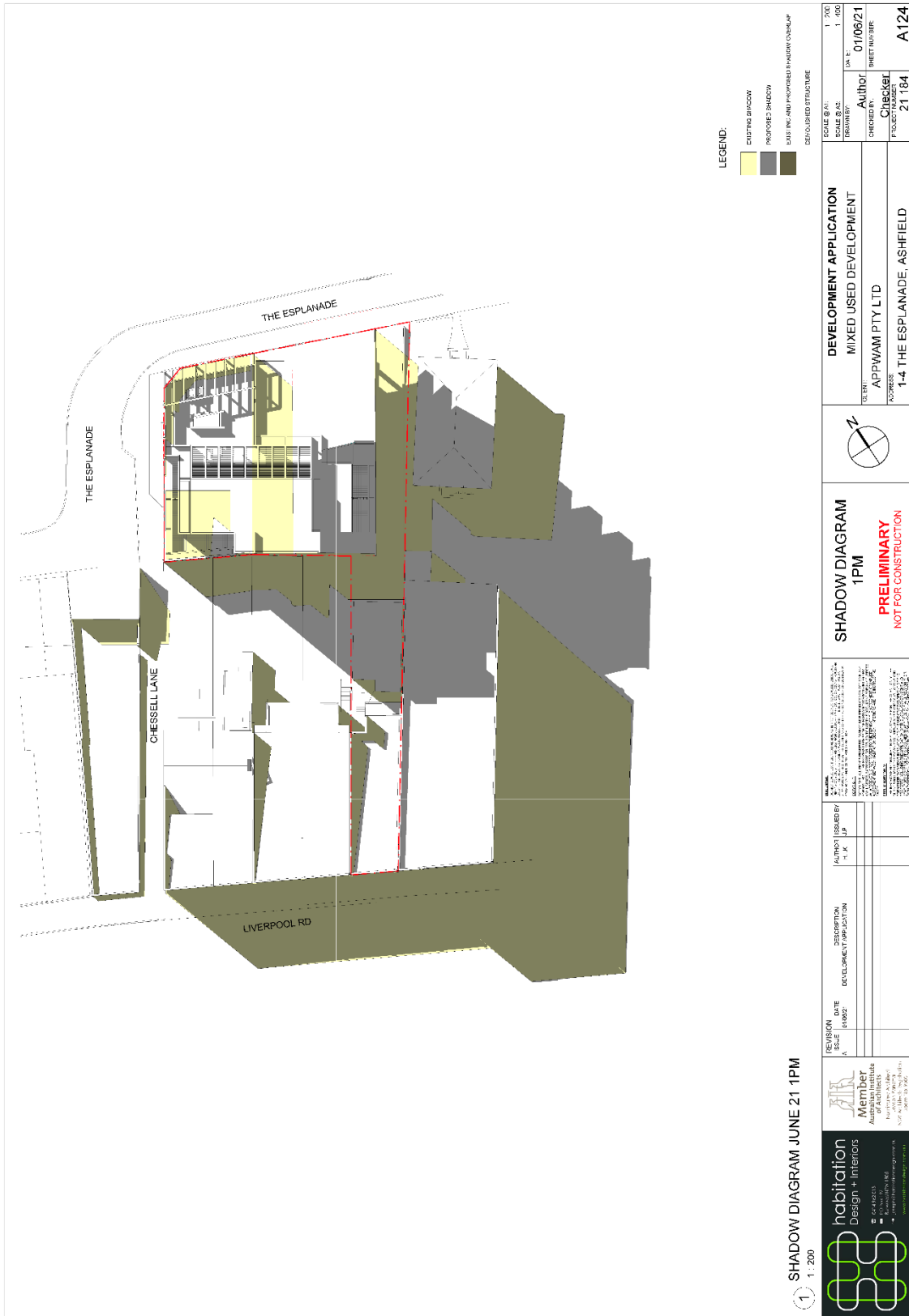
**Member**  
 Australian Institute of Architects

**1:200**



1 SHADOW DIAGRAM JUNE 21 12PM  
1:200

<p>habitation Design + Interiors</p> <p>G. GARDIN Principal Architect www.habitationdesign.com.au</p>	<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>12/06/21</td> <td>ISSUED FOR DEVELOPMENT</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	12/06/21	ISSUED FOR DEVELOPMENT	<p>PROJECT NUMBER</p> <p>21 184</p>
	NO.	DATE	DESCRIPTION					
1	12/06/21	ISSUED FOR DEVELOPMENT						
<p>PROJECT NAME</p> <p>1-4 THE ESPLANADE, ASHFIELD</p>	<p>CLIENT</p> <p>APPWAM PTY LTD</p>	<p>SCALE @ A1</p> <p>SCALE @ A2</p> <p>1:200</p> <p>1:100</p>						
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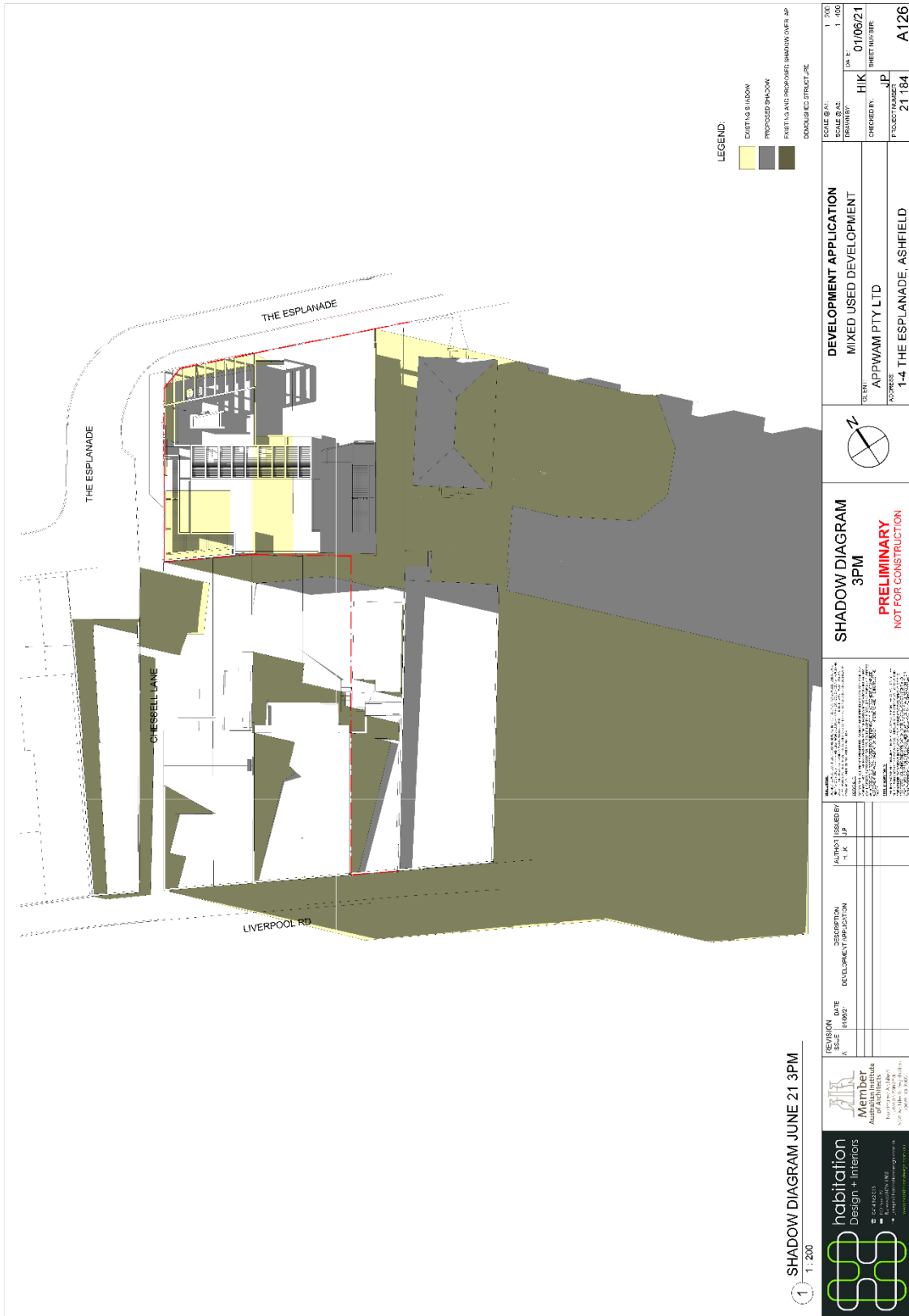




LEGEND:  
 EXISTING SHADOW  
 PROPOSED SHADOW  
 DOUBLE GLAZED STRUCTURE

1 SHADOW DIAGRAM JUNE 21 2PM  
 1:200

 G. GARDIN ARCHITECT 1/150 THE ESPLANADE, ASHFIELD NSW 2120 www.habitation.com.au	REVISION NO. DATE 1 21/06/21	DESCRIPTION DEVELOPMENT APPLICATION	APPROVAL ISSUED BY T.K. JP	SCALE @ A1 1:200 SCALE @ A2 1:400
	Member Australian Institute of Architects No. 123456789 NSW 1234	SHADOW DIAGRAM 2PM PRELIMINARY NOT FOR CONSTRUCTION	DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT	DRAWN BY HIK
PROJECT NAME APPWAM PTY LTD		CHECKED BY JP		SHEET NUMBER 21 184
ADDRESS 1-4 THE ESPLANADE, ASHFIELD		PROJECT NUMBER A125		

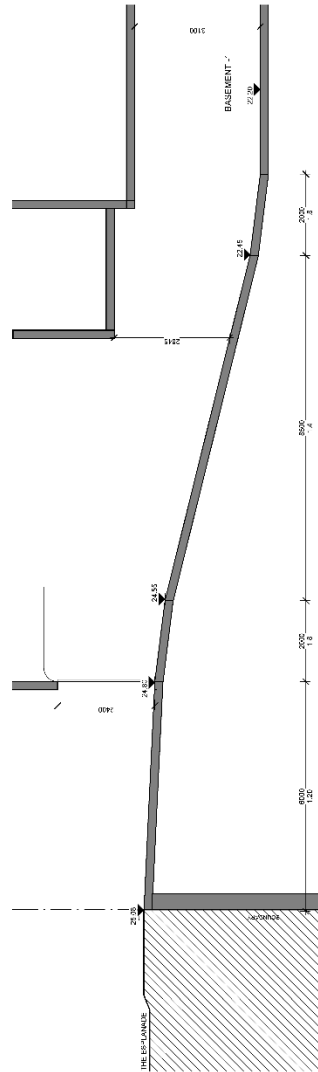


1 SHADOW DIAGRAM JUNE 21 3PM  
1:200

**habitation**  
Design + Interiors  
G. GARDH  
ARCHITECTS  
1/100 THE ESPLANADE  
ASHFIELD NSW 2120  
www.habitation.com.au

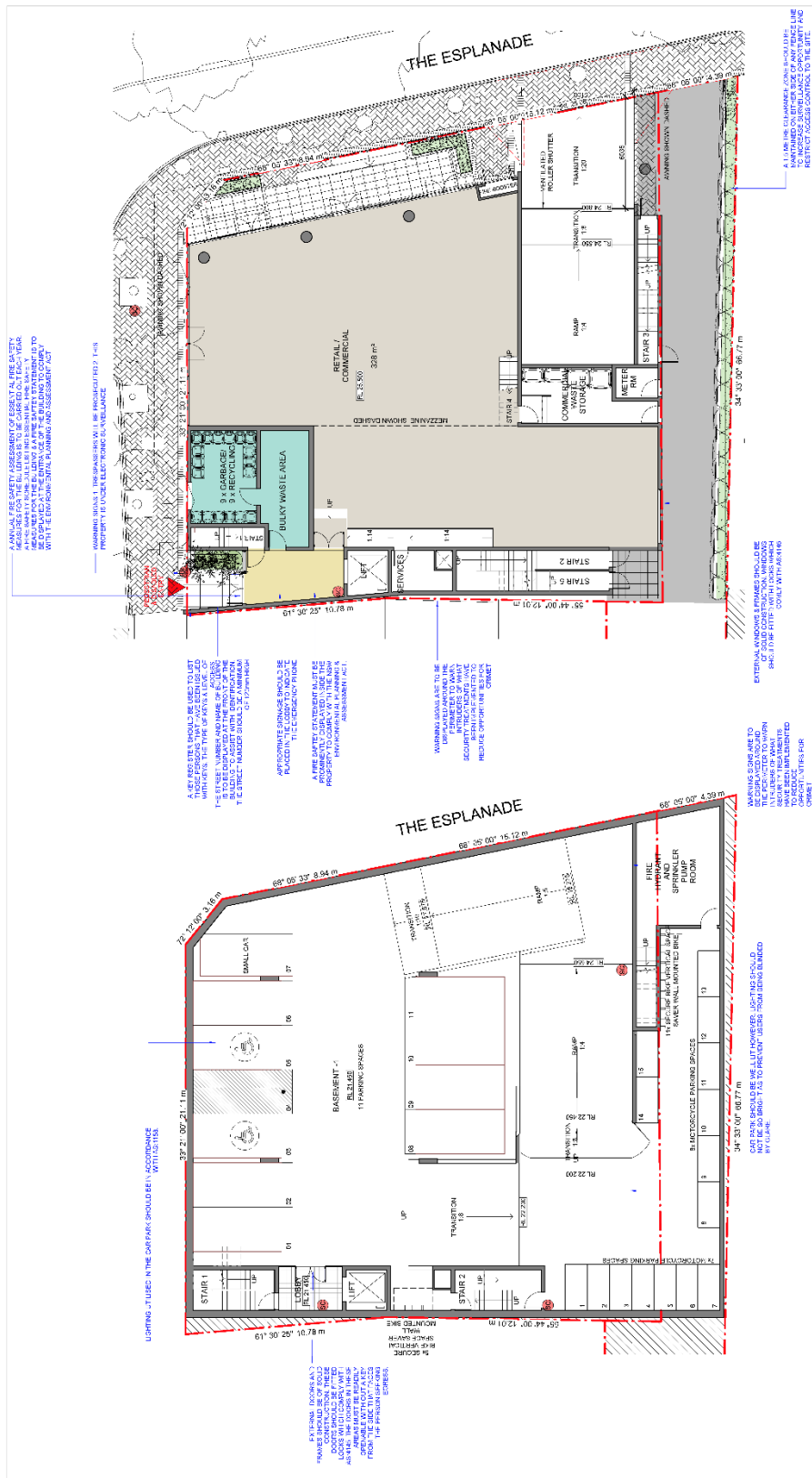
**Member**  
Member of the Institute of Architects  
No. 123456789  
NSW 1/100 THE ESPLANADE

REVISION	DATE	DESCRIPTION	APPROVED BY
1	01/06/21	ISSUED FOR PERMIT	JP



SECTION RAMP 01  
1:50

				REVISION NO.   DATE   INDEX   DESCRIPTION   DRAWN BY   CHECKED BY		SCALE (B:A)   SCALE (S:A)   DRAWN BY   SHEET NUMBER			
G. BOOTH PROJECT MANAGER 02 9550 2200 www.habitation.com.au		MEMBER AUSTRALIAN INSTITUTE OF PROFESSIONAL ENGINEERS No. 123456789 EXP. 31/12/2024		1   2024   01   SECTION RAMP 01   T.K.   J.P.		1:50   1:100   HIK   01/06/21			
DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT CLIENT: APPWAM PTY LTD ADDRESS: 1-4 THE ESPLANADE, ASHFIELD				DRIVEWAY DETAIL <b>PRELIMINARY</b> NOT FOR CONSTRUCTION				PROJECT NUMBER: 21 154   A127	



CCTV SECURITY CAMERA

DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT

OPTED GROUND FLOOR  
2

OPTED BASEMENT -1  
1

**REVISION**

REVISION	DATE	DESCRIPTION	AUTHOR	DRAWN BY
1	11/10/2020	ISSUE FOR APPROVAL	AP	AP

**DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT**

**CLIENT** APPWAM PTY LTD

**ADDRESS** 1-4 THE ESPLANADE, ASHFIELD

**CPTED ASSESSMENT**

**PRELIMINARY**  
NOT FOR CONSTRUCTION

**SCALE** 1:100

**AUTHOR** 01/06/21

**CHECKED** A128

**habitation Design + Interiors**

**Member of Architects Association of NSW**

**PROJECT** 1-4 THE ESPLANADE, ASHFIELD








**1**

AREA: MAIN WALLS  
FINISH: CONCRETE TO BE PAINTED  
DETAIL: DULUX 'BLEACHES QUARTER'



**2**

AREA: BRICK WALLS  
FINISH: FACE BRICK  
DETAIL: AUSTRAL 'GOVERNOR'



**3**

AREA: WINDOW/DOORS FRAME, PERGOLA, AWNING, BALUSTRADE  
FINISH: POWDER COATED ALUMINIUM  
DETAIL: COLORBOND 'MONUMENT'



**4**

AREA: SCREENING  
FINISH: POWDER COATED ALUMINIUM  
DETAIL: OFF FORM FINISH



**5**

AREA: BALCONIES  
FINISH: CONCRETE  
DETAIL: OFF FORM FINISH



**6**

AREA: BALCONIES  
FINISH: GLASS  
DETAIL: CLEAR GLASS BALUSTRADE WITH ANODIZED ALUMINIUM FRAME

SCALE @ A1  
SCALE @ A3

DATE: 01/06/21

SHEET NUMBER: A129

DRAWN BY: HIK

CHECKED BY: JP

PROJECT NUMBER: 21 184

DEVELOPMENT APPLICATION  
MIXED USED DEVELOPMENT

CLIENT: APPWAM PTY LTD

ADDRESS: 1-4 THE ESPLANADE, ASHFIELD

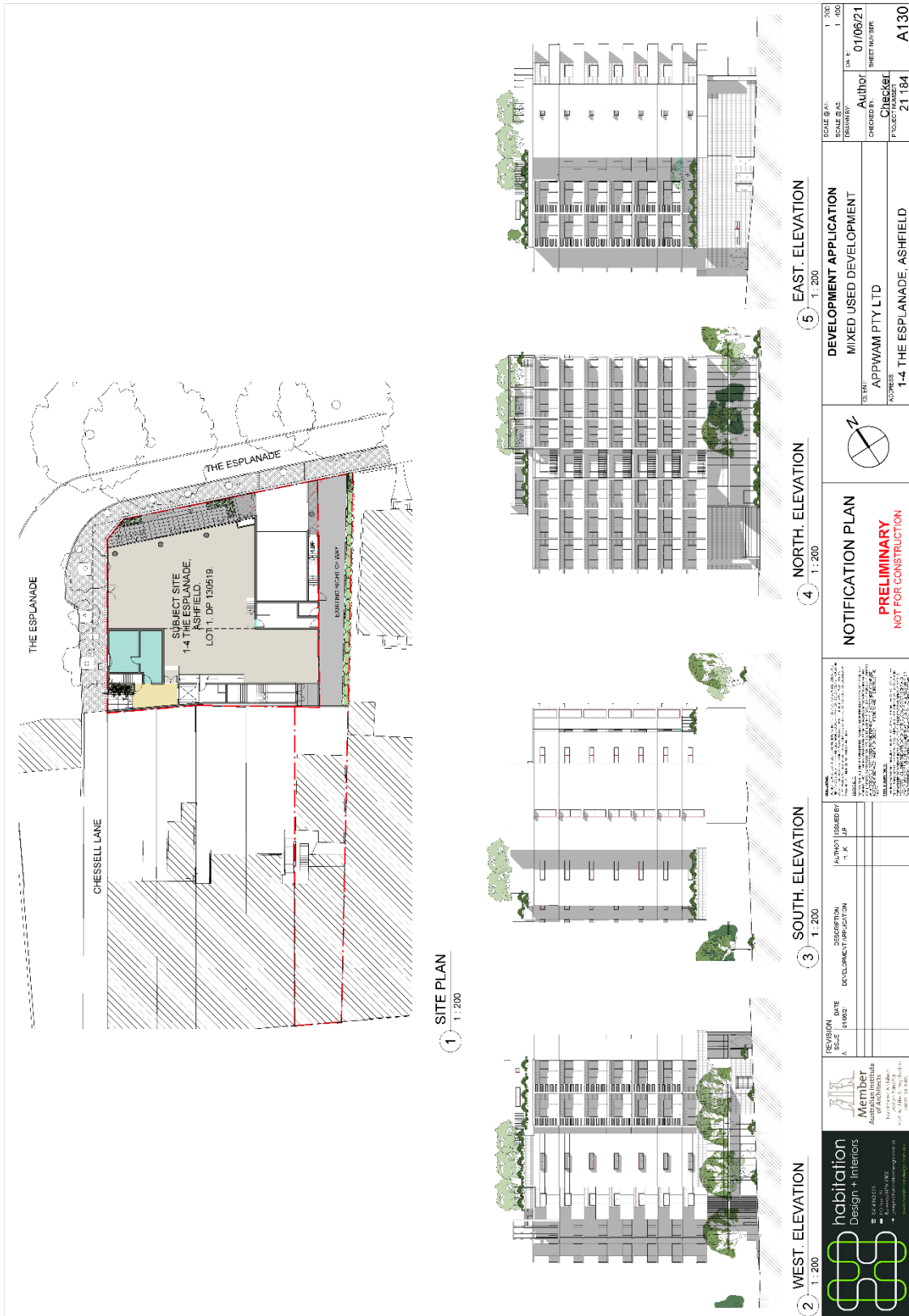
MATERIALS AND FINISHES  
PRELIMINARY  
NOT FOR CONSTRUCTION

REVISION

ISSUE	DATE	DESCRIPTION	AUTHOR	ISSUED BY
A	01/06/21	DEVELOPMENT APPLICATION	HIK	JP

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Member of Architects  
1000 Bourke Street  
Sydney NSW 2000  
www.habitationdesign.com.au

PAGE 1006



1 SITE PLAN  
1:200

2 WEST ELEVATION  
1:200

3 SOUTH ELEVATION  
1:200

4 NORTH ELEVATION  
1:200

5 EAST ELEVATION  
1:200

<p>habitation Design + Interiors</p> <p>11 GARDEN KEMBRIDGE NSW 2047 PH: 02 9550 2000 WWW.HABITATIONDESIGN.COM.AU</p>	<p>Member of the Australian Institute of Architects</p>	<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/06/21</td> <td>ISSUED FOR PERMIT</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	10/06/21	ISSUED FOR PERMIT	<p>SCALE (B1): SCALE (A2): DRAWING NO. 1: 1:200 1: 1:100</p>
	NO.	DATE	DESCRIPTION						
1	10/06/21	ISSUED FOR PERMIT							
<p>PROJECT / ISSUED BY T.K. / J.P.</p>	<p>DEVELOPMENT APPLICATION MIXED USED DEVELOPMENT</p>	<p>PROJECT / SHEET NO. A130</p>	<p>SCALE (B1): SCALE (A2): DRAWING NO. 1: 1:200 1: 1:100</p>						
<p>NOTIFICATION PLAN <b>PRELIMINARY</b> NOT FOR CONSTRUCTION</p>		<p>CLIENT: APPWAM PTY LTD</p> <p>ADDRESS: 1-4 THE ESPLANADE, ASHFIELD</p>	<p>PROJECT / SHEET NO. A130</p>						
<p>habitation Design + Interiors</p>		<p>PROJECT / SHEET NO. A130</p>	<p>PROJECT / SHEET NO. A130</p>						

**Attachment C- Conditions of Consent (should the application be approved)**

**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:

<b>Plan, Revision and Issue No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>
A103 Issue A	Site Plan	1/06/2021	Habitation Design + Interiors
A104 Issue A	Basement 3	1/06/2021	Habitation Design + Interiors
A105 Issue A	Basement 2	1/06/2021	Habitation Design + Interiors
A106 Issue A	Basement 1	1/06/2021	Habitation Design + Interiors
A107 Issue A	Ground Floor Plan	1/06/2021	Habitation Design + Interiors
A108 Issue A	Mezzanine	1/06/2021	Habitation Design + Interiors
A109 Issue A	Level 1	1/06/2021	Habitation Design + Interiors
A110 Issue A	Level 2 - 7	1/06/2021	Habitation Design + Interiors
A111 Issue A	Level 8	1/06/2021	Habitation Design + Interiors
A112 Issue A	Roof Plan	1/06/2021	Habitation Design + Interiors
A113 Issue A	North Elevation	1/06/2021	Habitation Design + Interiors
A114 Issue A	West Elevation	1/06/2021	Habitation Design + Interiors
A115 Issue A	South Elevation	1/06/2021	Habitation Design + Interiors
A116 Issue A	East Elevation	1/06/2021	Habitation Design + Interiors
A117 Issue A	Section	1/06/2021	Habitation Design + Interiors

A129 Issue A	Material and Finishes	1/06/2021	Habitation Design + Interiors
-	Boarding House Plan of Management and House Rules	Dated by Council 4/03/2022	-

As amended by the conditions of consent.

**FEES**

**2. Section 7.11 (Former Section 94) Contribution**

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$258,245.70 indexed in accordance with Ashfield Development Contributions Plan/ Developer Contributions Plan No.1 – Open Space and Recreation; ‘Developer Contributions Plan No.2 – Community Facilities and Services (2005) has been paid to the Council.

The above contribution is the contribution applicable as at 4 March 2022.

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:

<b>Community Infrastructure Type:</b>	<b>Contribution \$</b>
Local Roads	\$15,565.08
Local Public Transport Facilities	\$36,807.96
Local Public Car Parking	-
Local Open Space and Recreation	\$144,774.21
Local Community Facilities	\$27,750.58
Plan Preparation and Administration	\$33,347.87
<b>TOTAL</b>	<b>\$258,245.70</b>

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.

**3. 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.

**4. 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.

<b>Security Deposit:</b>	\$40,000.00
<b>Inspection Fee:</b>	\$241.50

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.

**GENERAL CONDITIONS**

**5. 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.

**6. Works to Trees**

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

Tree/location	Approved works
Brachychiton populneus (Lacebark Kurrajong) 1 The Esplanade	Remove and replace

<i>Brachychiton populneus</i> (Lacebark Kurrajong) 1 The Esplanade	Remove and replace
<i>Brachychiton populneus</i> (Lacebark Kurrajong) 1 The Esplanade	Remove and replace

The removal of the street trees approved by Council must include complete stump removal (to a minimum depth of 400mm) and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the trees removal.

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

**7. Noise – Consultant’s Recommendations**

All recommendations contained in the acoustic report prepared by Koikas Acoustics, reference 4809R20210608lm1-4TheEsplanadeAshfield\_DAv3 dated, 7 July 2021 must be implemented.

**8. Contamination – Remedial Action Plan (Site Auditor Engaged)**

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by Soilsrock Engineering Pty Ltd, reference SRE/804/AF/21/RAP dated, 18 August 2021 and Site Audit Statement prepared by a NSW Environment Protection Authority accredited Site Auditor. All remediation work must be carried out in accordance with the *Contaminated Land Management Act 1997* and *State Environmental Planning Policy No 55*.

**9. Hazardous Materials Survey**

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

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

**10. Boarding House**

The development must provide and maintain:

- a. A minimum of 5 Accessible boarding rooms; and
- b. All rooms within the boarding house must be connected to a centralised electricity, water and gas (if installed) service.

#### **11. Car Parking**

The development must provide and maintain within the site:

- a. 41 car parking spaces must be paved and line marked;
- b. 4 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces;
- c. 15 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times;
- d. 16 Bicycle storage capacity within the site;

#### **12. 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.

#### **13. 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.

#### **14. Standard Street Tree Protection**

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

#### **15. 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.



**16. Works Outside the Property Boundary**

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

**17. Air Conditioning Systems**

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

**18. Hot Water Systems**

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

**19. Signage and Use of Commercial Premises**

This development application does not provide consent for any signage, signage zones, use of retail spaces or hours of operation for retail spaces. An application for first use is to a separate development application under the *Environmental Planning and Assessment Act 1979*.

**20. 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.

**21. Awnings without Lighting**

The proposed awning must be of cantilever type and be set back at least 600mm from the kerb line. The total width of the awning that extends beyond the road alignment must not exceed 3600mm. The proposed awning must be designed to be easily removed if required in future. The owner must maintain, modify or remove the structure at any time if given notification by Council or the RTA to do so.

**22. Awnings with Lighting**

The proposed awning must be of cantilever type and be set back at least 600mm from the kerb line. The awning must include pedestrian lighting (Category P3-AS1158) and must be maintained and owned by the property owner(s). The proposed awning must be designed to be easily removed if required in future. The owner must maintain, modify or remove the structure at any time if given notification by Council to do so. The lighting must be not be obtrusive and should be designed so that it does not shine into any adjoining residences.

**23. Dry-weather Flows**

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

**24. Rock Anchors**

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

**PRIOR TO ANY DEMOLITION****25. 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.

**26. 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 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.

**27. Advising Neighbours 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.

**28. 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.

**29. 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.

**30. Construction Traffic Management Plan – Detailed**

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

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

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);

- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

### **PRIOR TO CONSTRUCTION CERTIFICATE**

#### **31. 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.

### **32. Bulky Waste Storage Area – Residential**

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

### **33. 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.

### **34. Each Residential Level is to have Access to a Disposal Point for All Waste Streams**

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

### **35. Tree Planting in the Public Domain**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Public Domain/Street Tree Planting Plan 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. Two (2) new trees shall be located within the footpath outside the subject property on 1 The Esplanade. The species of tree selected shall be *Zelkova serrata* 'Green Vase';
- b. All planting stock size shall be 400 litre size;
- c. The planting stock shall comply with AS 2303—*Tree Stock for Landscape Use*;
- d. The new tree shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3 in Horticulture or Arboriculture;
- e. The tree pit dimensions and staking detail shall be in accordance with Detail 9 on page C43 of the *Ashfield Street Tree Strategy 2015, Part C* (available online);
- f. The awning configuration must be detailed on the plan. All construction plans shall show the awning on the eastern frontage to be setback around the street trees. The

awning must be setback a minimum of 1200mm from the back of the kerb for a minimum distance of 1800mm either side of each tree location; and

- g. It must be demonstrated that adequate soil volume can be provided for the street trees. Tree planting details, soil specification and cell vault construction details (in accordance with the manufactures specifications and details) must be submitted to the satisfaction of Council's Urban Forest Manager before the issue of a Construction Certificate. The plans must include dimensions for tree pits and details of a cell vault style structure with a minimum of 25m<sup>3</sup> available soil volume for each tree. Refer to Appendix 6.6 (Detail 9) of the Marrickville Street Tree Master Plan 2014 for indicative detail, noting that structural soil is not approved in this case. Note: The soil vault may require a drainage system if the surrounding soil type will not naturally provide adequate drainage.
- h. The street trees must be maintained for a minimum period of twelve (12) months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning and fertilising and pest and disease control.
- i. If the street tree/s require replacement due to maintenance deficiencies during the twelve (12) month maintenance period, the twelve (12) month maintenance period will commence again from the date of the planting of the replacement tree (up to three (3) occurrences).

#### **36. Noise General – Acoustic Report**

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

#### **37. Shared Accommodation / Boarding House – Plan Of Management**

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

#### **38. Enclosure of Fire Hydrant**

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

**39. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

**40. 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*

**41. Acoustic Report – Aircraft Noise**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

**42. 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.

**43. Consolidation of Lots**

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

**44. Concealment of Plumbing and Ductwork**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.

**45. Future Food Use - Mechanical Ventilation Provision**

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, and AS1668.1 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings.

**46. Green Roofs, Walls and Facades Report**

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

**47. Stormwater Drainage System – Major Developments**

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



- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing Nos. ST01 to ST06 prepared by Danmor Consulting Engineers and dated 16 July 2021, as amended to comply with the following;
- b. Stormwater runoff from all surface areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank by gravity directly to Council's kerb inlet pit via the OSD/OSR tanks;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than for the pump-out of subsurface flows and surface flows from the driveway from the basement;
- e. The Drainage Plan must detail the proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. The on-site detention system must be designed for all storm events from the 1 in 5 years to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions;
- g. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks ;
- h. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- i. Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. A pump-out system for drainage of surface flows from the basement ramp is permitted for the basement area only and must be designed in accordance with the following criteria:
  1. Comply with all relevant Australian Standards;
  2. An overflow, flashing light and audible alarm is to be provided to warn of pump failure;
  3. A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months;
  4. The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration, 100-year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from one-hour duration 20-year ARI storm event;
  5. Where OSD facilities are required by this consent, the pump system must be discharged to the OSD storage tank;

- 6. Subsurface flows must be collected at the point of ingress to the basement i.e. at the basement walls;
- 7. The subsurface drainage system must have sufficient capacity to collect and convey all surface flows to the pump out system; and
- 8. Inlet pits and drains for subsurface drainage must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system. e.g.. isolate any subsurface drains at boundary walls, inspection pits with solid covers, etc.
- k. The design must make provision for the natural flow of stormwater runoff from adjacent properties;
- l. No nuisance or concentration of flows to other properties;
- m. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- n. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- o. Stormwater quality improvement devices must be installed such that stormwater flows leaving the site meet the following environmental targets:
- p.

Pollutant	Baseline Pollution (kg/ha/yr)	Annual Load	Retention Criteria
Gross Pollutants, including trash, litter and vegetation matter greater than 5mm	500		90% reduction of average annual load
Total Suspended solids, including sediment and other fine material less than 5mm	900		85% reduction of average annual load
Total Phosphorous	2		65% reduction of average annual load
Total Nitrogen	15		45% reduction of average annual load
Hydrocarbons (Oil and Grease)			90% reduction of average annual load – no visible discharge

Toxicants		100% containment of toxicants
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- q. A water balance model must be submitted to accompany the water re-use proposal;
- r. A WSUD Strategy Report must be provided to ensure the treatment measures proposed to meet Council's water quality targets; and
- s. A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.

**48. Structural and Geotechnical Report**

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

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

**49. Public Domain Works – Prior to Construction Certificate**

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

- a. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, landscaping, street furniture, etc must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;
- b. Developmental setback and grass verge area is required to satisfy DCP2016, Chapter D, Part 1-Ashfield Town Centre with active street frontage. The developer must provide a clear public access footpath (within the setback) along the street frontage considered of a min 3.2m wide ( 2.4m with min 0.8m passing zones). This area is deemed as a High Pedestrian Area (HPA) in the Ashfield Town Centre and should comply to relevant Austroads (Guide to Road Design Part 6A) and AS 1428.1. Any parts of the setback under private ownership would need to be distinguished;
- c. The construction of heavy duty vehicular crossing and removal of all redundant vehicular crossings to the site;
- d. New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer;
- e. 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
- f. Installation of a stormwater outlet to the kerb and gutter.

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

**50. Parking Facilities – Major (including basement)**

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

- a. The driveway must rise within the property above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. This is to ensure the basement car park is protected from the street flooding during rare flood events;
- b. Parking should apply to SEPP requirements for the boarding house component and DCP with commercial/retail. A space is required for each residing manager or employee;
- c. Service and commercial/retail parking shall be kept separate and apart from the residential carparking;
- d. Sight- line triangles for pedestrian safety are required at the exits of the driveway to the footpath in accordance to AS 2890.1 Section 3.2.4. The triangle areas shall be kept clear of obstruction to visibility and no trees are to be planted in these areas; and
- e. Any landscaping works near the driveway way crossing should not obstruct the sight lines.

#### **DURING DEMOLITION AND CONSTRUCTION**

##### **51. Documentation of Demolition and Construction Waste**

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

##### **52. 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.

##### **53. Imported Fill Materials**

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

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

- a. Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or

- b. Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).

#### **54. 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.

**55. 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****56. Waste Collection – contract for onsite collection.**

The site has not been designed to comply with Council's requirements for onsite waste collection. Prior to the issue of an Occupation Certificate, the certifying authority must be provided with written evidence that a private waste contract/s has been entered into that provides for onsite collection of ongoing waste of the development.

**57. Noise – Acoustic Report**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of *the Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

**58. Noise From Road, Rail & Aircraft – Compliance**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant, confirming that the development complies with the requirements of the:

- a. *State Environmental Planning Policy (Infrastructure) 2007*;
- b. NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline;
- c. Australian Standard 2021-2000: Acoustics - Aircraft noise intrusion - Building siting and construction;
- d. conditions of development consent; and
- e. Recommendations of acoustic report prepared by Koikas Acoustics, reference 4809R20210608lm1-4TheEsplanadeAshfield\_DAv3 dated, 7 July 2021

**59. Contamination – Disposal of Soil**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment Operations (Waste) Regulation 2014 and the *Protection of the Environmental Operations Act 1997*.

**60. Contamination – Validation (Site Audit Statement Required)**

Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Section A Site Audit Statement prepared by a NSW Environment Protection Authority accredited Site Auditor.

The Site Audit Statement must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

**61. Verification and Maintenance of Green Roofs, Walls and Facades Works**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#).

**62. Shopping Trolley Management Plan**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a shopping trolley management plan which specifies a management system that will be used to ensure that shopping trolleys are not abandoned on the surrounding area.

**63. Public Domain Works**

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

- a. Heavy duty concrete vehicle crossing at the vehicular access location;
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is



predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;

- c. The existing concrete footpath across the frontage of the site must be reconstructed; and
- d. Other works subject to the *Roads Act 1993* approval.

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

#### **64. 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.

#### **65. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

#### **66. Undergrounding Power – Major development**

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

#### **67. Parking Signoff – Major Development**

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

- a. The car park has been completed, line marked and all signage relating to car parking erected;

- b. A notice has been clearly displayed at The Esplanade frontage to indicate that visitor parking is available within the property; and
- c. Signs have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area.

#### **68. Public Domain - Major Developments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with the works-as-executed plan(s), certified by a Registered Surveyor, that show the as built details in comparison to those shown on the plans approved with the public domain and Roadworks Permit with all relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

#### **69. Dilapidation Report – Post-Development**

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

#### **70. Stormwater Drainage and Road Works – Certification**

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

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

#### **71. Works as Executed – Site Stormwater Drainage System**

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

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

#### **72. Operation and Management Plan**

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

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

#### **73. Easements, Restrictions on the Use of Land and Positive Covenants**

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

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

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

#### **74. Basement/Retaining Wall Signoff – Major Development**

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

accordance with the development consent and relevant Australian Standards and that the basement is fully tanked construction such that pump-out of subsurface flows is not required.

### **ON-GOING**

#### **75. Bin Storage**

All bins are to be stored within the site. All bins are to be returned to the property immediately after they have been emptied.

#### **76. Waste Collection – private waste contracts**

The site must utilise a private waste contract for all waste collection for the life of the development.

#### **77. 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).

#### **78. 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.

#### **79. Commercial Waste/Recycling Collection**

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area,

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

#### **80. 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 the approved documents condition 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 to 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 77 lodger's rooms and 1 on-site manager's room with not more than 77 adult lodgers and 1 adult on-site managers residing in the premises at any one time;
- g. Not more than 1 lodgers must occupy each boarding room;
- h. The premises must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;
- i. All common rooms/areas and recreation rooms/areas must be maintained at all times for the use of the lodgers; and
- j. Each self-contained room and shared kitchen must be fitted out with washing up facilities, a cooktop, oven, fridge and storage space with such utilities being maintained in working order at all times.

#### **81. Green Roofs, Walls and Facades Establishment**

The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for 12 Months from the issue of an Occupation Certificate. If any of the planting are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate they must be replaced with the same species within one (1) month (up to 3 occurrences).

#### **82. Operation and Management Plan**

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use, stormwater quality improvement devices and pump facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

#### **83. Vehicles Leaving the Site**

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

**84. Loading/unloading on site**

All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.

**ADVISORY NOTES****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.

**Waste Collection – Availability Charge**

As a rateable property, the site will be subject to a domestic waste charge ('Availability Charge') irrespective of whether Council waste services are used or not.

Should the operator of the site seek to utilise Council waste services in the future then the conditions of consent for this approval will need to be modified and works to the site will need to occur to allow for onsite waste collection for Council's standard vehicles.

**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*.

**Mechanical Ventilation System Certification**

The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;
- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 - 2011.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

#### **Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> 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.

#### **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.

**Construction of Vehicular Crossing**

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

**Lead-based Paint**

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

**Dial before you dig**

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

**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>

Waste Service - SITA 1300 651 116  
Environmental Solutions [www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Enquiries relating to work safety and asbestos removal and disposal.

### **Street Numbering**

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

### **Rock Anchors**

If you are seeking to use temporary anchors, you must make a request for approval for a Permit under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.
- b. Demonstrate how the temporary anchors will be removed or immobilised and replaced by full support from structures within the subject site by completion of the works.
- c. The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.

### **Electrical Substations**

Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.

**Permits**

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

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

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

**Easement and Covenant Process**

The following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):

- a. Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels and volume of storage available. Also, the outlet pipe from the detention basin to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.

- b. Engineer's Certificate

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

- c. The soundness of the storage structure;
  - d. The capacity of the detention storage;
  - e. The emergency overflow system being in place;
  - f. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
  - g. The freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
  - h. Basement car park pumps are class one zone two; and
  - i. OSR pumps and SQIDS have been installed and commissioned.
- c. Restriction-As-To-User
- A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.
- Such restrictions must not be released, varied or modified without the consent of the Council.
- A typical document is available from Council's Development Assessment Engineer.
- d. A Maintenance Schedule.

#### **Subsurface drainage pump-out systems**

Where it is demonstrated by detailed geotechnical investigation that the groundwater flows are minimal or intermittent, a pump out system for groundwater may be considered. An application for modification of development consent with supporting documentation must be submitted. Where this option is to be pursued dry-weather flows of any seepage water will not be permitted through kerb outlets and must be connected directly to a Council stormwater system in accordance with Council requirements.

#### **Insurances**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested

party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.



Attachment D – Architectural Excellence Panel (AEP) Minutes



**Architectural Excellence & Design Review Panel**  
**Meeting Minutes & Recommendations**

Site Address:	1 The Esplanade Ashfield
Proposal:	A 10 storey mixed use development with 77 boarding rooms over a basement carpark
Application No.:	DA/2021/0651
Meeting Date:	21 September 2021
Previous Meeting Date:	None
Panel Members:	Matthew Pullinger (external member); Russell Olsson (external member); Niall Macken (internal member); and Vishal Lakhia (internal member) – Chair
Apologies:	-
Council staff:	Chirag Bhavan
Guests:	-
Declarations of Interest:	None
Applicant or applicant’s representatives to address the panel:	Joseph Panetta – Architect for the project; and Andrew Martin – Urban Planner.

**Background:**

1. The Architectural Excellence & Design Review Panel reviewed the architectural drawings and 3D views, and discussed the proposal with the applicant through an online conference.
2. The Panel notes that the applicant is seeking floor space ratio and height bonuses offered to affordable housing proposals within the Ashfield Town Centre through the current Inner West LEP and DCP provisions. The Panel understands that Council’s assessment team will review and identify whether such bonuses apply to privately-managed commercial boarding houses, such as the proposal.
3. The Panel notes that the applicant, architect and urban planner for the subject site – 1 The Esplanade Ashfield — have also lodged a development application for a similar 10 storey boarding house proposal at 301-305 Liverpool Road Ashfield (DA/2021/0776). Both proposals are in close proximity to each other and present similar urban challenges. The AEDRP has reviewed both development applications at the 21 September 2021 meeting.

**Discussion & Recommendations:**

1. **Urban Design Strategy:**

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- a. The Panel notes the proposal is largely documented and presented in isolation from its context. The Panel encourages the applicant to further elaborate on the overarching urban design rationale and justification for the proposed site planning, massing, setbacks and separation distances. Associated analysis is required to be established through an urban design and contextual study.
- b. The proposal should establish an appropriate built form relationship with the potential future development on the adjoining properties to the south (No. 291, 293 and 295 Liverpool Road) and to the east (No. 5-6 The Esplanade) of the subject site. An urban design and contextual analysis should include testing of future development scenarios for these neighbouring properties, to ensure that future development will not be compromised in terms of solar access, residential amenity, visual impact and privacy.
- c. In addition to 1.b, the Panel expressed concern with the proposed built form interface to the south, with the relatively blind elements of fire stairs and lift shafts directly abutting the southern boundary. The Panel considers a lack of separation from the southern boundary to be problematic, as there are potential built form amenity impacts and fire separation issues with the adjoining property. The proposal will be a highly visible element from Liverpool Road and consequently, its expression and presentation need to be composed and articulated, the Panel is concerned for the largely blank expression currently proposed. The Panel also notes the windows and projecting awnings opening directly onto a site boundary.
- d. The Panel expressed concern with the current building massing as the upper levels (Level 1 to 8) cantilever over the 2 storey building base, which is recessed from The Esplanade street alignment. The Panel considers this not to be a suitable built form response for the subject site, given the pedestrian-friendly scale and character of The Esplanade, as the projected upper levels will create an overbearing visual impact on The Esplanade.
- e. The Panel recommends the exploration of alternative massing strategies to better resolve the relationship between the lower levels of the building (and the 3m DCP setback control at street level) and the remainder of the proposed building form. The Panel is keen to mitigate against the cantilevered form described above, and to better resolve the form and articulation of the proposed tower element. Cues for an appropriate built form response should draw on a comprehensive urban and contextual analysis, including recent approvals in the vicinity.
- f. The development application proposes to 'harvest' the available floor space ratio from the site area of No. 287 Liverpool Road to maximise the floor space within the proposed building addressing The Esplanade. As a consequence, the Panel is concerned that No. 287 Liverpool Road risks being left in isolation, and could result in an inefficient and uncoordinated built form along the Liverpool Road frontage when future renewal occurs at No. 291, 293 and 295 Liverpool Road. The applicant should address this concern in their urban design study and contextual analysis and the proposal should ensure the existing property at 287 Liverpool Road is capable of code compliance, and is not orphaned.

### 2. Ground Floor Configuration:

- a. The Panel considers the extent of ground floor activation to the northern and western interface of The Esplanade should be maximised by relocating or reconfiguring waste collection areas and potentially co-locating vehicular access and servicing to the eastern site boundary with access provided from the existing right-of-way. If required, the applicant should investigate the possibility of widening the existing right-of-way, to improve vehicular movement and access.
- b. The Panel considers that the residential lobby should be more generous and prominent in its size, given the number of lodgers (77 rooms and 154 lodgers) within the residential component.

### 3. Building Configuration:

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- a. The Panel expressed concern that a proposal with 8 residential floors, 2 commercial floors and 3 basement levels (total 1 of 3 levels) is served by only a single lift. The residential component of the proposal has 154 lodgers within 77 rooms and it should be provided with a minimum of 2 lifts in order to establish some level of redundancy in the level of service. There is a need for a minimum 2 lifts for the residential component to accommodate a scenario where one of the lifts is out-of-order or is being used by service providers (e.g. removalists or for deliveries). The Panel also recommends that a separate lift be provided for the commercial component, given its scale and more public use, with a commercial gross floor area of 390m<sup>2</sup>.
- b. The Panel questioned the utility of the narrow cut out or building indentation on typical residential levels. The Panel considers the width-to-depth ratio for any such building indentation appears to be highly constrained to achieve effective air circulation or day light. It is also of a dimension that might prove impossible to construct, finish or maintain. The Panel considers this indentation should be eliminated as it adds to the overall bulk of the building without meaningfully improving internal amenity. The applicant is encouraged to consider a more compact built form with reduced building footprint and at the same time mitigate amenity impacts to the southern neighbour, and on the surrounding public domain.
- c. The Panel queried the viability and buildability of basement structures under the existing right-of-way.
- d. The applicant is encouraged to consider inclusion of ceiling fans to all boarding rooms, as a low energy alternative, or supplement to the use of mechanical A/C systems. The Panel considers that the floor-to-ceiling and floor-to-floor heights should be increased to a minimum 2.7m and 3.1m, to allow provision of ceiling fans.

#### 4. Architectural Expression:

- a. The Panel recommends a strategy of improving privacy within the balconies and rooms of the lower levels would be by providing 700-800mm high solid elements with glass or open treatment above. Balconies on upper levels may incorporate open type/glass balustrade treatment, to maximise outlook and benefit from views.
- b. The Panel notes a predominant use of rendered and painted surfaces within the proposal, and encourages use of integral and self-finished materials such as brick. Rendered and painted surfaces should be avoided considering the longevity and associated long-term costs.
- c. The Panel recommends the applicant should document street views towards the proposal from the Liverpool Road public domain, for a further review of the architectural expression of the revised scheme.
- d. Revised architectural drawings should confirm locations of AC condenser units and other mechanical equipment. The Panel considers these should not be located within balconies (unless thoughtfully designed to be enclosed and screened from view) or anywhere visually apparent from the surrounding public domain.
- e. Revised architectural drawings should include details of the design intent for key façade types in form of 1:50 or 1:20 sections indicating primary façade types, balustrade fixings, balcony edges, balcony soffits, junctions, rainwater drainage, downpipes and similar details.

### Conclusion

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With consideration given to the recommendations made in this report regarding the overarching urban design and architectural aspects, the Architectural Excellence & Design Review Panel would like a second opportunity to review this proposal again as part of this DA stage.

At a second review, the Panel would consider whether the proposal is acceptable in terms of its site planning, massing, setbacks, separation distances, architectural expression and built form relationship with the potential future buildings within the vicinity.

The Panel encourages that the applicant to present the proposal at the subject site 1 The Esplanade Ashfield and their similar proposal at 301-305 Liverpool Road Ashfield (DA/2021/0776) together as part of a comprehensive 2D and 3D urban design study and contextual analysis.