







DEVELOPMENT ASSESSMENT REPORT

Application No.	MOD/2023/0067
Address	40 Milton Street ASHFIELD
Proposal	Section 4.55(2) modification to approved boarding house including internal and external changes.
Date of Lodgement	14 March 2023
Applicant	Appwam Pty Ltd
Owner	Appwam Pty Ltd
Number of Submissions	Total: Eight (Initial Notification: One; After Renotification: Seven)
Value of works	\$6,311,441.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	Non-compliance with maximum building height and FSR
Recommendation	Approved with Modified Conditions
Attachment A	Recommended modified conditions of consent
Attachment B	Plans of proposed development
Attachment C	Original assessment report
Attachment D	Approved plans



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

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

1. Executive Summary

This report is an assessment of the application submitted to Council to modify DA/2021/0228 dated 23 November 2021 which approved the demolition of an existing building and construction of a boarding house containing basement car parking, landscaping and associated works. This modification seeks internal and external changes at 40 Milton Street, Ashfield. The application was notified to surrounding properties; one submission was received in response to the initial notification, and seven submissions were received in response to renotification of the application.

The main issues that have arisen from the application include:

- Non-compliance with maximum building height and floor space ratio development standards under *Inner West Local Environmental Plan 2022*;
- Non-compliance with maximum floor space ratio for boarding house developments under *State Environmental Planning Policy (Affordable Rental Housing) 2009*

Despite the items noted above, the proposal generally complies with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Inner West Local Environmental Plan 2022*, and the Inner West Comprehensive Development Control Plan 2016.

2. Proposal

The application seeks development consent under Section 4.55(2) of *Environmental Planning and Assessment Act 1979 (EPA Act 1979)* to modify DA/2021/0228 dated 23 November 2021, which approved the demolition of an existing building and construction of a boarding house containing basement car parking, landscaping and associated works.

Specifically, the following revised modifications are proposed:

Basement

- Basement level two increased in size and reconfigured to accommodate 20 car spaces 14 motor bikes, 20 bicycles
- New basement level one garbage room (relocated from the ground floor) and waste collection to be serviced by a private waste contractor with a Small Rigid Vehicle (SRV)
- Vented roller shutter added to basement entry ramp
- Ventilation louvers added from the basement on the northern elevation
- Basement levels revised

Ground floor

- Milton Street entrance redesigned including access path toward Milton Lane (reorientated from Milton Street), and associated landscaping
- Communal laundry, bathroom and linen storage added to the ground floor
- Layout of the managers room revised
- Layout of ground floor communal room revised
- Provision of a covered deck within the common outdoor space

- Two dual rooms reconfigured into three single rooms on the southern side of the ground floor
- Update to room configurations and provision of air conditioner units on balconies
- Steps to northside rooms updated
- Service shafts added internally

Level 1, 2 & 3

- Northern side rooms reconfigured to increase the number of dual rooms by one
- New window to the western elevation to service a bathroom
- Service shafts added internally
- Accessible rooms reconfigured
- North side rooms sliding doors updated

Level 4

- Common outdoor areas reconfigured
- Hot water room and plant room added
- Service shafts added internally
- Room layout type G updated to be a dual lodger up and over room type. Attic level and stairs added.

Roof

- Roof height increased
- Roof form revised

Intensity of use

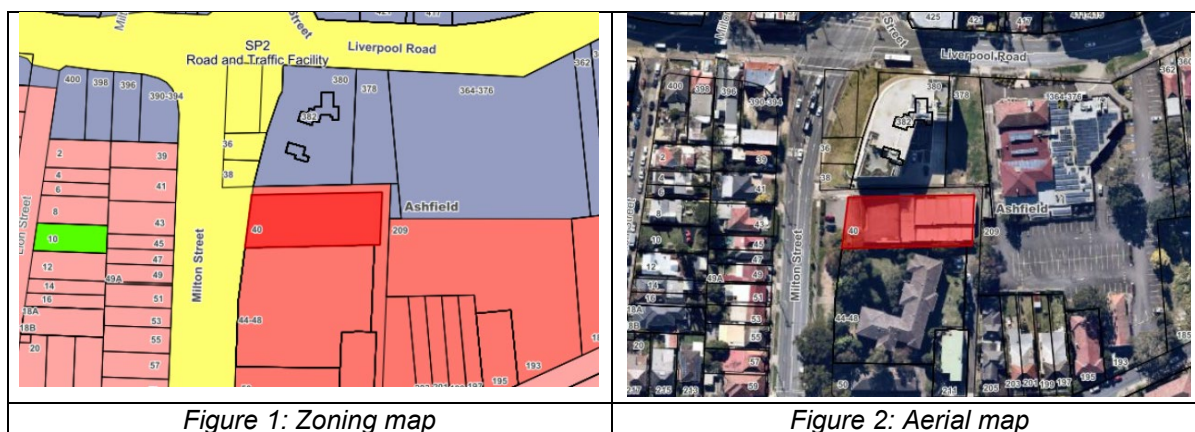
- 57 dual rooms proposed (increased by 10 from 47)
- Nine single rooms proposed (reduced by 6 from 15)
- Total number of rooms 66 (increased by 4 from 62)
- Maximum number of occupants 123 (increased by 14 people from 109)

3. Site Description

The subject site is located on the eastern side of Milton Street, between Liverpool Road and Norton Street, Ashfield. The site consists of one allotment and is generally rectangular in shape with a total area of approximately 1,329sqm.

The site has a 23.2m wide primary frontage to Milton Street, a 56.9m wide secondary frontage to Milton Lane, and a 22.9m wide rear frontage to Milton Lane. The site is separated from Milton Street by a 274.6sqm parcel of land resumed by Transport for NSW for road widening. The site is also affected by an easement for a Sydney Water Sewer pipe that traverses the width of the site.

The site is currently occupied by a two storey commercial building. The adjoining sites to the north and south are occupied by a seven storey mixed use development and a three storey residential flat building, respectively.



4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision
DA/2021/0228	Demolition of existing building. Construction of a boarding house containing with basement car parking, landscaping and associated works.	Approved by IWLPP 23 October 2021
REV/2020/0035	Section 8.2 review of residential flat building	Approved by IWLPP 12 October 2021
DA/2020/0139	Construction of a 6 storey residential flat building of 37 units, 50 car parking spaces including affordable housing units and strata subdivision.	Refused by IWLPP 13 October 2020

Surrounding properties

Property	Application	Proposal	Decision
378 Liverpool Road	DA/2021/0928	Demolition of existing structures, and construction of a mixed-use development comprising 1 retail unit, 40 boarding rooms, 1 boarding house communal room and 3 apartments across 6 above-ground storeys	Approved
380 Liverpool Road	10.2012.269	Mixed use development	Approved

4(b) Application history

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

Date	Discussion / Letter / Additional Information
14 March 2023	Application lodged.
5 April 2023 – 1 May 2023	Application notified.
21 July 2023	<p>Council requested that additional information and/or amended plans be submitted to address the following matters:</p> <ul style="list-style-type: none"> • Demonstration that the modification is 'substantially the same development' given the deletion of an entire basement level and loss of parking • Boarding house maximum room sizes • Further variation to floor space ratio • Further variation to height of building • Parking and loading non compliance • Further details on waste management • Further details on accessibility • General documentation matters
23 August 2023	Amended plans and additional documentation was submitted with a key element being that the basement level 02 has been reinstated into the development.
6 September 2023 – 27 September 2023	Application renotified.
18 October 2023	<p>A review of the amended plans required further information/amended plans to address the following key matters:</p> <ul style="list-style-type: none"> • An updated BCA/Access report prepared by a suitably accredited certifier confirming the proposed plans complies is to be submitted. Concern is raised with the accessible access into the property. • Room type G exceeds the boarding room standard by 1sqm. It is not Councils standard practice to exclude a 1m x 1m area in front of the entry door.
8 November 2023	Amended plans were submitted. The plans did not adequately address the non-compliant type G room size and sought to rely on temporary access over the TfNSW land.
21 November 2023	Further amended plans were submitted. The plans still included a non-compliant type G room size and the accessible entry via the south east corner of the rear communal area which did not clearly demonstrate a clear path of travel.
29 November 2023	Further amended plans were submitted. The plans still included a non-compliant type G room size and accessible entry via the north east corner of the rear communal area which did not clearly demonstrate a clear path of travel.
5 December 2023	Amended plans were submitted which provided compliant room sizes and acceptable accessible entry.
7 December 2023	Amended plans were submitted with some minor design changes to improve access at the ground floor. Council advised these plans resolved the key outstanding issues.

30 January 2024	The full set of plans were lodged on the NSW planning portal. This set is the basis of the report.
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5. Assessment

5(a) Section 4.55 Modification of Consent

The following is a summary of the assessment of the application in accordance with Section 4.55 of the *Environmental Planning and Assessment Act 1979* (EPA Act 1979).

Section 4.55(2)

Section 4.55(2) of the *EPA Act 1979* allows a consent authority to modify a development consent granted by it, if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

In considering the above:

- The essence of the development as modified is substantially the same as the original consent.
- The proposal does not require concurrence or General Term of Agreement from any approval body.
- The application was notified to persons who made a submission against the original application sought to be modified.
- Submissions received have been considered.

In consideration of Section 4.55(3) of the *EPA Act 1979* the consent authority has taken into account the following reasons given by the determination authority for the granting of the original consent which are as follows:

- The applicant has made a written request pursuant to Clause 4.3 of *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is 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 be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- The applicant has made a written request pursuant to Clause 4.4 of *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is 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 be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2021/0228 for demolition of existing building. Construction of a boarding house containing with basement car parking, landscaping and associated works at 40 Milton Street ASHFIELD NSW 2131 subject to the conditions listed in Attachment A below.

It is considered that the modified proposal has taken into account the aforementioned reasons that the original development consent was granted.

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* (*EPA Act 1979*).

5(b) Environmental Planning Instruments

5(b)(i) State Environmental Planning Policies (SEPPs)

The application has been assessed against the relevant Environmental Planning Instruments listed below and is considered acceptable:

- *SEPP (Resilience and Hazards) 2021*
- *SEPP (Housing) 2021*
- *SEPP (Affordable Rental Housing) 2009*
- *SEPP (Building Sustainability Index: BASIX) 2004*
- *SEPP (Transport and Infrastructure) 2021*
- *SEPP (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

SEPP (Housing) 2021

Schedule 7A Savings and transitional provisions within *Housing SEPP* state,

*The former provisions of a repealed instrument continue to apply to the following—
(da) an application to modify a development consent granted after the commencement date, if it relates to a development application made, but not determined, on or before the commencement date,*

The base application was made on 31 March 2021 and determined on 23 November 2021. The Housing SEPP commenced on the 26 November 2021. The Housing SEPP does not apply to the modification application as the modification is to an original consent granted prior to the commencement of the Housing SEPP. In this regard, the provisions of the repealed SEPP (Affordable Rental Housing) 2009 (ARH SEPP) remain applicable to this application.

SEPP (Affordable Rental Housing) 2009

Division 3 – Boarding Houses

Section	Standard	Proposed	Compliance
26 - Zone	The site is zoned R1, R2, R3, R4, B1, B2, B4.	The site is zoned R3 Medium density residential.	Yes
27 – Accessible Area	Any site in R2 zone must be within an accessible area.	The site is not within an R2 zone.	Noted
Section	Standards that cannot be used to refuse consent	Proposed	Compliance
29 (1) - FSR	1.2:1 (1,594.8sqm) (0.7:1 <i>IWLEP 2022</i> + 0.5:1 ARH SEPP 2009 where LEP FSR is 2.5:1 or less)	Approved FSR of 1.59:1 or 2,116sqm The modification proposes a FSR of 1.64:1 or 2,261.7sqm	No – refer to Section 4.6
29 (2)(a) Height	12.5m	18.18m	No – refer to Section 4.6
29 (2)(b) Landscaped Area	Consistent with streetscape	The modified proposal does not alter compliance with this Section.	Yes
29(2)(c) Solar Access	Min 3 hours direct sunlight between 9am-3pm for at least one communal living room	The modified proposal does not alter compliance with this Section.	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"> 20sqm minimum dimension of 3m for use of lodgers 8sqm minimum dimension of 2.5m adjacent to managers room for manager 	<ul style="list-style-type: none"> The communal open space on the ground floor is 91sqm with a minimum dimension of 6.3m The private open space directly adjacent to the managers room is 43sqm with a minimum dimension of 3.4m 	Yes

29 (2)(e) Parking	<ul style="list-style-type: none"> 0.5 spaces per boarding room 1 space for each on site boarding manager 	<ul style="list-style-type: none"> Based on 65 boarding rooms (not inclusive of the managers room), 33 car parking spaces are required. It is noted that the DCP requires one additional car space for the managers room, resulting in a total of 34 required spaces. 34 car spaces are proposed in accordance with this section however it is a condition of consent that an additional accessible car space be provided which will result in a total of 33 car spaces. See further discussion under DCP. 	Acceptable
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	<ul style="list-style-type: none"> Nine single lodger rooms are proposed with a minimum area of 12sqm 57 rooms are provided with an area greater than 16sqm 	Yes
Section	Standard	Proposed	Compliance
30 (1)(a) Communal Room	If more than 5 rooms are proposed there is at least 1 common room	The modified proposal does not alter compliance with this Section.	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 rooms are greater than 25sqm. It is noted that the managers room has been reconfigured and increased in size to be approximately 30sqm, which is acceptable given that the managers room is not a 'boarding room'.	Yes
30 (1)(c) Maximum occupation	No more than 2 adult lodgers with occupy each room	The modified proposal does not alter compliance with this Section. Existing conditions to remain.	Yes, subject to condition
30 (1)(d) Adequate facilities	Adequate bathroom and kitchen facilities are available for use of each lodger	The modified proposal does not alter compliance with this Section.	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 modified proposal does not alter compliance with this Section. Existing conditions to remain.	Yes, subject to condition

30 (1)(f) Commercial Land	If the site is zoned primarily for commercial purposes the ground floor cannot be used for residential uses	The site is not within a zone primarily used for commercial purposes.	Yes
30 (1)(h) Bicycle and Motorcycle parking	A minimum of 1 bicycle space and 1 motorcycle space is provided per 5 boarding rooms	40 bicycle and 14 motorcycle spaces are provided for the 66 rooms proposed. It is noted the Inner West Local Planning Panel imposed a condition on the base consent for a minimum of 40 bicycle parking spaces which exceeds the rate required.	Yes
30AA Maximum number of rooms	Maximum of 12 boarding rooms for sites zoned R2	N/A	N/A
30A character of the local area	whether the design of the development is compatible with the character of the local area.	The modified proposal does not alter compliance with this Section.	Yes

5(b)(ii) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

Part 1 – Preliminary

Control	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The modified proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • The proposal encourages walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes, • The proposal facilitates economic growth and employment opportunities within Inner West, • The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents, • The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West, • The proposal prevents adverse social, economic and environmental impacts, including cumulative impacts. 	Yes

Part 2 – Permitted or prohibited development

Zone Objectives	Proposed	Permissible with consent?
Section 2.3 Zone objectives and Land Use Table <i>R3 – Medium Density Residential</i>	The modified development does not alter the approved use being a boarding house . It is noted that the definition of boarding house under the standard instrument has changed since the base consent was approved. In this regard, it is considered the proposal would no longer meet the definition of a boarding house and would be best characterised as co-living housing.	Yes
Control	Proposed	Compliance
Section 2.7 Demolition requires development consent	The modified development does not alter compliance with this part and the existing conditions relating to manage demolition impacts remain.	Yes, subject to conditions

Part 4 – Principal development standards

Control	Proposed		Compliance
Section 4.3 Height of building	Maximum	12.5m	No
	Proposed	18.18m (increase of 780mm from previous approval)	
	Variation	5.68m or 45.44%	
Section 4.4 Floor space ratio	Maximum	0.7:1 or 929.95sqm	No
	Proposed	1.64:1 or 2,261.7sqm (increase of 145.7sqm from previous approval)	
	Variation	1,331.75sqm or 143.2%	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	Refer to discussion below.		N/A

Section 4.6 – Exceptions to Development Standards

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

- Section 4.4 Floor space ratio
- Section 4.3 Height of building

The proposed modification is not required to formally submit a written request to vary a development standard having regard to the decision within *North Sydney Council v Michael Standley & Associates Pty Ltd* [1998] NSWSC 163) that states that Section 4.55 (formally Section 96) is a:

“free-standing provision’, meaning that “a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application”.

Notwithstanding, the assessment principles and considerations set out in Section 4.6 of *IWLEP 2022* are applied as guidance, which is discussed below.

Section 4.4 Floor space ratio

As outlined in the table above, the proposal results in a further variation to the FSR standard under Section 4.4 Floor space ratio in *IWLEP 2022* by 1,331sqm or 143.2%.

It is noted that the base consent was approved with a FSR of 1.59:1 (2,116sqm), which is a 127.5% variation (1,186sqm variation). The additional gross floor area of 145.7sqm results in a further 6.9% variation from the original approval.

Approximately 90sqm of the additional FSR is a result of a change in roof form to accommodate an ‘up and over’ loft style room type to level 4 as illustrated in figure 3 and 4.

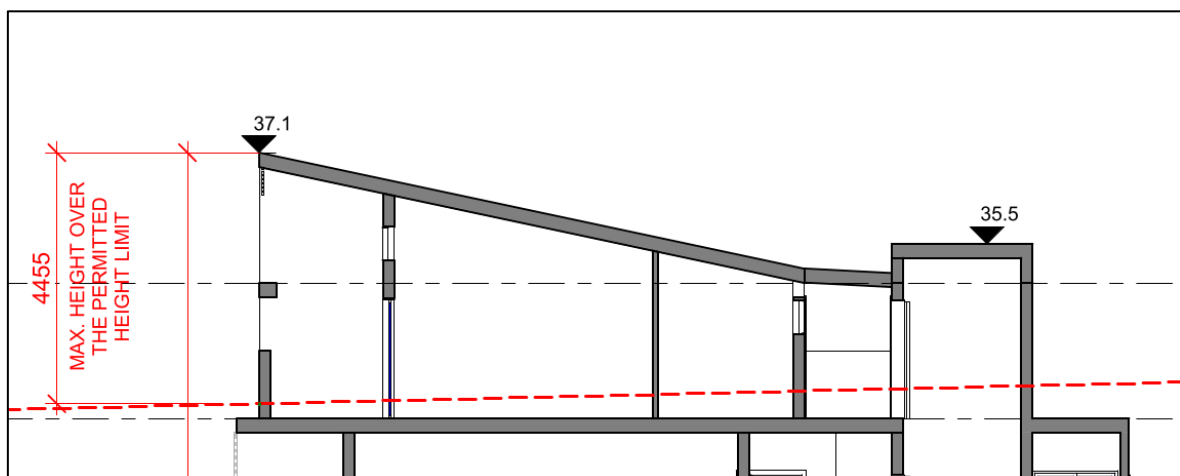


Figure 3: Approved plans - Section 2

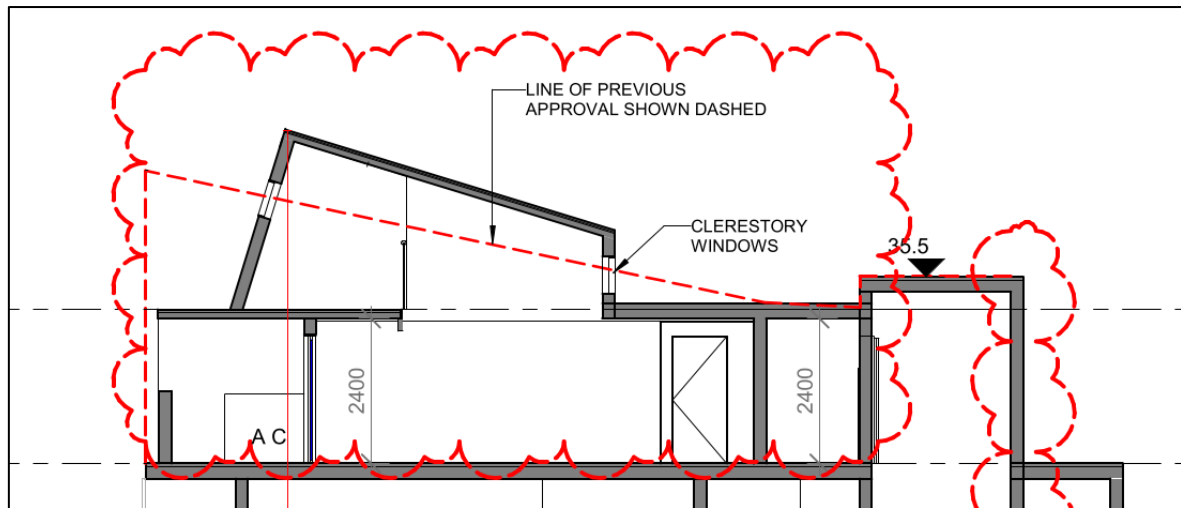


Figure 4: Proposed modified plans – Section 2

Approximately 50sqm is a result of reduced balcony sizes and depths to room type C across levels 1, 2, 3.

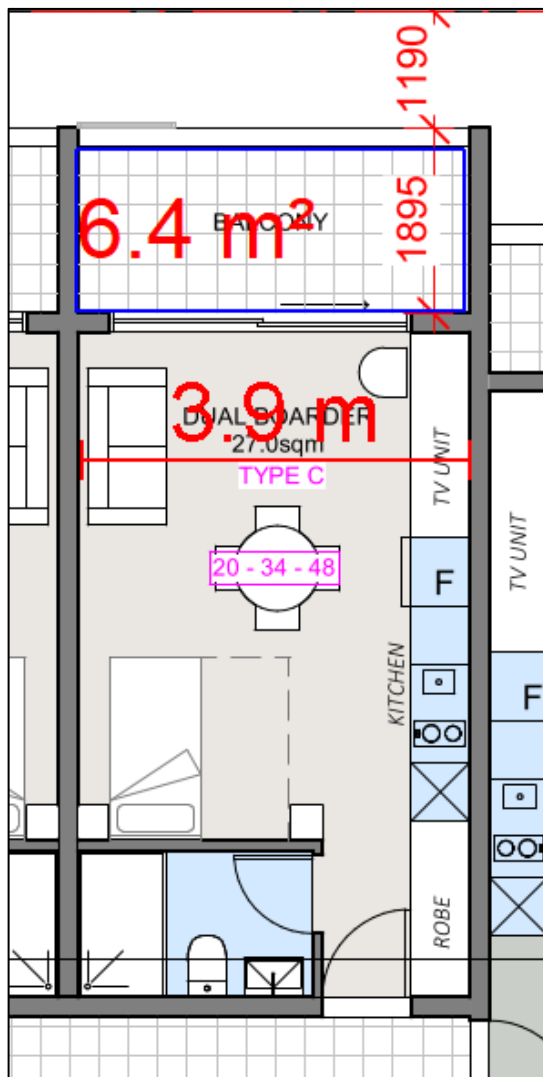


Figure 5: Approved plans – level 1, 2, 3

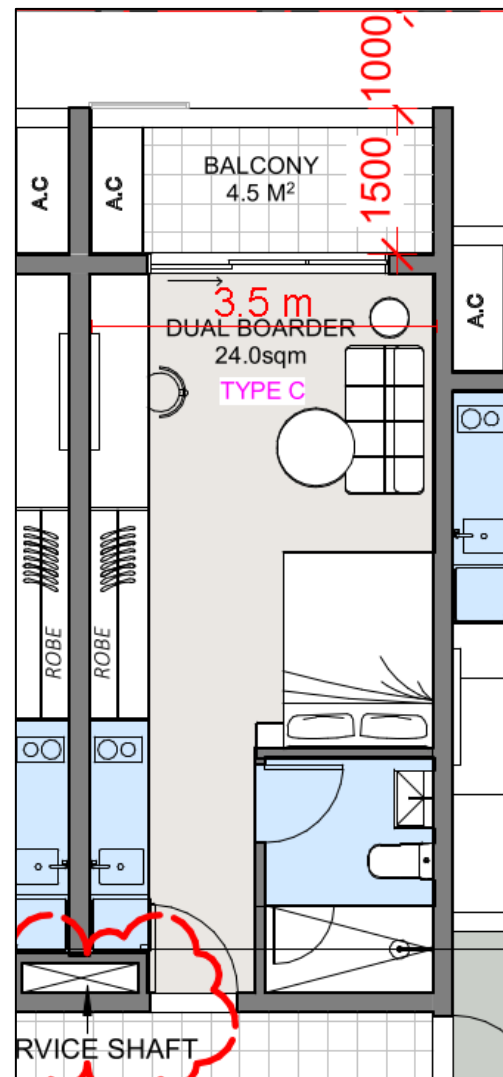


Figure 6: proposed modified plans – level 1, 2, 3

Whilst a formal Section 4.6 request is not required, the SEE provides the following justification:

- *The FSR variation was to enable a built form which better relates to the context than a building that strictly complied with the FSR control at 0.7:1.*
- *By virtue of the approval there is robust urban design justification to warrant a relaxation of the controls to support the approved height and FSR for this site. There is no statutory limit to the extent of variation a consent authority is able to grant and hence each case is determined on merits.*
- *The provision of an attic space contained within the roof volume is supported given that the upper level built form reads as a roof element as opposed to an additional level of the building. As shown in Figure A above the roof element is higher but is stepped back from the leading edge of the building to ensure the visual impacts are reduced as far as practically possible. The cladding treatment and overall modern form ensures the built form reads as a roof rather than a new level. Amenity impacts are limited due to the limited openings in the roof. The upper level room has a north facing window and has south facing openings behind the void so as to preserve amenity of the units to the south.*
- *Overall the additional GFA is provided in a way in which the approved design intent is maintained without creating the visual appearance of an additional level. The increased setback and modulated roof form reduces the perception of an additional level. On this basis the roof element is considered to improve the approved built form and creates some visual interest whilst maintaining the key urban design outcomes, namely transitional form which mediates the level change to the north and south.*
- *The ridge of this roof is now setback and would not be as impacting as the original roof design from eye level at the street.*
- *The revised design and why the design 'like the approved design' acts as a transitional built form which formed part of the basis for the variations being granted to height and FSR. Further justification is also provided with regard to shadowing impacts (or lack of) with regard to the revised scheme.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. An assessment against the following objectives of the development standard and zone is provided below.

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

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

It is considered that the floor space ratio variation does not adversely affect the public interest as it is consistent with the objectives of the R3 – Medium Density Residential zoning, in

accordance with Section 4.6(4)(a)(ii) of *IWLEP 2022* for the following reasons:

- The proposed development is considered to have an overall form and scale as viewed from the public domain that can be reasonably expected within a medium density residential environment.
- The proposal provides both single- and dual-boarder room options, with a range of room layouts to cater to different occupants. The development also provides accessible rooms, which provides further housing diversity.
- The proposal does not inhibit the ability of other land uses that provide facilities or services to meet the day to day needs of residents.

The objectives of the FSR development standard are as follows:

- *to establish a maximum floor space ratio to enable appropriate development density,*
- *to ensure development density reflects its locality,*
- *to provide an appropriate transition between development of different densities,*
- *to minimise adverse impacts on local amenity,*
- *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

It is considered that the FSR variation does not adversely affect the public interest as it is consistent with the objectives of the FSR development standard, in accordance with Section 4.6(4)(a)(ii) of *IWLEP 2022* for the following reasons:

- The additional floor space is of a form and scale which is considered appropriate given the context of the site on the edge of the R3 Medium Density Residential zone adjoining the MU1 Mixed Use zone. The proposal provides an appropriate visual transition between the existing seven storey development at no. 380 Liverpool Road and the existing three storey development at no. 44-48 Milton Street while maintaining an overall form that is considered appropriate and reasonable for the R3 Medium Density Residential zone.
- The additional floor space has been located to minimise overshadowing and visual bulk resulting in appropriate amenity for a medium density residential area.
- Whilst the variation to the LEP prescribed FSR development standard is substantive, this is inflated as a result of not accounting for the additional FSR afforded to site by virtue of the ARH SEPP 2009. The variation from the ARH SEPP 2009 FSR bonus is 41.8% or 666.9sqm.
- The proposed development is considered unlikely to result in any impacts that would adversely affect or inhibit the use or enjoyment of adjoining properties and the public domain. Additionally, the proposal includes the provision of a public pedestrian footpath along the northern side and eastern rear boundaries that will enhance the amenity and use of these spaces in the public domain.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning.

The proposal thereby accords with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the further departure from the Floor Space Ratio development standard.

Section 4.3 Height of buildings

As outlined in the table above, the proposal results in a further variation to the height of building development standard under Section 4.3 of *IWLEP 2022* by 5.68m or 45.44%. The increase in height by 780mm is a result of a change in roof form to accommodate an 'up and over' loft style room type as illustrated earlier in figure 3 and 4.

It is noted that the base consent was approved with a building height of 17.4m, which is a 39.2% variation (4.9m over). The additional building height of 780mm results in a further 4.4% variation from the original approval.

Whilst a formal Section 4.6 request is not required, the SEE provides the following justification:

- *By virtue of the approval there is robust urban design justification to warrant a relaxation of the controls to support the approved height and FSR for this site. There is no statutory limit to the extent of variation a consent authority is able to grant and hence each case is determined on merits.*
- *The provision of an attic space contained within the roof volume is supported given that the upper level built form reads as a roof element as opposed to an additional level of the building. ...The roof element is higher but is stepped back from the leading edge of the building to ensure the visual impacts are reduced as far as practically possible. The cladding treatment and overall modern form ensures the built form reads as a roof rather than a new level. Amenity impacts are limited due to the limited openings in the roof. The upper level room has a north facing window and has south facing openings behind the void so as to preserve amenity of the units to the south.*
- *Even with the very minor additional shadow shown in yellow on the proposed plans (see C129 to C133) the solar access is acceptable.*
- *The ridge of this roof is now setback and would not be as impacting as the original roof design from eye level at the street*
- *The revised design and why the design 'like the approved design' acts as a transitional built form which formed part of the basis for the variations being granted to height and FSR. Further justification is also provided with regard to shadowing impacts (or lack of) with regard to the revised scheme.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. An assessment against the following objectives of the development standard and zone is provided below.

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

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

It is considered that the additional height variation does not adversely affect the public interest as it is consistent with the objectives of the R3 Medium Density Residential zoning, in accordance with Section 4.6(4)(a)(ii) of *IWLEP 2022* for the following reasons:

- The additional height is to accommodate an 'up and over' loft style boarding room on the top level (level 4) which provides for the housing needs of the community and provides a greater variety of housing types.
- The modifications to the roof form has been designed to reduce amenity impacts with the additional height being located more centrally to minimise overshadowing and visual bulk results in appropriate amenity for a medium density residential area.
- The proposal is considered to result in a high quality built form. The overall massing and building setbacks are considered appropriate for the site and do not result in adverse visual bulk, overshadowing, or privacy impacts to adjoining properties.

The objectives of the height of building development standard are as follows:

- *To ensure the height of buildings is compatible with the character of the locality,*
- *To minimise adverse impacts on local amenity,*
- *To provide an appropriate transition between buildings of different heights.*

It is considered the additional height variation does not adversely affect the public interest because it is consistent with the objectives of the development standard, in accordance with Section 4.6(4)(a)(ii) of *IWLEP 2022* for the following reasons:

- The elements which result in the additional height variation are centrally located with minimum visibility from the public domain. As such the building remains compatible with the character of the locality, minimises adverse impacts on the locality and provides an appropriate transition between buildings.
- The modifications to the roof form have been designed to reduce amenity impacts with the additional height being located more centrally to minimise overshadowing and visual bulk results in appropriate amenity for a medium density residential area.
- The six-storey building form and overall building height is considered to provide an appropriate transition between the existing seven (7) storey development at no. 380 Liverpool Road (MU1 Mixed Use) and the existing three (3) storey development at no. 44-48 Milton Street (R3 Medium Density Residential zone). The fifth storey remains appropriately massed away from the Milton Street frontage to present as a four-storey building. The four-storey building form fronting Milton Street is largely contained within the maximum building height plane (excluding the roof terrace) and provides an

appropriate transition for a compliant building height and form to be achieved on the neighbouring property at no. 44-48 Milton Street.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning.

The proposal thereby accords with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the further departure from the Height of building development standard.

Part 5 – Miscellaneous provisions

Control	Proposed	Compliance
Section 5.1 Relevant acquisition authority	<ul style="list-style-type: none"> The modified proposal does not alter compliance with this part. 	Yes

Part 6 – Additional local provisions

Control	Proposed	Compliance
Section 6.2 Earthworks	<ul style="list-style-type: none"> The modified proposal does not alter compliance with this part. 	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> An updated stormwater plan was submitted which proposes to relocate the stormwater drainage outlet via Milton Lane. The modified proposal does not alter compliance with the provisions of this Part, and is it recommended that the existing conditions of consent are updated accordingly, including locating the butterfly grate further away from the driveway crossing to minimise potential for damage. 	Yes, subject to condition

5(c) Development Control Plans

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

Control	Proposed	Compliance
Section 2 – General Guidelines		
A – Miscellaneous		
2 – Good Design	<p>The modified development satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> • The modified development is of a scale, form, and density that provides an appropriate transition between adjoining development and which is compatible with surrounding buildings. • The modified proposal has been designed to retain adequate amenity to the proposed boarding rooms and neighbouring properties in terms of solar access and privacy. • The modified development contributes positively to the context of the site and retains and reinforces desirable elements of the street. 	Yes
5 – Landscaping	<p>The modified development satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> • The proposed landscaping is consistent with the landscaping character of the street and provides appropriate planting species for the site that will provide enhanced amenity for the residents. 	Yes
6 – Safety by Design	<p>The modified development continues to contribute to the creation of safe, active and welcoming spaces by facilitating passive surveillance of the street and communal open spaces, and improvements to the integration of building entrances and individual entries to ground floor rooms.</p>	Yes
7 – Access and Mobility	<p>The modified development satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> • In accordance with DS2.1, <i>a minimum ten percent of dwellings on the site (rounded to nearest whole number) shall also be capable of being “adaptable housing”</i>, the modified development contains 66 dwellings (an increase from 62 in the previous consent) therefore the proposal is to provide for 7 adaptable dwellings. The proposal results in a shortfall of one accessible dwelling whereby compliance can be addressed by way of condition of consent. 	Yes, subject to conditions

	<ul style="list-style-type: none"> The modified development provides access from the street via Milton Lane and a platform lift. Whilst the previous design was a desirable ramped entrance, the amended entry is considered more suitable as it does not rely on TfNSW land for access and will ensure access is available during potential future upgrade road works. Subject to the above recommended conditions, the application provides suitable levels of accessibility to meet the requirements of the Building Code of Australia. 	
8 – Parking	<p>The modified development satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> As discussed earlier in the report, the proposal is to provide for seven accessible dwellings, therefore a condition of consent is recommended to provide an additional accessible car parking space. It is noted the provision of an additional accessible car space will result in the loss of two non-accessible parking spaces. The shortfall of one car space (total of 33) is considered acceptable in order to ensure there is the provision of sufficient accessible car parking spaces. The modified proposal results in a net increase in one car space from the base consent. As such it is considered the local road and parking network will not be significantly altered by the modified proposal. Refer to discussion below regarding amended parking conditions. 	Yes, subject to conditions
<p>The application seeks to amend condition 22 Parking Facilities – Major (including basement) to replace references to 2500mm with 2200mm (contained in c. and e.).</p> <p>Regarding condition 22 c., it is noted that the CIWDGP 2016 requires minimum floor to ceiling clearance height of 2500mm, which is to allow for a maximum vehicle height of 2200mm with 300mm clearance for building servicing. In addition, the proposed SRV to service the waste area within the basement has a minimum dimension of 2080mm (refer to figure 7). As such, the minimum clearance Council could recommend is 2400mm. As such, the driveway long section detail will need to be amended accordingly.</p>		

Regarding condition 22 e., the minimum clearance height of 2500mm above the accessible parking spaces is recommended to remain on the consent for unloading a roof mounted wheelchair hoist. This is consistent with AS/NZS 2890.6-2009.

SMALL RIGID VEHICLE DIMENSIONS

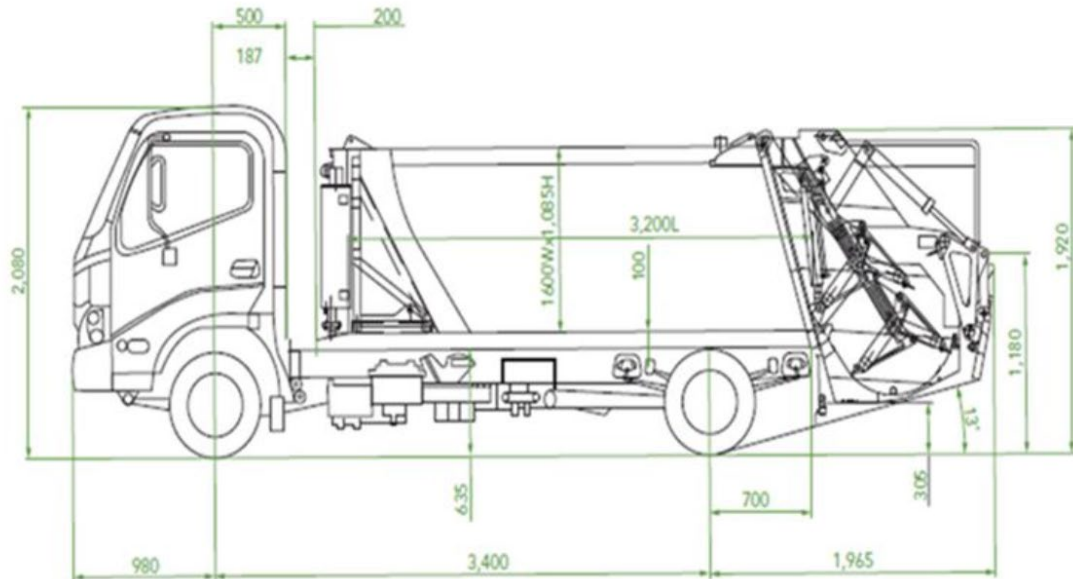


Figure 7: SRV dimensions of the vehicle proposed to service the site provided by the applicant

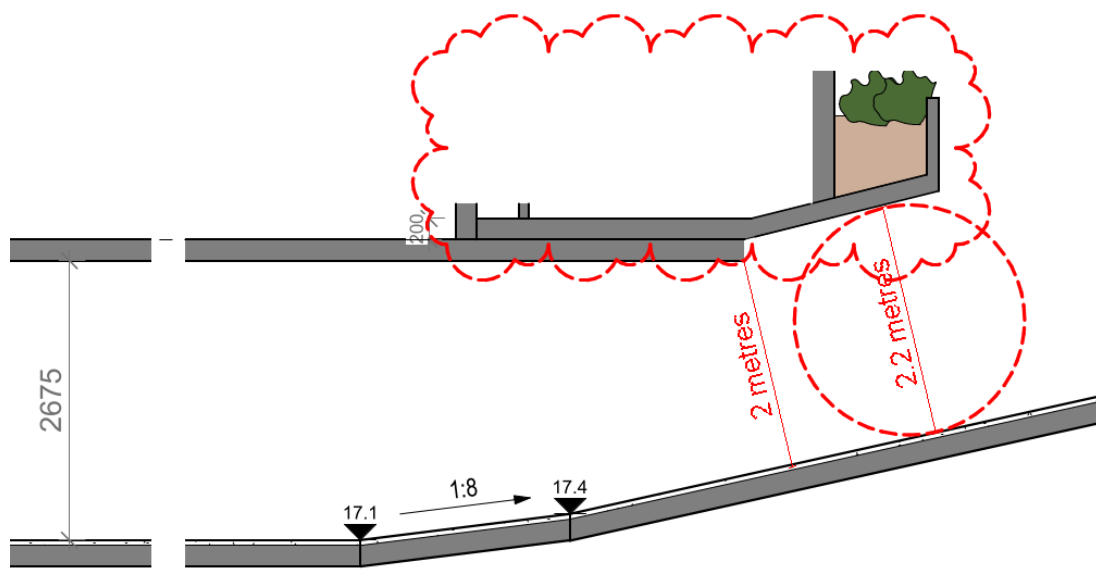


Figure 8: Proposed modified driveway detail (dwg C122)

Given the above, condition 22 is recommended to be modified as follows:

22. Parking Facilities – Major (including basement)

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

- a. The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with future public domain plans to be approved by Council;
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- c. The plans must be amended and accepted by Council to identify a service vehicle facility within site with minimum dimension for a B99 vehicle such as a large transit van. Swept paths must be submitted demonstrating forward entry and exit. In addition longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a B99 utilising the loading bay to demonstrate that a minimum headroom of **2500 2400mm** is provided;
- d. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- e. Minimum headroom of 2500mm must be provided above any disabled parking space(s);
- f. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
- g. Car spaces adjacent to walls or fences are increased in width by an additional 300mm; End spaces are provided with an additional 1m aisle extension;
- h. End spaces are provided with an additional 1m aisle extension; and
- i. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004.
- j. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
- k. The relative surface levels of the internal access from the road being controlled so that:
 1. The surface levels at the property boundary match "alignment levels"
 2. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 3. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and

<p>4. The maximum grade within the property must not exceed 1 in 20 (5%) within 6m of the back of the new 1.5m footpath to be constructed in Milton Lane. The design must be accepted by Council.</p> <p>l. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles;</p> <p>m. The entry security door must be set back a minimum of 5500mm from the property boundary;</p> <p>n. Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002.</p>		
14 – Contaminated Land	The modified development does alter any of the approved outcomes with respect to contaminated land. Existing conditions would remain on any consent granted.	Yes, subject to conditions
15 – Stormwater Management	The modified development does not seek to alter any of the approved outcomes with respect to stormwater management. Existing conditions would remain on any consent granted.	Yes, subject to conditions
C – Sustainability		
3 – Waste and Recycling Design & Management Standards	<p>The modified development satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> • An appropriately sized and located waste storage area is provided is accessible to all residents. • Refer to discussion below regarding amended parking conditions. 	Yes, subject to conditions

The application seeks to amend condition 24 Waste collection to allow for private contractor's ability to use a SRV to collect waste and not prescribe a minimum size of vehicle.

The revised proposal has demonstrated that a private waste and recycling collection contractor can service the subject site on a twice weekly basis. The vehicle proposed for waste collection has a length of 6,345mm (refer to figure 7). It is noted that condition 24 prescribes a maximum length rather than a minimum length. The maximum length aligns with the dimensions of an SRV and as such should remain on the consent.

Given the above, a number of conditions need to be amended to reflect the changes in waste collection as follows:

21. Public Domain Works – Prior to Construction Certificate

e. The inside corner of the kerb line to the rear of the development must be designed with a curve to sufficiently allow the passing of a small size truck and car aside of each other. Plans must be submitted with turning template movements for a small truck (size of a small private waste collection vehicle) heading north and car aside of it heading south at the corner of the lane. ~~In addition swept paths template movements shall also be provided to show opposing vehicle movements around the standing waste truck.~~

24. Waste collection

- Waste collection vehicles shall be limited to SRV trucks of Australian Standard maximum length of 6.4m *and a maximum height of 2.1m*. ~~The applicant must provide information to the satisfaction of Council on location the vehicle will stand for the collection of waste, clear of 'No Stopping' restrictions required at the corners of Milton Lane (prohibiting the standing of any vehicles at the corner). In addition, all waste bins must be planned and moved directly onto the waste vehicle and moved back on site. No bins shall be placed on the footpath awaiting collection or movement back on site. In addition, swept paths shall be provided for a small waste collection vehicle turning into Milton Lane from Norton Street on a street aerial view to confirm access.~~

27. Waste management - bin storage

- Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with architectural plans showing that the bin storage room has been included as per the submitted architectural plan ~~– Ground Floor Plan, Sheet No B108, dated 14/10/2021. Basement – 1, Sheet no C110, rev C dated 05/12/2023.~~

63. Resource Recovery – ongoing waste management

- ~~**Annual Domestic Waste Charge**~~

- ~~In the event that the property owner chooses to contract a private waste service, the property owner will be charged an annual domestic waste charge as per Sect 496 of the LG Act.~~

42A. Waste Collection – contract for onsite collection

The site has not been designed to accommodate Council's waste and recycling collection services. 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 all waste, recycling and bulky waste generated by the development.

4 – Tree Preservation and Management

The modified development does not seek to alter any of the approved outcomes with respect to tree management. Existing conditions would remain on any consent granted.

Yes, subject to conditions

Chapter D – Precinct Guidelines

3 – Ashfield West

The modified development satisfies the relevant performance criteria as follows:

- The application maintains the dedication of a portion of the rear of the site along the existing eastern rear boundary to enable widening of Milton Lane.
- The modified Milton Street entrance has been redesigned to provide a pedestrian access path via Milton Lane which is considered more suitable as it does not rely on TfNSW land for access and will ensure access is available during potential future upgrade road works.
- The application provides the required pedestrian footpath along the northern and eastern boundaries fronting Milton Lane.
- The modified steps to the northside rooms respond to proposed levels of the Milton Lane footpath.
- The proposal is considered unlikely to adversely impact the amenity of residential apartments at no. 380 Liverpool Road.
- Refer to discussion below regarding amended public domain work conditions.

Yes, subject to conditions

The application seeks amendments to condition 21 public domain works – prior to construction certificate. The applicant has requested a number of amendments to this condition which are discussed below:

- The applicant has requested the wording of this condition be changed to “Prior to the Issue of an Occupation Certificate”.
 - It is recommended this wording remain unchanged as the public domain works are to be designed and approved by Council prior to CC. The design public domain works are required to be co-ordinated with the approval to ensure orderly and economic use and development of land in accordance with Section 1.3 – Objects of Act Section 1.3 of the *EP&A 1979*.
- 21. a: Council recommends amending the wording to clarify that no works are permitted in the TfNSW resumption area.
- 21 b.: Council recommends amending the wording to clarify only new vehicular access locations.
- 21 c.: The applicant has requested the upgrade of the intersection of Milton Street and Milton Lane be deleted as the upgrade of this is conditioned under other nearby DA consents.
 - It is recommended this wording remain unchanged and applicable to the development as stormwater works are proposed near the intersection and likely to impact on the condition of Milton Lane, in addition, building demolition works, and movement of heavy machineries are likely to damage existing condition of Milton Lane. In this instance, restoration of the intersection to left in/left out and any central median to enforce the left in/left out restriction. Concurrence from TfNSW must be obtained for any restoration works.
- 21 d.: Council recommends amending the wording to clarify that no works are permitted in the TfNSW resumption area.
- 21 i.: The applicant has requested that the road widening transition into the driveway ramp of no. 44 Milton Street be deleted as it relates to private property and will be assessed as part of the S138 application.
 - It is recommended this wording remain unchanged as the proposal should not result in any adverse impact to the neighbouring property access and this condition provides assurance of that to the neighbour.

Given the above, condition 21 is recommended to be modified as follows:

21 Public Domain Works – Prior to Construction Certificate

- Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve **on Milton Lane** 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 kerb and gutter and landscaping must be reconstructed and upgraded in accordance with

the Street Tree Master plan and the Public Domain Design Guide or scheme for the area; **No works are approved in the TfNSW land between the site and Milton Street.**

- b. The construction of heavy duty vehicular crossings to all **new** vehicular access locations and removal of all redundant vehicular crossings to the site. The vehicle crossing shall be designed so that the level at the back of the new footpath line is 170 mm above the adjacent invert level of the gutter at both sides of the vehicle entry;
- c. The upgrade of the intersection to left in/left out including any road widening and central median to enforce the left in/left out restriction. Concurrence from Transport for NSW must be obtained for the proposed left in/left out intersection treatment. Details of the approved TfNSW treatment to the intersection shall be provided on plan together with TfNSW approval prior to the issue of a Construction Certificate.
- d. New concrete footpath 1.5m wide and kerb & gutter must be constructed for the full length of Milton Lane **adjacent to the property. The footpath must continue along the northern frontage to Milton Street within the TfNSW land for road widening.** The developer is to liaise with TfNSW for future footpath levels and landscaped treatment of this area **for any required connection to Milton Street.** The kerb and gutter shall be constructed wholly within the road reserve and be controlled by Council. The footpath along the property in Milton Lane shall be constructed within the property and shall be a public right of way.
- e. The inside corner of the kerb line to the rear of the development must be designed with a curve to sufficiently allow the passing of a small size truck and car aside of each other. Plans must be submitted with turning template movements for a small truck (size of a small private waste collection vehicle) heading north and car aside of it heading south at the corner of the lane. In addition swept paths template movements shall also be provided to show opposing vehicle movements around the standing waste truck.
- f. 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.
- g. No 'Stopping' restrictions shall extend at least 10 metres south of the **inner** corner of the lane, and at least 20 metres west of the corner of the lane, to abide by the Australian road rules and allow for clear and unobtrusive movement and safe sight view of traffic. No 'parking' is to be erected on the southern side of Milton Lane, 20m west of the laneway corner and extend thereof to a point approximately 20 metres east of Milton Street. 'No Stopping' is thereafter be erected to Milton Street. 'No Stopping' restrictions shall be erected by the developer on the **outside** corner of Milton Lane opposite the rear frontage of the site to the side boundary of No 380 to 378 Liverpool Road. In addition, appropriate measures (signs, markings etc) are to be installed to warn and give-way to traffic approaching from both ends at the bend in Milton Lane.
- h. Detailed (signs and line marking) plans must be provided, but not limited, to showing the specific distances above for the proposed 'No Stopping' and 'No Parking' restrictions within the lane. The plans must also show further proposed

widening and improved traffic and pedestrian safety treatment at the intersection of Milton Lane and Milton Street, and similarly warning and give-way measures around the bend of Milton Lane. The applicant must consult with the affected residents on the detailed plans. Any feedback from the community will be reported to the Local Traffic Committee with its recommendation to Council for approval prior to the issue of a construction certificate;

- i. The proposed road widening area to the rear must be suitably transitioned into the driveway ramp of no. 44 Milton Street. Any required level corrections must conform to Australian Standards in ramp grade to prevent vehicular scraping atop of the ramp. A plan of the proposed modification/transitions along the rear boundary and ramp at no. 44 Milton Street must be submitted for approval. Agreement must be obtained from the owner/s of no. 44 Milton Street for any works in modifying the ramp or adjustments to the private property of 44 Milton Street;
 - j. Appropriate guard fencing may also need to be provided on the southern side of the driveway ramp of No.44 to safeguard against drop off unless alternative arrangements or adjustments to the ramp to No.44 can be agreed upon to set back and merge or align with the concrete level parking area to the south of the ramp. This will need to be detailed in the plans and agreement must be obtained from the owner of No. 44 Milton Street for the removal of the side wall barrier in continuation of footpath along the north-south section of Milton Lane for any future development.
 - k. The existing Council drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 3m lintel) must be installed. The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event. Pipes must be Class 4 Steel Reinforced Concrete Pipe or approved equivalent and Pits must be cast in-situ. Plans, long sections and details must be provided including location of utility services;
- - All works must be completed prior to the issue of an Occupation Certificate.

Chapter F – Development Category Guidelines

Part 6 – Boarding Houses and Student Accommodation	<p>The modified development remains consistent with the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> • The proposal generally retains the approved built form and amenity outcomes for the subject site and adjoining properties. Refer to discussion below regarding solar access. • The vented roller door and ventilation louvers to the basement will improve the internal amenity of the basement and will not be visible from the public domain. • The provision of increased covered outside communal area, a laundry room, drying area and linen storage room on the ground floor 	Yes
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	<p>is in keeping with facilities provided by boarding houses and will improve the amenity of the occupants;</p> <ul style="list-style-type: none">• The relocation of the accessible toilet further away from the communal area on the ground floor is considered acceptable as it will provide toilet users additional privacy whilst still being accessible, and the relocation will increase the size of the primary communal area.• The modified proposal remains well designed, deriving from and respecting site and desirable neighbourhood characteristics.• The minor changes to the built form and additional openings maintain a suitable balance of visual privacy and passive surveillance for the surrounding residents and future occupants of the development.• The application achieves compliance with <i>ARH SEPP</i> with respect to room sizes, indoor recreation areas and facilities.• Existing conditions remain to ensure the operation of the boarding house complies with the POM at all times.	
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Solar access

The proposed increase in height and change in building envelope results in a minor additional amount of overshadowing to no 44-48 Milton Street.

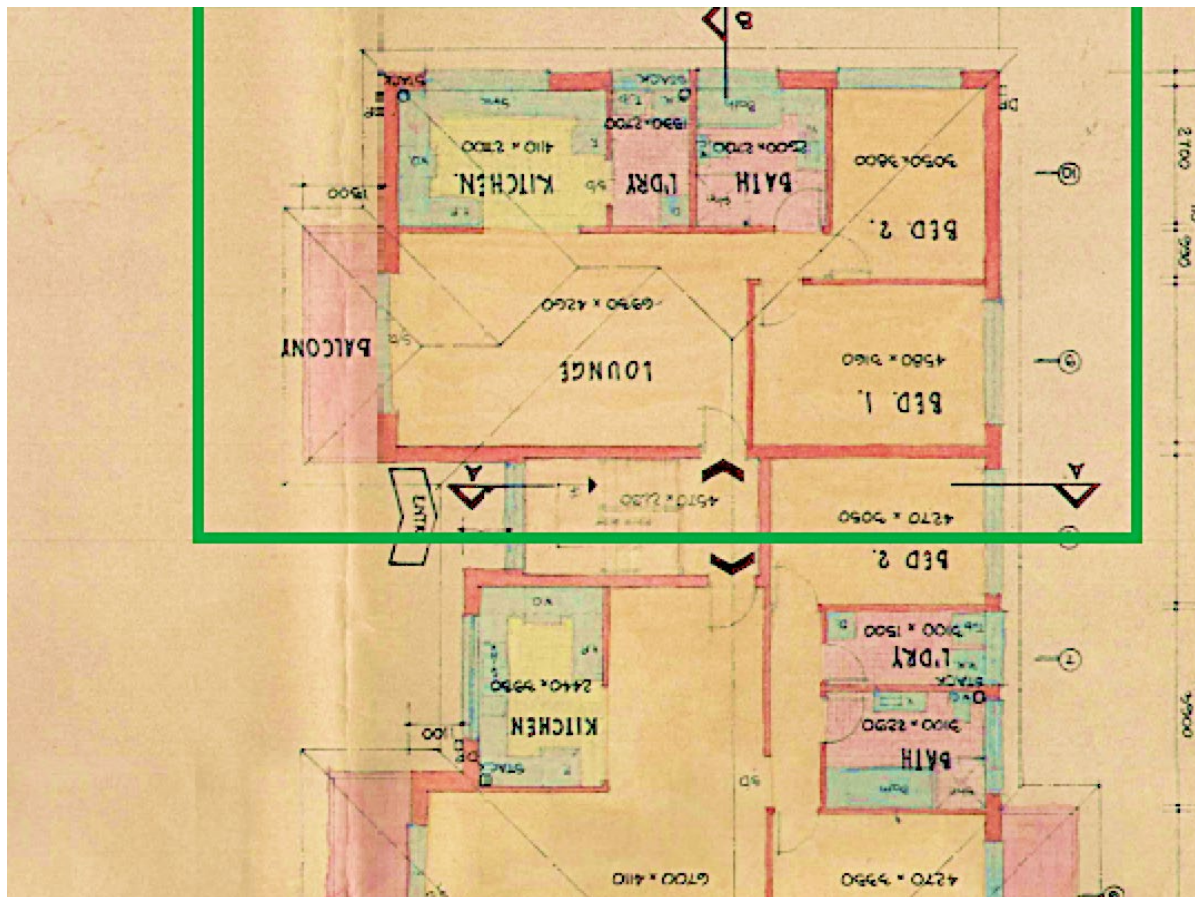


Figure 9: Floor plan of northern-most apartments at no. 44-48 Milton Street.

Shadow diagrams were submitted indicating the following as a result of the modified proposal:

- There is no change to the solar access outcomes of the ground floor and third floor apartments.
- Additional overshadowing is cast to the level two apartment as follows;
 - Additional shadowing is cast to the north facing bedroom window between 11am and 1pm,
 - Additional shadowing cast to the north facing kitchen window at 2pm,
 - Additional shadowing cast to the west facing living room and balcony at 2pm.
 - Two hours of direct solar access to the living area and balcony is maintained between 12.00pm-2.00pm on June 21st.

The proposed development is considered to have been appropriately designed to limit adverse overshadowing impacts while providing adequate amenity to the proposed boarding rooms. As such, the development is considered to result in a reasonable impact on the adjoining development located directly south of the subject site.

5(d) The Likely Impacts

The assessment of the Modification Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

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

5(f) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 21 days to surrounding properties.

One submission was received in response to the initial notification.

Seven submissions (including two in support) were received in response to renotification of the application.

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

- Non-compliance with building height
- Non-compliance with FSR
- Servicing/ waste collection for the site
- Inappropriate road access, traffic congestion in Milton Lane and Norton Street

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

Issue: Conditions related to construction noise and vibration be added to the determination with reference made to the Interim Construction Noise Guidelines.

Comment: Councils standard conditions regarding construction hours have already been included in the original development consent to mitigate any significant impacts. This condition is consistent with the Interim Construction Noise Guidelines.

Issue: Loss of on-site car parking spaces

Comment: The revised plans have reinstated basement level 2. As discussed in the report, the revised proposal generally complies with the parking requirements for this proposed development.

Issue: The request for submission of a Public Domain Works design prior to OC and not CC carries significant risk that the design is not consistent with the built form, and/or that the design is compromised.

Comment: Council agrees with this submission and does not recommend the changes in wording.

Issue: The applicant should complete works to the TfNSW land.

Comment: The application does not propose any works nor can the consent authority require upgrade works to TfNSW land without land owners consent.

Issue: Too many redevelopments in the area

Comment: The site is zoned R3 Medium Density Residential zone under *IWLEP 2022* and redevelopment of this area is to be anticipated.

Issue: Increase in population is associated with more diseases and worse quality of life.

Comment: It is considered that the proposed development can reasonably be constructed without any significant adverse impacts to neighbouring properties.

Issue: Need more public car parking around Norton Street, Ashfield.

Comment: These comments are noted, however not a matter for consideration under Section 4.15 of *EP&A Act 1979*.

Issue: Non-compliance with Apartment Design Guide (ADG) minimum balcony requirements, cross ventilation controls, communal open space and building separation.

Comment: SEPP 65 including the ADG only applies to residential flat buildings.

Issue: Voluntary Planning Agreement (VPA), required for the land dedication for the rear lane expansion at the back of the site, has not been offered, publicly exhibited or properly considered by Council

Comment: Under Section 9 of the *Roads Act 1993* land can be dedicated for the purposes of a public road without a planning agreement.

Issue: House value of 1 Pyrmont Street Ashfield

Comment: Not a planning matter for consideration under Section 4.15 of *EP&A Act 1979*. However, matters that may affect property value, such as amenity impacts, have been assessed and discussed throughout this report.

Issue: Ashfield residents pay higher rates than the rest of the council area.

Comment: The payment of rates is not matter for consideration under Section 4.15 of *EP&A Act 1979*.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Development Engineering
- Waste Management
- Building Certification
- Urban Design

6(b) External

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

- Ausgrid

7. Section 7.11 Contributions/7.12 Levy

Condition 3 of the base consent required the payment \$584,575 under the former Ashfield Section 94 Development Contribution Plan 2010 (Ashfield CP). This monetary contribution was calculated pursuant to the base contribution rates for “Residential Accommodation less than 60m² GFA” in Table 2 of the Ashfield CP. However, Note C to Table 2 expressly excludes boarding houses from being characterised as “Residential Accommodation”.

Council accepts that there has been a misapplication of the contribution rates applied pursuant to the Ashfield CP. The condition is recommended to be recalculated in accordance with the contribution rates for a “Boarding House” pursuant to Table 2 of the Ashfield CP, adjusting the base contribution to \$171,653.93.

Notwithstanding, the carrying out of the modified development would result in an increased demand for public amenities and public services within the area given the increase of 14 occupants resulting from new rooms and the modification of some single occupant rooms to dual occupant rooms. Revised Section 7.11 contributions are payable for those parts of the development changing in the subject modification application.

It is noted that the Inner West Local Infrastructure Contribution Plan 2023 commenced on 20 February 2023 and repeals and replaces the Ashfield CP. Part 3.2 of the Inner West Local Infrastructure Contribution Plan 2023 prescribes the following transitional arrangements:

All applications to modify a consent under section 4.55 of the EP&A Act will be determined against the same contribution plan that was applied to the original consent until 30 June 2023, after that time this Plan prevails.

An additional contribution of \$131,316.00 would be required for the modified components of the development under Inner West Local Infrastructure Contribution Plan 2023. A modified condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

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

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

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55(2) of the *Environmental Planning and Assessment Act 1979*, grant consent to Modification Application No. MOD/2023/0067 for internal and external changes to the approved boarding house at 40 Milton Street, ASHFIELD subject to the conditions listed in Attachment A.

Attachment A – Recommended conditions of consent

A. Modify the following Conditions to read as follows:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
18 095 B102 Rev B	BASIX Certificate	14/10/2021	Habitation Design + Interiors
18 095 B105 Rev B	Site Plan	14/10/2021	Habitation Design + Interiors
18 095 B106 Rev B	Basement -2-	14/10/2021	Habitation Design + Interiors
18 095 B107 Rev B	Basement -1	14/10/2021	Habitation Design + Interiors
18 095 B108 Rev B	Ground Floor Plan	14/10/2021	Habitation Design + Interiors
18 095 B109 Rev B	Level 1.2.3	14/10/2021	Habitation Design + Interiors
18 095 B110 Rev B	Level 4	14/10/2021	Habitation Design + Interiors
18 095 B111 Rev B	Roof Plan	14/10/2021	Habitation Design + Interiors
18 095 B113 Rev B	Elevations	14/10/2021	Habitation Design + Interiors
18 095 B114 Rev B	Elevations	14/10/2021	Habitation Design + Interiors
18 095 B115 Rev B	Section	14/10/2021	Habitation Design + Interiors
18 095 B116 Rev B	Section & Details	14/10/2021	Habitation Design + Interiors
18 095 B117 Rev B	Driveway Detail	14/10/2021	Habitation Design + Interiors
18 095 B119 Rev B	Demolition Plan	14/10/2021	Habitation Design + Interiors
18 095 B120 Rev B	Materials and Finishes	14/10/2021	Habitation Design + Interiors
18 095 B121 Rev B	Fence Detail	14/10/2021	Habitation Design + Interiors
DA-L101 Rev C	Landscape Plan: Ground Fr	15/10/2021	Canvas Landscape Architects
DA-L102 Rev C	Landscape Plan: Ground Fr	15/10/2021	Canvas Landscape Architects
DA-L103 Rev C	Landscape Typical Details	15/10/2021	Canvas Landscape Architects

1072835M_02	BASIX Certificate	23/09/2021	EPS
19MB8208/D01 - D07 Sheets 1 to 7 Issue B	Concept Stormwater Drainage Plan	23/03/2021	United Consulting Engineers P/L
SRE/612/AF/19/STG1	Stage 1 - Preliminary Site Investigation	26/03/2021	Soilsrock Engineering P/L
SRE/612/AF/20/STG2	Stage 2 - Detailed Site Investigation	26/03/2021	Soilsrock Engineering P/L
SRE/612/AF/21/RAP	RAP - Remediation Action Plan	24/09/2021	Soilsrock Engineering P/L
SRE/612/AF/19/GEO	Geotechnical Site Investigation Report	26/03/2021	Soilsrock Engineering P/L
	Plan of Management	October 2021	
	Arboricultural Impact Assessment, Tree Survey, and Tree Management Plan	24/03/2021	Tree Technics
3998R20200130mfc40MiltonStAshfield_DA.docx	Acoustical Report	30/01/2020	Koikas Acousticc P/L
C106	Site plan	23/01/2024	Habitation Design + Interiors
C107	Basement -2	23/01/2024	Habitation Design + Interiors
C108	Basement -1	23/01/2024	Habitation Design + Interiors
C109	Ground floor plan	23/01/2024	Habitation Design + Interiors
C110	Level 1,2,3	23/01/2024	Habitation Design + Interiors
C111	Level 4	23/01/2024	Habitation Design + Interiors
C112	Attic plan	23/01/2024	Habitation Design + Interiors
C113	Roof plan	23/01/2024	Habitation Design + Interiors
C114	Elevations	23/01/2024	Habitation Design + Interiors

C115	Elevations	23/01/2024	Habitation Design + Interiors
C116	Sections	23/01/2024	Habitation Design + Interiors
C117	Section & details	23/01/2024	Habitation Design + Interiors
C121	Driveway detail	23/01/2024	Habitation Design + Interiors
C122	Materials and finishes	23/01/2024	Habitation Design + Interiors
C123	Fence details	23/01/2024	Habitation Design + Interiors
1 of 4 Issue A	Landscape site plan	05/02/2024	Paul Scrivener Landscape
2 of 4 Issue A	Detail plan	05/02/2024	Paul Scrivener Landscape
3 of 4 Issue A	Planting plan	05/02/2024	Paul Scrivener Landscape
4 of 4 Issue A	Landscape site plan	05/02/2024	Paul Scrivener Landscape
	Plan of Management	March 2023	

(Amended – 12/03/2024 – MOD/2023/0067)

3. Section 7.11 (Former Section 94) Contribution

• Prior to the issue of a Construction Certificate written evidence must be provided to the Certifying Authority that ~~a the following~~ monetary contributions of ~~\$584,575.73~~ indexed in accordance with ~~Ashfield Development Contributions Plan (“CP”)~~ the relevant **contribution plans** has been paid to the Council.

• ~~The above contribution is the contribution applicable as at 28 October 2021.~~

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

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

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

• Community Infrastructure Type:	• Contribution \$
• Local Roads	• 22,818.36
• Local Public Transport Facilities	• 29,971.89

• Local Open Space and Recreation	• 482,435.16
• Local Community Facilities	• 25,402.53
• Plan Preparation and Administration	• 23,947.78
• TOTAL	• 584,575.73

• 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.

In accordance with section 7.20(4) of the Environmental Planning and Assessment Act 1979 the application of the former Ashfield 94 Development Contribution Plan continues to apply with amounts adjusted for inflation in accordance with the indexation provisions of the former Plan. These amounts apply from the date of determination of this consent in the following manner and are subject to further CPI adjustments at the time of payment:

<i>Contribution Category</i>	<i>Amount</i>
<i>Local Roads</i>	<i>\$19,289.57</i>
<i>Local Public Transport Facilities</i>	<i>\$57,570.87</i>
<i>Local Community Facilities</i>	<i>\$48,793.90</i>
<i>Plan Preparation and Administration</i>	<i>\$45,999.59</i>
<i>TOTAL</i>	<i>\$171,653.93</i>

In accordance with section 7.11 of the Environmental Planning and Assessment Act 1979 and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the s4.55 development as follows:

Contribution Category	Amount
Open Space & Recreation	\$93,890.00
Community Facilities	\$17,402.00
Transport	\$12,344.00
Plan Administration	\$1,206.00
Drainage	\$6,473.00
TOTAL	\$131,316.00

At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

C_{payment} = is the contribution at time of payment

C_{consent} = is the contribution at the time of consent, as shown above

CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 136.4 for the Dec-23

CPI_{payment} = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.

(Amended – 12/03/2024 – MOD/2023/0067)

21. Public Domain Works – Prior to Construction Certificate

- Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve **on Milton Lane** 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 kerb and gutter and landscaping must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme for the area; **No works are approved in the TfNSW land between the site and Milton Street.**
 - b. The construction of heavy duty vehicular crossings to all **new** vehicular access locations and removal of all redundant vehicular crossings to the site. The vehicle crossing shall be designed so that the level at the back of the new footpath line is 170 mm above the adjacent invert level of the gutter at both sides of the vehicle entry;
 - c. The upgrade of the intersection to left in/left out including any road widening and central median to enforce the left in/left out restriction. Concurrence from Transport for NSW must be obtained for the proposed left in/left out intersection treatment. Details of the approved TfNSW treatment to the intersection shall be provided on plan together with TfNSW approval prior to the issue of a Construction Certificate.
 - d. New concrete footpath 1.5m wide and kerb & gutter must be constructed for the full length of Milton Lane **adjacent to the property. The footpath must continue along**

~~the northern frontage to Milton Street within the TfNSW land for road widening.~~

The developer is to liaise with TfNSW for future footpath levels and landscaped treatment of this area **for any required connection to Milton Street**. The kerb and gutter shall be constructed wholly within the road reserve and be controlled by Council. The footpath along the property in Milton Lane shall be constructed within the property and shall be a public right of way.

- e. The inside corner of the kerb line to the rear of the development must be designed with a curve to sufficiently allow the passing of a small size truck and car aside of each other. Plans must be submitted with turning template movements for a small truck (size of a small private waste collection vehicle) heading north and car aside of it heading south at the corner of the lane. ~~In addition swept paths template movements shall also be provided to show opposing vehicle movements around the standing waste truck.~~
- f. 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.
- g. No Stopping' restrictions shall extend at least 10 metres south of the **inner** corner of the lane, and at least 20 metres west of the corner of the lane, to abide by the Australian road rules and allow for clear and unobtrusive movement and safe sight view of traffic. No parking' is to be erected on the southern side of Milton Lane, 20m west of the laneway corner and extend thereof to a point approximately 20 metres east of Milton Street. 'No Stopping' is thereafter be erected to Milton Street. 'No Stopping' restrictions shall be erected by the developer on the **outside** corner of Milton Lane opposite the rear frontage of the site to the side boundary of No 380 to 378 Liverpool Road. In addition, appropriate measures (signs, markings etc) are to are to be installed to warn and give-way to traffic approaching from both ends at the bend in Milton Lane.
- h. Detailed (signs and line marking) plans must be provided, but not limited, to showing the specific distances above for the proposed 'No Stopping' and 'No Parking' restrictions within the lane. The plans must also show further proposed widening and improved traffic and pedestrian safety treatment at the intersection of Milton Lane and Milton Street, and similarly warning and give-way measures around the bend of Milton Lane. The applicant must consult with the affected residents on the detailed plans. Any feedback from the community will be reported to the Local Traffic Committee with its recommendation to Council for approval prior to the issue of a construction certificate;
- i. The proposed road widening area to the rear must be suitably transitioned into the driveway ramp of no. 44 Milton Street. Any required level corrections must conform to Australian Standards in ramp grade to prevent vehicular scraping atop of the ramp. A plan of the proposed modification/transitions along the rear boundary and ramp at no. 44 Milton Street must be submitted for approval. Agreement must be obtained from the owner/s of no. 44 Milton Street for any works in modifying the ramp or adjustments to the private property of 44 Milton Street;
- j. Appropriate guard fencing may also need to be provided on the southern side of the driveway ramp of No.44 to safeguard against drop off unless alternative arrangements or adjustments to the ramp to No.44 can be agreed upon to set back and merge or align with the concrete level parking area to the south of the ramp. This will need to be

detailed in the plans and agreement must be obtained from the owner of No. 44 Milton Street for the removal of the side wall barrier in continuation of footpath along the north-south section of Milton Lane for any future development.

- k. The existing Council drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 3m lintel) must be installed. The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event. Pipes must be Class 4 Steel Reinforced Concrete Pipe or approved equivalent and Pits must be cast in-situ. Plans, long sections and details must be provided including location of utility services;
-
- All works must be completed prior to the issue of an Occupation Certificate.

(Amended – 12/03/2024 – MOD/2023/0067)

22. Parking Facilities – Major (including basement)

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

- a. The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with future public domain plans to be approved by Council;
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- c. The plans must be amended and accepted by Council to identify a service vehicle facility within site with minimum dimension for a B99 vehicle such as a large transit van. Swept paths must be submitted demonstrating forward entry and exit. In addition longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a B99 utilising the loading bay to demonstrate that a minimum headroom of **2500 2400mm** is provided;
- d. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- e. Minimum headroom of 2500mm must be provided above any disabled parking space(s);

- f. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
- g. Car spaces adjacent to walls or fences are increased in width by an additional 300mm; End spaces are provided with an additional 1m aisle extension;
- h. End spaces are provided with an additional 1m aisle extension; and
- i. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004.
- j. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
- k. The relative surface levels of the internal access from the road being controlled so that:
 - 1. The surface levels at the property boundary match "alignment levels"
 - 2. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - 3. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - 4. The maximum grade within the property must not exceed 1 in 20 (5%) within 6m of the back of the new 1.5m footpath to be constructed in Milton Lane. The design must be accepted by Council.
- l. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles;
- m. The entry security door must be set back a minimum of 5500mm from the property boundary;
- n. Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002.

(Amended – 12/03/2024 – MOD/2023/0067)

42. Road Widening/Splay

-
- Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence which establishes that a plan of subdivision has been registered with NSW Land and Registry Services which results in the following road widening:
 - a) Widening of Milton Lane and provision of a splay at the 90 degree bend in Milton Lane as detailed on Ground Floor Plan ~~B108 (Rev B) dated 14/10/21~~ **C111 (Rev C) dated 5/12/2023**.

(Amended – 12/03/2024 – MOD/2023/0067)

67. 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 70 and as amended by the conditions in this Determination;
- b. A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
- c. A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;
- d. The Plan of Management must not be amended without the prior consent of Council and must be made available to Council officers and the Police upon request;
- e. All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;
- f. The premises must be used exclusively as a boarding house containing a maximum total of ~~64~~ **65** lodger's rooms and 1 on-site manager's room with not more than ~~2~~ **121** adult lodgers and 1 adult on-site manager residing in the premises at any one time;
- g. Not more than 2 lodgers must occupy each boarding room, except in single rooms where a maximum of 1 lodger is allowed;
- h. The premises must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;
- i. All common rooms/areas and recreation rooms/areas must be maintained at all times for the use of the lodgers; 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.

-

(Amended – 12/03/2024 – MOD/2023/0067)

25. Waste collection

-

- Waste collection vehicles shall be limited to SRV trucks of Australian Standard maximum length of 6.4m **and a maximum height of 2.1m. The applicant must provide information to the satisfaction of Council on location the vehicle will stand for the collection of waste, clear of 'No Stopping' restrictions required at the corners of Milton Lane (prohibiting the standing of any vehicles at the corner). In addition, all waste bins must be planned and moved directly onto the waste vehicle and moved back on site. No bins shall be placed on the footpath awaiting collection or movement back on site. In addition, swept paths shall be provided for a small waste collection vehicle turning into Milton Lane from Norton Street on a street aerial view to confirm access.**

-

(Amended – 12/03/2024 – MOD/2023/0067)

28. Waste management - bin storage

-
- Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with architectural plans showing that the bin storage room has been included as per the submitted architectural plan ~~– Ground Floor Plan, Sheet No B108, dated 14/10/2021.~~ **Basement – 1, Sheet no C110, rev C dated 05/12/2023**
-

(Amended – 12/03/2024 – MOD/2023/0067)

B. Add the following Conditions to read as follows:

5A Car Parking

The development must provide and maintain within the site:

- a. *33 car parking spaces must be paved and line marked; including;*
- b. *7 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces;*
- c. *14 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times;*
- d. *40 Bicycle storage capacity within the site;*

(Added – 12/03/2024 – MOD/2023/0067)

5B Accessible dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate seven (7) units are accessible units.

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

(Added – 12/03/2024 – MOD/2023/0067)

18A Amended Waste Management Plan

Prior to the issue of a Construction Certificate the certifying authority is to be provided with an amended operational waste management plan which reflects the following:

- *p 19: The bin storage area will have capacity for 17x240L landfill, and 17 x240L recycling bins*

- *p 19: recyclable material must NOT be bagged. Recyclable items are placed in recycling bins unbagged.*
- *p 20: A gardening service will be contracted for the ongoing removal of garden organic waste*
- *p 21: Table and text must be updated to reflect that the building will have 17 of each landfill and recycling bins, 240L.*
- *p 21: "Servicing of the bins will take place outside of normal operational hours when the building is vacant (?) and access to the loading area will not be impeded" This statement must be amended to state that servicing will take place within the hours required by Council's Environmental Health Section*
- *p 23: A gardening service will be contracted for the ongoing removal of garden organic waste o p 23: As the development intends to have private waste and recycling service contracts, Council will not collect bulky waste. A private service will need to be contracted. The paragraph describing bulky waste management must be updated to reflect this.*
- *p 23: The bin and bulky waste storage areas are to be designed and built to meet the requirements of the Ashfield DCP, Guide 2.*

The amended Waste Management plan is to form part of the construction certificate documents.

(Added – 12/03/2024 – MOD/2023/0067)

35A. 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.

(Added – 12/03/2024 – MOD/2023/0067)

42A. Waste Collection – contract for onsite collection

The site has not been designed to accommodate Council's waste and recycling collection services. 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 all waste, recycling and bulky waste generated by the development. Waste collection vehicles shall be limited to SRV trucks of Australian Standard maximum length of 6.4m and a maximum height of 2.1m.

(Added – 12/03/2024 – MOD/2023/0067)

C. Delete the following Conditions:

~~63. Resource Recovery – ongoing waste management~~

~~• Annual Domestic Waste Charge~~

~~• In the event that the property owner chooses to contract a private waste service, the property owner will be charged an annual domestic waste charge as per Sect 496 of the LG Act.~~

(Deleted – 12/03/2024 – MOD/2023/0067)

Attachment B – Plans of proposed development

Sheet List	
Sheet Name	Sheet Number
COVER PAGE	C105
SITE PLAN	C106
BASEMENT - 2	C107
BASEMENT - 1	C108
GROUND FLOOR PLAN	C109
LEVEL 1 2 3	C110
LEVEL 4	C111
ATTIC PLAN	C112
ROOF PLAN	C113
ELEVATIONS	C114
ELEVATIONS	C115
SECTION	C116
SECTION & DETAILS	C117
CALCULATION PLAN	C118
ROOM CALCULATIONS	C119
ROOM CALCULATIONS	C120
DRIVEWAY DETAIL	C121
MATERIALS AND FINISHES	C122
FENCE DETAIL	C123
WINTER SHADOW DIAGRAM	C124
WINTER SHADOW DIAGRAM	C125
WINTER SHADOW DIAGRAM	C126
WINTER SHADOW DIAGRAM	C127
WINTER SHADOW DIAGRAM	C128
WINTER SHADOW DIAGRAM	C129
WINTER SHADOW DIAGRAM	C130
WINTER SHADOW ELEVATIONS	C131
WINTER SHADOW ELEVATIONS	C132
WINTER SHADOW ELEVATIONS	C133
SUBDIVISION PLAN	C134
3D MONTAGE 1	C135
3D MONTAGE 2	C136
3D MONTAGE 3	C137

				REVISION <table border="1"> <tr> <th>REV</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> <th>CHECKED</th> </tr> <tr> <td>C</td> <td></td> <td>25M04 SECTION 4.55 MODIFICATION</td> <td>JA</td> <td>JP</td> </tr> <tr> <td>B</td> <td></td> <td>18M07 UPDATED DEVELOPMENT APPLICATION</td> <td>JB</td> <td>JP</td> </tr> <tr> <td>A</td> <td></td> <td>18M07 DEVELOPMENT APPLICATION</td> <td>NM</td> <td>JP</td> </tr> <tr> <td>1</td> <td></td> <td>ISSUE</td> <td></td> <td></td> </tr> </table>		REV	DATE	DESCRIPTION	BY	CHECKED	C		25M04 SECTION 4.55 MODIFICATION	JA	JP	B		18M07 UPDATED DEVELOPMENT APPLICATION	JB	JP	A		18M07 DEVELOPMENT APPLICATION	NM	JP	1		ISSUE			<div style="text-align: center;"> COVER PAGE PRELIMINARY NOT FOR CONSTRUCTION </div>		<div> SECTION 4.55 MODIFICATION NEW GENERATION BOARDING HOUSE SNP EQUITIES PTY LTD 40 MILTON STREET, ASHFIELD </div>		<div> SCALE @ A1 DATE 23/01/2024 PROJECT NUMBER 18 095 SHEET NUMBER C105 </div>	
REV	DATE	DESCRIPTION	BY	CHECKED																																
C		25M04 SECTION 4.55 MODIFICATION	JA	JP																																
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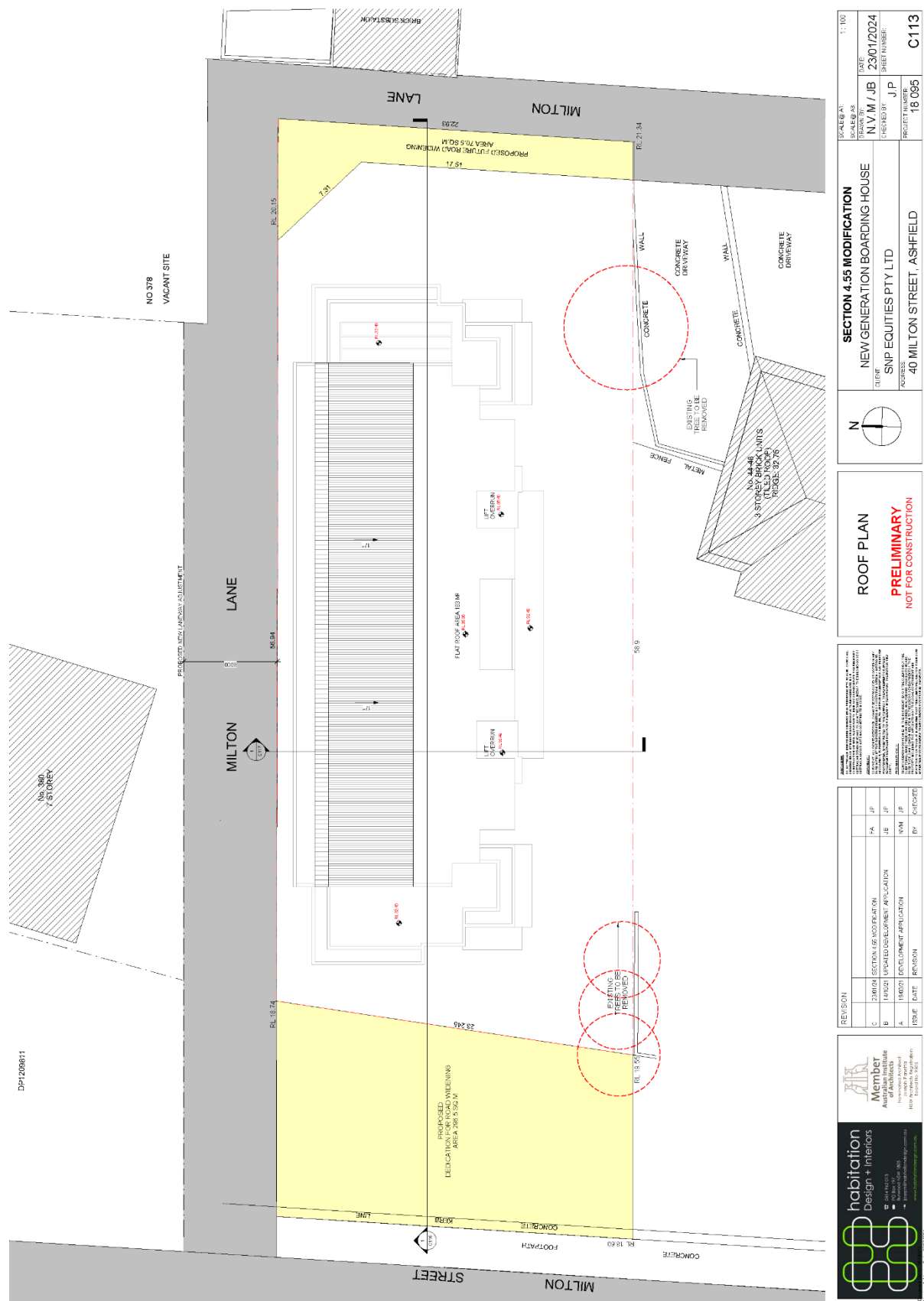


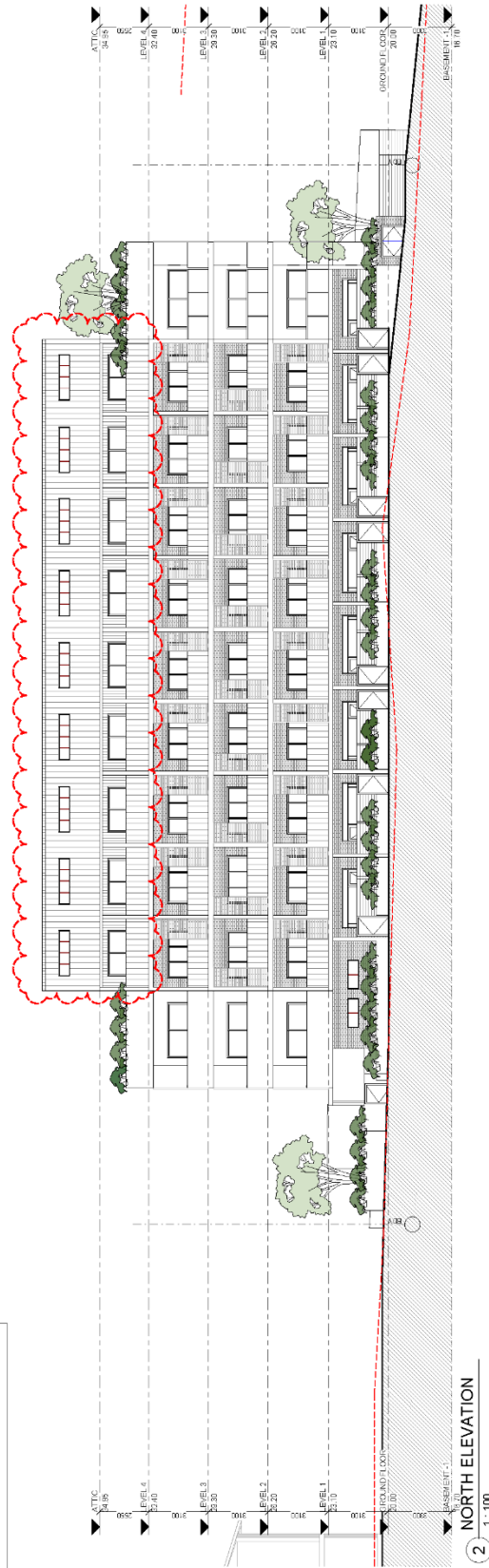
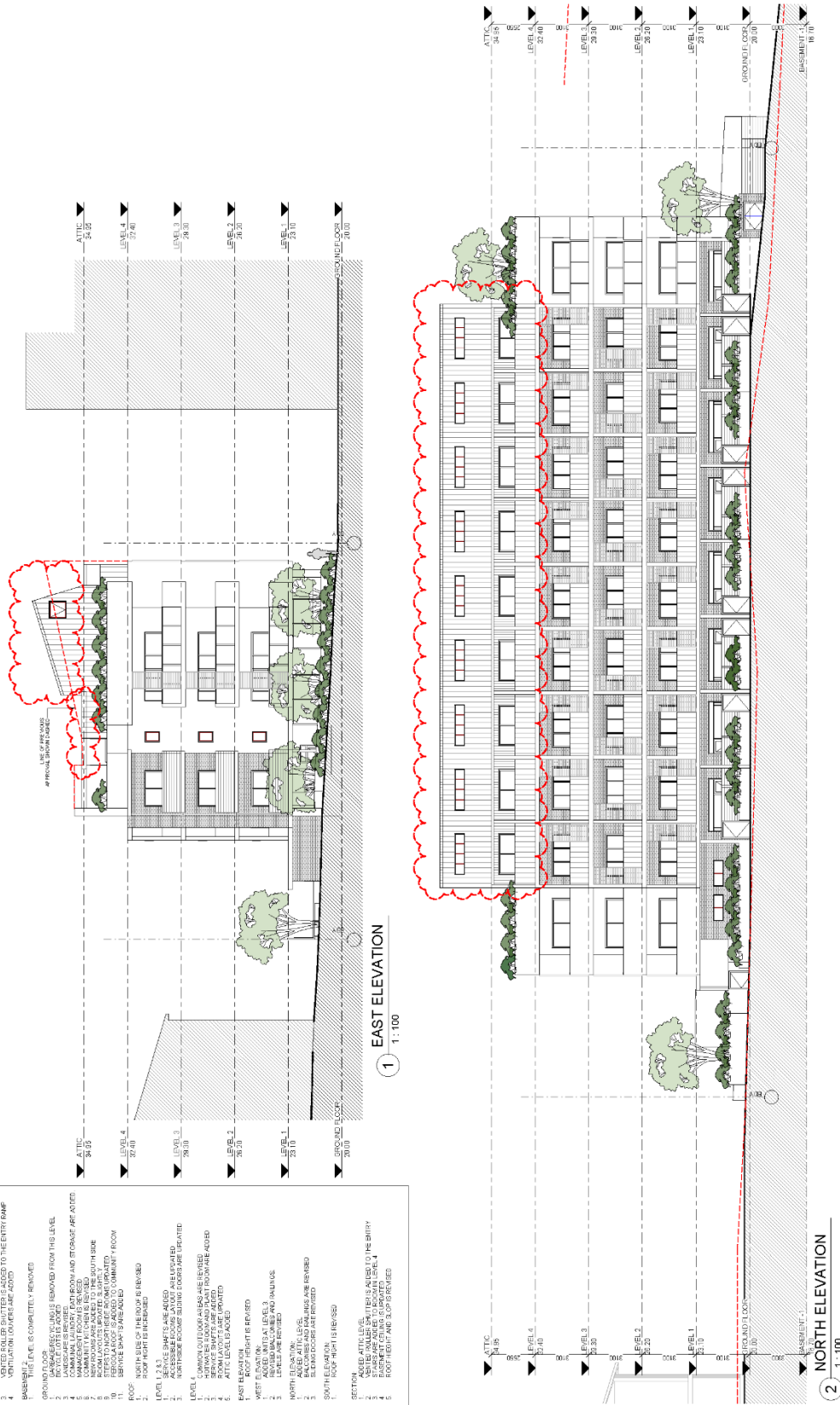












REVISION		
NO.	DATE	REVISION
C	2/20/04	SECTION 4.6 MODIFICATION
B	1/15/01	UNPATED DEVELOPMENT APPLICATION
A	1/15/01	DEVELOPMENT APPLICATION
	BY	CHECKED

ELEVATIONS

PRELIMINARY

NOT FOR CONSTRUCTION

SECTION 4.55 MODIFICATION	SCALE: 1/8" = 1'-0"
NEW GENERATION BOARDING HOUSE	DATE: 11/01/2024
SHEET: SNP EQUITIES PTY LTD	DESIGNER: N.V.M. JB
ADDRESS: 400 MILTON STREET, ASHFIELD	CHECKED BY: J.P
	SHEET NUMBER: 18 OF 35
	C114

[illegible]

CLAUSE 4.55 VARIATION CHANGES:	
BASEMENT 1	
1. DRAWING LAYOUT SOUTH SIDE IS REMOVED.	
2. VENTED ROLL UP SHUTTER IS ADDED TO THE ENTRY RAMP.	
3. VENTED ROLL UP SHUTTER IS ADDED TO THE ENTRY RAMP.	
4. VENTED ROLL UP SHUTTER IS ADDED TO THE ENTRY RAMP.	
5. THE TEXT IS COMPLETELY REMOVED.	
GROUND FLOOR	
1. ENTRY FLOOR IS REMOVED FROM THIS LEVEL.	
2. ENTRY FLOOR IS REMOVED FROM THIS LEVEL.	
3. CONCRETE LANDING EAST ROOM AND STORAGE ARE ADDED.	
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1 SECTION 1
1:100



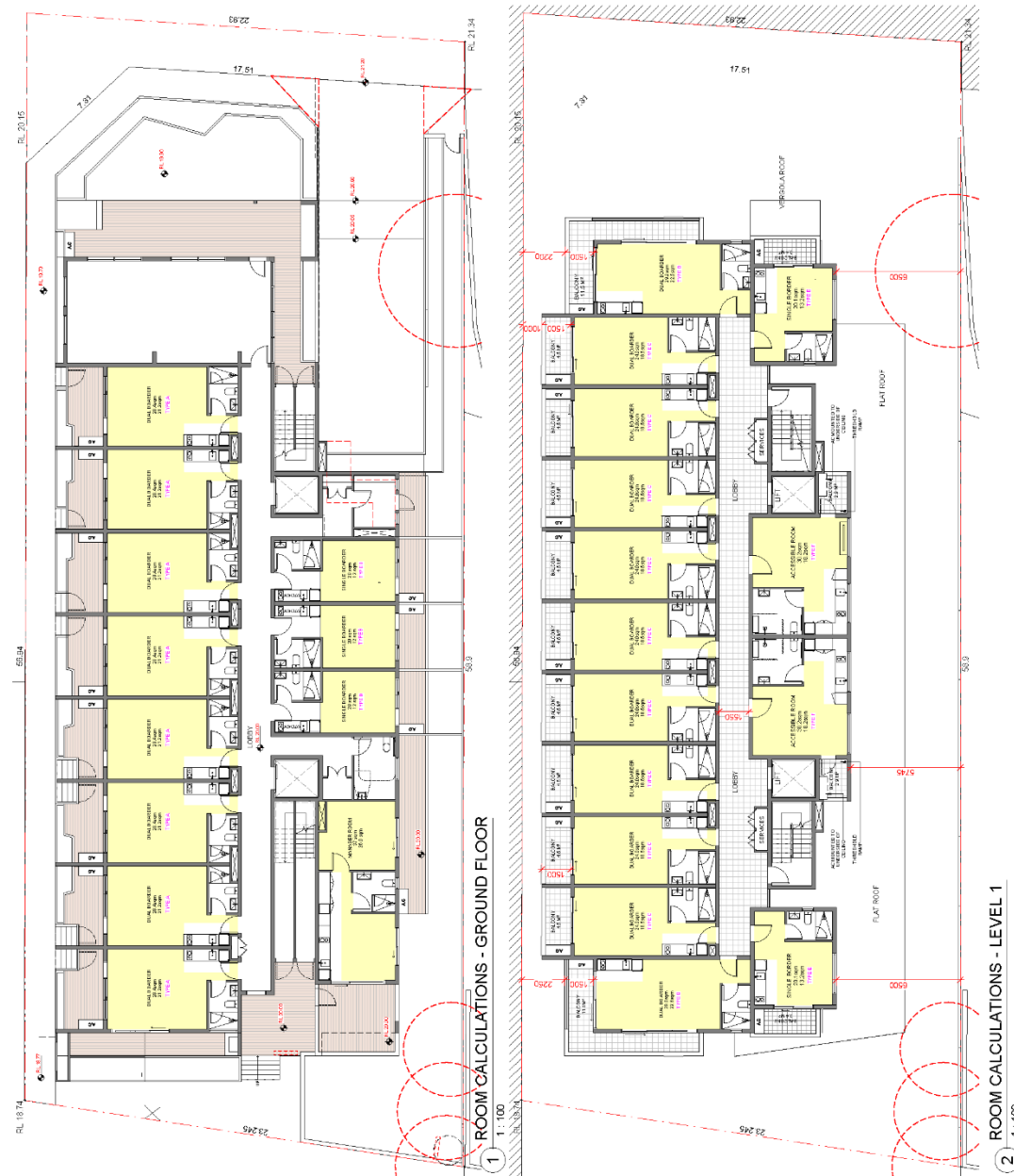
REVISION		DATE	BY	CHECKED
C	200001	SECTION 1.05 MODIFICATION	JA	JP
B	180001	UPDATED DEVELOPMENT APPLICATION	JE	JP
A	180001	DEVELOPMENT APPLICATION	NM	JP
		ISSUE	DATE	REVISION

NOTES: THIS DRAWING IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE CLIENT'S RESPONSIBILITY TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS. THE CLIENT IS ADVISED THAT THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE CLIENT'S RESPONSIBILITY TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS. THE CLIENT IS ADVISED THAT THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE CLIENT'S RESPONSIBILITY TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS.

SECTION
PRELIMINARY
NOT FOR CONSTRUCTION

SECTION 4.55 MODIFICATION		SCALE @ A1	1:100
NEW GENERATION BOARDING HOUSE		SCALE @ A3	1:200
CLIENT		DRAWN BY	N.V.M./J.B.
SNP EQUITIES PTY LTD		DATE	23/01/2024
40 MILTON STREET, ASHFIELD		CHECKED BY	J.P.
		SHEET NUMBER	C116
		PROJECT NUMBER	18 095





ROOM NUMBER	GROSS AREA	NET AREA	Nº OF BEDS
TYPE A			
DUAL BORDER	28.4 SQ.M	21.2 SQ.M	02
DUAL BORDER	28.4 SQ.M	21.2 SQ.M	02
DUAL BORDER	28.4 SQ.M	21.2 SQ.M	02
DUAL BORDER	28.4 SQ.M	21.2 SQ.M	02
DUAL BORDER	28.4 SQ.M	21.2 SQ.M	02
DUAL BORDER	28.4 SQ.M	21.2 SQ.M	02
DUAL BORDER	28.4 SQ.M	21.2 SQ.M	02
MANAGERS ROOM			
	37.0 SQ.M	26.0 SQ.M	02
TYPE B			
SINGLE BORDER	20.0 SQ.M	12.0 SQ.M	01
SINGLE BORDER	20.0 SQ.M	12.0 SQ.M	01
SINGLE BORDER	20.0 SQ.M	12.0 SQ.M	01
TYPE C			
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
DUAL BORDER	24.0 SQ.M	18.5 SQ.M	02
TYPE D			
DUAL BORDER	28.0 SQ.M	22.5 SQ.M	02
DUAL BORDER	28.0 SQ.M	22.5 SQ.M	02
TYPE E			
SINGLE BORDER	20.1 SQ.M	13.2 SQ.M	01
SINGLE BORDER	20.1 SQ.M	13.2 SQ.M	01
TYPE F			
ACCESSIBLE ROOM	30.2 SQ.M	18.2 SQ.M	02
ACCESSIBLE ROOM	30.2 SQ.M	18.2 SQ.M	02

	SECTION 4.55 MODIFICATION		SCALE: 1/8" = 1'-0"	1: 11000
	NEW GENERATION BOARDING HOUSE		DATE: 23/01/2024	
CUSTOMER:	SNIP EQUITIES PTY LTD	DRAWN BY: N V M / JB	CHECKED BY: J P	SHEET NUMBER:
ADDRESS:	408 MILTON STREET, ASHFIELD	PROJECT NUMBER:	18 035	C119

ROOM CALCULATIONS

PRELIMINARY
NOT FOR CONSTRUCTION

[illegible]

REVISION			
ISSUE	DATE	REVISION	BY
A	18/03/21	DEVELOPMENT APPLICATION	NOM JP
B	18/03/21	UNPATED DEVELOPMENT APPLICATION	JB JP
C	23/01/24	SECTION 42Z MODIFICATION	JA JP

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☐ 100 Bloor St. W.
☐ 10th Fl. #107
☐ 400 Dundas St. W. #100
☐ 400 Dundas St. W. #100

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NUMBER OF ROOMS: 66
NUMBER OF SINGLE ROOMS: 9
NUMBER OF DOUBLE ROOMS: 57
NUMBER OF BOARDERS: 123

habitation
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■ ARCHITECTS
■ INTERIORS
■ PROJECT MANAGEMENT

1000 West 41st St. #303
New York, NY 10018
→ www.habitationnyc.com
→ info@habitationnyc.com

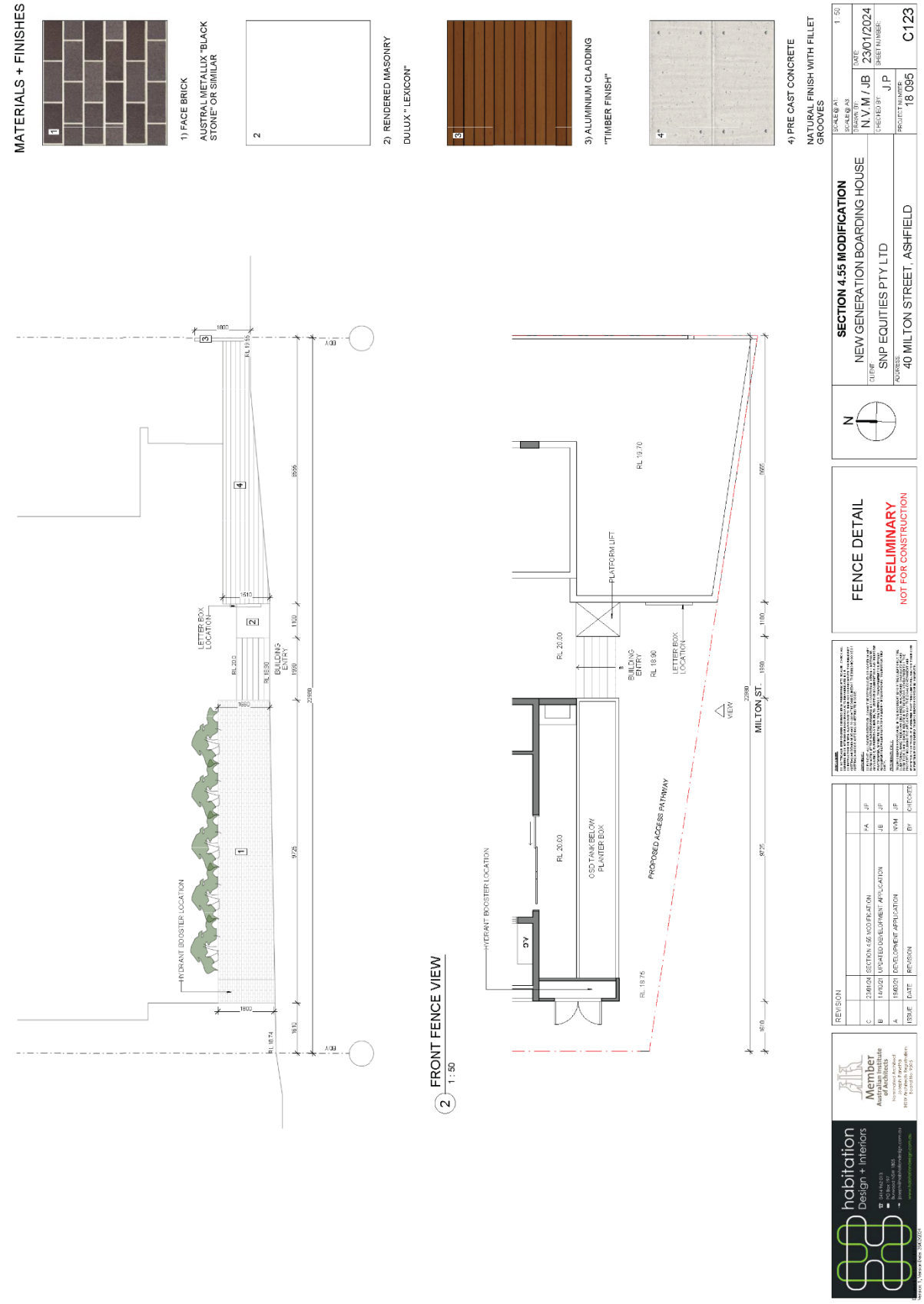
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American Institute
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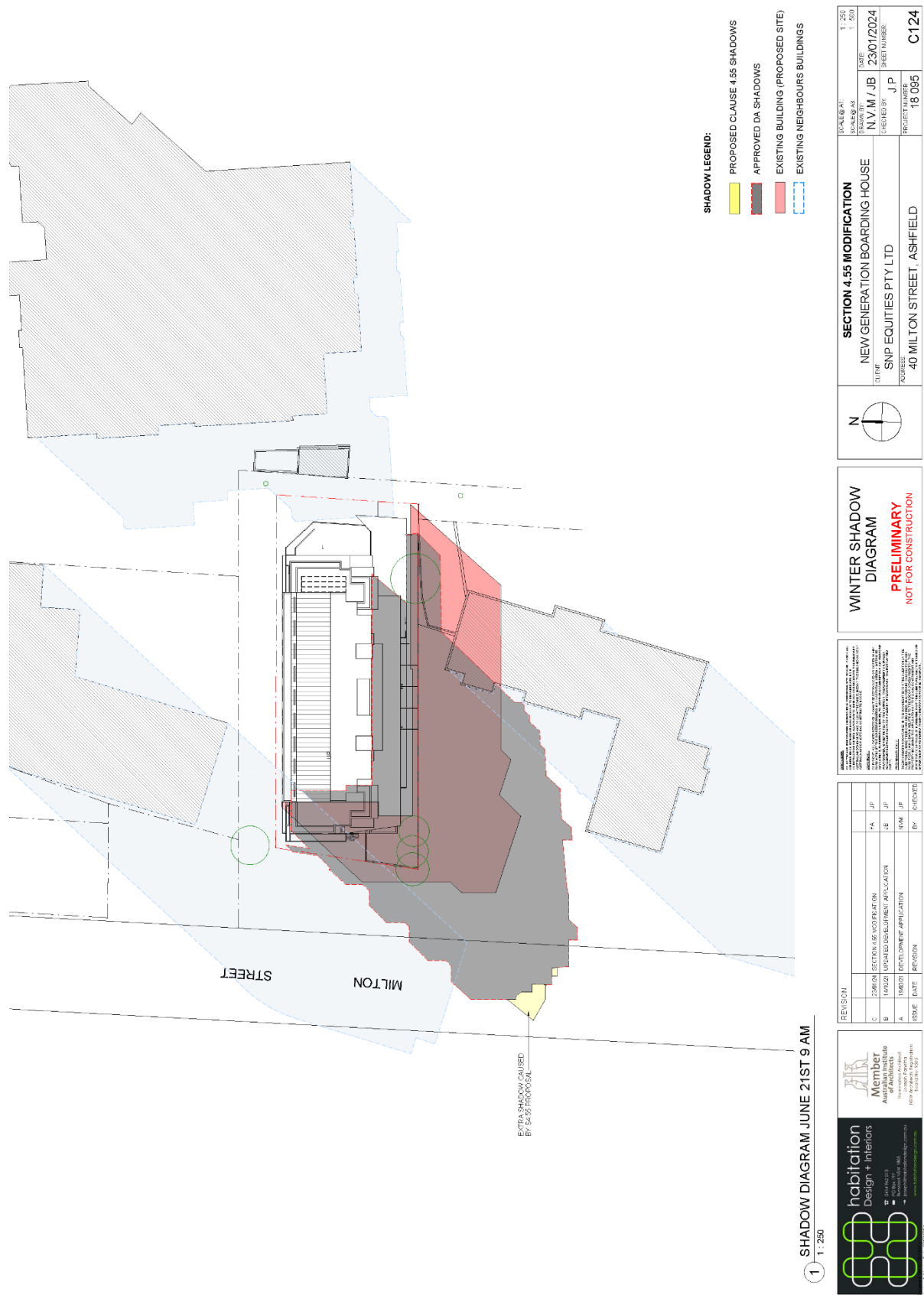
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1000 Architects Registered
January 1965



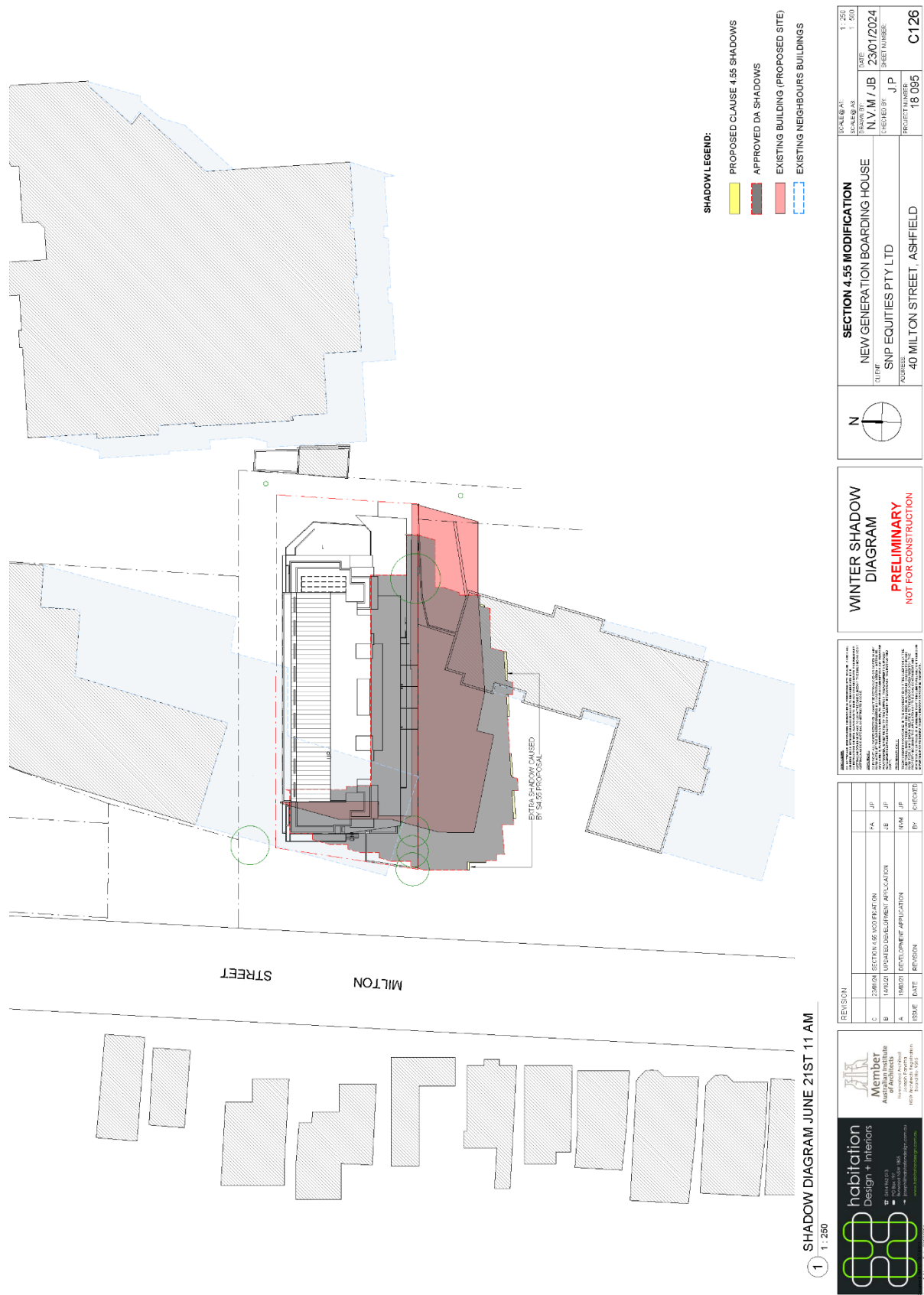
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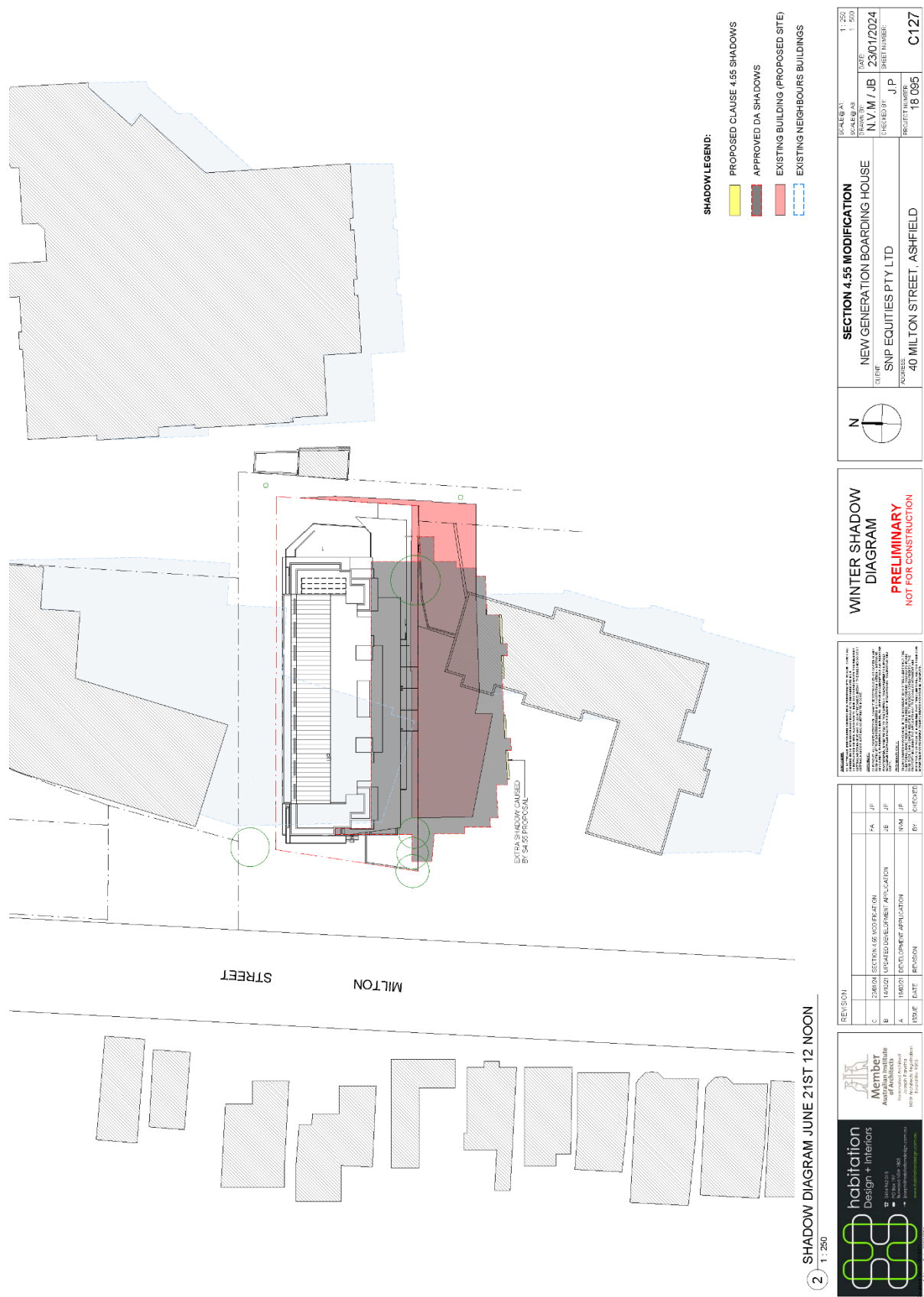


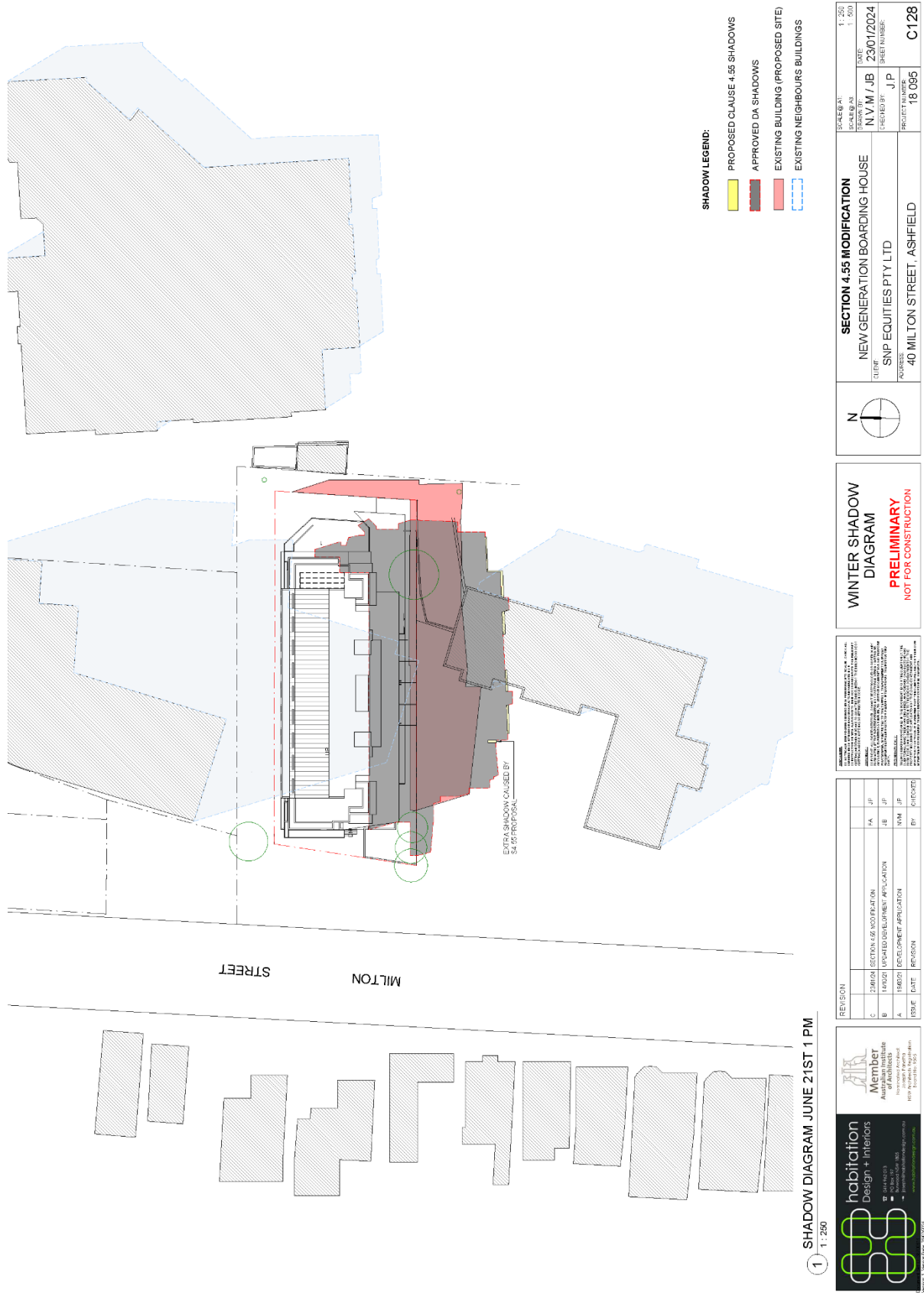


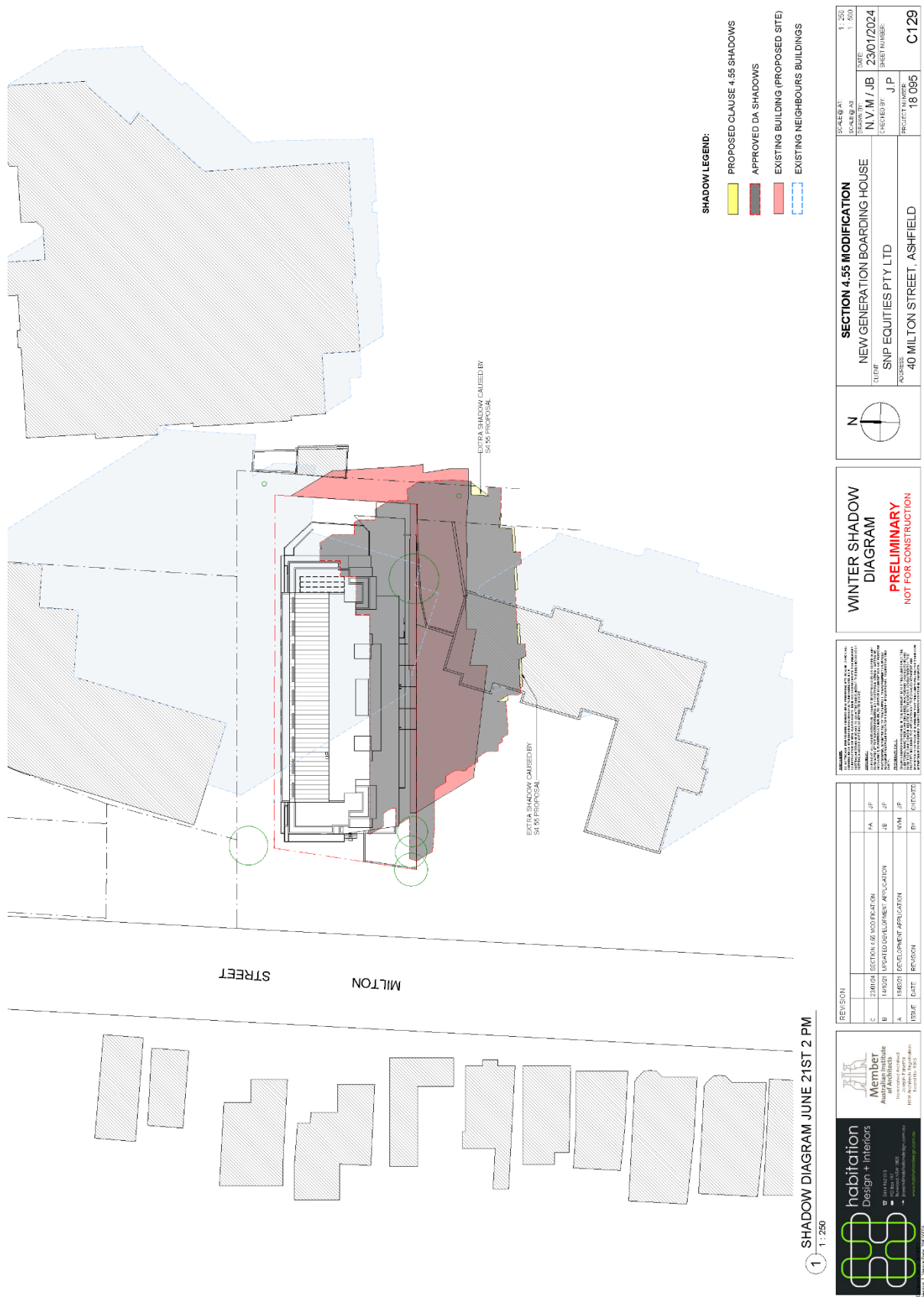


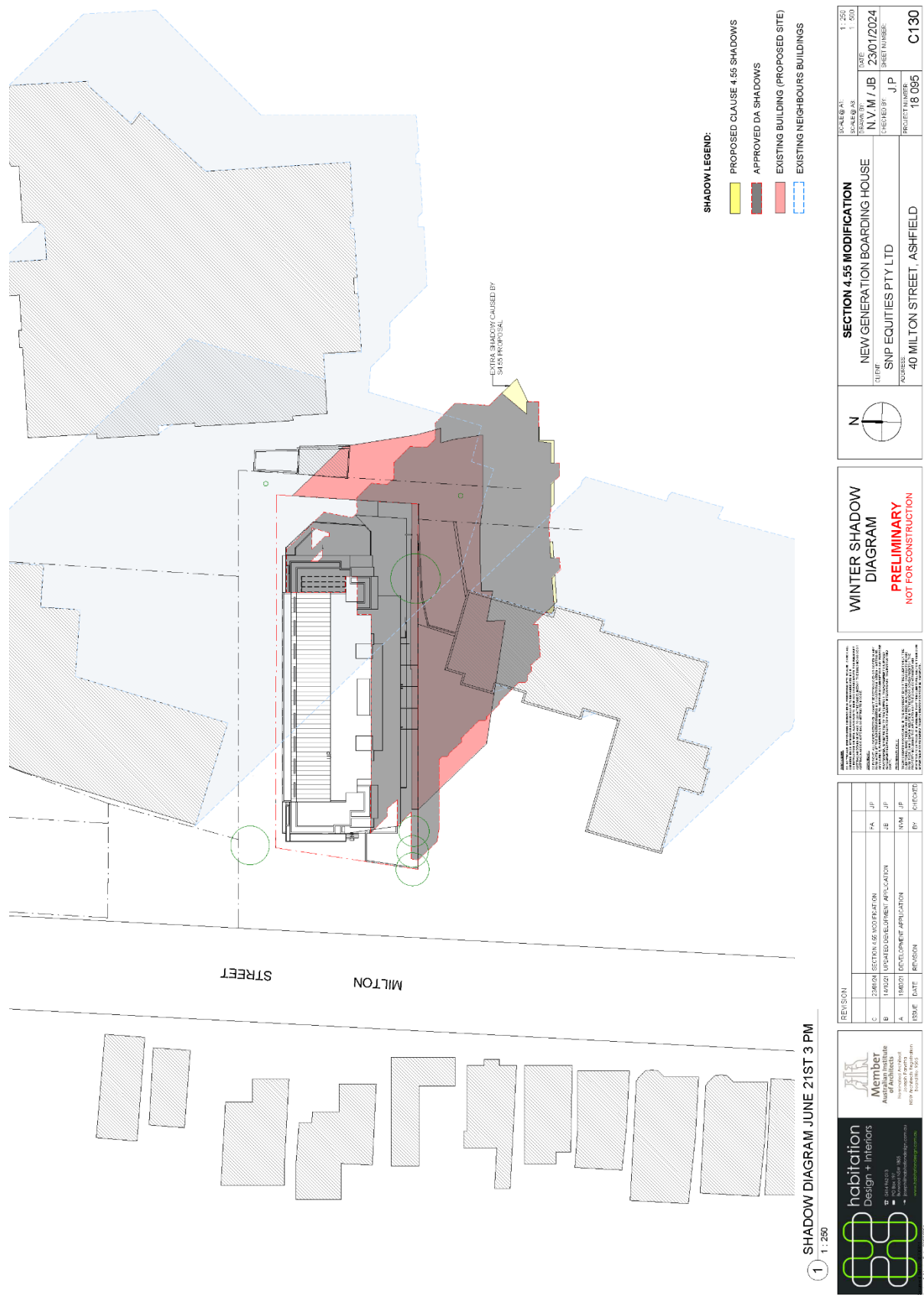








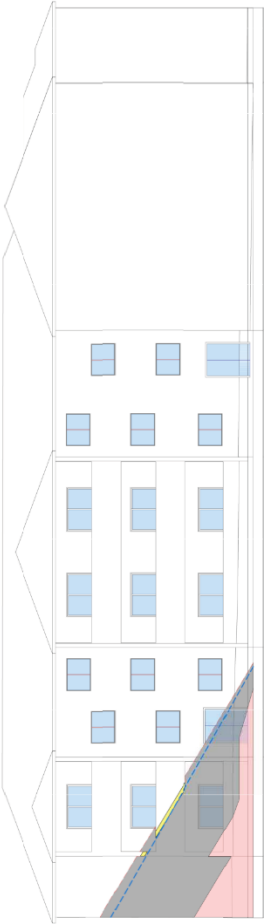








1 WEST SHADOW ELEVATION_21ST JUNE 10 AM



2 WEST SHADOW ELEVATION_21ST JUNE 11 AM



3 WEST SHADOW ELEVATION_21ST JUNE 12 NOON

SHADOW LEGEND:
PROPOSED CLAUSE 4.55 SHADOWS
APPROVED DA SHADOWS
EXISTING BUILDING (PROPOSED SITE)
EXISTING NEIGHBOURS BUILDINGS

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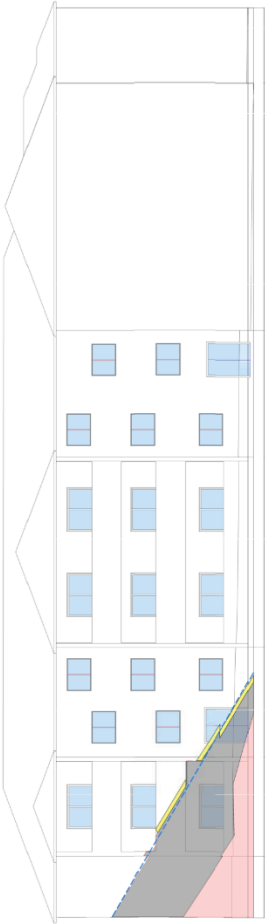
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Sydney NSW 1585
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REVISION	DATE	REVISION	BY	CHECKED
C	20/01/2024	SECTION 4.55 MODIFICATION	JP	JP
B	14/01/2024	UPDATED DEVELOPMENT APPLICATION	JP	JP
A	14/01/2024	DEVELOPMENT APPLICATION	NM	JP

SECTION 4.55 MODIFICATION
NEW GENERATION BOARDING HOUSE
CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD
PROJECT NUMBER: 18 095
C132

WINTER SHADOW ELEVATIONS
PRELIMINARY
NOT FOR CONSTRUCTION

SCALE @ A1: 1:100
SCALE @ A2: 1:200
DRAWN BY: N.V.M / J.B
DATE: 23/01/2024
CHECKED BY: J.P
SHEET NUMBER: 18 095



1 WEST SHADOW ELEVATION_21ST JUNE 1 PM



2 WEST SHADOW ELEVATION_21ST JUNE 2 PM



3 WEST SHADOW ELEVATION_21ST JUNE 3 PM

SHADOW LEGEND:

- PROPOSED CLAUSE 4.55 SHADOWS
- APPROVED DA SHADOWS
- EXISTING BUILDING (PROPOSED SITE)
- EXISTING NEIGHBOURS BUILDINGS



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REVISION	DATE	BY	CHECKED
C	22/01/24	JP	JP
B	18/01/24	JP	JP
A	18/01/24	JP	JP

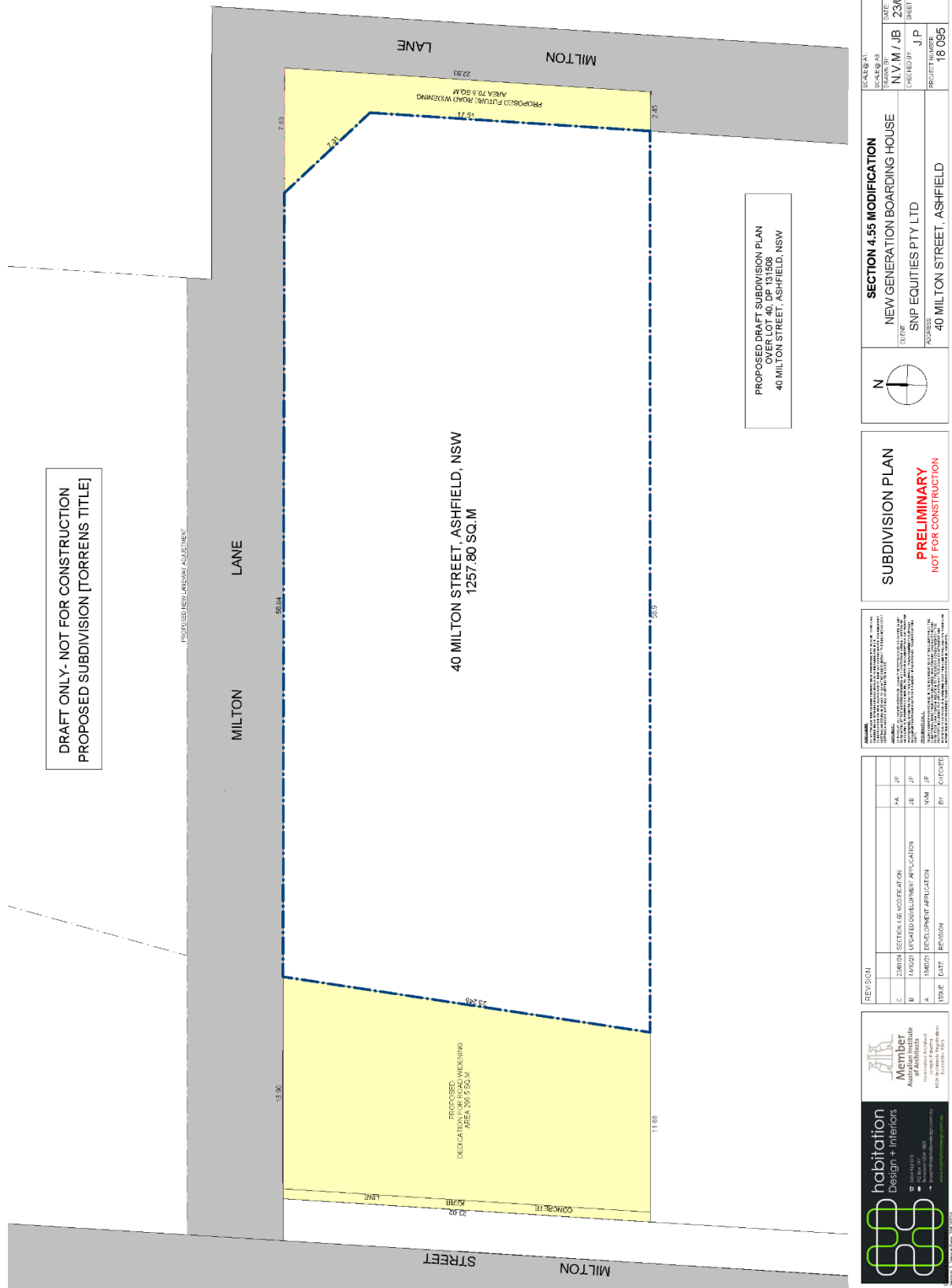
SECTION 4.55 MODIFICATION	SCALE @ A1	SCALE @ A2
NEW GENERATION BOARDING HOUSE	1:100	1:200

CLIENT	DATE	SHEET NUMBER
SNP EQUITIES PTY LTD	N.V.M./JB	23/01/2024

ADDRESS	CHECKED BY	PROJECT NUMBER
40 MILTON STREET, ASHFIELD	J.P.	18 095

WINTER SHADOW ELEVATIONS
PRELIMINARY
NOT FOR CONSTRUCTION

SECTION 4.55 MODIFICATION
NEW GENERATION BOARDING HOUSE
SNP EQUITIES PTY LTD
40 MILTON STREET, ASHFIELD
PROJECT NUMBER: 18 095
C133



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REVISION		DATE	BY	CHECKED
C	2024/01/25 SECTION 4.55 MODIFICATION	14/01/24	JP	
B	18/02/21 DEVELOPMENT APPLICATION	18/02/21	JP	
A	18/02/21 DEVELOPMENT APPLICATION	18/02/21	JP	
	ISSUE	DATE	BY	CHECKED

SECTION 4.55 MODIFICATION
NEW GENERATION BOARDING HOUSE

CLIENT
SNP EQUITIES PTY LTD

ADDRESS
40 MILTON STREET, ASHFIELD

3D MONTAGE 3

PRELIMINARY
NOT FOR CONSTRUCTION

SCALE @ 1:100

DRAWN BY
N.V.M./J.B.


CHECKED BY
J.P.

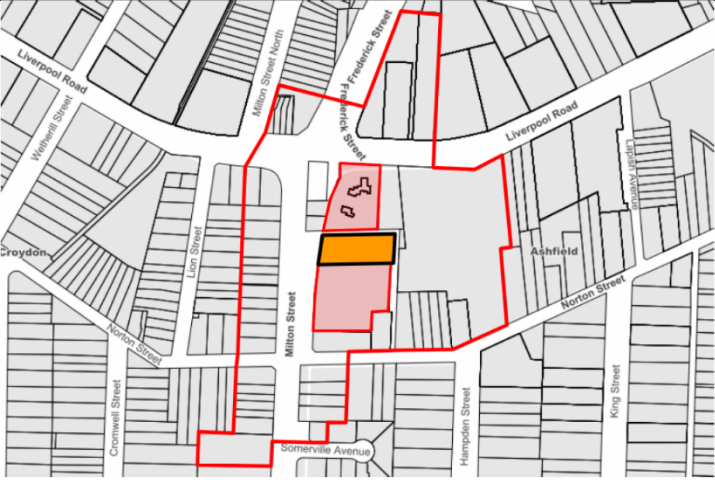
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23/01/2024




SHEET NUMBER
C137

PROJECT NUMBER
18 095

Attachment C- IWLPP Assessment Report- DA/2021/0228

	
DEVELOPMENT ASSESSMENT REPORT	
Application No.	REV/2020/0035
Address	40 Milton Street ASHFIELD NSW 2131
Proposal	Section 8.2 review of residential flat building.
Date of Lodgement	4 January 2021
Applicant	Mr Andrew Martin
Owner	Appwam Pty Ltd
Number of Submissions	Initial: 10 (3 unique submissions)
Value of works	\$9,426,636.00
Reason for determination at Planning Panel	<ul style="list-style-type: none"> Section 8.2 review of an application previously refused by the Inner West Local Planning Panel Clause 4.6 variation exceeds 10%
Main Issues	Non-compliance with maximum building height and floor space ratio; non-compliance with ADG requirements; overshadowing impacts
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standard (Clause 4.3 Height of buildings)
Attachment D	Clause 4.6 Exception to Development Standard (Clause 4.4 Floor space ratio)
Attachment E	Reasons for refusal of DA/2020/0139
Attachment F	Stamped refused plans for DA/2020/0139
Attachment G	Original Assessment Report for DA/2020/0139



LOCALITY MAP	
Subject Site 	Objectors  <div style="text-align: right;">  N </div>

Notified
Area



1. Executive Summary

This report is an assessment of the application submitted to Council pursuant to Section 8.2 of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* for a review of Determination No. DA/2020/0139, which refused the construction of a 6 storey residential flat building with basement car parking, including affordable housing units, at 40 Milton Street, Ashfield. The application was refused for the following reasons:

1. *The proposal has not satisfactorily demonstrated compliance with the objectives specified in the Apartment Design Guide as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings.*
2. *The proposal has not satisfactorily demonstrated compliance with Clause 101 of the State Environmental Planning Policy – Infrastructure 2007. The proposal has not satisfied the consent authority that it will not have an impact on the efficiency and operation of a classified road.*
3. *In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with clause 1.2 (a) & (i) – Aims of Plan of the Ashfield Local Environmental Plan 2013. The proposed development does not promote the orderly and economic development of Ashfield in a manner that is consistent with the need to protect the environment or incorporate the principles of ecologically sustainable development.*
4. *In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant objectives of zone R3.*
5. *In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the objectives of the height of buildings control under Clause 4.3 of the Ashfield Local Environmental Plan 2013.*
6. *In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the objectives of the Floor Space Ratio Development control under Clause 4.4 of the Ashfield Local Environmental Plan 2013.*
7. *In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the request under clause 4.6 – Exceptions to development standards has not demonstrated sufficient environmental planning grounds to vary development standards under the Ashfield Local Environmental Plan 2013.*
8. *In accordance with Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.*
9. *Pursuant to the provisions of Section 4.15(1)(d)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would not be in the public interest.*

A copy of the refused plans is included as Attachment F to this report.

A review of the determination under Section 8.2 of the *EP&A Act 1979* has been requested. The application was notified to surrounding properties and 10 submissions (three (3) unique submissions) were received.

The main issues that have arisen from the application include:

- Variations to the maximum building height and floor space ratio development standards under *Ashfield Local Environmental Plan 2013*;
- Variation to the maximum floor space ratio for affordable in-fill developments under *State Environmental Planning Policy (Affordable Rental Housing) 2009*;
- Variations to the Apartment Design Guide, including communal open space, deep soil zones, building separation, and car parking.
- Overshadowing impacts to neighbouring development at no. 44-48 Milton Street.

Despite the items noted above, the proposal generally complies with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Ashfield Local Environmental Plan 2013*, and the Inner West Comprehensive Development Control Plan 2016.

2. Proposal

The application seeks a review of Determination No. DA/2020/0139 under Section 8.2 of the *EP&A Act 1979*. The original application was for the demolition of the existing structures and construction of a new in-fill residential flat building, including affordable housing under Division 1 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The original application was refused by the Inner West Local Planning Panel on 13 October 2020.

The following provides a summary of the amendments that have been made to the development as proposed in DA/2020/0139. An assessment of these modifications has been undertaken throughout this report:

- Reduction in height from six (6) storeys to five (5) storeys;
- Reduction in the number of apartments from 37 to 33;
- Reconfiguration of dwelling size mix to include 25 x 1 bedroom apartments, 6 x 2 bedrooms apartments, and 2 x 3 bedroom apartments;
- Reduction in car parking from 50 spaces to 28 across two levels of basement;
- Provision of a 1.5m wide footpath along the northern and eastern boundaries; and,
- Removal of the Voluntary Planning Agreement component from the proposed development.

Of the 33 proposed apartments, 26 are proposed as affordable housing with the remaining 7 apartments to be market-rate housing.

3. Site Description

The subject site is located on the eastern side of Milton Street, between Liverpool Road and Norton Street, Ashfield. The site consists of one allotment and is generally rectangular in shape with a total area of approximately 1,602.6sqm.

The site has a 23.2m wide primary frontage to Milton Street, a 56.9m wide secondary frontage to Milton Lane, and a 22.9m wide rear frontage to Milton Lane. The front portion of the site equal to 274.062sqm adjacent to Milton Street is subject to land acquisition by the Roads and

Maritime Services for the purposes of expanding Milton Street. The site is also affected by an easement for a Sydney Water Sewer pipe that traverses the width of the site.

The site is currently occupied by a two storey commercial building. The adjoining sites to the north and south are occupied by a seven (7) storey mixed use development and a three (3) storey residential flat building, respectively.

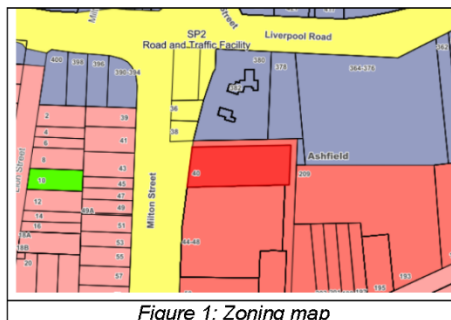


Figure 1: Zoning map



Figure 2: Aerial map

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision and Date
DA/2020/0139	Construction of a 6 storey residential flat building of 37 units, 50 car parking spaces including affordable housing units and strata subdivision.	Refused by IWLPP 13 October 2020

Surrounding properties

Property	Application	Proposal	Decision
380 Liverpool Road	10.2012.269	Mixed use development	Approved

4(b) Application history

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

Date	Discussion / Letter / Additional Information
4 January 2021	Application lodged.
28 January to 25 February 2021	Application notified.
25 May 2021	Council requested that amended plans and additional information be submitted to address the following matters: <ul style="list-style-type: none"> Need for a Voluntary Planning Agreement (VPA) and requirements if being pursued; Waste management and servicing; Building envelope and scale; Compliance with SEPP 65 and the Apartment Design Guide; Overshadowing;

	<ul style="list-style-type: none"> • Clarification of details, including the allocation of affordable units, car parking, and pedestrian footpath. • Comments provided by Transport for New South Wales; and, • Technical engineering requirements regarding road dedication and basement design.
24 August 2021	Amended plans and additional information were submitted by the applicant.

Note: The amended plans and supporting documentation submitted to Council on 24 August 2021 form the basis of the following assessment.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *EP&A Act 1979*.

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Ashfield Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

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

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

The site has 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 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, conditions are included in the recommendation of this report 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 (ARH SEPP) provides controls relating to various matters including height, floor space ratio, landscaped area, solar

access, and private open space requirements for various types of affordable rental housing, including in-fill affordable housing.

The following is an assessment of the proposed development against the relevant provisions of the abovementioned:

Part 2 New affordable rental housing

Division 1 of *ARH SEPP* stipulates the following standards for in-fill affordable housing:

Standard	Proposed	Compliance
Clause 13 Floor space ratios		
<p>(2) <i>The maximum floor space ratio for development to which this Division applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus—</i></p> <p>(a) <i>if the existing maximum floor space ratio is 2.5:1 or less—</i></p> <p style="padding-left: 40px;">(i) <i>0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</i></p> <p style="padding-left: 40px;">(ii) <i>Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,</i></p> <p style="padding-left: 40px;"><i>where—</i></p> <p style="padding-left: 80px;"><i>AH is the percentage of the gross floor area of the development that is used for affordable housing.</i></p> <p style="padding-left: 80px;">$Y = AH \div 100$</p> <p>(b) <i>if the existing maximum floor space ratio is greater than 2.5:1—</i></p> <p style="padding-left: 40px;">(i) <i>20 per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</i></p> <p style="padding-left: 40px;">(ii) <i>Z per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,</i></p> <p style="padding-left: 40px;"><i>where—</i></p>	<p>(a) Greater than 50% of the proposed gross floor area is to be used for affordable housing. Therefore, under subclause (i), the proposed development has a maximum floor space ratio of 1.2:1 (1,594.2sqm). The application proposes a floor space ratio of 1.62:1 (2,155sqm).</p> <p>(b) N/A.</p>	No

<p><i>AH is the percentage of the gross floor area of the development that is used for affordable housing.</i></p> <p>$Z = AH \div 2.5$</p>		
Clause 14 Standards that cannot be used to refuse consent		
<p>(1) <i>Site and solar access requirements</i></p> <p><i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—</i></p> <p>(a) <i>(Repealed)</i></p> <p>(b) <i>site area</i></p> <p><i>if the site area on which it is proposed to carry out the development is at least 450 square metres,</i></p> <p>(c) <i>landscaped area</i></p> <p><i>if—</i></p> <p>(i) <i>in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or</i></p> <p>(ii) <i>in any other case—at least 30 per cent of the site area is to be landscaped,</i></p> <p>(d) <i>deep soil zones</i></p> <p><i>if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed—</i></p> <p>(i) <i>there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the deep soil zone), and</i></p> <p>(ii) <i>each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</i></p> <p>(iii) <i>if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</i></p> <p>(e) <i>solar access</i></p> <p><i>if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</i></p>	<p>(a) N/A.</p> <p>(b) The site has a total area of 1,328.5sqm.</p> <p>(c) The proposal provides a landscaped area equal to approximately 17% of the total site area.</p> <p>(d) The proposal provides a deep soil zone equal to approximately 2.6% of the total site area.</p> <p>(e) Approximately 75% of the proposed apartments will receive a minimum of 3 hours direct sunlight to their living rooms and private open spaces.</p>	<p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p>
<p>(2) <i>General</i></p> <p><i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—</i></p>	<p>(a) The proposal provides 28 parking spaces, which is above the minimum required by subclause (ii).</p>	<p>Yes</p>

<p>(a) <i>parking</i> if—</p> <p>(i) <i>in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or</i></p> <p>(ii) <i>in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,</i></p> <p>(b) <i>dwelling size</i> if each dwelling has a gross floor area of at least—</p> <p>(i) <i>35 square metres in the case of a bedsitter or studio, or</i></p> <p>(ii) <i>50 square metres in the case of a dwelling having 1 bedroom, or</i></p> <p>(iii) <i>70 square metres in the case of a dwelling having 2 bedrooms, or</i></p> <p>(iv) <i>95 square metres in the case of a dwelling having 3 or more bedrooms.</i></p>	<p>(b) The proposal complies with the minimum dwelling size requirements for the proposed 1-, 2-, and 3-bedroom dwellings.</p>	
<p>(3) <i>A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</i></p>	<p>The proposed development does not comply with the standards set out in subclauses (1) and (2). Notwithstanding, the proposed development is considered to generally satisfy the relevant planning provisions and consent is recommended.</p>	<p>Noted</p>
<p>Clause 16 Continued application of SEPP 65</p>		
<p><i>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</i></p>	<p>An assessment of the application against the provisions of SEPP 65 and the ADG is provided in Section 5(a)(iii) of this report.</p>	<p>Noted</p>
<p>Clause 16A Character of local area</p>		

<p><i>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.</i></p>	<p>The proposed development is of a scale, form, and density that provides an appropriate transition between adjoining development and which is compatible with surrounding buildings.</p> <p>The development contributes positively to the context of the site and retains and reinforces desirable elements of the street.</p> <p>As noted throughout this report, the overall form and character of the proposed development is considered to be compatible with the existing and desired future character of the local area.</p>	Yes
Clause 17 Must be used for affordable housing for 10 years		
<p>(1) <i>A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that—</i></p> <p>(a) <i>for 10 years from the date of the issue of the occupation certificate—</i></p> <p>(i) <i>the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</i></p> <p>(ii) <i>all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</i></p> <p>(b) <i>a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.</i></p>	<p>Conditions have been included in the recommendation to satisfy the requirements of subclauses (a) and (b).</p>	Yes
<p>(2) <i>Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.</i></p>	N/A	N/A
Clause 18 Subdivision		
<p><i>Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.</i></p>	<p>Noted. Notwithstanding, the application does not propose</p>	Noted

	the subdivision of the development.	
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5(a)(iii) State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

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

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

The development is acceptable having regard to the nine design quality principles.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of *SEPP 65* certain requirements contained within IWDGP 2016 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

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

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

Comment: The proposal provides an area of communal open space (COS) at the ground floor equal to approximately 11% (145sqm) of the total site area. Additional areas of COS totalling approximately 173sqm are also provided on Level 4 in the form of rooftop courtyards. These secondary spaces bring the total area of COS to approximately 24% (318sqm) of the total site area. The non-compliance equates to an area of approximately 4sqm.

Notwithstanding, despite the numerical non-compliance, the provided areas of COS are considered to satisfy objective 3D-1 of the ADG, and the associated design guidance, as follows:

- All proposed areas of COS receive greater than 2 hours of direct sunlight between 9.00am-3.00pm during midwinter;
- Each area of COS has a minimum dimension of 3m and is co-located with landscaped areas;
- Equitable access is provided to each area of COS; and,

- Each apartment is provided with an appropriately sized and located area of private open space.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
650m ² - 1,500m ²	3m	7%

Comment: The development provides a deep soil zone equal to approximately 2.6% (35sqm) of the total site area.

The land acquisition and lane widening at the western and eastern ends of the site, respectively, limit the ability of the proposal to comply with the design criteria as this reduces the area available for deep soil landscaping. Notwithstanding, the proposal provides adequately sized and designed areas of landscaping and planting on the ground floor and Level 4 in conjunction with the communal open space areas to enhance residential amenity to these spaces. The proposal also provides acceptable stormwater management.

Given the above, despite the numerical non-compliance, the proposal is considered to satisfy objective 3E-1 of the ADG.

Visual Privacy/Building Separation

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

Room Types	Minimum Separation
<i>Up to 12 metres (4 storeys)</i>	
Habitable rooms and balconies	6 metres
Non-habitable rooms	3 metres
<i>Up to 25 metres (5-8 storeys)</i>	
Habitable rooms and balconies	9 metres
Non-habitable rooms	6 metres

Comment: The development proposes the following separation distances between the proposed buildings and site boundaries:

Room type	Required	Proposed	Compliance
<i>Up to 12 metres (4 storeys)</i>			
Habitable rooms and balconies	6 metres	<u>Ground floor</u> Northern side – 2.1m Southern side – 4m Eastern rear – N/A <u>Levels 1-3</u> Northern side – 1.3m Southern side – 5.9m Eastern rear – 7.5m	No
Non-habitable rooms	3 metres	<u>Ground floor</u> Northern side – N/A Southern side – 4m Eastern rear – N/A	Yes

		Levels 1-3 Northern side – N/A Southern side – 6.5m Eastern rear – N/A	
<i>Up to 25 metres (5-8 storeys)</i>			
Habitable rooms and balconies	9 metres	Level 4 Northern side – 1.2m Southern side – 9m Eastern rear – 8.8m	No
Non-habitable rooms	6 metres	Level 4 Northern side – N/A Southern side – N/A Eastern rear – N/A	Yes

As demonstrated in the table above, the development proposes variations to the minimum separation requirements to the side and rear setbacks at each level. Despite the numerical non-compliances, the proposed development is considered to generally satisfy the relevant objectives of the ADG as follows:

- The northern boundary fronts Milton Lane (the secondary frontage). As such, there is no development directly adjacent to the northern side of the site. Milton Lane provides a minimum separation of 6m between the subject site and no. 380 Liverpool Road to the north. Additional setbacks are provided to the existing development at no. 380 Liverpool Road and the proposed development resulting in a compliant minimum separation of approximately 9m at each level to habitable and non-habitable rooms and balconies. As such, the proposal is considered to provide adequate building separation at the northern boundary.
- The eastern boundary fronts Milton Lane (the rear frontage). As such, there is no development directly adjacent to the eastern side of the site. Subject to the proposed land dedication and subsequent road widening, Milton Lane will provide a minimum separation of 6m between the subject site and no. 209 Norton Street to the east. The proposed development provides an additional setback to this boundary, resulting in a minimum separation of approximately 14.7m between the proposed communal balcony on Level 4 and the western boundary of no. 209 Norton Street. As such, the proposal is considered to provide adequate building separation at the eastern boundary.
- The application provides a minimum separation of 4m at the ground floor and 5.9m at Levels 1-3 between habitable rooms to the southern side boundary. The proposed setbacks are considered to provide sufficient separation from the neighbouring development to ensure usable open space, landscaping, access to daylight, and privacy. The proposal has been appropriately designed along the southern elevation to minimise openings at the upper levels to highlight windows only that relate to bedrooms. Additionally, due to the orientation of the proposed development and existing neighbouring development, the windows on the southern elevation do not align with any on the neighbouring development.

Given the above, the proposed building setbacks are considered to provide appropriate building separation and are unlikely to result in any adverse amenity impacts to neighbouring properties.

Vehicle Access

The ADG prescribes design guidance on the provision of vehicle access points:

- Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles, and create high quality streetscapes.

Comment: The development complies with the above requirements and is considered acceptable.

Bicycle and Car Parking

The ADG prescribes the following car parking rates dependent on the following:

- On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less; and,
- The car parking needs for a development must be provided off street.

Comment: The subject site is located within 800 metres of Ashfield train station and 400 metres of land zoned B4 Mixed Use. In this case, the parking rates prescribed in the Guide to Traffic Generating Developments are applicable to the development and require a minimum of 30 car parking spaces for the proposed development. The application proposes 28 car parking spaces across two levels of basement parking.

Despite the numerical non-compliance, the proposal is considered to satisfy the relevant objectives under 3J of the ADG as follows:

- In addition to the car parking, the development provides 16 bicycle parking spaces and six (6) motorcycle parking spaces, which is nine (9) and five (5) more than the minimum required under IWCDGP 2016, respectively. The parking for the other transport modes is conveniently located and accessible for occupants and visitors.
- The application proposes a shortfall of two (2) car parking spaces, which equates to a variation of 6%. The shortfall is appropriately offset by the provided bicycle and motorcycle parking.

In addition to the above, clause 14(2)(ii) of *ARH SEPP* specifies the following with respect to car parking,

“...at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedroom”

As such, a minimum of 22 car parking spaces is required under *ARH SEPP*. The application complies with the requirements of *ARH SEPP* in this regard.

Given the above, the proposed development is considered acceptable with respect to car, bicycle, and motorcycle parking.

Solar and Daylight Access

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

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

Comment: Approximately 75% (25 of 33) of the proposed apartments receive a minimum of 2 hours directly sunlight between 9.00am-3.00pm at midwinter to their living rooms and private open spaces. Furthermore, a maximum of one (3%) apartment will receive no direct sunlight between 9.00am-3.00pm at midwinter.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: The development complies with the above requirements with a minimum of 61% of the apartments being naturally cross ventilated. Additionally, the overall depth of each apartment does not exceed 18 metres.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres

Comment: The development complies with the minimum requirements of the ADG as all apartments have a minimum ceiling height of 2.8m for both habitable and non-habitable rooms.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
1 Bedroom apartments	50sqm
2 Bedroom apartments	70sqm
3 Bedroom apartments	90sqm

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.

Comment: The proposed development complies with the ADG requirements.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
 - 3.6 metres for studio and 1 bedroom apartments.
 - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: The development complies with the above relevant requirements.

Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
1 Bedroom apartments	8sqm	2 metres
2 Bedroom apartments	10sqm	2 metres
3+ Bedroom apartments	12sqm	2.4 metres
Ground level apartments or apartments on podiums or similar structures	15sqm	3 metres

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

Comment: Each apartment is provided with an appropriately sized private open space that meets the minimum area and minimum depth requirements of the ADG.

Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: The development is provided with two (2) lifts, which service a maximum of seven (7) apartments on each floor.

Storage

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

Apartment Type	Minimum Internal Area
1 Bedroom apartments	6m ³
2 Bedroom apartments	8m ³
3+ Bedroom apartments	10m ³

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

Comment: The development complies with the above minimum storage requirements.

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

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

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

Clause 101- Development with frontage to classified road

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

The application was referred to Roads and Maritime Services (RMS) for comment. RMS provided the following comments with respect to the original set of amended plans submitted with this application:

"TfNSW has reviewed the submission and notes the previous request to widen Milton Lane has been included in the revised plans, however TfNSW previously advised TfNSW that access to Milton Lane from Milton Street should be restricted to left-in and left-out (LILO) arrangement. It has been identified that the LILO arrangement is not proposed as part of the revised design."

The application was amended and, subject to the recommended conditions of consent, a left-in and left-out arrangement for access to Milton Lane from Milton Street can be provided.

Given the above, ingress and egress to the site is considered to remain adequate to support the intended vehicle movements and the application is considered acceptable with regard to Clause 101 of *SEPP Infrastructure*.

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

Clause 102 of *SEPP Infrastructure* relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 20,000 vehicle. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

Milton Street has an annual average daily traffic volume of more than 20,000 vehicles. A Noise Assessment Report was submitted with the application that demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of *SEPP Infrastructure*. Conditions are included in the recommendation.

5(a)(vi) *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)*

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

The application does not seek the removal of any vegetation from within the site or on Council land; however, there is one existing tree on the site located within proximity of the works that is proposed to be retained.

Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and IWCDP 2016 subject to the imposition of conditions to ensure the tree is appropriately protected and retained.

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

The application was assessed against the following relevant clauses of the *Ashfield Local Environmental Plan 2011 (ALEP 2013)*:

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	The proposal is consistent with the relevant aims of the plan as follows: <ul style="list-style-type: none"> The proposed development provides housing in an accessible location; and, The design of the proposal is considered to be of a high standard and has a satisfactory impact on the private and public domain. 	Yes
Clause 2.3 Zone objectives and Land Use Table	The proposal satisfies the clause as follows: <ul style="list-style-type: none"> The application proposes a residential flat building, which is permissible with consent in the R3 Medium Density Residential zone; and, The proposal is consistent with the relevant objectives of the zone, as it will assist to provide a variety of housing types for the needs of the community. 	Yes
Clause 2.7 Demolition requires development consent	The proposal satisfies the clause as follows: <ul style="list-style-type: none"> Demolition works are proposed, which are permissible with consent; and, Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes – subject to conditions
Clause 4.3 Height of building M – 12.5m	The application proposes a building height of 17.8m, which is a 42.4% variation (5.3m over).	No – see Section 5(a)(vii)(i) below
Clause 4.4 Floor space ratio H – 0.7:1 (929.95sqm)	The application proposes a floor space ratio of 1.62:1 (2,155sqm), which is a 131.7% variation (1,225sqm over).	No – see Section 5(a)(vii)(i) below
Clause 4.5	The site area and floor space ratio for the proposal has been calculated in accordance with the clause.	Yes

Calculation of floor space ratio and site area		
Clause 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Clause 4.6 to vary Clause 4.3- Height of buildings and Clause 4.4 -Floor space ratio.	See Section 5(a)(vii)(i) below
Clause 5.1 Relevant acquisition authority	A portion of the front of the site adjacent to Milton Street is subject to acquisition by Roads and Maritime Services for widening of Milton Street. The application does not propose any works to this portion of the site.	Yes
Clause 6.1 Earthworks	The proposed earthworks are considered unlikely to result in any detrimental effect on drainage patterns and soil stability in the locality of the development or on the amenity of adjoining properties.	Yes – subject to conditions

(i) Clause 4.6 Exceptions to Development Standards

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

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

Clause 4.3 Height of buildings

The applicant seeks to vary the building height development standard under Clause 4.3 of *ALEP 2013* by 42.4%, which is equal to 5.3m over the maximum permitted.

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

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

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of *ALEP 2013* justifying the proposed contravention of the development standard, which is summarised as follows:

- *The visual fit of the building in this particular instance having regard to the variation sought is addressed by Smith & Tzannes in the UDR submitted with the DA documentation (see relevant extracts below). It concludes that in this case the buildings 'fit' is acceptable and appropriate for this site. It follows that the revised design with its lower height and very similar form would equally satisfy the relevant urban design principles established by the original UDR. The site sits within a landuse zone with a 12.5m height limit, immediately south of a zone with a 23m height limit. There is no provision within the ALEP 2013 for any transition between the two controls, notwithstanding that the LEP mapping includes a number of possible height limits which could have been adopted for this site (see below). As shown in the elevations the proposed scale of the proposal is appropriate to the adjoining development. The proposal provides a stepped building that offers a sound urban design outcome notwithstanding the height variation. The height is appropriate for the site having regard to the sites juxtaposition to the Ashfield West Precinct (AWP). The proposal maintains appropriate visual separation between the buildings so that the required*

extent of permeability is provided between the buildings when viewed from the opposite side of Milton Street.

- The sites to the east have a 15m transitional height between the 23m and the 12.5m which provides opportunities to achieve a transitional form given that additional FSR can be achieved under the Affordable Housing SEPP (i.e. due to sites proximity to public transport and the fact that residential flat buildings are permissible in the zone). The additional affordable housing FSR enables the heights to be achieved given that the affordable housing is added to the 0.7:1 base FSR.
- The architectural design, layout and street presentation of the proposal achieves a high-quality development adjacent the AWP which is experiencing a high level of redevelopment, particularly along Liverpool Road. The proposal emulates contemporary building materials and finishes, with a change of materials for the upper level which breaks up the additional height of the building above 12.5m. The upper top most level also has a reduced footplate with larger setbacks creating a recessed appearance. The upper level will not read as a full level due to the setback and the reduced floor plate when compared to the level below. When viewed in the context of the 7- storeys to the north and 3- storeys to the south the proposed built form is appropriate and fits with the streetscape and overall built form outcomes contemplated by the AWP. The site is intrinsically linked with the outcomes of the AWP in that the site provides for a two-way vehicle access solution in Milton Lane.
- The proposed height maintains acceptable sky exposure to existing buildings adjoining or adjacent to the site. Shadow diagrams and sun-eye diagrams are submitted with the S8.2 plan set demonstrate adequate daylight is maintained to the units to the south. The sun-eye diagrams and elevational shadows demonstrate that the proposed development, including the additional height, provides for a compliant solar access assessment of the adjoining residential flat building. The northern rooms in the adjoining building are at ground, Level 1 and Level 2. There is no change to the shadow impacts to the ground level rooms (that is, they are currently in shadow in mid-winter) and Level 1 and Level 2 receive more than 2 hours and comply with the ADG.
- Based on the comparison the height difference proposed under this application offers a 4.52m change which is in keeping with the more moderate step in height between N (13m) and I (8.5m) as it currently exists under the ALEP directly across the road. The transitional form provided by the proposal offers an acceptable urban design outcome and one which is supported by the original design analysis conducted by Smith Tzannes architects who prepared the UDR.
- The site has been the subject of mandatory road widening by the RMS (Milton Street frontage) and by Council via the provisions of the Ashfield DCP (Milton Lane). There are no planning incentives to achieve the widening of the rear Lane. It is common for areas affected by public burden and urban design studies to receive incentives to increase the likelihood of redevelopment so that the overall strategic planning imperatives can be achieved. In this case the height has not been altered from the base 12.5m unlike sites to the north which have seen a significant change to height and FSR. The increased height significantly increases the likelihood of the strategic planning objectives being achieved.
- The site is suitable for the development as shown in the S8.2 scheme based on its location and neighbourhood context as a transitional site. The site's capacity to support the additional height as assessed by Smith & Tzannes is appropriate based on the transition it provides between the 23m height to the north and 12.5m height to the south. The height variations elsewhere in the locality are not as significant with 4 – 5m being the difference between height interface sites as opposed to the current 10.5m difference between the site and the southern neighbour. The proposed transition between the 23m and the 12.5m is an appropriate urban design outcome for the precinct.

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R3 Medium Density Residential, in accordance with Clause 4.6(4)(a)(ii) of *ALEP 2013*, which read:

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

The proposal is considered to be consistent with the relevant zone objectives for the following reasons:

- The proposed development is considered to have an overall height and form as viewed from the public domain that can be reasonably expected within a medium density residential environment.
- The proposal is considered to provide a variety of housing types within a medium density residential environment. The development includes both market and affordable housing options that range in dwelling size from one- to three-bedrooms, with a range of apartment layouts to cater to different occupants. The development also provides accessible rooms as required under the applicable planning provisions, which provides further housing diversity.
- The proposal does not inhibit the ability of other land uses that provide facilities or services to meet the day to day needs of residents.

It is considered the development is in the public interest because it is consistent with the objectives of the building height development standard, in accordance with Clause 4.6(4)(a)(ii) of *ALEP 2013*, which read:

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

The proposal is considered to be consistent with the relevant objectives of the development standard for the following reasons:

- The proposal is considered to result in a high quality built form. The overall massing and building setbacks are considered appropriate for the site and do not result in adverse visual bulk, overshadowing, or privacy impacts to adjoining properties. Additionally, the façade treatment and proposed materials and finishes are considered to be compatible with and complimentary to the streetscape.
- As noted above, the proposal provides adequate sky exposure, access to daylight, and direct solar access to both the proposed development and the adjoining properties.
- The five (5) storey building form and overall building height is considered to provide an appropriate transition between the existing seven (7) storey development at no. 380 Liverpool Road (B4 Mixed Use zone) and the existing three (3) storey development at

no. 44-48 Milton Street (R3 Medium Density Residential zone). The fifth storey is appropriately massed away from the Milton Street frontage to present as a four (4) storey building. The four (4) storey building form fronting Milton Street is largely contained within the maximum building height plane (excluding the roof terrace) and provides an appropriate transition for a compliant building height and form to be achieved on the neighbouring property at no. 44-48 Milton Street.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of *ALEP 2013*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the building height development standard and it is recommended the Clause 4.6 exception be granted.

Clause 4.4 Floor space ratio

The applicant seeks to vary the floor space ratio development standard under Clause 4.4 of *ALEP 2013* by 131.7%, which is equal to 1,225sqm over the maximum permitted.

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

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

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of *ALEP 2013* justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposal seeks to vary the FSR development standard due to the site-specific circumstances of this case. These circumstances are established by the lack of transitional height and density provisions between the Liverpool Road properties immediately north of the site and the medium density residential development south of the site. The bulk and scale of the new development at the corner of Liverpool Road and Milton Street is quite substantial when considered against the 12.5m height and 0.7:1 FSR to the south. Properties fronting Liverpool Road to the south could have a theoretical height of 23m and FSR of 2.5:1 if adopting the affordable housing component. On this basis the subject site is capable of supporting additional density and acts as a transitional site mediating bulk and scale from 23m and 2.5:1 to 12.5m and 1.2:1 (includes 0.5:1 bonus for affordable). The proposed FSR at 1.56:1 FSR offers a mediating scale and form.*
- *The submitted plans, supported by the original UDR [Urban Design Report], demonstrates that the proposed development has an acceptable 'fit' for the site. The proposals overall bulk and scale is consistent and compatible with the surrounding development both now and in the future (increased future development likely to 23m and 2.5:1 FSR to the north – north – east). The proposed FSR offers a mediating transitional form from the 2:1 plus FSR to the north and the existing development to the south.*
- *The site has been the subject of mandatory road widening by TfNSW (Milton Street frontage) and by Council – via the provisions of the Ashfield DCP (Milton Lane) even though the site is outside the nominated ADCP precinct area. There are no planning incentives for the subject site (unlike other sites in the precinct) to achieve the strategic*

planning outcomes for the area. The additional FSR is justified on first principles (urban design justification) but secondly can be justified because it provides a greater likelihood that the vehicle and pedestrian access can be improved within the precinct. The additional 0.36:1 FSR provides an incentive for the land owner to redevelop the site.

- *ALEP 2013 does not provide a transition between the denser development permitted along Liverpool Road, immediately north of the site and the subject site. The FSR drops from 2.0:1 at the corner of Liverpool Road and Milton Street down to 0.7:1 on the subject site. The ALEP 2013 contains three (3) other FSR limits that could have been adopted for this site to achieve a transition such as "S1" – 1.5:1 or "S2" – 1.8:1. The proposed FSR of 1.56:1 is therefore acceptable for a transitional site under the provisions of ALEP 2013. The transitional site justification is supported by the original UDR prepared by Smith & Tzannes demonstrating that the site functions as a transitional site based on the immediate FSR controls afforded to neighbouring sites.*
- *Due to its attributes the site is suitable for development of a building with greater bulk and scale than contemplated by the 0.7:1 FSR. The frontage is 23.25m and side boundaries of 57 – 58m with total site area of 1,328.5sqm (taking into account the loss of area for the road widening). There are no specific site constraints that would seek to limit the overall potential of the site. The northern boundary is the side boundary fronting Milton Lane which offers opportunities for natural light and outlook.*
- *The proposal does not result in undue adverse amenity impacts on existing development to the south of the site. We accept that the neighbour would be exposed to a 4 storey building however a 6 storey building is proposed. We note that the upper level is not a full level and has significant setbacks appearing more like a roof element. The upper level also has a reduced floor when compared to the level below which minimises the perceived bulk and scale.*
- *The proposal has been designed to account for this site features/characteristics/opportunities and constraints. The design provides increased side setbacks to the upper floor level; living areas orientated to the north (away from the southern neighbouring development); POS areas to the north (where possible); and communal open space at ground level and at roof level split into two areas. The site is capable of supporting greater FSR without any significant adverse impacts on its neighbours. Whilst some additional overshadowing occurs it is not causing significant adverse impact and units have orientation to the north, west and east (refer to analysis in Annexure A). The additional FSR offers a mediating and transitional form stepping down from the 2:1 FSR plus to the north and 0.7:1 FSR to the south.*
- *The additional FSR of 0.36:1 FSR is to be fully dedicated as affordable housing which is in the public interest. The additional 0.36:1 is added to the 0.6:1 being 50% of the 1.2:1 to achieve a 0.96:1 affordable component. The provision of affordable housing is line with the SEPP 70 initiatives of the State Government – notwithstanding that Inner West is yet to complete amendments to the ALEP 2013 to achieve SEPP 70 provisions. The Inner West RLS seeks to increase affordable housing across the LGA and this proposal will provide an additional GFA that would not otherwise be provided as part of a development proposal seeking additional GFA above the 0.7:1 standard.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R3 Medium Density Residential, in accordance with Clause 4.6(4)(a)(ii) of ALEP 2013, which read:

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

The proposal is considered to be consistent with the relevant zone objectives for the following reasons:

- The proposed development is considered to have an overall form and scale as viewed from the public domain that can be reasonably expected within a medium density residential environment.
- The proposal is considered to provide a variety of housing types within a medium density residential environment. The development includes both market and affordable housing options that range in dwelling size from one- to three-bedrooms, with a range of apartment layouts to cater to different occupants. The development also provides accessible rooms as required under the applicable planning provisions, which provides further housing diversity. In this case, the proposed variation to the floor space ratio development standard is directly attributed to the provision of affordable housing.
- The proposal does not inhibit the ability of other land uses that provide facilities or services to meet the day to day needs of residents.

It is considered the development is in the public interest because it is consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of *ALEP 2013*, which read:

- (a) to establish standards for development density and intensity of land use,*
- (b) to provide consistency in the bulk and scale of new development with existing development,*
- (c) to minimise adverse environmental impacts on heritage conservation areas and heritage items,*
- (d) to protect the use or enjoyment of adjoining properties and the public domain,*
- (e) to maintain an appropriate visual relationship between new development and the existing character of areas that are not undergoing, and are not likely to undergo, a substantial transformation.*

The proposal is considered to be consistent with the relevant objectives of the development standard for the following reasons:

- The proposed building form and scale is considered appropriate in this case given the context of the site on the edge of the R3 Medium Density Residential zone adjoining the B4 Mixed Use zone. The proposal provides an appropriate visual transition between the existing seven (7) storey development at no. 380 Liverpool Road and the existing three (3) storey development at no. 44-48 Milton Street while maintaining an overall form that is considered appropriate and reasonable for the R3 Medium Density Residential zone.
- As noted throughout this report, the proposed development has been appropriately designed to minimise adverse environmental impacts, particularly with regard to impacts on existing vegetation, earthworks due to excavation, and the need for remediation of the land. Furthermore, the site is not located within or adjacent to a Heritage Conservation Area or Heritage Item.
- The proposed development is considered unlikely to result in any impacts that would adversely affect or inhibit the use or enjoyment of adjoining properties and the public domain. Additionally, the proposal includes the provision of a public pedestrian

footpath along the northern side and eastern rear boundaries that will enhance the amenity and use of these spaces in the public domain.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of *ALEP 2013*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from floor space ratio development standard and it is recommended the Clause 4.6 exception be granted.

5(b) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below and is considered acceptable:

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

The following provides further discussion to the relevant issues:

(i) Draft Inner West Local Environmental Plan 2020

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

Draft IWLEP 2020 contains provisions for amendments to the aims of Clause 1.2 Aims of Plan and objectives for the R3 Medium Density Residential zone. The development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

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

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

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

Division 1 In-fill affordable housing

17 Non-discretionary development standards – the Act, s 4.15(h)

For development for the purposes of a residential flat building—the minimum internal area specified in the Apartment Design Guide for each type of apartment.

The proposal satisfies the draft clause as the size of each of the proposed apartments complies with the minimum size requirements specified under the ADG.

20 Must be used for affordable housing for at least 15 years

(1) *Development consent must not be granted under this Division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued—*

(a) *the affordable housing component of the development will be used for affordable housing, and*

(b) *the affordable housing component will be managed by a registered community housing provider.*

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

(3) *In this section—*

affordable housing component, in relation to development to which this Division applies, means the dwellings used for the purposes of affordable housing in accordance with section 15(1)(c).

Draft Clause 20(1) empowers the consent authority to impose conditions of consent requiring the affordable housing component of the proposed development to be within the definition of “affordable housing” under the *EP&A Act 1979* and requiring that component to be managed by a community housing provider. It is acknowledged that this amendment would not alter the form or scale of development if it were in operation.

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

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

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 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill (IWCDCP 2016).

Control	Proposed	Compliance
Section 2 – General Guidelines		
A – Miscellaneous		
1 – Site and Context Analysis	The applicant submitted an acceptable site and context analysis as part of the application.	Yes
2 – Good Design	The development satisfies the relevant performance criteria as follows: <ul style="list-style-type: none"> The proposed development is of a scale, form, and density that provides an appropriate transition between adjoining development and which is compatible with surrounding buildings. 	Yes

	<ul style="list-style-type: none"> The proposal has been designed to retain adequate amenity to the proposed apartments and neighbouring properties in terms of solar access and privacy. The development contributes positively to the context of the site and retains and reinforces desirable elements of the street. 	
4 – Solar Access and Overshadowing	See Section 5(d)(i) below.	Yes
5 – Landscaping	<p>The development satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposed landscaping is consistent with the landscaping character of the street and provides appropriate planting species for the site that will provide enhanced amenity for the residents. 	Yes
6 – Safety by Design	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The development has been appropriately designed having consideration of the CPTED principles. The development provides passive surveillance of the street and communal open spaces. The primary building entrance and individual dwelling entries are visible within the street. 	Yes
7 – Access and Mobility	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The application proposes five (5) Universal Accessible Design apartments (15%) on the ground floor and eight (8) accessible car parking spaces in the basement. 	Yes
8 – Parking	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The application proposes eight (8) accessible car parking spaces. The development requires 33 car parking spaces for occupants and eight (8) car parking spaces for visitors. The application proposes 28 car parking spaces. See Section 5(a)(iii) above. The development requires 3.3 bicycle parking spaces for occupants and 3.3 bicycle spaces for visitors. The application proposes 16 bicycle parking spaces. The development requires one (1) motorcycle parking space. The application proposes six (6) motorcycle parking spaces. 	No – however acceptable as ARHSEPP prevails
14 – Contaminated Land	See Section 5(a)(i) above.	Yes – subject to conditions

15 – Stormwater Management	The proposed development is capable of satisfying the relevant requirements of this part subject to suitable conditions of consent, which have been included in the recommendation.	Yes – subject to conditions
C – Sustainability		
3 – Waste and Recycling Design & Management Standards	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> An appropriately sized and located waste storage area is provided is accessible to all residents. The nominated waste collection point and the submitted Waste Management Plan is considered acceptable. 	Yes – subject to conditions
4 – Tree Preservation and Management	See Section 5(a)(iii) above.	Yes – subject to conditions
Chapter D – Precinct Guidelines		
3 – Ashfield West	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The application proposes to dedicate a portion of the rear of the site along the existing eastern rear boundary to enable widening of Milton Lane. The application provides the required pedestrian footpath along the northern and eastern boundaries fronting Milton Lane. The proposed development is considered unlikely to adversely impact the amenity of residential apartments at no. 380 Liverpool Road. 	Yes – subject to conditions
Chapter F – Development Category Guidelines		
Part 5 – Residential Flat Buildings		
PC1 Character	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The development has been appropriately designed to be of an architectural form and overall scale that is compatible with the existing and desired future character of the area. 	Yes
PC2 Streetscape	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposed development has been appropriately designed to be compatible with the existing streetscape character while responding to the individual characteristics of the site. 	Yes
PC3 Lot Size	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The dimensions and total area of the lot are sufficient to enable the proposed development while minimising adverse 	Yes

	impacts to neighbouring properties and the streetscape.	
PC4 FSR	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> As noted above, despite the numerical non-compliance, the proposed FSR is considered appropriate for the context of the site and results in an overall building form that provides an appropriate transition between adjoining properties and zones. 	Yes
PC5 Building Height	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> As noted above, despite the numerical non-compliance, the proposed building height is considered appropriate for the context of the site and results in an overall building form that provides an appropriate transition between adjoining properties and zones. 	Yes
PC6 Siting	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The siting of the proposed development is appropriate considering the context of the site and adjoining development. The proposal generally satisfies the building form requirements of the ADG. The proposal has been designed to provide an appropriately sized and located communal open space at the ground floor that receives adequate amenity. 	Yes
PC7 Setbacks – front	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposed front setback is consistent with that prevailing in the street. 	Yes
PC8 Setbacks – side and rear	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposed side and rear setbacks are appropriate as they maintain sufficient separation between the proposed and adjoining developments to minimise adverse amenity impacts. The proposed setbacks retain appropriate levels of solar access to adjoining properties. The proposed setbacks provide adequate space for the provision of landscaping and a communal open space area. 	Yes
PC9 Car parking	See Section 5(a)(iii) above.	No – however, acceptable as ARHSEPP prevails

PC10 Open Space and Landscaping	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The development provides an appropriately sized and located area of communal open space that generally satisfies the requirements of the ADG. The submitted landscape plan is considered appropriate for the site. 	Yes
PC11 Building Design	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposed development has been appropriately designed having consideration of Part 4 of the ADG. Apartments adjacent to street frontages are provided with direct access from the street. The proposed façade design, materials, and finishes are of a high standard that are compatible with the character of the streetscape. 	Yes
PC13 Maximum Dwelling Size	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposal promotes social inclusion in that it includes affordable housing options under the <i>ARH SEPP</i> and it provides an appropriate mix of dwelling sizes and styles. 	Yes
PC14 Safety and Security	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposal has been appropriately designed to allow for passive surveillance and overlooking of public streets and communal spaces. The proposed privacy fencing to the private open space of the ground floor apartments does not prevent surveillance of the street. The principal entrance to the building is identifiable within the street. 	Yes
PC15 Sustainability	See Section 5(a)(iv) above.	Yes
PC16 Stormwater Drainage	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The application was accompanied by stormwater drainage concept plan that appropriately manages stormwater drainage. 	Yes – subject to conditions
PC17 Site Facilities	See Section 5(a)(i) of this report and the discussion under C – Sustainability of this table.	Yes – subject to conditions
PC18 Fence and Walls	<p>The proposal satisfies the relevant performance criteria as follows:</p> <ul style="list-style-type: none"> The proposed fencing is compatible with the character of the streetscape. 	Yes

	<ul style="list-style-type: none">• The solid components of fencing are a maximum height of 1.2m along the front boundary.• The height and design of the fencing along the northern side boundary is considered appropriate within the streetscape and provides adequate privacy to the ground floor apartments.	
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(ii) Part 4 Solar Access and Overshadowing

Performance Criteria (PC) 1 of this Part requires development to be designed to optimise solar access to living rooms and principal private open space of neighbouring properties. Additionally, Design Solution (DS) 1.1 specifies the following:

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*

The subject site has an east-west orientation, and as such any development on the site would likely result in overshadowing of the neighbouring development at no. 44-48 Milton Street, which is located directly south of the site.

No. 44-48 Milton Street is occupied by a three storey residential flat building comprising 18 apartments. The northeast elevation of the building comprises 12 windows that service the kitchen, bedroom, bathroom, and laundry of three apartments (one apartment per level). The principal living room of these units is serviced by a west-facing window/door that opens onto a balcony, being the principal private open space, while the eastern elevation comprises a window that services a second bedroom.



Figure 3: Subject site (highlighted blue) and adjacent three storey residential flat building at no. 44-48 Milton Street to the south.



Figure 4: Floor plan of residential flat building at no. 44-48 Milton Street.

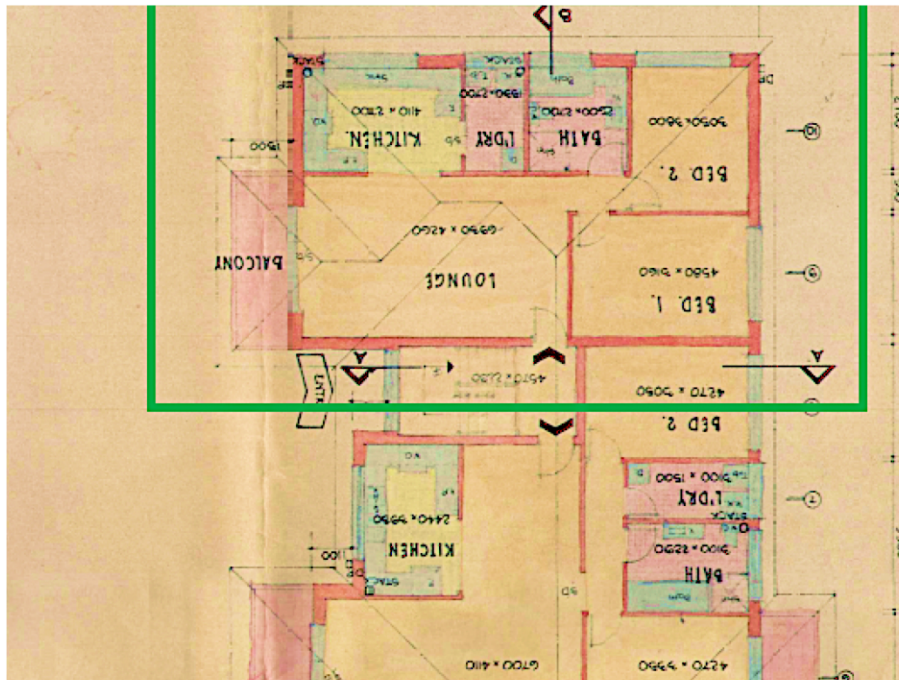


Figure 5: Floor plan of northern-most apartments at no. 44-48 Milton Street.

Elevational shadow diagrams and eye of the sun diagrams were submitted by the applicant demonstrating the impact of the proposed development on no. 44-48 Milton Street. These diagrams indicate the following:

- The north-facing kitchen window, west-facing living room window/door, and balcony of each apartment currently receives greater than 2 hours of direct solar access between 9.00am-3.00pm on June 21st.
- The windows of the third floor apartment are not impacted by the proposed development. These windows, and the west-facing living room window/door and balcony, maintain greater than 2 hours of direct solar access between 9.00am-3.00pm on June 21st.
- The proposed development results in additional overshadowing of the north- and west-facing windows and balcony of the second floor apartment. However, 2 hours of direct solar access to the balcony is maintained between 12.00pm-2.00pm on June 21st.
- The proposed development results in total overshadowing of the north- and west-facing windows and balcony of the ground floor apartment between 9.00am-3.00pm on June 21st. It is noted that the submitted diagrams also demonstrate the overshadowing impacts of a compliant building envelope, which indicate that the ground floor apartment would still lose all direct solar access under a compliant scheme.

Due to the orientation of the allotments and the location of the neighbouring ground floor unit, it is likely that any redevelopment of the subject site would result in overshadowing impacts to no. 44-48 Milton Street. The proposed development is considered to have been appropriately designed to limit adverse overshadowing impacts while providing adequate amenity to the proposed apartments. As such, the development is considered to result in a reasonable impact

on the adjoining development located directly south of the subject site and the proposal is considered to satisfy PC1 of Part 4 of IWCDCP 2016.

5(e) Section 8.2 of the *Environmental Planning and Assessment Act 1979*

The following is an assessment of the application against the requirements of Sections 8.2 and 8.3 of the *EP&A Act 1979*:

Provision	Comment
8.2 Determinations and decisions subject to review	
(1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division— (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary), (b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary), (c) the decision of a council to reject and not determine an application for development consent.	The subject application seeks the review of a determination made by the Inner West Local Planning Panel.
(2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division— (a) a complying development certificate, (b) designated development, (c) Crown development (referred to in Division 4.6).	The subject application does not relate to the listed application types.
(3) A determination or decision reviewed under this Division is not subject to further review under this Division.	Noted.
8.3 Application for and conduct of review	
(1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.	The applicant has requested that the determination made by the Inner West Local Planning Panel be reviewed.
(2) A determination or decision cannot be reviewed under this Division— (a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or (b) after the Court has disposed of an appeal against the determination or decision.	The application was lodged and will be considered by the Inner West Local Planning Panel for determination prior to the period within which any appeal may be made to the Court has expired, this being 13 October 2021
(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent.	The subject proposed development remains substantially the same

The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.	development as that originally proposed.
(4) The review of a determination or decision made by a delegate of a council is to be conducted— (a) by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or (b) by another delegate of the council who is not subordinate to the delegate who made the determination or decision.	The review has been assessed by a Council delegate and is being presented to the Inner West Local Planning Panel for determination.
(5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.	This report has been prepared for the consideration of and determination by the Inner West Local Planning Panel.
(6) The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.	N/A
(7) The review of a determination or decision made by a Sydney district or regional planning panel is also to be conducted by the panel.	N/A
(8) The review of a determination or decision made by the Independent Planning Commission is also to be conducted by the Commission.	N/A
(9) The review of a determination or decision made by a delegate of the Minister (other than the Independent Planning Commission) is to be conducted by the Independent Planning Commission or by another delegate of the Minister who is not subordinate to the delegate who made the determination or decision.	N/A

An assessment of the amended proposal against the reasons for refusal issued under the original determination is provided below:

- The proposal has not satisfactorily demonstrated compliance with the objectives specified in the Apartment Design Guide as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings.**

As noted above, despite some numerical non-compliances, the modified proposal generally satisfies the relevant objectives of the ADG and as such, it is considered that the proposed development satisfies Clause 30(2) of *SEPP 65*.

- The proposal has not satisfactorily demonstrated compliance with Clause 101 of the *State Environmental Planning Policy – Infrastructure 2007*. The proposal has not satisfied the consent authority that it will not have an impact on the efficiency and operation of a classified road.**

As noted above, subject to the recommended conditions of consent with respect to the required left-in and left-out access arrangement, the proposed development is capable of satisfying the requirements of Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007*.

3. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with clause 1.2 (a) & (i) – Aims of Plan of the *Ashfield Local Environmental Plan 2013*. The proposed development does not promote the orderly and economic development of Ashfield in a manner that is consistent with the need to protect the environment or incorporate the principles of ecologically sustainable development.

As noted above, the modified development is considered to satisfy the relevant aims of Clause 1.2 of *ALEP 2013*.

4. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the relevant objectives of zone R3.

As noted above, the modified development is considered to satisfy the relevant objectives of the R3 Medium Density Residential zone pursuant to Clause 2.3 of *ALEP 2013*.

5. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the objectives of the height of buildings control under Clause 4.3 of the *Ashfield Local Environmental Plan 2013*.

As noted above, the modified proposal does not comply with Clause 4.3 of *ALEP 2013* with respect to the maximum building height. Notwithstanding, the submitted Clause 4.6 variation request is considered to adequately demonstrate sufficient environmental planning grounds to vary the development standard in this case.

6. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the objectives of the Floor Space Ratio Development control under Clause 4.4 of the *Ashfield Local Environmental Plan 2013*.

As noted above, the modified proposal does not comply with Clause 4.4 of *ALEP 2013* with respect to the maximum floor space ratio. Notwithstanding, the submitted Clause 4.6 variation request is considered to adequately demonstrate sufficient environmental planning grounds to vary the development standard in this case.

7. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the request under clause 4.6 – Exceptions to development standards has not demonstrated sufficient environmental planning grounds to vary development standards under the *Ashfield Local Environmental Plan 2013*.

As noted above, the submitted Clause 4.6 variation requests with respect to Clauses 4.3 and 4.4 of *ALEP 2013* are considered to adequately demonstrate sufficient environmental planning grounds to vary the development standards in this case.

8. In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

As discussed throughout this report, the proposed development is considered to have been appropriately designed to minimise adverse environmental, social, and economic impacts on the locality.

9. Pursuant to the provisions of Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would not be in the public interest.

As noted throughout this report, it is considered that the proposal has been adequately designed to satisfy the relevant planning requirements and results in a development that is in the public interest.

5(f) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

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

5(h) Any submissions

The application was notified in accordance with the Inner West Council *Community Engagement Framework* for a period of 28 days to surrounding properties. Ten (10) submissions (three (3) unique submissions) were received in response to the initial notification.

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

- Traffic and parking – see Section 5(a)(iii)
- Visual and acoustic privacy – see Section 5(a)(iii)
- Overshadowing and solar access – see Section 5(d)(i)
- Height, bulk, and scale – see Section 5(a)(vii)
- Out of character – see Section 5(a)(vii)
- Waste management – see Section 5(d)
- Non-compliance with Section 2 Chapter D Part 3 Ashfield West of IWCDP 2016 – see Section 5(d)

In addition to the above issues, the submissions raised the following concerns which are discussed in the table below:

Concern	Comment
Pedestrian safety	The application includes the provision of a new pedestrian footpath along the northern and eastern site boundaries to ensure appropriate pedestrian safety within Milton Lane.
Air pollution	Concern was raised with regard to air pollution to the neighbouring development at no. 44-48 Milton Street from the increase in cars accessing the site. The proposed basement is located on the site to reduce adverse amenity impacts to the neighbouring development from cars entering and exiting the

	basement. The anticipated volume of cars using the basement is considered unlikely to result in significant adverse air pollution.
Insufficient Clause 4.6	The submitted variation requests under Clause 4.6 of <i>ALEP 2013</i> to vary the building height and floor space ratio development standards are considered acceptable.
Does not adequately address the previous reasons for refusal	The proposed development (as amended) is considered to adequately address the reasons for refusal of the original DA.
Property value	There is no evidence to suggest that the proposal will result in a loss of property value. Notwithstanding, elements that contribute to property value, including amenity, privacy, and solar access, have been assessed throughout this report and the proposed development is considered acceptable.
Structural impacts to neighbouring properties	A condition has been included in the recommendation that a dilapidation report be prepared for the neighbouring properties prior to any demolition works on the site.

5(i) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Architectural Excellence Panel
- Building Certification
- Development Engineer
- Environmental Health
- Traffic Committee
- Traffic Services
- Urban Forest
- 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 5 above.

- Ausgrid
- Roads and Maritime Services
- Sydney Water

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$364,996.81 would be required for the development under Ashfield Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *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 not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.3 of *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is 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 be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. The applicant has made a written request pursuant to Clause 4.4 of *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is 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 be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- C. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s8.4 of the *Environmental Planning and Assessment Act 1979*, change the original decision of DA/2020/00139 and grant consent to Application No. REV/2020/0035 for Section 8.2 review of residential flat building at 40 Milton Street ASHFIELD NSW 2131 subject to the conditions listed in Attachment A below.

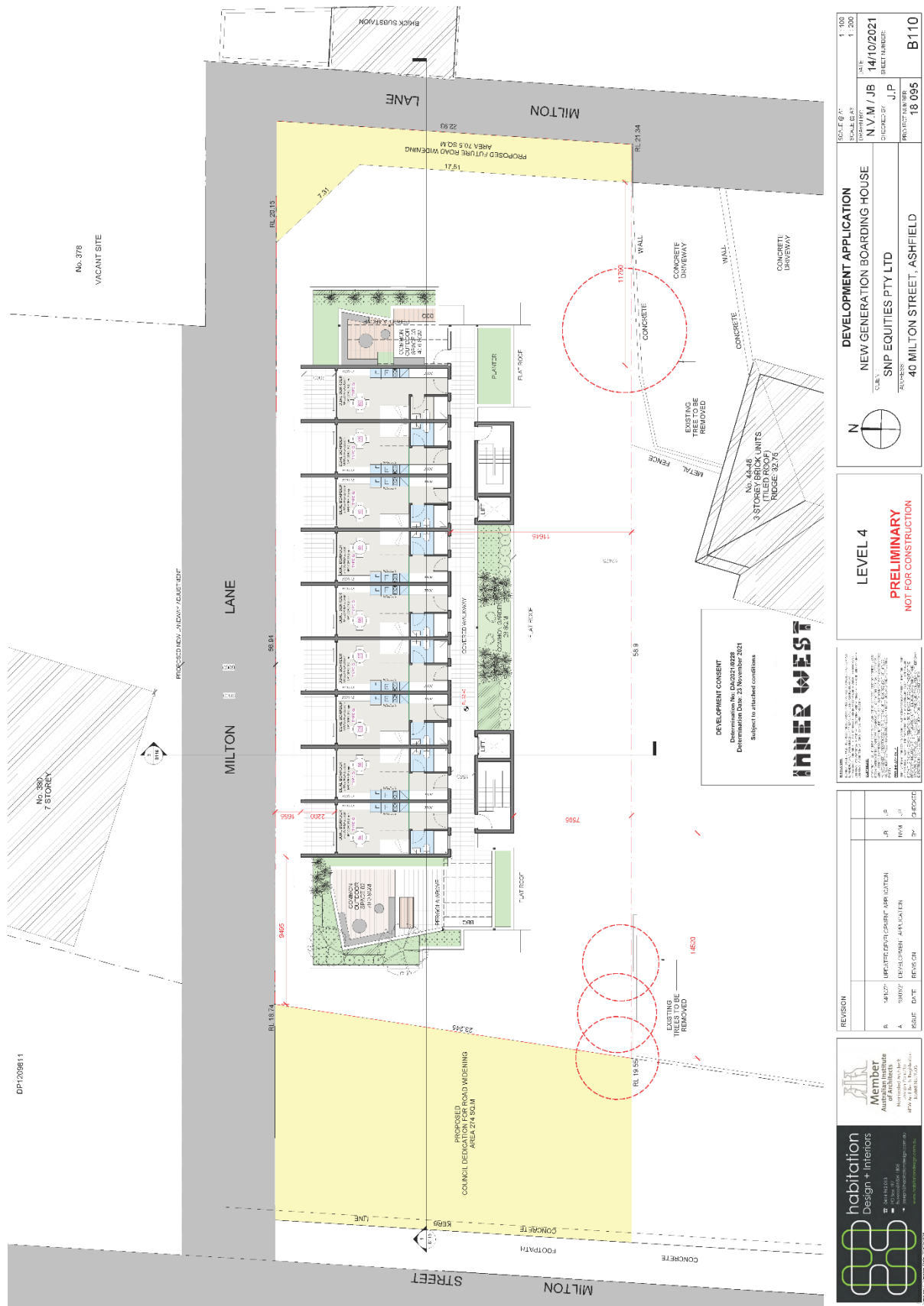


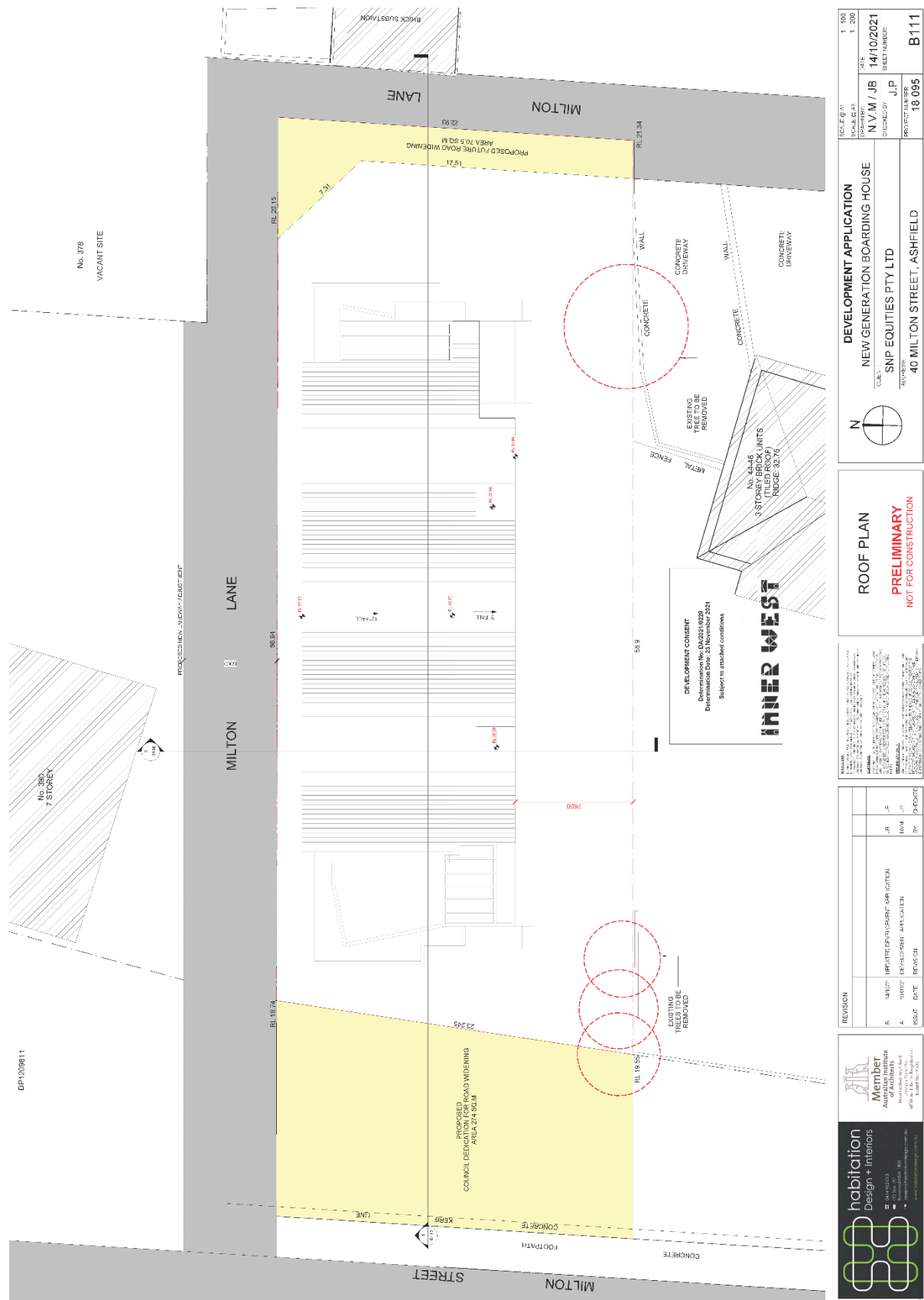


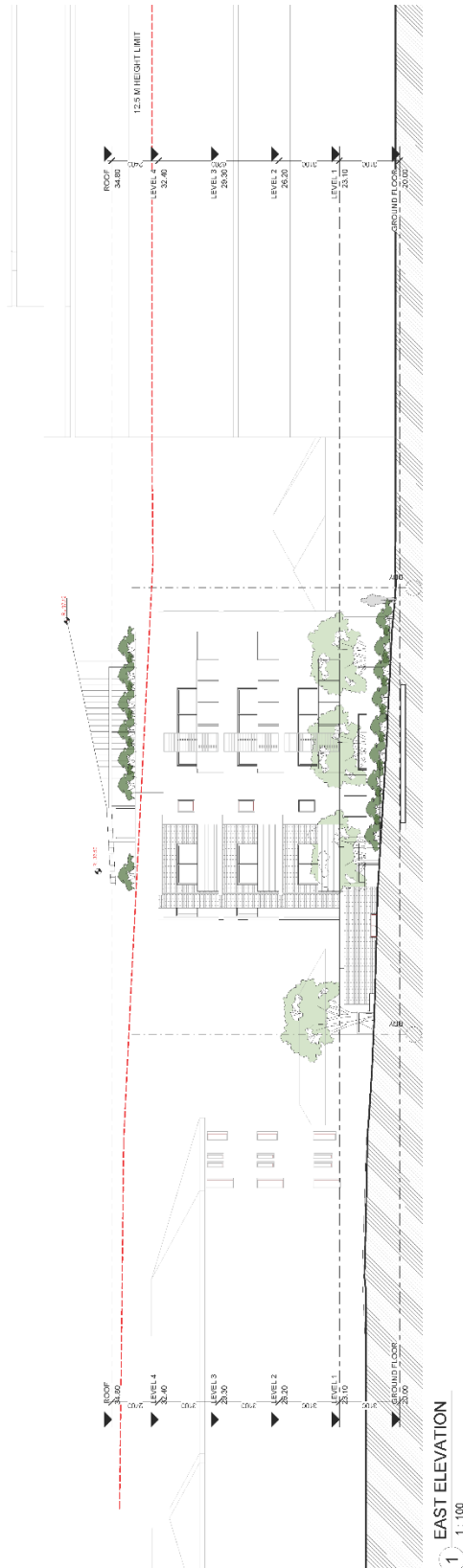












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REVISION		DATE	BY	CHKD
A	10002 - DEVELOPMENT APPLICATION		NWM	20
B	10002 - REPEATED DEVELOPMENT APPLICATION		JB	15

DEVELOPMENT APPLICATION
NEW GENERATION BOARDING HOUSE

CLIENT:
SNP EQUITIES PTY LTD
40 MILTON STREET, ASHFIELD

SCALE @ A1:
1:100
1:400

DATE:
14/10/2021

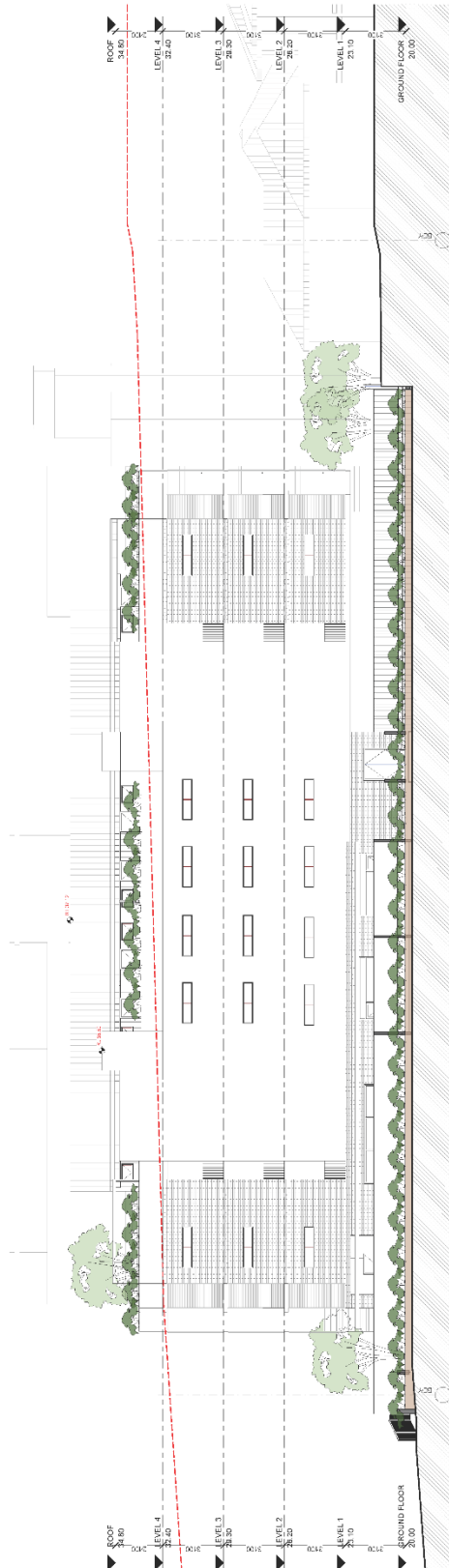
DRAWN BY:
J.P.

CHECKED BY:
J.P.

PROJECT NUMBER:
18 095

SHEET NUMBER:
B113

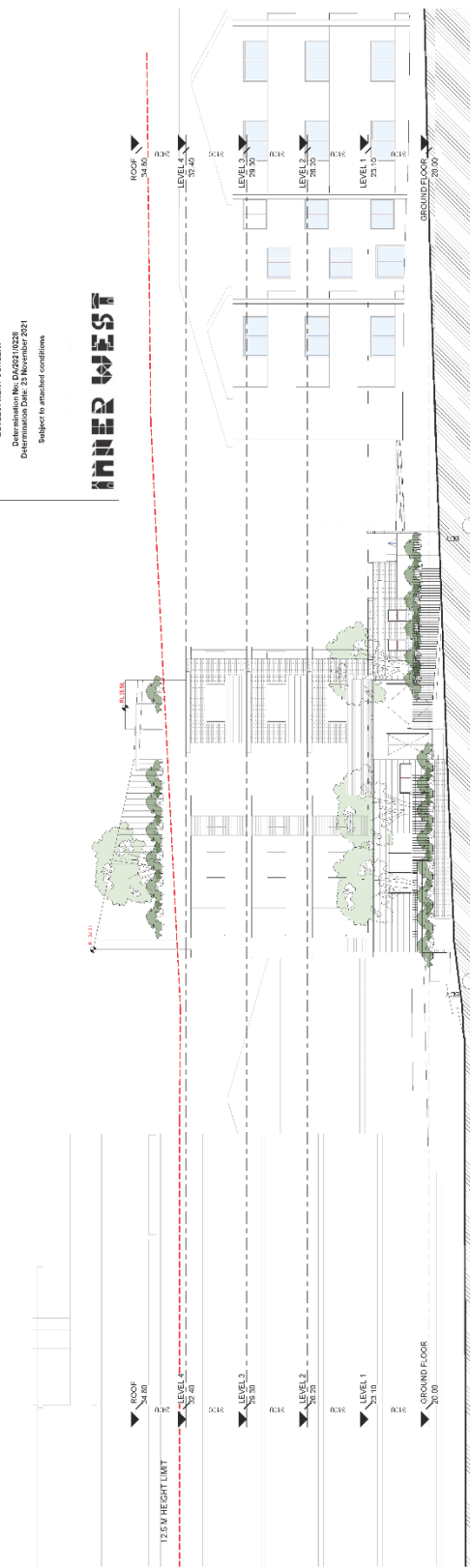
ELEVATIONS
PRELIMINARY
NOT FOR CONSTRUCTION



DEVELOPMENT CONSENT
Determination No. DA022110228
Determination Date: 13 November 2021
Subject to attached conditions

INNER WEST

1 SOUTH ELEVATION
1:100



2 WEST ELEVATION
1:100

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REVISION

REVISION	DATE	BY	CHKD
A	14/10/2021	NVM	J.P.

14/10/2021 REVISION: APPLICATION

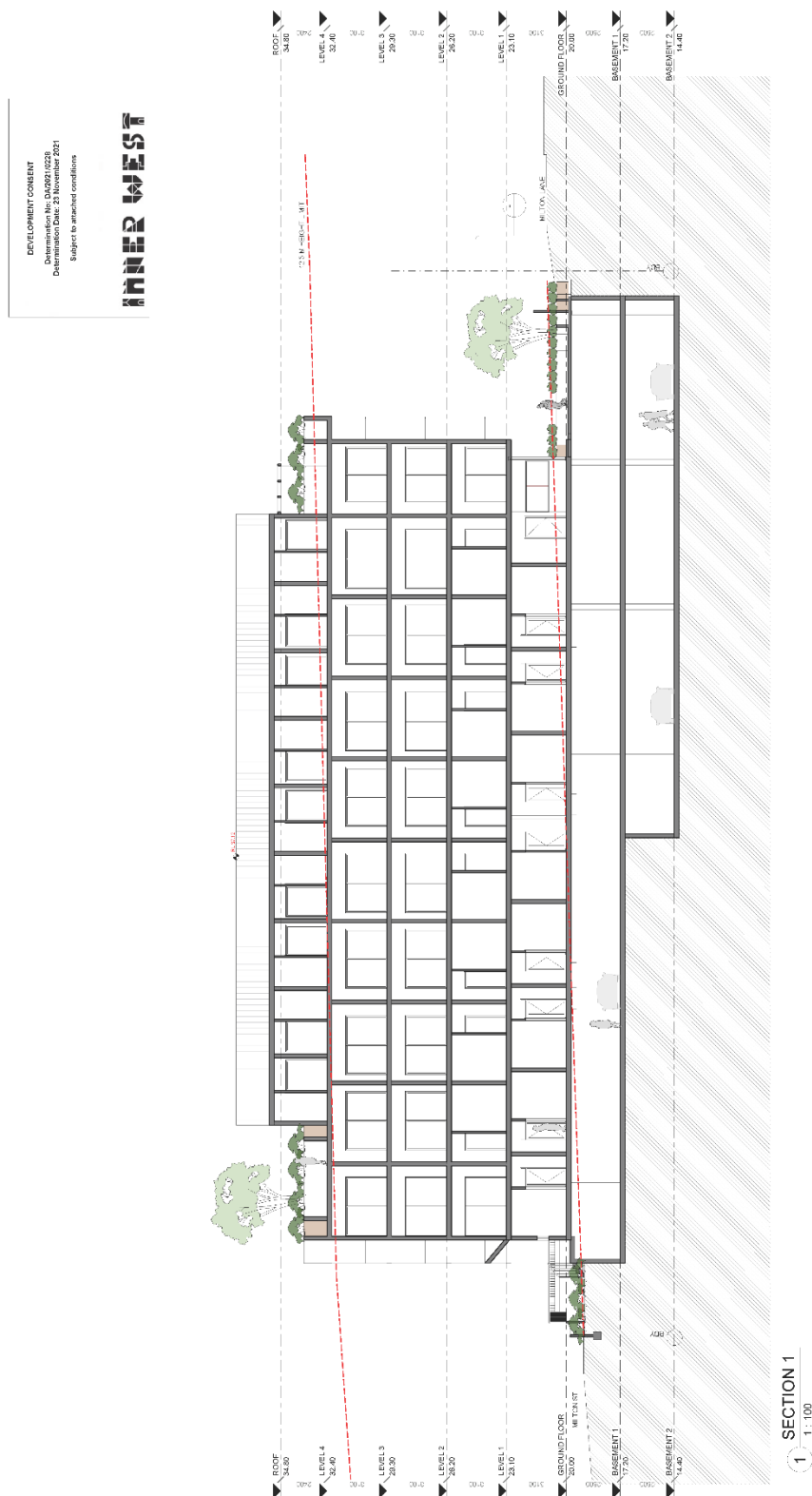
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ELEVATIONS
PRELIMINARY
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION
NEW GENERATION BOARDING HOUSE
SNP EQUITIES PTY LTD
40 MILTON STREET, ASHFIELD

DATE: 14/10/2021
DRAWN BY: J.P.
CHECKED BY: J.P.
PROJECT NUMBER: 18 095
B114



SCALE @ A1	1:100
SCALE @ A2	1:200
DATE	14/10/2021
PROJECT NAME	B115
PROJECT NUMBER	18 095
DESIGNED BY	J.P.
CHECKED BY	J.P.
DATE	14/10/2021
PROJECT NAME	B115

DEVELOPMENT APPLICATION	NEW GENERATION BOARDING HOUSE
CLIENT	SNP EQUITIES PTY LTD
ADDRESS	40 MILTON STREET, ASHFIELD

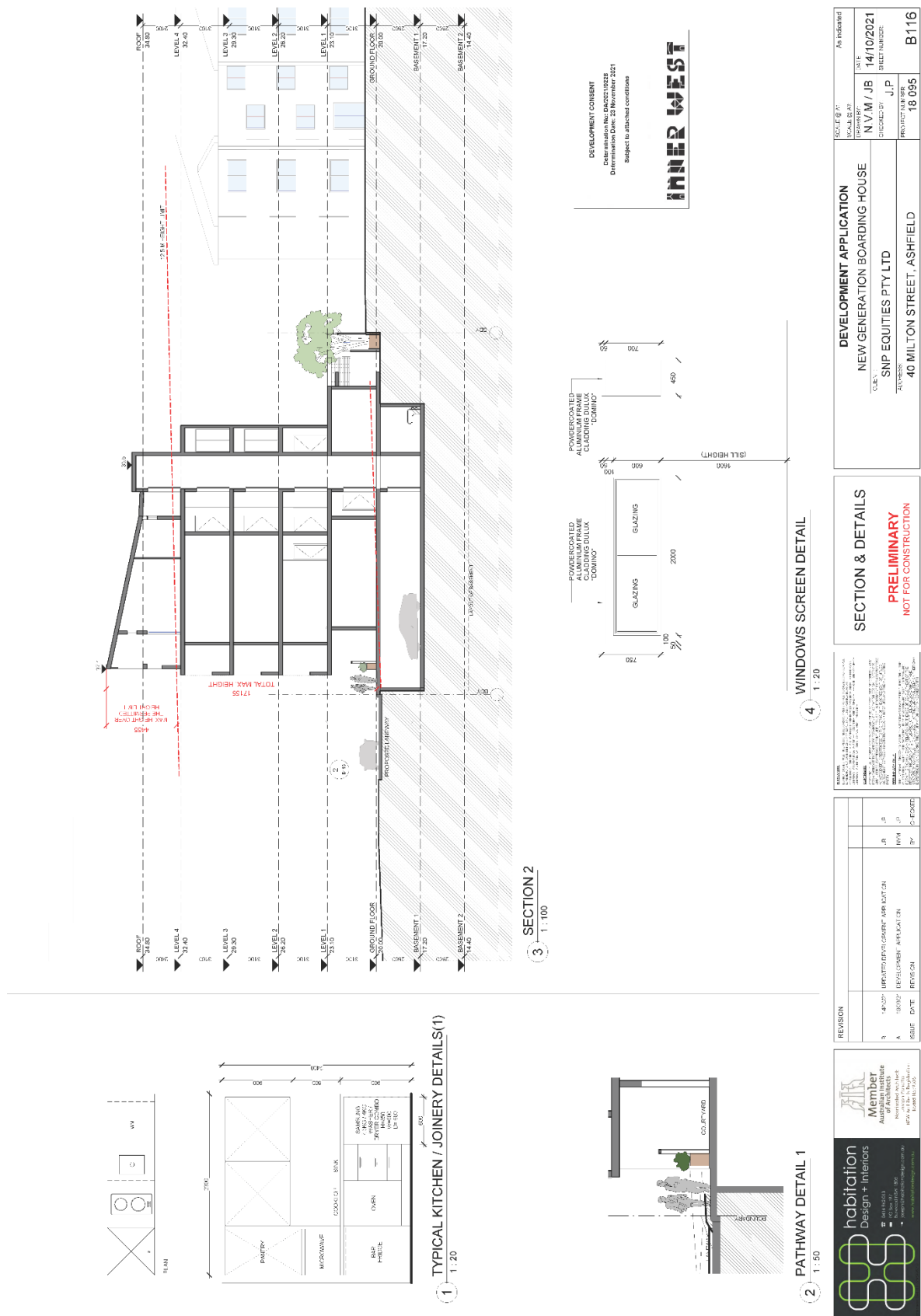
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B	14/10/21	REPLATED PROPOSED SUB LOT 1/1	14/10/21	2	14/10/21

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 14/10/2021



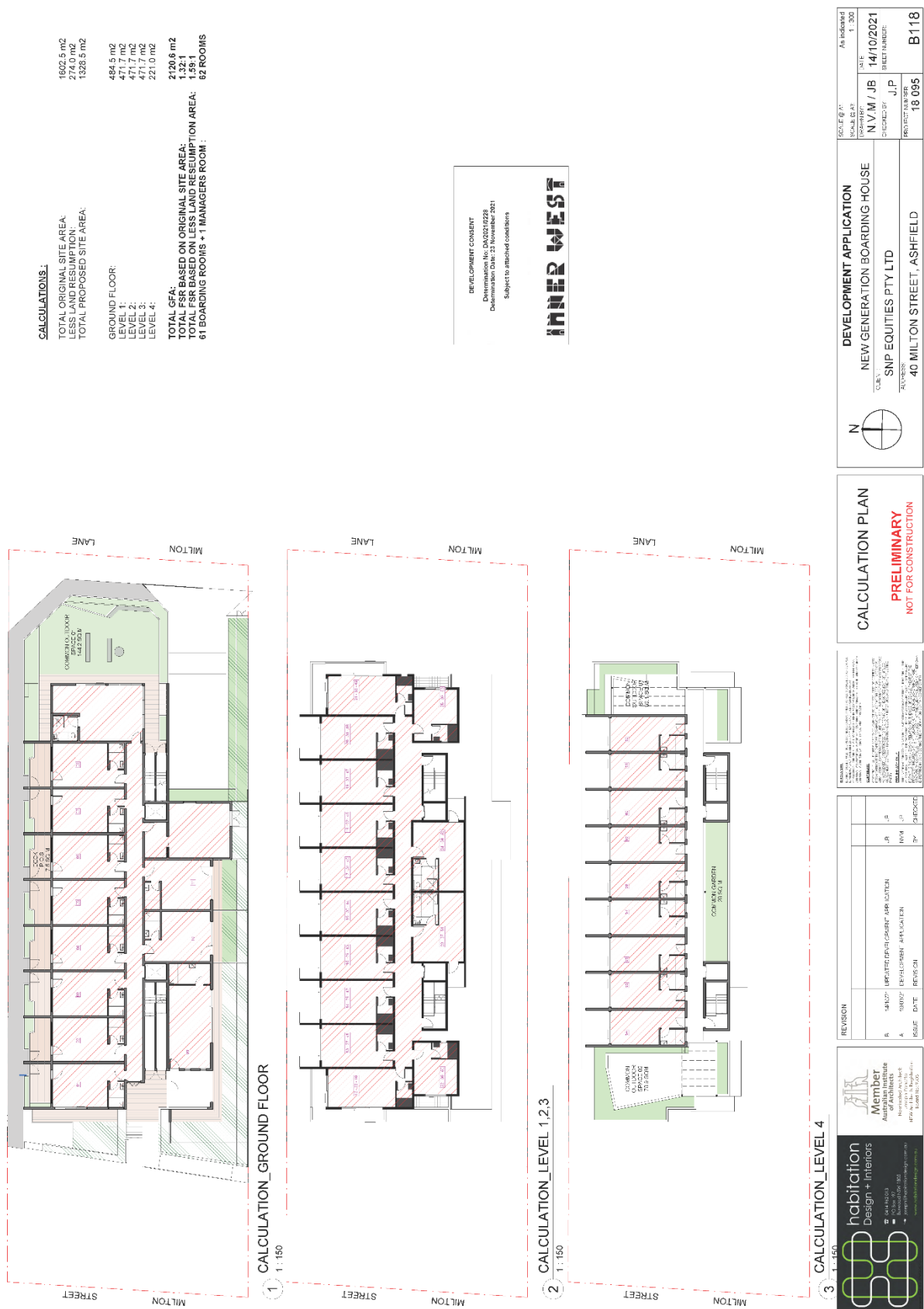


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DEMOLITION PLAN

PRELIMINARY

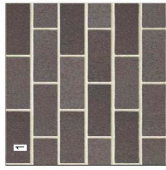
NOT FOR CONSTRUCTION

	DEVELOPMENT APPLICATION NEW GENERATION BOARDING HOUSE CUB V SNP EQUITIES PTY LTD 40/10-2888	40 MILTON STREET, ASHFIELD

1 : 150 1 : 300	DATE 14/10/2021 SHEET NUMBER B119
加工費 材料費 送料費 消費税	18 095 PROJECT NUMBER 18 095



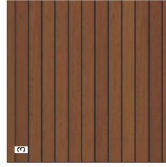
MATERIALS + FINISHES



1) FACE BRICK
AUSTRAL METALLIC 'BLACK
STONE' OR SIMILAR

2

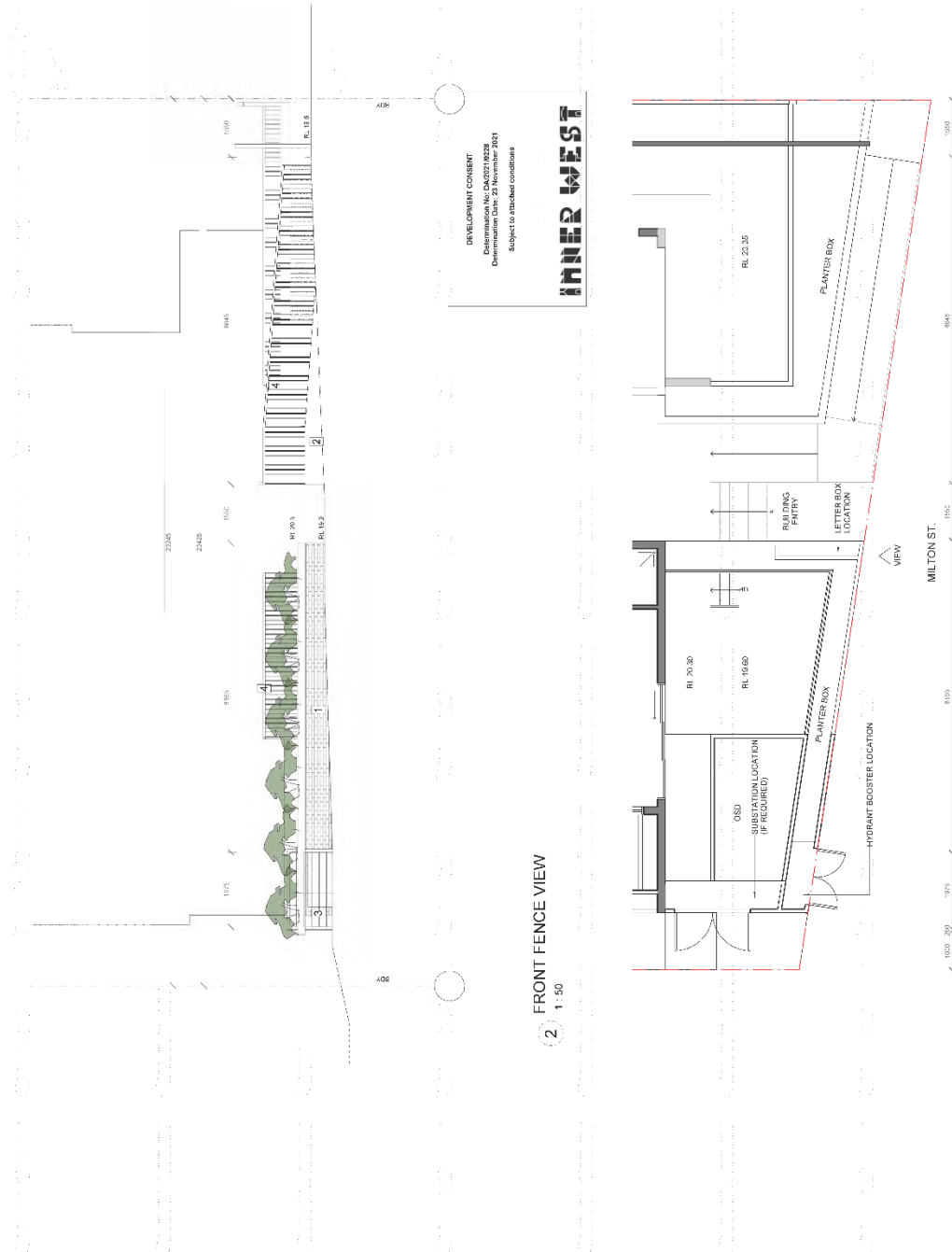
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DULUX "LEXICON"



3) ALUMINIUM CLADDING
"TIMBER FINISH"



4) POWDERCOATED ALUMINIUM
PAINTED DULUX "DOMINO"



FRONT FENCE VIEW
2
1:50

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10/10/2020

REVISION

NO	DATE	REVISION
1	10/10/2020	10/10/2020 DEVELOPMENT APPLICATION
2	10/10/2020	10/10/2020 DEVELOPMENT APPLICATION

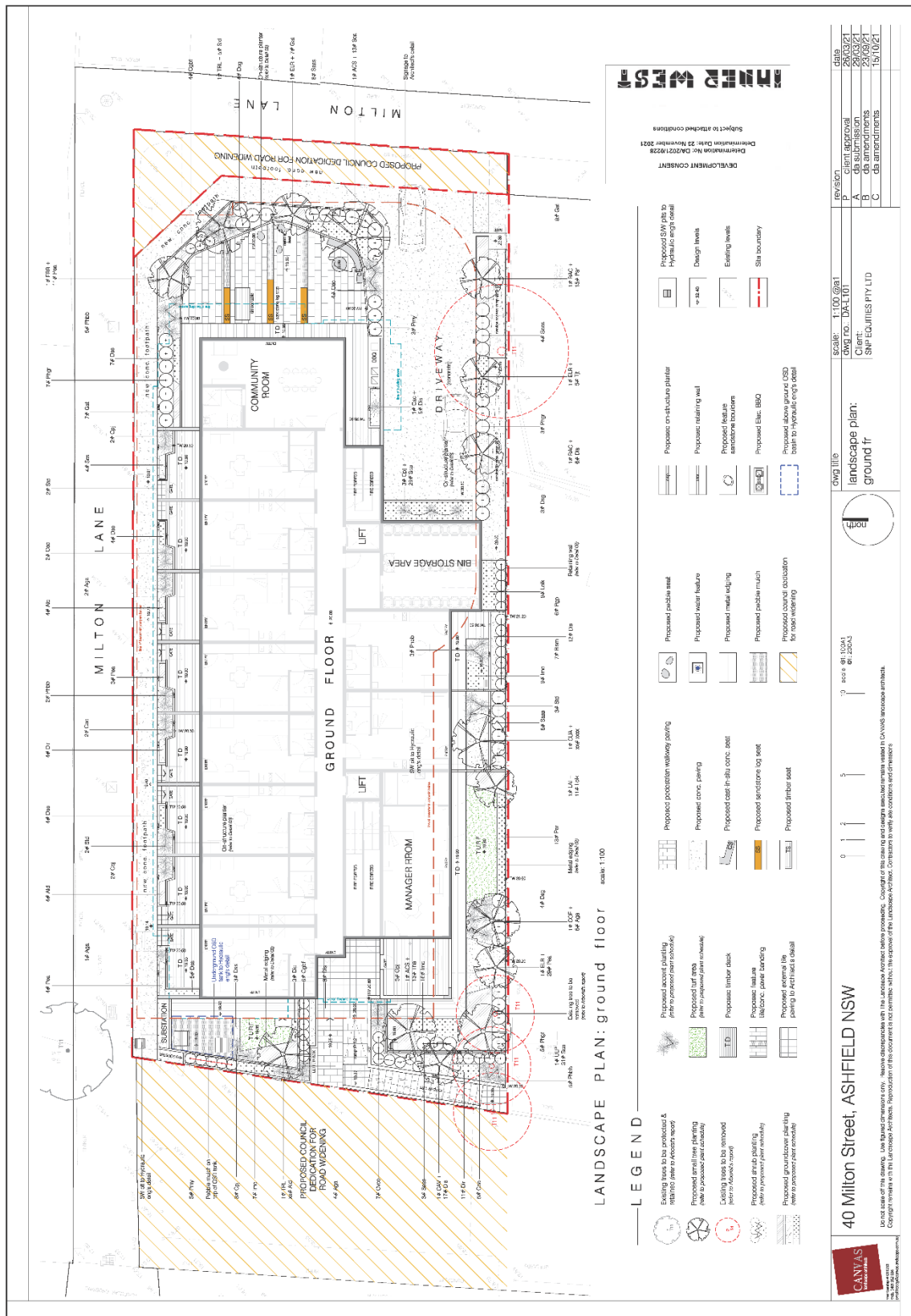
FENCE DETAIL
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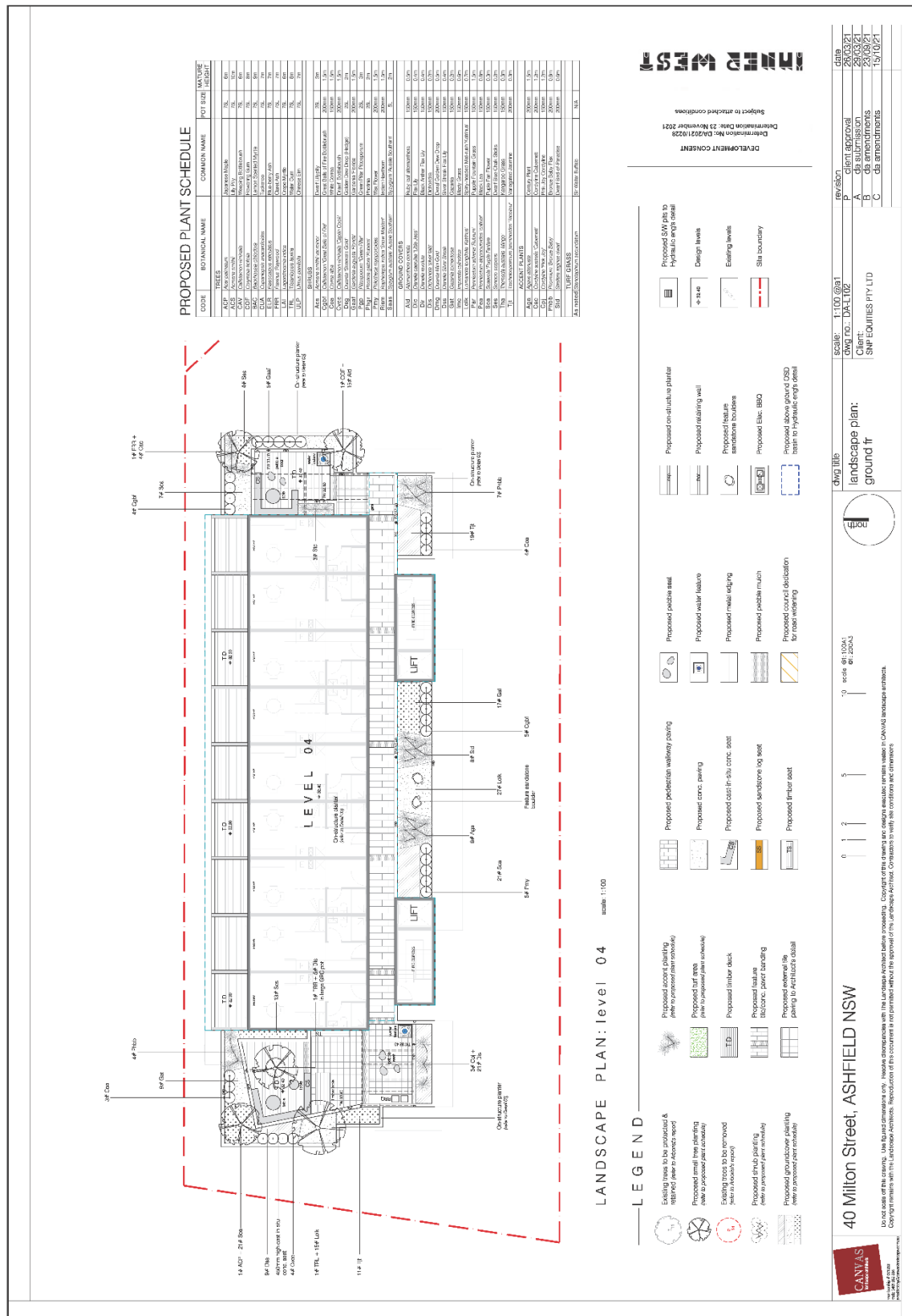
DEVELOPMENT APPLICATION
NEW GENERATION BOARDING HOUSE

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 40 MILTON STREET, ASHFIELD

SCALE: B1
SCALE: B1
SCALE: B1

DRAWN BY: N.V.M. / JB
DATE: 14/10/2021
CHECKED BY: J.P.
PROJECT NUMBER: 18 095
SHEET NUMBER: B121





TYPICAL DETAIL 01: masonry retaining wall

scale: 1:20

150mm wide drainage channel at base of wall
150mm wide concrete footing
150mm wide concrete base
150mm wide drainage channel at base of wall
150mm wide concrete footing
150mm wide concrete base

TYPICAL DETAIL 02: metal edging

scale: 1:10

100mm high metal edging
100mm wide planting bed
100mm wide path

TYPICAL DETAIL 03: on-structure planter

scale: 1:20

100mm high on-structure planter
100mm wide planting bed
100mm wide concrete base

TYPICAL DETAIL 04: tree planting

scale: 1:20

100mm high tree planting
100mm wide planting bed

PROPOSED PLANTING IMAGES PALETTE

scale: 1:20

12 proposed planting images

TYPICAL DETAIL 05: metal edging

scale: 1:10

100mm high metal edging
100mm wide planting bed
100mm wide path

TYPICAL DETAIL 06: tree planting

scale: 1:20

100mm high tree planting
100mm wide planting bed

TYPICAL DETAIL 07: on-structure planter

scale: 1:20

100mm high on-structure planter
100mm wide planting bed
100mm wide concrete base

TYPICAL DETAIL 08: metal edging

scale: 1:10

100mm high metal edging
100mm wide planting bed
100mm wide path

TYPICAL DETAIL 09: tree planting

scale: 1:20

100mm high tree planting
100mm wide planting bed

TYPICAL DETAIL 10: metal edging

scale: 1:10

100mm high metal edging
100mm wide planting bed
100mm wide path

TYPICAL DETAIL 11: tree planting

scale: 1:20

100mm high tree planting
100mm wide planting bed

TYPICAL DETAIL 12: on-structure planter

scale: 1:20

100mm high on-structure planter
100mm wide planting bed
100mm wide concrete base

TYPICAL DETAIL 13: metal edging

scale: 1:10

100mm high metal edging
100mm wide planting bed
100mm wide path

TYPICAL DETAIL 14: tree planting

scale: 1:20

100mm high tree planting
100mm wide planting bed