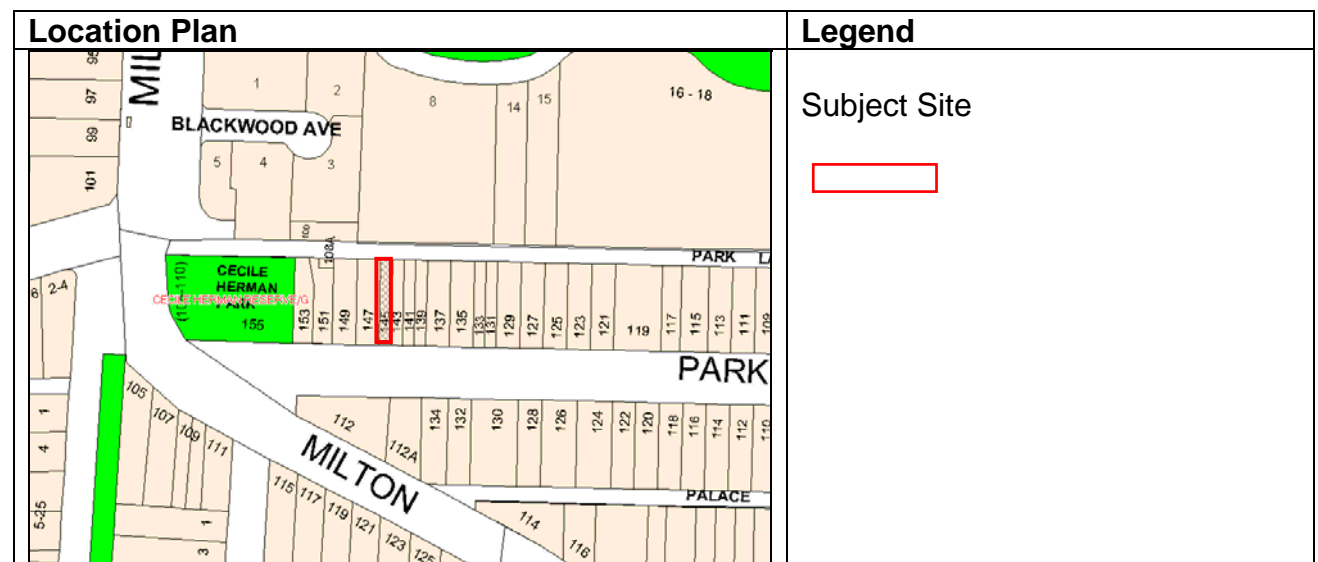




# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	10.2017.157.1
<b>Address</b>	145 Park Avenue, Ashfield
<b>Proposal</b>	Alterations and additions to the existing dwelling house, including: <ul style="list-style-type: none"> <li>• reconfiguration of the ground floor layout and extension of the rear building line by 1.9 metres;</li> <li>• first floor addition at the rear;</li> <li>• re-instatement traditional façade features; and</li> <li>• new front fence.</li> </ul>
<b>Date of Lodgement</b>	8 September 2017
<b>Applicant</b>	Precision Planning
<b>Owner</b>	Alyce Lythall and Michael Kelly
<b>Number of Submissions</b>	None
<b>Value of works</b>	\$225,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds officer delegation
<b>Main Issues</b>	Non-compliance with FSR development standard
<b>Recommendation</b>	Consent subject to conditions



## 1. Executive Summary

This report is an assessment of the development application (DA) submitted to Council for alterations and additions to the existing dwelling house at No.145 Park Avenue, Ashfield. The application was notified to surrounding properties and no submissions received.

The main issue that has arisen from the application is the non-compliance with the Floor Space Ratio (FSR) development standard under Ashfield Local Environmental Plan 2013 (ALEP 2013). The proposal represents an appropriate built form for the site and would not result in any unreasonable amenity impacts to the adjoining properties.

The non-compliance with the FSR development standard has been adequately justified in the applicant's written request in accordance with Clause 4.6 Exceptions to Development Standards and therefore the application is recommended for approval.

## 2. Proposal

The proposal is for alterations and additions to the existing dwelling house involving:

- reconfiguration of the ground floor layout and extension of the rear building line by 1.9 metres;
- first floor addition at the rear;
- re-instatement traditional façade features; and
- new front fence.

## 3. Site Description

The site is located on the northern side of Park Avenue, between Milton Street and Shephard Street, Ashfield. The site consists of one allotment and is generally rectangular in shape with a total area of 153.4m<sup>2</sup> and is legally described as Lot 1 DP 996042. The site has a frontage to Park Avenue of 4.6 metres and the rear boundary adjoins Park Lane.

The site contains a single storey semi-detached dwelling and forms a pair with the adjoining semi-detached dwelling to the east at 143 Park Avenue. The adjoining property to the west at 147 Park Avenue contains a contemporary 1 part 2 storey detached dwelling house.

The locality is a mix of one and two storey semi-detached and terrace style dwellings on narrow blocks with small front gardens and inter-war residential flat buildings.

The property is located within the Park Avenue Heritage Conservation Area (HCA) under ALEP 2013.

## 4. Background

### 4(a) Site history

There is no application history of relevance to the subject site.

The table below outlines the relevant development history of the adjoining property at 147 Park Avenue:

Application	Proposal	Decision & Date
DA083/2013	Construction of a two storey dwelling	Approved 25 June 2013
DA083/2013 - Section 96 Application	Minor modifications to the design	Approved 27 January 2015

### 4(b) Application history

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

Date	Discussion / Letter/ Additional Information
3 April 2017	Pre-DA meeting held with the applicant and owners.
12 May 2017	Council issued written Pre-DA comments raising the following issues: <ul style="list-style-type: none"> <li>• non-compliance with the FSR development standard;</li> <li>• non-compliance with building envelope controls including external wall height and side setback;</li> <li>• potential privacy impacts from a first floor rear facing balcony; and</li> <li>• heritage concerns in relation to the front dormer window and siting of the rear first floor addition.</li> </ul>
27 June 2017	Council issued written comments prior to formal lodgement of the DA raising the following issues: <ul style="list-style-type: none"> <li>• excessive bulk and scale of the rear first floor addition;</li> <li>• non-compliance with the FSR development standard; and</li> <li>• the need for party wall consent.</li> </ul>
7 August 2017	Meeting held with Council officers to discuss the issues raised prior to formal lodgement of the DA

## 5. Assessment

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

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Ashfield Local Environment Plan 2013

5(a)(i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The site is located approximately three kilometres south of Hen and Chicken Bay at Sydney Harbour. The proposal would have no adverse environmental or visual impact on the foreshore and waterway due to the separation distance.

5(a)(ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004  
 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (“BASIX”) applies to the proposed works. BASIX Certificate No. A291724 dated 6 September 2017 was submitted with the development application and demonstrates that the proposal will achieve the required water efficiencies and thermal comfort requirements.

5(a)(iii) Ashfield Local Environment Plan 2013 (ALEP 2013)

Ashfield Local Environmental Plan 2013 Summary Compliance Table				
Clause No.	Clause	Standard	Proposed	Compliance
2.2	Zoning	Zone R2 Low Density Residential	Alterations and additions to the existing dwelling house.	Yes
4.3	Height of buildings	8.5m	6m (existing roof)	Yes
4.4	Floor space ratio	0.5:1	0.7:1 Refer to Cl. 4.6 discussion below.	No
4.6	Exceptions to Development standards	The variation to the FSR development standard is discussed below.		
5.10	Heritage Conservation	The site is located within the Park Avenue Heritage Conservation Area.		
5.10(4)	Effect of proposed development on heritage significance	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or the area concerned. This subclause applies regardless of whether a heritage management document is	The existing dwelling is one of a pair of relatively intact semi-detached dwellings and make a positive contribution to the streetscape in terms of the symmetry and original form. Council’s Heritage Advisor advises the proposed changes	Yes

		prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	are acceptable in term of heritage impacts. Refer to discussion Section 5(d) of this report.	
5.10(5)	Heritage Assessment	The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),  require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	The applicant's Heritage Impact Statement concludes there would be no adverse impact on the heritage conservation area as a result of the proposed alterations and additions. Refer to discussion Section 5(d) of this report.	Yes

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard under Clause 4.4 of Ashfield LEP 2013.

The proposed development will have a gross floor area (GFA) of 108.5 m<sup>2</sup>, which equates to an FSR of 0.7:1 and represents a variation of 41.5% above the maximum allowable FSR of 0.5:1 as outlined in the table below.

Development Standard	Proposal	Extent of variation	Compliance
<u>Clause 4.4 - Floor Space Ratio</u> Required: 0.5:1 (maximum) or 76.7m <sup>2</sup> gross floor area (GFA)	0.7:1 108.5m <sup>2</sup> GFA	41.5%	No

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*
3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The application is accompanied by a written request in accordance with Clause 4.6 Exceptions to Development Standards under Ashfield LEP 2013. In summary, the applicant's written request justifies the non-compliance on the basis that the proposal:

- adds to the housing needs of the community within a low density residential environment;
  - improves the amenity of the dwelling;
  - retains the heritage character of the dwelling within the streetscape and would not adversely impact the heritage conservation area;
  - protects the amenity of adjoining properties;
  - is sympathetic with the built form context;
  - does not result in any adverse bulk and scale within the streetscape;
  - maintains the amenity of the adjoining properties;
  - is consistent with the review of FSR development standard on small sites in other suburbs across the LGA;
  - complies with other development controls;
  - is a high quality design outcome for the site and therefore in the public interest; and
  - does not create a precedence given the small size of the site.
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Officer's Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to Development Standards, and it is considered to be well founded in this instance. The proposal would not result in a detrimental impact on the public interest and can satisfy the objectives of the development standards and Low Density Residential zoning as demonstrated below:

- The proposed first floor addition is adequately setback behind the existing dwelling and visually subservient when viewed from the street;
- The siting and design of the first floor addition maintains the symmetry of the pair of semi-detached dwellings within the streetscape.
- The proposed first floor addition retains the main external body of the existing dwelling;
- The overall bulk and scale is generally compatible with the built form context.
- The proposal would not result in any unreasonable amenity impacts to the adjoining properties in terms of overshadowing, privacy and visual bulk.
- The proposal is generally consistent with the relevant objectives of the FSR development standard under ALEP 2013.
- The proposed alterations and additions are appropriate for the site and maintain the low density residential character of the locality.
- The non-compliance is acceptable due to the relatively small size of the site.

## 5(b) Draft Environmental Planning Instruments

None Applicable

## 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 2016 as follows:-

CHAPTER A PART 8	PARKING	This Part requires one car space per dwelling. The proposal provides no car parking on the site. Refer to the discussion in Section 5(d) of the report.
Chapter B	NOTIFICATION AND ADVERTISING	The proposal was notified in accordance with Councils Notification and Advertising DCP. Refer to Part 5(f)
Chapter E1 PART 2	HERITAGE ITEMS AND CONSERVATIONS AREAS (excluding Haberfield)	The proposal is considered to meet the objectives of this part. In addition, Council's Heritage Advisor did not raise any objections to the proposal.
Chapter F PART 1	DWELLING HOUSES AND DUAL OCCUPANCY	Refer to the detailed assessment below

### Chapter F Development Category Guidelines – Part 1 – Dwelling Houses and Dual Occupancy

Reference	Control	Standard	Proposed	Compliance
DS3.4	Wall height	Maximum external wall height of 6 metres measured from the existing ground level.	6m	Yes
DS4.3	Setbacks	Side setbacks are determined by compliance with the BCA. Generally, Council requires a minimum side setback of 900mm for houses	<p><i>Ground Floor</i> - nil setback</p> <p><i>First Floor</i> - 900 mm</p> <p>The existing dwelling has a nil setback along the western boundary. The quantum of built form on the boundary will decrease by approximately one metre compared to the existing situation due to the removal of the laundry. In addition, the nil side setback at ground level would not result in any unreasonable amenity impacts to the adjoining property in terms of overshadowing, privacy or visual bulk.</p>	Yes
DS6.1	Garages and carports	A minimum of one carparking is required per dwelling	The subject site provides no car parking on the site.	No

			Refer to the discussion in Section 5(d) of this report.	
DS8.2	Minimum landscaped area %	Determined on merit subject to the principal private open space and front garden requirements of the DCP being achieved, and there being a minimum 20m <sup>2</sup> courtyard with a minimum 3.5m width	35m <sup>2</sup> or 23%  The proposal satisfies the minimum private open space and front garden requirements (see below)	Yes
DS8.3	Maximum site coverage	Determined on merit subject to compliance with minimum landscape area	86m <sup>2</sup> or 56% The existing site coverage equates to approximately 70 m <sup>2</sup> or 45%. The proposal is generally consistent with the built form context and includes sufficient landscaped area on the site.	Yes
DS9.1	Principal private open space	Principal private open space is: <ul style="list-style-type: none"> <li>directly accessible from and at the same level as ground living area</li> <li>has a minimum area of 20 m<sup>2</sup></li> <li>has a minimum dimension of 3.5 m</li> <li>has an appropriate level of solar access, natural ventilation and privacy</li> </ul>	The rear private open space will have an area of 33m <sup>2</sup> and a minimum dimension of 4.3m. The quantum of private open space will increase compared to the existing situation due to the removal of the hardstand bin storage area at the rear of the site. The rear private open space will have good amenity in terms of solar access.	Yes
DS 11.1	Front gardens	Requires front garden to have an area and dimensions that provide sufficient soil area for ground cover, vegetation and trees.	The existing front garden will be retained.	Yes
DS 11.2	Front gardens	Requires hard paved areas to be minimised, and driveways have a maximum width of 3 metres	The existing path will be modified but the majority of the front setback will be retained as soft landscape.	Yes
DS 12.1	Rear gardens	Requires rear gardens to have an area and dimension that provide sufficient soil area for ground cover, vegetation and trees.	The rear garden will be increased in area as a result of the removal of the hardstand bin area.	Yes
DS13.1-13.2	Solar access	Sunlight to at least 50% (or 35m <sup>2</sup> with minimum dimension 2.5m, whichever is the lesser) of private open space areas of adjoining properties is not to be reduced to less than three (3) hours between 9am and 3pm on 21 June. Existing solar access is maintained to at least 40% of the glazed areas of any neighbouring north facing primary living area windows for a period of at least three hours between 9am and 3 pm on 21 June.	The proposal would not result in any unreasonable shadow impacts to the adjoining properties. Refer to the discussion in Section 5(d) of this report.	Yes
S 13.3		Requires main living areas to be located on the northern side of buildings where possible and subject to streetscape quality considerations.		Yes
DS 13.4		Requires sun shading devices such as eaves, overhangs or recessed balconies minimise the amount of direct sunlight striking facades.	The site has a north-south orientation and the ground floor living areas will receive direct northern sunlight. A BASIX Certificate has been submitted with the application and these requirements have been included in the plans as required by the BASIX certificate.	Yes



DS14.1	Visual privacy	Requires the number of windows to side elevations located above the ground floor to be minimised.	The proposed first floor addition contains four windows along the side elevation including two bedroom, one bathroom and one stairwell window facing the adjoining property at 147 Park Avenue. Refer to the discussion in Section 5(d) of this report.	Yes
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It is considered the application complies with the parts as indicated and ultimately achieves the aims and objectives of the Inner West Comprehensive Development Control Plan 2016.

## 5(d) The Likely Impacts

### Heritage/Streetscape

The site is located within The Park Avenue Heritage Conservation Area under ALEP 2013. The existing dwelling forms a pair of semi-detached dwellings and makes a positive contribution to the streetscape in terms of its symmetry and form.

The applicant's Heritage Impact Statement (HIS) submitted with the DA concludes that there would be no adverse impact on the heritage conservation area as the proposed first floor addition is setback behind the original dwelling to minimise its visual impact within the streetscape.

Prior to formal lodgement of the development application with Council, the applicant met with Council's Heritage Advisor who raised concerns with the size and location of the proposed first floor addition and its adverse impact on the existing dwelling within the streetscape. The applicant subsequently amended the design by increasing the setback to the original roof form by one metre and introducing a 900mm setback to the side boundary.

The proposed first floor addition now retains the original roof form and is visually subservient within the primary streetscape. Also, the first floor addition would not be readily visible from the rear laneway due to boundary walls and intervening development at the rear of the surrounding properties.

The proposal involves re-instatement of traditional façade features including the curve on top of the front façade parapet and the flat skillion verandah roof and incorporates complementary colours and materials and a new timber picket front fence. Council's Heritage Advisor considers the proposed alterations and additions to be acceptable in terms of the significance of the HCA.

The proposed development is therefore appropriate for the site in terms of heritage and streetscape impacts.

### Car Parking

The existing site contains a vehicular crossover and roller door providing access at the rear lane. However, the applicant advises the roller door is not used for vehicle access and the adjacent hardstand area is used for bin storage and does not satisfy the minimum

dimensions for a car space. The proposal seeks approval to remove the existing laneway crossover and reinstate the kerb and guttering to Council's specifications.

The proposal is acceptable in terms of car parking.

#### Solar Access

Council's solar access controls require a minimum of three hours solar access maintained to the adjoining properties at the winter solstice. The applicant submitted shadow diagrams with the application to demonstrate the worst case scenario at the winter solstice.

At 9:00am the additional shadow cast by the proposal falls on the roof of the dwelling on the adjoining property at No. 145 Park Avenue. At 12:00 midday the shadow moves further east and resulting in some minor additional shadow falling on the street. At 3:00pm the additional shadow mainly falls on the street and the roof of the adjoining properties.

The proposal would result in some minor additional shadow in the afternoon to the rear of the adjoining property at No. 143 Park Avenue at the winter solstice. However, the majority of the rear private open space and windows along the rear elevation of the affected property would continue to receive a minimum 3 hours solar access in accordance with the solar access requirements in the DCP.

The proposal would not result in any unreasonable shadow impacts to the adjoining properties.

#### Visual Privacy

The first floor high level windows at the western elevation include a floor to sill height of 1.6 m to mitigate the potential privacy impact to the adjoining property at No.147 Park Avenue.

The first floor bedroom windows at the rear elevation facing the laneway would provide an opportunity for oblique views across the side boundary to the rear of the adjoining properties. No privacy screening is warranted in the circumstance as the views are from a bedroom where occupants spend less waking time compared to the living areas at ground level.

The proposal includes a bedroom window at the front of the first floor addition. It will be set behind the original roof form of the existing dwelling and would not result in any adverse overlooking to the adjoining properties.

The proposal is acceptable in terms of visual privacy to the adjoining properties.

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

The site is zoned R2 Low Density Residential. The paucity of environmental impacts demonstrates the site is 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 for a period of 14 days to surrounding properties from 21 September 2017 to 4 October 2017. No submissions were received.

### 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.

Internal Referrals		
Officer	Comment	Support
Heritage Officer	The proposed alterations and additions are acceptable.	Yes
Development Engineer	Satisfactory subject to conditions.	Yes
Building Surveyor	Satisfactory subject to conditions.	Yes

### 6(b) External

Not Applicable

## 7. Section 7.12 Levy

A Section 7.12 Levy of \$2,250 would be required for the development under Ashfield Section 94A Contributions Plan 2014. A condition requiring that levy 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 2016.

The development will not result in any unreasonable impacts on the amenity of adjoining premises and the streetscape.

The non-compliance with the FSR development standard has been adequately justified in the applicant's written request in accordance with Clause 4.6 Exceptions to Development Standards.

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

## 9. Recommendation

That the Panel, as the consent authority pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No: 2017/157 for alterations and additions to the existing dwelling house at No.145 Park Avenue Ashfield subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

## CONDITIONS

DA 2017.157.1  
145 Park Avenue ASHFIELD 2131

**Description of Work as it is to appear on the determination:**

**A General Conditions**

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

The development must be carried out only in accordance with DA2017/157 and the following plans and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Approved Plans:

Drawing No.	Title/Description	Prepared by	Issue/Revision	Date
114-1	Site, Site Analysis and roof plan	Precision Planning Building Designers	Revision A	06.09.2017
114-3	Proposed Ground Floor Plan and Proposed First Floor Plan	Precision Planning Building Designers	Revision A	06.09.2017
114-4	North Elevation and South Elevation	Precision Planning Building Designers	Revision A	06.09.2017
114-5	East Elevation and West Elevation	Precision Planning Building Designers	Revision A	06.09.2017
114-6	Section A-A and Section B-B and Section C-C	Precision Planning Building Designers	Revision A	06.09.2017
114-7	Section D-D and Section E-E	Precision Planning Building Designers	Revision A	06.09.2017
114-9	Stormwater Concept Plan	Precision Planning Building Designers	Revision A	06.09.2017

Supporting Documents:

Title/Document	Prepared by	Date
BASIX Certificate A291724	Precision Planning Building Designers	6 September 2017 2016
Statement of Environmental of Effects & Heritage Impact Statement	Precision Planning Building Designers	June 2017
Owner Statement and Heritage Research: 145 Park Avenue, Ashfield	Alyce Lythall and Michael Kelly	8 September 2017 (received by Council)
Schedule of External Materials, Colours and Finishes	Precision Planning Building Designers	31 May 2017

In the event of any inconsistency, the conditions of this consent shall prevail.

**(2) Compliance with BCA**

All architectural drawings, specifications and related documentation shall comply with the Building Code of Australia (BCA). All work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

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

**(1) Waste Management Plan**

Prior to the issue of a Construction Certificate, the applicant shall prepare and submit a Waste Management Plan in accordance with the provisions of Comprehensive Inner West Development Control Plan - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

- (a) Estimations of quantities and type of materials to be reused, recycled or left over for removal from site;
- (b) Identification on a plan of on site material storage areas during construction, waste storage, recycling and composting areas;
- (c) Details of construction materials and methods to be used to minimise the production of waste in the completion of the new building work.
- (d) How waste is to be treated on the site.
- (e) How any residual non-reusable and non-recyclable waste is to be disposed of and including details of the approved waste disposal outlets where disposal will take place.

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

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

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

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

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

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

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

Further information may be obtained from:

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

**(3) Security Deposit**

Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit	\$7,860.00
Inspection fee	\$225.00

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

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

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

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

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

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

**(4) Long service levy**

Compliance with Section 6.8 of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building of \$25,000.00 and over are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.

**(5) Home Building Compensation Fund Warranty**

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

**(6) Services and infrastructure adjustment/relocation**

The applicant shall meet the full cost for Telstra, Sydney Water, Energy Australia, AGL Electricity/AGL Retail Energy or alternative service/energy providers to adjust/relocate their services/infrastructure as required. The applicant shall make the necessary arrangements with the relevant service authority or relevant retail energy company.

(For information on the location of services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the utility authorities/retail energy company confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate.

**(7) Energy efficiency**

The development must be designed and constructed to maximise energy efficiency, including wall and ceiling insulation and energy efficient appliances/hot water/cooling systems. Contact the Sustainable Energy Development Authority, telephone 9291 5260 for general design and construction information relating to energy efficiency. Documentation detailing the energy efficiency features of the development is to be shown on the plans to be provided with the Construction Certificate.



**(8) Footpath/laneway – photographs to be submitted**

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway, footpath and/or laneway at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard.

**(9) Footpath, kerb and gutter protection**

The applicant is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath must be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

**(10) Section 94A Contribution**

Pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* and Ashfield Council's Section 94A Development Contributions Plan 2009 a contribution of \$2,250.00 shall be paid to Inner West Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Ashfield Council's Section 94A Development Contributions Plan 2009.

**(11) Payment of any Additional Fees**

If the estimated cost of works for the construction certificate application exceeds the estimate supplied with the development application, an additional fee, any contributions and bonds based on the revised estimate must be paid to Council prior to release of the Construction Certificate.

**(12) Permits - General**

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

- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
- b) A concrete pump across the roadway/footpath
- c) Mobile crane or any standing plant
- d) Skip bins

- e) Scaffolding/Hoardings (fencing on public land)
- f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

**(13) Dilapidation**

The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

**(14) Public Liability Insurance**

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

**D Conditions that must be complied with before work commences**

**(1) Notice of Commencement – Notification of Works**

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

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

In accordance with the provisions of Section 6.7(1) of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

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

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

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

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 6.7(1) of the Environmental Planning & Assessment Act 1979. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

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

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

**(4) Sanitary facilities - demolition/construction sites**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

**(5) Site Controls**

Sediment and erosion controls must be in place before work is commenced on the site. The control strategies must be consistent with the technical requirements set out in the Sydney Coastal Councils' Stormwater Pollution Control Code for Local Government.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

A sediment and erosion control plan must be prepared and identify appropriate measures for bunding and siltation fencing. Any such erosion and sedimentation controls shall also include the protection of stormwater inlets or gutter systems within the immediate vicinity of the site.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

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

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

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

**(7) Boundary identification prior to construction**

The boundary shall be identified by survey prior to the pouring of any footings and concrete slabs.

**(8) Site fencing/security**

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

**(9) Protection of public places - erection or demolition of building**

- (a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or involves the enclosure of a public place; a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning is to be erected prior to works commencing and only with Council approval in accordance with Workcover requirements. The temporary structures are to be removed when the work has been completed.

**(10) Demolition work plan**

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

**(11) Asbestos sheeting removal - EPA/Workcover Authority**

Asbestos removal is to be carried prior to principal works commencing in accordance with Environmental Protection Authority and Workcover Authority requirements. Proper procedures shall be employed in the handling and removal of asbestos and products containing asbestos so as to minimise the risk to personnel and the escape of asbestos particles in the atmosphere. Work is only to be carried out with the prior consent of the Work Cover Authority.

Note: There are substantial penalties for non-compliance with the above requirements.

**(12) Asbestos and/or lead removal certification**

The existing structures/land on the site potentially contain asbestos and/or lead. Following removal of any asbestos/lead located on site a clearance must be provided to the Principal Certifying Authority certifying that no such asbestos/lead remains on site from a suitably qualified person.

A copy of the clearance Certificate must be forwarded to Council before any other demolition work is commenced.

**(13) Garbage skips on Council land - Council approval**

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

**(14) Sydney Water approval**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met.

Plans will be appropriately stamped. For Quick Check agent details please refer to the web site: [www.sydneywater.com.au](http://www.sydneywater.com.au), see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

**(15) Structural engineer's certificate - superimposed loads**

A practicing structural engineer's certificate to be submitted to the Principal Certifying Authority with the Construction Certificate application certifying that the existing dwelling is structurally capable of supporting the superimposed loads of the addition prior to commencement of any building work.

**(16) Dilapidation Report**

A Dilapidation Report on the current structural condition of the existing buildings at 143 Park Avenue must be prepared by a practicing structural engineer. The Dilapidation Report must be completed and submitted to the owner of the subject property and to Council prior to the commencement of any demolition, excavation or construction works. At the completion of the works, a second Dilapidation Report recording the structural condition must be prepared. That Report must be submitted to the owner of the subject property and to Council.

***E      Conditions that must be complied with during construction or demolition***

**(1) Plans to be available on site**

The Council stamped approved plans, Development Consent and Construction Certificate shall be held on site to be produced unobliterated to Council's officer at any time when required.

**(2) Building construction - check survey**

A check survey is to be submitted to the Principal Certifying Authority for perusal at an early stage of construction indicating excavated levels, boundary distances, site coverage and building alignment to ensure compliance with the approved plans.

**(3) Locate structures within boundaries**

The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment.

**(4) Storage of building materials**

Building materials and spoil are to be located wholly on site and not placed in a position that may result in materials being washed onto the roadway or into the stormwater system.

**(5) Roof water, surface and subsoil drainage**

The roof area for all the external additions shall be provided with a complete guttering and drainage system. Roofwater shall be disposed of by approved drainage lines discharging to the existing stormwater drainage system.

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

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (i) stating that unauthorised entry to the work site is prohibited; and
  - (ii) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
  - (iii) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.
- (b) Any-sign shall be maintained and not removed until work has been finished.

**(7) Waste Management Plan – compliance**

- (a) All requirements of the approved Waste Management Plan must be implemented during the demolition and/or excavation and construction period of the development. Adequate measures need to be in place to ensure the ongoing waste management of the site.
- (b) Keep receipts of where waste will be taken to be treated or disposed. The receipts must be presented to the Principal Certifying Authority prior to issue of the occupation certificate.

**(8) Lead Removal - Renovation and Refurbishment**

Any paint containing lead on residential and commercial buildings is to be managed in accordance with the Australian Standard AS 4361.2, Guideline to Lead Paint Management Part 2: Residential and Commercial Buildings without causing any contamination to the environment.

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

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

- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm 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 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 shall be limited to:

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

The Proponent shall not undertake such activities for more than three continuous hours and shall 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.

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

**(10) Demolition/excavation/construction - noise - Protection of the Environment Operations Act 1997**

Noise arising from demolition/excavation/construction works shall be controlled in accordance with the requirements of Protection of the Environment Operations Act 1997 and guidelines currently contained in the NSW EPA Environmental Noise Control Manual.

**(11) Demolition requirements/standards**

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

- (a) Australian Standard 2601 and any requirements of the SafeWork NSW.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.



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

- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

**(12) Materials and colour schemes**

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

**(13) Road and footpath – safety and access requirements**

The contractor is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Heavy vehicles entering and leaving the site must only cross the footpath where it is adequately timbered and strapped. Pedestrian access across this footpath must be maintained in good order at all times during the work. Any damage caused must be made good by Council at Council's restoration rates, at the applicant's or builder's expense.

**(14) Redundant vehicle crossings – removal and replacement**

All redundant vehicular crossings shall be removed and replaced with concrete footpath, sandstone kerb and concrete gutter at no cost to Council at the applicant's expense.

**(15) Road opening permit – Council controlled lands**

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is separate from a Damage Deposit as listed elsewhere in these Conditions of Consent.

**(16) Surface run-off**

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

**(17) BASIX Requirements**

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

**(18) Alignment Levels**

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

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

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

nil

***G* Conditions that must be complied with before the building is occupied****(1) Compliance with submitted ridge height**

A survey report to be submitted upon completion of the works and prior to occupation verifying compliance with the approved ridge height details.

**(2) Approval to use/occupy building**

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

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

**(3) Public Domain Works**

All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

**(4) Stormwater Disposal**

The stormwater disposal from the proposed development shall be connected to the existing house stormwater system via a 100mm dia UPVC pipe. No 'charged' lines are permitted.

The existing house stormwater system shall be tested by a qualified plumber to ensure it functions satisfactory in discharging water to the street gutter. If it does not, the system shall be repaired/replaced to operate satisfactorily.

**(5) Redundant Vehicle Crossing**

All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.

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

**(1) Single dwelling use only**

Dwelling shall be used as a single domicile only and shall not be adapted or occupied in two or more parts as a residential flat building.

**(2) Landscaping**

Landscaped area shall be in accordance with the Drawing No. 114-1 Site, Site Analysis and Roof plan.

**(3) Private Power Poles**

Private power poles are not to be erected on the subject site without Council's Consent.

**(4) Vehicular Crossover**

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

***I*** **Advisory Notes**

**(1) Works and requirements of other authorities**

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.

- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.
- Energy Australia has a requirement for the approval of any encroachments including awnings, signs, etc over a public roadway or footway. The Engineer Mains Overhead Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.
- Telstra has requirements concerning access to services that it provides.

**(2) Modifications to your consent - prior approval required**

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

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

**(3) Occupational health and safety**

All site works must comply with the occupational health and safety requirements of the NSW SafeWork NSW.

**(4) Tree preservation**

Where tree removal or work has not been approved by this Development Consent, the developer is notified that a general Tree Preservation Order applies to all trees (with the exception of certain species) in the Municipality of Ashfield with a height greater than five (5) metres. This order prohibits the ringbarking, cutting down, topping, lopping\*, pruning, transplanting, injuring or wilful destruction of such trees except with the prior approval of the Council. Written consent from Council for such tree works must be in the form of a "Tree Preservation Order Permit for Pruning or Removal of Protected Trees" to be obtained from Council.

- \* Lopping may be carried out without consent only to maintain a minimum clearance of 500mm from power lines, pruning to remove dead wood/branches and minor pruning of branches overhanging buildings to a height of 2 metres only with the agreement of

the owner of the tree. Contact Council's One Stop Shop - telephone 9716 1800, for details of the Tree Preservation Order.

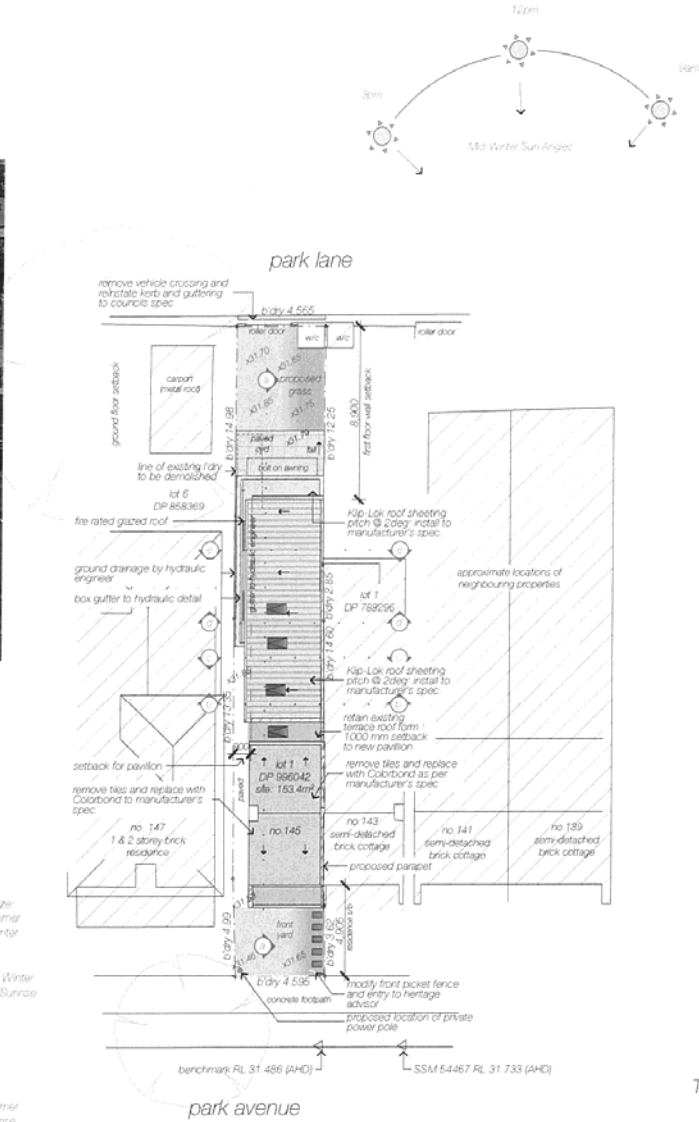
**(5) Relocation of stormwater drainage**

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

Attachment B – Plans of proposed development



location shot (google maps)



site, site analysis and roof plan



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 Principal Building Designer - Daniel Sutton  
 Contact: 0416 110 281

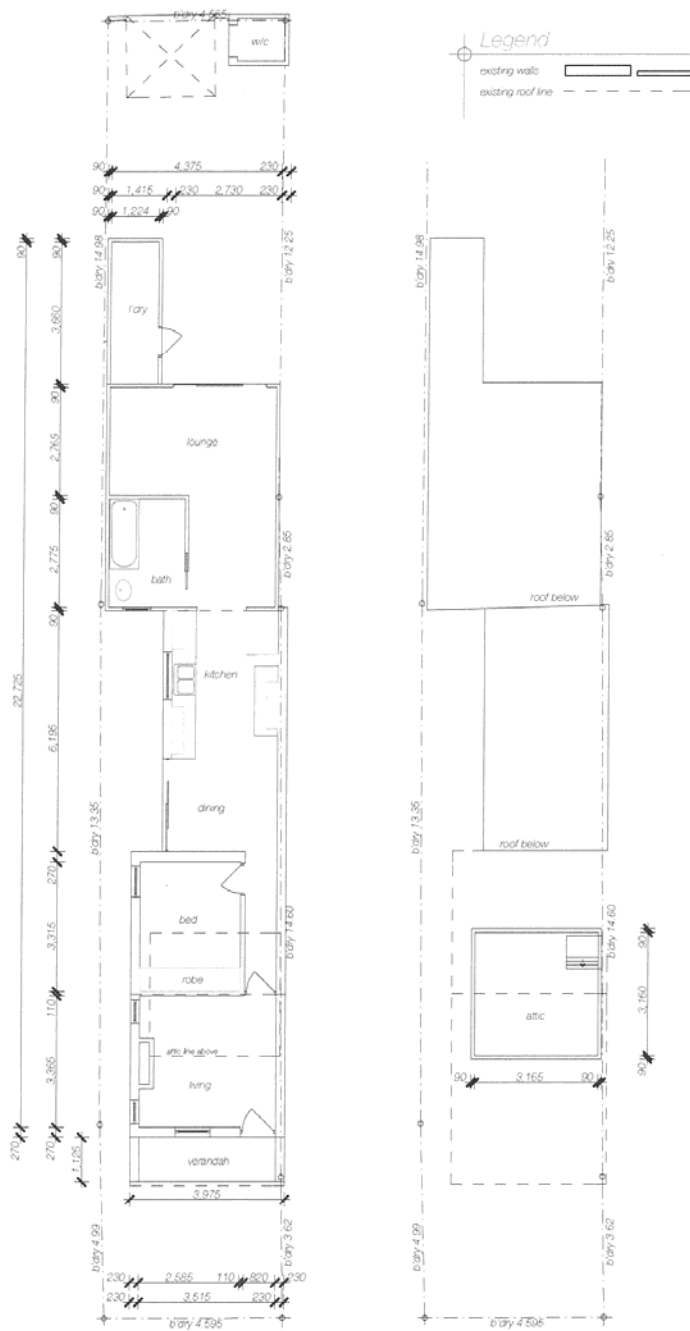
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by	date	revision
MM	Sep	setback of 1m from bed 3 and main roof form, 900mm setback to first floor, internal masonry wall elements, 300mm masonry parapet to be reinstated on original cottage and minor configuration to the internal layout

DA Issue: not for construction  
 DA 17/2017/119  
 Alterations and Additions  
 145 Park Ave, Ashfield  
 Lot 1 DP 996042

Alyce Lythall & Michael Kelly

Date	6/09/2017
Drawn	DS / MM
Checked	KN
Scale	1:200 @ A3
Drawing No	#114 - 1



existing ground floor plan existing attic floor plan



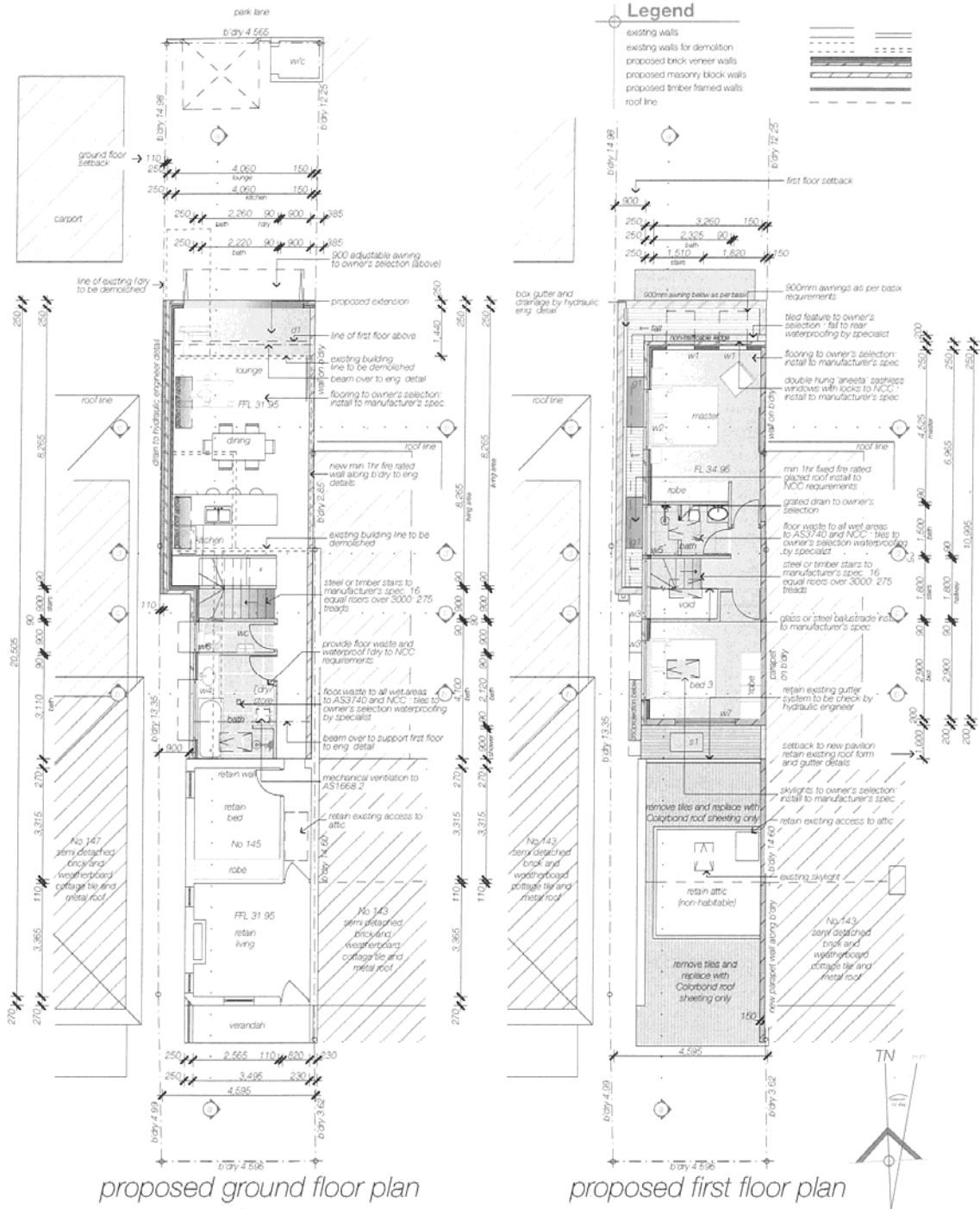
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MM	Sep	by	date	revision

DA Issues: not for construction  
DA 17/2017/119  
**Alterations and Additions**  
145 Park Ave, Ashfield  
Lot 1 DP 996042  
Alyce Lythall & Michael Kelly

Date	6/09/2017
Drawn	DS/MM
Checked	KN
Scale	1:100 @ A3
Drawing No	#114 - 2





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by	date	revision
MM	Sep	

setback of 1m from bed 3 and main roofline. 900mm setback to first floor internal masonry wall setback. 300mm protruding parapet to be retained on original cottage and minor configuration to the internal layout

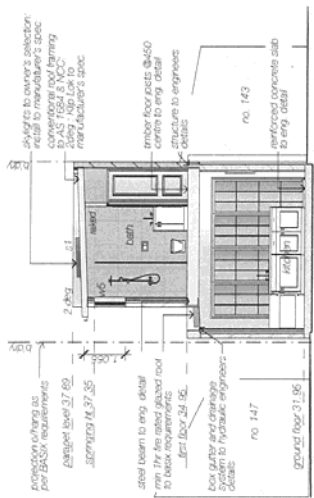
DA issue: not for construction  
 DA 17/2017/119  
**Alterations and Additions**  
 145 Park Ave, Ashfield  
 Lot 1 DP 996042  
 Alyce Lythall & Michael Kelly

Date	6/09/2017
Drawn	DS/MM
Checked	HN
Scale	1:100 @ A3
Drawing No	#114 - 3

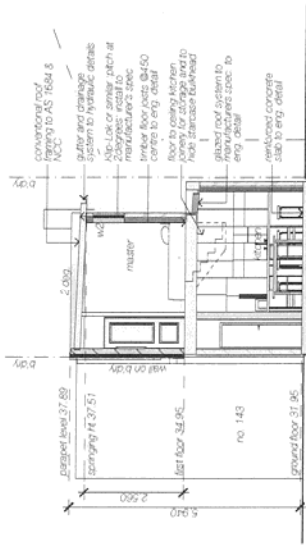








section d-d



section e-e

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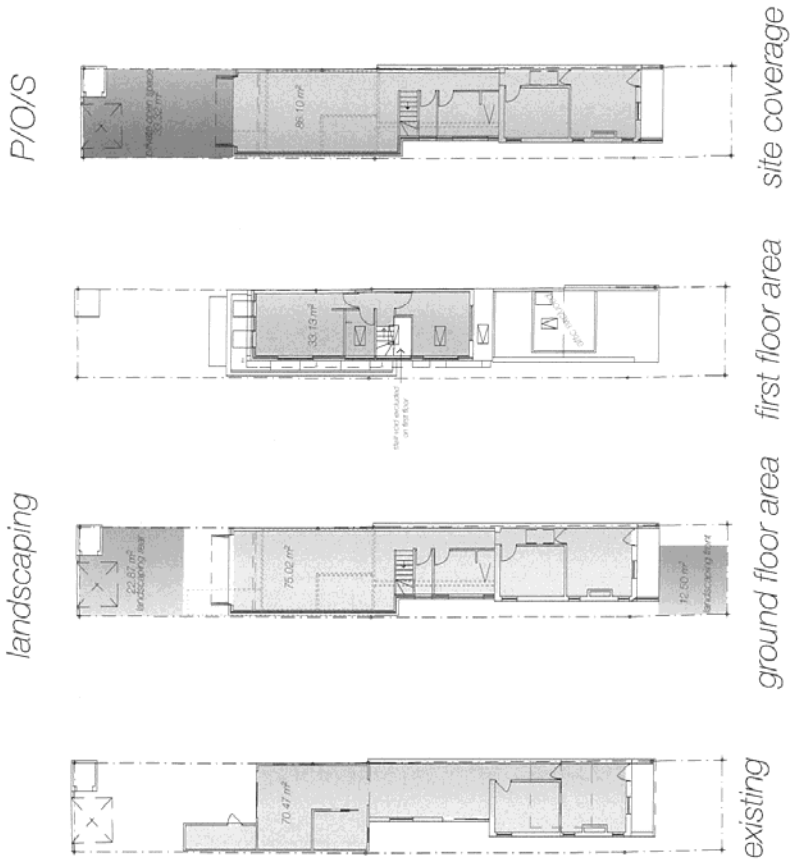
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General Notes: Spec:  
This Plan is intended for Council/Centrix Submission only.  
Builder to check all dimensions on site, also to check and verify/confirm any and all prior to commencement of work. If any discrepancy is identified, it is to be reported to the architect immediately.  
The architect is not responsible for any errors or omissions in the drawings or specifications.  
The architect is not responsible for any errors or omissions in the drawings or specifications.  
The architect is not responsible for any errors or omissions in the drawings or specifications.

By	date	revision
MMJ	2017	1
MMJ	2017	2
MMJ	2017	3
MMJ	2017	4
MMJ	2017	5
MMJ	2017	6
MMJ	2017	7

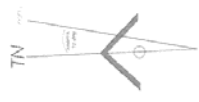
DA issued for construction  
DA 17/2017/119  
Alterations and Additions  
145 Park Ave, Ashfield  
Lot 1 DP 906042  
for  
Alyce Lythall & Michael Kelly

Date	6/09/2017
Drawn	DS/MMJ
Checked	PN
Scale	1:100 @ AS
Drawing No.	#114 - 7



**Calculations**

	Council Controls	Compliance
<b>Site Area</b>	153.4 sqm	
<b>Existing Footprint</b>	70.47 sqm	
<b>Proposed Footprint</b>	37.08 sqm	
<b>Proposed Ground Floor</b>	75.02 sqm	
<b>Proposed First Floor</b>	33.13 sqm	
<b>Total</b>	108.15 sqm	X
<b>FSR</b>	0.70:1	
<b>Site Coverage</b>	68.10 sqm	on mark
<b>Total</b>	50% of site	
<b>Site Coverage</b>	35.37	on mark
<b>Total</b>	23% of site	
<b>Site Coverage</b>	39.32 sqm	on mark
<b>Total</b>	21.7% of site	



Date	6/09/2017
Drawn	DS /MM
Checked	KN
Scale	1:200 @ A3
Drawing No.	#114 - 8

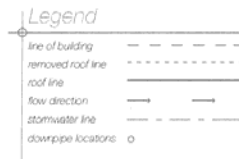
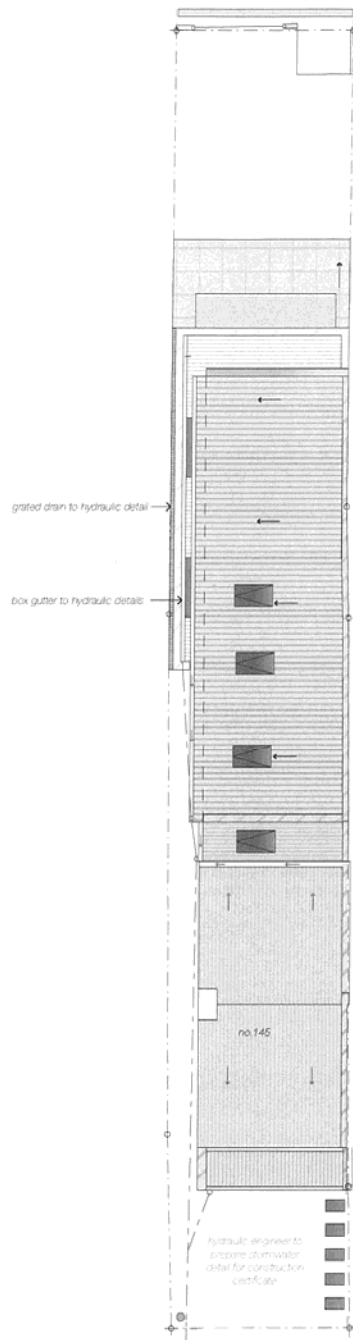
DA Issue - not for construction  
 DA 17/2017/119  
 Alterations and Additions  
 145 Park Ave, Ashfield  
 Lot 1 DP 886042  
 for  
 Alyce Lythall & Michael Kelly

Issue of this report is valid for the purpose of the DA only. It is not to be used for any other purpose without the consent of the author.	Issue of this report is valid for the purpose of the DA only. It is not to be used for any other purpose without the consent of the author.
MMJ	MMJ
by	date

General Notes/Spec:  
 This Plan is intended for Council/Certifier Submission only.  
 Builder to check all dimensions on site, also to check and verify all dimensions prior to construction.  
 All dimensions are in millimetres unless otherwise stated.  
 All dimensions are to the face of the wall unless otherwise stated.  
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stormwater concept plan



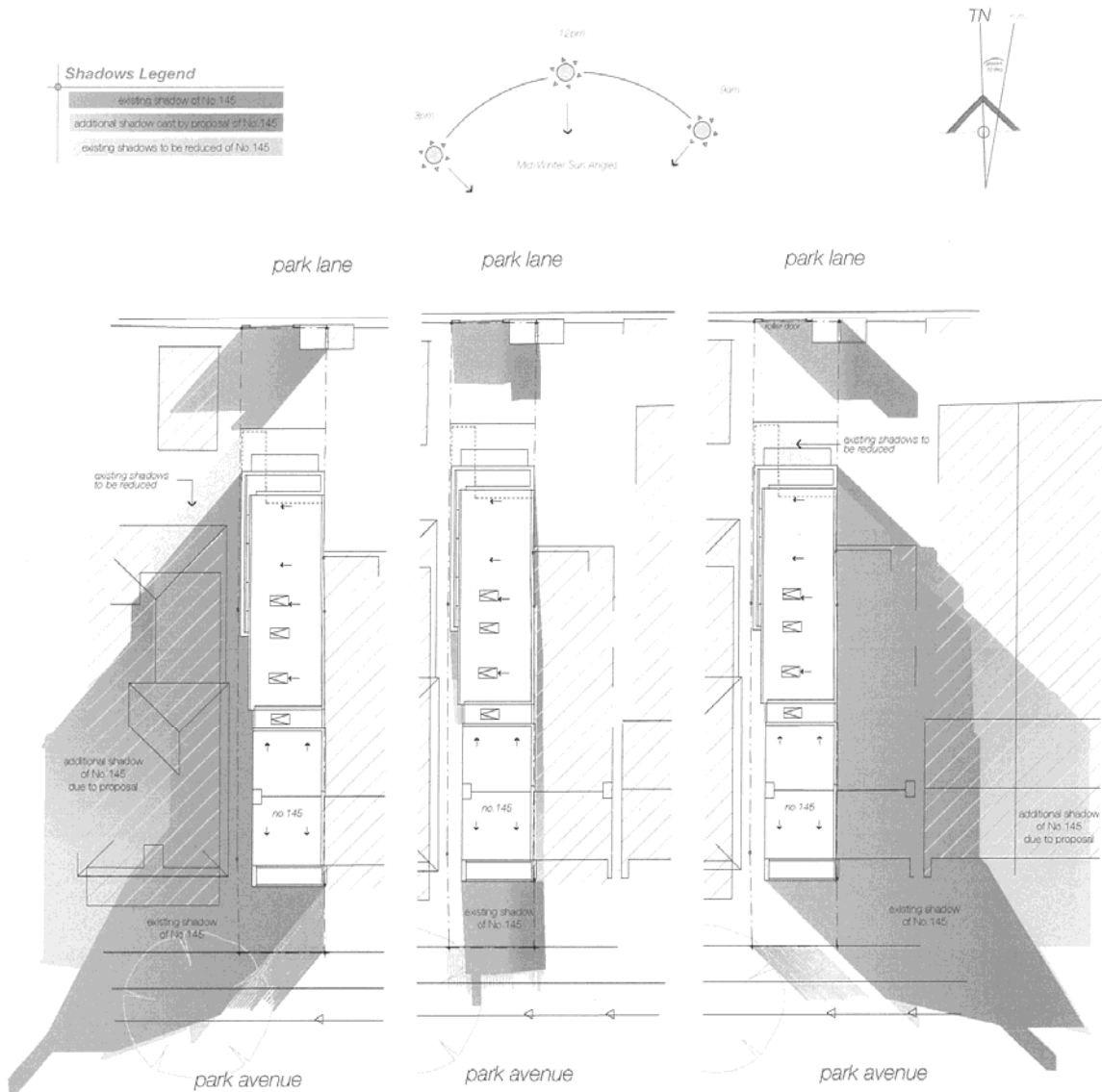
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by	date	revision
MM	Sep	setback of 1m from bed 2 and main roof form; 900mm setback to first floor internal masonry wall extended; 300mm protruding parapet to be reinstated on original cottage and minor configuration to the internal layout

DA Issue: not for construction  
 DA 17/2017/119  
 Alterations and Additions  
 145 Park Ave, Ashfield  
 Lot 1 DP 996042  
 Alyce Lythall & Michael Kelly

Date	6/08/2017
Drawn	DS / MM
Checked	RN
Scale	1:100 @ A3
Drawing No	114 - 9



shadow diagrams plan view @ 9am on June 21: winter solstice

shadow diagrams plan view @ 12noon on June 21: winter solstice

shadow diagrams plan view @ 3pm on June 21: winter solstice



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Step	by	date	revision
MM			

DA Issues, not for construction  
 DA 17/2017/110  
 Alterations and Additions  
 145 Park Ave, Ashfield  
 Lot 1 DP 996042

Alyce Lythall & Michael Kelly

Date	6/09/2017
Drawn	DS / MM
Checked	RN
Scale	1:200 @ A3
Drawing No.	#114 - 10



## Attachment C – Clause 4.6 Variation



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Inner West Council  
 260 Liverpool Road  
 Ashfield NSW 2131

## Clause 4.6 Variation — 145 Park Avenue, Ashfield Revision A

### Ashfield Local Environmental Plan 2013

#### Part 4: Principal Development Standards

#### 4.6: Exceptions to Development Standards

Clause 4.6 of the Ashfield LEP 2013 has the following objectives:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6(3) states that:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

---

The following statement provides the written request and justification for contravening the numerical standard within Clause 4.4 of the Ashfield LEP 2013.

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Clause 4.4: Floor Space Ratio

Objectives:

(1) The objectives of this clause are as follows:

- (a) to establish standards for development 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 on 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

Property: 145 Park Avenue, Ashfield  
 Lot 1 of DP996042  
Zone: R2 – Low Density Residential  
Drawing Ref: #114-1, 2, 3, 4, 5, 6, 7, 8, 9, and 10  
Maximum FSR: 0.50:1  
Proposed FSR: 0.70:1



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Extent of Variation: 0:50:1 of the subject site would be a maximum floor area of 76.70m<sup>2</sup>. The proposal seeks a gross floor area of 108.15m<sup>2</sup>, and therefore exceeds the numerical standard by 31.45m<sup>2</sup>.

What are the environmental planning grounds that justify contravening the development standard?

The total site area of 145 Park Avenue, Ashfield is 153.4 square meters, and therefore the strict FSR of 0.50:1 applied to a locality of historically modest site areas is unnecessary and unreasonable. Respecting that FSR controls are a critical control in local planning, it is also deemed critical to consider the subject site is unusually small for the Ashfield LGA, and potentially may be one of the narrowest semi-detached properties in the area. If the Development Application does not meet FSR controls, the proposal should consider compliance with the DCP controls for built form to result in appropriate residential development to allow for relaxed FSR controls. Acknowledging that most significant controls are already based on merit due to the modest site area, the proposed development meets the essential DCP controls of:

- Site Capacity (Scale and Bulk): The existing ground floor envelope is largely retained, with only the laundry wing deleted, and a 1690mm floor area extension. The first floor is effectively located behind the bulk of the dwelling façade, which meets objective (1)(b) for FSR.
- Building Height: The proposed development does not exceed maximum building, or wall plate, heights.
- Landscaped Area: Though based on merit, the proposed landscaped area is greater than the area of the provided landscaped area of the existing site.
- Aesthetics and Architectural Composition: With regard to FSR, As the proposed first floor is the fundamental cause for non-compliance with FSR, its deletion for a reduction in FSR does not necessarily result in improved environmental outcomes for the site. Site cover is almost equal to the existing site, with drainage patterns also retained; a reasonable amount of solar access is achieved for both adjacent dwellings; there are no impacts to visual or acoustic privacy (high level windows, and glazing orientated to the rear). Overall, there is no apparent benefit from a reduced FSR.
- Private open space: Not significantly reduced and is suitable for the site;
- Neighbouring Amenity: As mentioned above, the aesthetic and architectural composition of the first floor addition does not detract from either of the adjacent neighbours amenity;
- Heritage Conservation: The values of the Park Avenue streetscape are retained and improved with the reinstatement of traditional façade features such as the original roof form and materials, in addition to substantial façade reinstatement internally, with design decisions guided through consultation with local Heritage Designer Ray Pecotich.

In addition, the dwelling is a contributory item within the Park Avenue Heritage Conservation Area. This particular heritage conservation area is valued for its streetscape aesthetic. The proposed development, in reinstating traditional features of the front façade, and in having the first floor addition sufficiently setback and behind the original form, therefore does not affect heritage conservation values of the dwelling; and thus a reduction in the floor area (by example of deleting the proposed first floor addition) does not result in any improved environmental benefit. The proposed development therefore complies with objectives (c) and (e) of the FSR objectives.

The submitted BASIX Certificate for the new residence ensures that despite non-compliance with FSR, the residence meets energy efficiency requirements under NSW State Legislation.

It can therefore be considered that the proposed development, by meeting the general objectives and controls of the Ashfield DCP, achieves sufficient environmental planning grounds that justify contravening the FSR standard for the site.



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Is the proposed development consistent with the objectives of the standard, and of the relevant zone?

Objectives of Zone R2 Low Density Residential

The development is consistent with the objectives of the R2 Zone by:

- Expanding upon the housing needs of the community – providing for the housing needs of the community within a low density residential environment;
- Improving upon the density of the building typology whilst retaining the front of the dwelling;
- Improving the land use of the site and expanding upon the amenities of the dwelling's occupants;
- Improving the potential for the site to provide amenities that facilitate working from home;
- Retaining the character and style of the dwelling within a heritage-conservation context, with alterations and additions that are sympathetic to the streetscape of Park Avenue;
- Protecting and enhancing the amenity of existing and future residents by providing a reasonable floor area that can be utilised without affecting public or neighbouring amenity.

Objectives of Clause 4.4 Floor Space Ratio

The development is consistent with the objectives of Clause 4.4 by:

- Establishing standards for development density and intensity of use

The proposed development is a sympathetic detached pavilion first floor addition that is of a complementary height. The first floor addition does not result in additional bulk or scale to the streetscape aesthetic, or public views, of 145 Park Avenue, Ashfield. It was discussed within the Pre-Development Application that the development was suitable for the context of the site and local community as long as controls pertaining to landscaped area (min 20m<sup>2</sup>) and setbacks were addressed; with the first floor setback behind the existing original roof form.

To the rear, Park Lane is a low use, 'local only thoroughfare' road with access to contemporary/modernised dual occupancy and larger styled dwellings. The proposed first floor aesthetic therefore successfully integrates into the Park Lane streetscape. The overall impact of the development, despite non-compliance with the allowable floor area, is therefore negligible from the public domain and is in the public, and greater community's interest by accommodating for contemporary living and lifestyle needs (which is also an objective of the R2 Low Density Residential Zone).

- Consistency in the bulk and scale of buildings | minimising adverse environmental impacts on heritage conservation areas and heritage items | protect enjoyment of adjoining properties and the public domain | maintaining visual relationships in areas that are not likely to undergo substantial transformation

The dwelling is within The Park Avenue Heritage Conservation Area. Though the proposal does not comply with the current FSR standard, the bulk and scale, and overall façade of the existing dwelling does not lose its heritage value, with the proposed first floor complementing existing surrounding development within Park Lane, and the fabric of the existing facade. It has been previously mentioned that the rear façade is negligible, as views are not of significance from the public domain of Park Lane.



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In addition to this, the following points relating to how contravening the FSR standard does not affect the bulk and scale of the dwelling; or grouping of dwellings:

- The proposed rooflines are behind the existing prominent ridgeline
- The subject site is semi-detached and does not result in excessive precedence for the locality or neighbouring dwellings
- The proposed development otherwise complies with the most significant numerical controls of the site
- Non-compliance with the FSR does not detract from the aesthetic heritage values of Park Avenue
- As previously mentioned, amenity (solar access, privacy, negligible bulk of the first floor) of neighbouring properties is retained – and there is no negative impact upon the primary Park Avenue streetscape, or secondary Park Lane streetscape to the rear

Is compliance with the development standard unreasonable or unnecessary in the circumstance of the case?

Compliance with the development standard (FSR) is unreasonable or unnecessary in the circumstance of the case as the subject site is a small allotment with numerical restrictions that negatively impact the potential of the site when compared to the controls/objectives of the Ashfield LEP, DCP and R2 Low Density Residential Zone.

The existing floor area of the residence is a modest 68.88 square meters (FSR 0.45:1), which is not reflective of contemporary socio-economic standards. From research conducted across the suburb in conjunction with Ashfield Heritage Society, it is likely the subject site is both one of the smallest sites and narrowest semi-detached properties within the Ashfield Ward of Inner West Council LGA, with the original cottage a mere 3.495m wide, and the block a mere 4.595m wide, which is also not reflective of contemporary building patterns. The historical context of the site, imposed with a maximum FSR of 0.5:1, results in restrictions for a contemporary residence that meets the needs of existing and future owners (as indicative of increasing floor area trends illustrated by the Australian Bureau of Statistics - the average dwelling in NSW is 266.2 square meters). Flexibility for consideration of contemporary amenities and living areas is therefore sought.

Within the former Leichhardt Council, for example, there was a community consultation and review of current FSR standards, which identified that for a lot area 150 – 299.99 square meters in certain suburbs, an increased FSR of between 0.7:1 to 0.9:1 is recommended. In terms of planning, this would have been of more reasonable control, as the proposed development generally meets all other planning controls and objectives. Such planning proposals indicate that a restrictive and strict FSR control is unreasonable and unnecessary for allotments of this character (i.e. small area allotments as a result of past subdivision) throughout the newly formed Inner West Council. Whilst it is understood that this planning proposal is for the former Leichhardt Council in its current practice, the principle can be applied to both the former Marrickville and Ashfield councils.

In combination with the above discussion of justifications, it is considered that there is no apparent benefit from reducing the proposed gross floor area/FSR on the site. On this basis, compliance with the development standard is unreasonable and unnecessary in the circumstance of the proposed development at 145 Park Avenue, Ashfield.

Are there sufficient environmental planning grounds to justify contravening the development standard?

As discussed in the above justifications for contravening the FSR development standard, the proposed development has an acceptable level of impact with regard to neighbouring property amenity and impact on the primary and laneway streetscape. The proposed development will transform the site into a high quality built form with a bulk and scale suitable for the context of the site; and is therefore in the public's

Page 4 of 5

145 Park Avenue, Ashfield – 4.6 Variation – Revision A (dated 6 September 2017)  
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interest. Given the unusually small nature of the site, and potential as one of Ashfield's narrowest semi-detached properties, this development will not create precedence within the locality, as other, similar properties are of a considerably larger site area.

In this regard, it is considered that compliance with the FSR (Clause 4.4) development standard does not result in any added environmental or planning benefit, and the exception to the numerical standard is well founded and commendable for Inner West Council's support.

