

## Development Assessment Report

<b>Subject</b>	Determination of Development Application
<b>Address</b>	1 – 7 Victoria Street, Ashfield
<b>DA No</b>	10.2011.89.1
<b>JRPP REF:</b>	2011SYE056
<b>PREPARED BY:</b>	Atalay Bas – Manager Development Services
<b>PREPARED FOR:</b>	Sydney East Joint Regional Planning Panel
<b>REASON:</b>	Capital Investment Value Greater Than \$10million
<b>DATE:</b>	25 July 2011

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### REPORT OVERVIEW

#### 1.0 Description of Proposal

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks consent for:-

Construction of a two (2) to six (6) storey high residential flat building containing 62 dwellings above two levels of basement car parking accommodating 90 vehicles. The proposed residential flat building comprises:-

- 11 x 1 bedroom apartments;
- 37 x 2 bedroom apartments; and
- 14 x 3 bedroom apartments.

Plans of the proposal are included at **Attachment 1**.

#### 2.0 Executive Summary

The subject site at 1-7 Victoria Street, Ashfield currently contains an “at grade” car park that serves the parking demand for the Wests Ashfield club site located at 93-115 Liverpool Road. The Club (Wests Ashfield) has submitted a separate development application for its Liverpool Road site, seeking approval for a multi level car park and alterations and additions to the existing Club building.

The subject site is zoned 2(c) – Residential Zone under the provisions of Ashfield Local Environmental Plan 1985 (ALEP 1985). The redevelopment of the subject site for residential purposes is permissible pursuant to the land use zone.

The proposed scheme includes excavation of the site to accommodate 2 levels of basement car park accommodating a total of 90 vehicles. The proposed residential flat building is 6

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storeys in height at its highest point on the northern side of the site, cascading down to 2 storeys on the southern side of the site. The proposal provides a total of sixty two (62) residential apartments comprising 11 x 1 bedroom, 37 x 2 bedroom and 14 x 3 bedroom apartments.

Appendix 3 of DCP Part C5 contains specific controls for the subject site. The proposal does not comply with the height requirement. The DCP stipulates that with correct setbacks and adequate solar access it is possible that a six storey building with limited site coverage could be proposed. In this instance the proposal does not provide adequate setbacks and the site coverage is considered to be excessive given the insufficient landscaping proposed.

### 3.0 Site and Surrounding Development

The site is approximately 2,958 square metres in area and has frontage to Victoria Street of 58.68 metres. The site is located approximately 50 metres south from the junction of Victoria Street and Liverpool Road, Ashfield and is bound on its northern side by a Service Station, and on its southern side by a Doctor's Surgery occupying an existing single storey dwelling.

The subject site is generally flat with a slight gradient towards the road frontage. The site is currently covered in asphalt with designated car parking spaces and entry and exit gates for patrons of the car park. Directly opposite the subject site is the Ashfield Police Station and associated buildings of heritage significance.

The land uses in the general vicinity of the subject site comprise a mix of commercial, medical, schools and residential along Liverpool Road and predominantly residential uses in the surrounding streets to the south of the site.

The predominant built form in the locality comprises two storey high buildings, however, higher buildings are located along Liverpool Road.

Refer to **Attachment 2** for a locality map.

### 4.0 Summary Recommendation

The development is recommended for refusal.

## BACKGROUND

### 5.0 Application Details

Applicant	Western Suburbs Leagues club Ltd
Owner	Wests Ashfield Leagues Club Ltd
Value of work	\$ 16, 000, 000.00
Lot/DP	Lot: 100 DP 130143, Lots B & C DP 923683, Lot A DP 928863
Date lodged	8 April 2011
Date of last amendment	N/A
Application Type	The development application relates to a type of development that the Minister of Planning has categorised as being of regional significance. The Sydney East Joint Regional Planning Panel is the consent authority for the purposes of determining the application.



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Construction Certificate	Not submitted as part of the DA.
Section 94 Levy	Applies.

### 6.0 Development History

A pre-lodgement meeting was held in respect to the proposal. Council provided written feedback dated 15 February 2011 in which several issues were raised relating to heritage, residential amenity, floor space ratio, landscaping, setbacks and stormwater issues.

On 8 April 2011 the applicant lodged development application No. 10.2011.89, subject of this report in its current form electing not to make significant changes in response to the issues raised in Council's letter dated 15 February 2011.

## ASSESSMENT

### 7.0 Statutory Consideration

The site is zoned 2(c) Residential Zone under the provisions of ALEP 1985. The proposal to use the site for a residential flat building is permissible.

### 8.0 Heritage

The subject site is immediately opposite the heritage listed Ashfield Police Station and Ashfield Fire Station. Council's Heritage Adviser is of the view that this short section of Victoria Street is an important civic street with potential which is yet to be realised. It is an effective entry to the heritage listed precincts and individual items further south. Part 4 - Heritage Provisions of ALEP 1985 is of relevance to the assessment of this application.

### 9.0 Compliance Table

The following table provides an assessment of the proposed development against Council controls.

Planning Guide	Requirement	Proposed	Compliance Yes/No
Floor Space Ratio (Ashfield DCP 2007 Part C3)	Max 0.7:1	0.74:1	No
Landscape (Ashfield DCP 2007 Part C3)	Min 50 % of site area to be landscape area & 35% of site area to be deep soil	20% of site area landscaped and 10% soft soil	No
Parking (Ashfield DCP 2007 Part C11)	76 resident	76	Yes
	12 visitor	12	Yes
Access & Mobility (Ashfield DCP 2007 – Part C1)	All apartments to comply with "Design Checklist 2" in respect to universal accessible design (UAD)	The design does not show units which meet UAD rather 100% of units are visitable	No
	10% min Adaptable housing	10% adaptable housing	Yes

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### COMMENTS & DISCUSSION

#### 10.0 Building Height

Clause 17A (3) of the ALEP 1985 stipulates that the maximum building height within Residential 2(c) Zone 9.0 metres. The proposal has a varying building height up to 18.5 metres which exceeds the maximum allowable height. However Clause 17A (4) of ALEP 1985 precludes the subject application of the height limit.

However, notwithstanding the above, Appendix 3 of DCP Part C5 contains specific controls for the subject site. The proposal does not comply with the height requirement. The DCP stipulates that with correct setbacks and adequate solar access it is possible that a six storey building with limited site coverage could be proposed. In this instance the proposal does not provide adequate setbacks and the site coverage is considered to be excessive given the insufficient landscaping proposed.

#### 11.0 Building Setback

Council's SEPP 65 Consultant has raised issues in respect to insufficient building setbacks from the northern and western boundaries. Only a 6.0 metre setback is proposed on the northern boundary and 3.0 metre setback on the western boundary.

A 9.0 metre minimum setback is required from habitable rooms or balconies for a building over 4 storeys according with the Residential Design Flat Design Code. The proposal is non-compliant with setback requirements.

#### 12.0 Accessibility

The proposal provides the required 10% adaptable housing, however, the scheme fails to provide universal accessible apartments in accordance with Council's DCP requirement. The applicant has proposed to provide 100% of the apartments to be visitable.

#### 13.0 Basement Car Park Projection

A basement car park is proposed beneath the residential flat buildings. The basement is accessed from Victoria Street and consists of 90 car parking spaces including 12 visitor parking spaces and 7 accessible car parking spaces.

The design of the proposed basement does not allow for a loading or unloading area and in addition the internal driveway ramps do comply. The applicant's report does not match the design with respect to parking bays and aisle widths.

#### 14.0 Heritage/Streetscape

Clause 37 of ALEP 1985 stipulates the following

*"The Council must assess and take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage conservation area,*



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*archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity."*

The proposal is located within close proximity of several heritage items, particularly the Police Station at 12 – 14 Victoria Street. Council's Heritage Adviser has raised several issues in respect to the proposed scale, bulk and external materials. It is considered that the proposal does not relate to the existing heritage buildings or scale of development in the locality.

Heritage Adviser comments are included at **Attachment 3**.

### 15.0 SEPP 65 Considerations

Council's SEPP 65 consultant has indicated that the proposal does not comply and satisfy all of the ten design quality principles of SEPP No. 65 – Design Qualities of Residential Flat Development (SEPP No 65). Particularly, the proposal does not comply with "Built Form Principle" and should not be supported.

SEPP 65 Comments are included at **Attachment 4**

### 16.0 Stormwater

The proposal does not meet Council's design standards and as such the current proposal cannot be supported. It may be necessary for an aboveground OSD system or multiple storage systems to be developed to overcome design issues.

### 17.0 Affordable Housing

The proposal does not provide or include any details in respect to affordable housing.

### 18.0 Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act. The following planning instruments and controls apply to the development:-

#### **Ashfield Local Environmental Plan 1985 (as amended)**

The proposal for residential development is permissible in Zone No 2 (a) (Residential Zone).

#### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the plan.

#### **State Environmental Planning Policy No. 55 – Remediation of land**

The provisions of SEPP No. 55 have been considered in the assessment of the development application. It is considered that the site may be contaminated due to the current use on site.

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The submitted statement of environmental effects has indicated that the applicant has engaged the services of a consultant to assess the site for potential contamination and a copy of this report will be provided to Council when completed. However, to date this report has not been submitted to Council.

### State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

Council's SEPP 65 consultant has indicated that the proposal does not comply and satisfy the "Built Form Principle" and should not be supported.

19.0 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

There is no draft Environmental Planning Instrument that is required to be taken into consideration in respect to the subject site.

20.0 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of Ashfield Development Control Plan 2007. The proposal does not comply with floor space ratio requirement, landscape requirement and access & mobility requirements.

21.0 Any matters prescribed by the regulations that apply to the land to which the development application relates.

Clause 7 of the Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. Conditions of consent can be imposed in this regard, if the application is approved.

Clause 92 of the Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider relevant Australian Standards relating to the demolition of structures. Appropriate conditions can be imposed in the event the application is approved.

22.0 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

These matters have been considered as part of the assessment of the development application.

The proposal will not be a positive addition to the existing streetscape in Victoria Street.

23.0 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development.

The proposed development is not considered to be suitable in the context of the locality



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when considering setback, landscape, bulk, scale, external treatment, contribution to the streetscape, access and heritage.

### 24.0 Any submissions made in accordance with this Act or the regulations

The proposal was notified to approximately 349 adjoining and nearby affected property owners and occupants, from 18 April 2011 to 18 May 2011.

### 25.0 Summary of submissions

Eighteen (18) submissions against the proposal were received during the notification of the development application. Refer to **Attachment 5** for a copy of the submissions.

The matters raised in these submissions are tabulated below:-

Objector	Issues raised
Lawrence and Marlene Fong 31 Gower Street, Summer Hill NSW	<ul style="list-style-type: none"> <li>• Huge development</li> <li>• Destroy the peace and quite living environment</li> </ul>
Sarah Quirk 22 Prospect Road, Summer Hill NSW	<ul style="list-style-type: none"> <li>• Height not appropriate for the locality filled with heritage homes</li> <li>• Overdevelopment, facilities and roads already stressed</li> </ul>
Stuart M B Hibberd 9/13 Victoria Street, Ashfield NSW	<ul style="list-style-type: none"> <li>• Roads are already congested in the area</li> <li>• Impossible to get on street parking currently and development will add to the problem</li> <li>• Increase in noise pollution</li> <li>• Privacy impact</li> <li>• Inadequate landscaping</li> <li>• Overshadowing</li> </ul>
Michelle Spadaccini 5/15 Norton Street, Ashfield NSW	<ul style="list-style-type: none"> <li>• Loss of privacy</li> <li>• Excessive building height</li> <li>• Lack of on street parking</li> </ul>
Mark Thomas 56 Waratah Street, Haberfield NSW	<ul style="list-style-type: none"> <li>• Height is excessive not in character with the surrounding area</li> <li>• Potential for increased traffic along Victoria Street</li> </ul>
Juliet Blair 62 Victoria Street, Ashfield NSW	<ul style="list-style-type: none"> <li>• Traffic congestion and queuing</li> </ul>
Helen Cooper 17/5 North Street, Ashfield NSW	<ul style="list-style-type: none"> <li>• Traffic and parking</li> <li>• Impact on the amenity of the area</li> <li>• Excessive bulk and scale</li> <li>• Residential amenity</li> </ul>
C Wigbour 45 William Street, Ashfield NSW	<ul style="list-style-type: none"> <li>• Traffic generation</li> <li>• Scope and scale</li> </ul>
Sonja Bates 5/4-6 Tintern Road, Ashfield NSW	<ul style="list-style-type: none"> <li>• Height not in keeping with the surrounding area</li> <li>• Overdevelopment and density</li> <li>• Lack of on street parking</li> </ul>

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Phillip and Angela Griffith P.O. BOX 123 Broadway NSW 2007	<ul style="list-style-type: none"> <li>Overdevelopment of the site, too large, too high and includes too many apartments</li> <li>Corner of Victoria Street and Liverpool Road is busy intersection</li> </ul>
Brian D Pollok 5 Norton Street, Ashfield NSW	<ul style="list-style-type: none"> <li>Parking in Norton Street is at a premium</li> <li>Traffic congestion</li> <li>Lack of on street car parking</li> </ul>
Nathan Bartlett 6/15 Norton Street Ashfield NSW 2131	<ul style="list-style-type: none"> <li>Increase local traffic</li> <li>Increase on site parking</li> <li>Height and bulk</li> <li>Access to sunlight</li> </ul>
Christopher Riley 1/23 – 25 Gower Street Summer Hill NSW 2130	<ul style="list-style-type: none"> <li>On street parking</li> </ul>
Sam Hui 7/13 Victoria Street, Ashfield NSW 2131	<ul style="list-style-type: none"> <li>Significant number of units</li> <li>Traffic congestion</li> <li>On street parking</li> </ul>
Bill 21 Norton Street, Ashfield NSW	<ul style="list-style-type: none"> <li>Sunlight</li> <li>Setback</li> <li>Privacy</li> </ul>
Peter Carlini 138 – 158 Liverpool Road Ashfield NSW	<ul style="list-style-type: none"> <li>Height</li> <li>Overshadowing</li> <li>Streetscape</li> </ul>
Peter and Jenny Mason 24 Relowe Crescent Balwyn 3103	<ul style="list-style-type: none"> <li>Overdevelopment of site</li> <li>Height excessive</li> <li>Out of character</li> <li>Traffic generation and off street parking</li> </ul>
Jane Adasinski	<ul style="list-style-type: none"> <li>Overcrowded roads and pollution</li> <li>Traffic</li> </ul>

### 26.0 Response to submissions

Issues relating to heritage, floor space ratio, landscape, setback, bulk and scale are discussed in detail in this report and these issues warrant refusal of the application.

The proposal provides adequate on site car parking within the basement levels and the traffic generation as a result of the proposal, whilst increasing traffic flows in the area, will not be detrimental to Victoria or surrounding streets. This issue does not warrant refusal of the application.

The submitted shadowing diagrams illustrates that the proposal is unlikely to result in adverse overshadowing to adjoining properties. However, the proposed residential flat building will result in overshadowing within its own courtyard areas.

### 27.0 The public interest



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Matters of the public interest have been taken into consideration in the assessment of the application. The proposed development is not considered to be suitable in the context of the locality and is therefore recommended for refusal.

### 28.0 Referrals

Comments received from both internal and external bodies are summarised below.

Department	Objection/raises issues	Issue
Council's SEPP No. 65 Consultant	Council's SEPP 65 consultant has indicated that the proposal should not be supported.	The proposal does not meet the objectives of the built form principle.
NSW Police Force	No issues.	Conditions of consent.
Ausgrid previously Energy Australia	No Issues.	Requires the applicant to seek connection for development and that a sub station may be required.
RTA	Awaiting comments.	No comments received to date.
Council Heritage Adviser	Council's Heritage Adviser has raised several issues.	The proposal does not relate to existing heritage buildings or scale of development in the locality.
Council Stormwater Engineer	Issues raised.	Proposed design does not meet Council's design standards for on site detention and stormwater disposal.
Council Traffic Engineer	Issues raised.	The submitted traffic report is inconsistent with the basement design, in respect to parking bays, driveway ramp, vertical clearance and aisle widths.
Council's Health Surveyor	Issues raised.	The proposal does not provide adequate presentation area for the storage of garbage/recycling bins.

### Financial Implications

Council's Contributions Plan (Section 94) are payable in accordance with the Plan in the event the application is approved.

### Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration. The application in its current form is not sympathetic to the local heritage setting.

The proposal does not meet the objectives of the Built Form Principle of SEPP No. 65 as inadequate setbacks have been provided to the northern and western boundaries and it exceeds the maximum allowable floor space ratio and does not provide adequate

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landscaping.

In conclusion, the proposed development is inappropriate as it does not respond to the scale and pattern of development in the locality. The proposed residential buildings are bulky and dominate their context to the detriment of significant heritage items and neighbouring residential buildings.

### **Attachments**

Attachment 1 – Plans of the Proposal  
Attachment 2 – Locality Map  
Attachment 3 – Heritage Adviser Comments  
Attachment 4 – SEPP 65 comments  
Attachment 5 – Submissions

## RECOMMENDATION

**A That the Sydney East Joint Regional Planning Panel as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) refuse Development Application No. 10.2011.89.1 on Lot 100 in DP 130143, Lot B & C DP 923683, Lot A DP 928863, known as 1 – 7 Victoria Street, Ashfield for the following reasons:**

1. The proposal does not comply with State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that it does not meet the objectives of the Built Form Principle.
2. The proposed development does not relate to the existing heritage buildings or scale of development in the site's locality.
3. The proposal does not provide adequate presentation area for the storage of garbage/recycling bins.
4. The Victoria Street elevation is not in keeping with the established character of the locality, particularly in respect to mass, scale and treatment of materials.
5. The proposal exceeds the maximum allowable floor space ratio.
6. The proposal does not provide adequate deep soil planting and landscaping.
7. The proposed basement car park does not make provision for loading or unloading.
8. Adequate accessible and affordable housing is not provided.
9. The proposal does not meet Council's design standards for stormwater disposal.
10. The submitted traffic report is inconsistent with the basement design, in



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respect to parking bays, driveway ramp, vertical clearance and aisle widths.

11. The proposed building exceeds the maximum allowable height requirement.
12. The proposal is not in the public interest.