

ATTACHMENT 1

REPORT TO JOINT REGIONAL PLANNING PANEL

**DEVELOPMENT APPLICATION: 10.2010.102.3
17 HENRY STREET ASHFIELD**

REPORT TO	SYDNEY EAST JOINT REGIONAL PLANNING PANEL ON WEDNESDAY 13 JUNE 2012
Subject	Development Application: 10.2010.102.3 17 Henry Street ASHFIELD
File No	2010.102.3
Prepared by	Mr S Mushtaq – Specialist Planner, Ashfield Council
Reasons	Matter requires Joint Regional Planning Panel (JRPP) determination
Objective	For the JRPP to determine the application
Strategic Plan Link	Not applicable
Management Plan Activity	2.11 Development & Building Control, Strategic Planning

1.0 DESCRIPTION OF PROPOSAL

An application has been received pursuant to S96(2) of the *Environmental Planning and Assessment Act 1979*, as amended to modify Development Consent 10.2010.102 which was granted on 15 September 2010 by the Joint Regional Planning Panel Sydney East. This consent was for the demolition of Murray House and the Kindergarten building, removal of trees; restoration and refurbishment of buildings known as the Gorton, Emily Trollope Nursing Ward and the Louise Taplin Ward; construction of new buildings to accommodate a learning and development centre; and child and family support services with a basement car park for 37 vehicles. The proposed modifications include:

- The removal of the basement car park and relocation of 37 car spaces elsewhere on the site in the form of at-grade parking. A total of 43 at grade parking spaces will be provided in the following manner:
 - A staff and visitor car park comprising 26 parking spaces including one accessible car parking space and 1 bus parking space will be located along the Henry Street frontage in the western part of the site. Access to this car park car will be from the existing and approved staff car park access on Henry Street.
 - A drop off/pick up car park comprising 12 parking spaces, at the south-eastern corner of the site, including 2 accessible car parking spaces, 1 bus parking space and 1 service bay. This car parking area will be accessed via the existing and approved main driveway entrance on Henry Street.
 - A visitor car park comprising 5 spaces in the southern corner of the site. The car park includes 1 accessible car space.
- Reduction in the approved finished ground floor levels and associated heights of the approved buildings in the following manner:

Building Block	Approved DA Floor Levels	Proposed Floor Levels	Change in Floor Levels	Change in Height
Block 1A Administration	RL 12.7	RL 12.0	- 700mm	- 1730mm
Block 1A Infants	RL 12.7 RL	11.34	-1360mm	-1330mm
Block 1B	RL 12.7	RL 11.34	-1360mm	-1930mm
Block 2A	RL 11.7	RL 11.34	- 360mm	- 780mm
Block 2B	RL 11.725	RL 11.34	-385mm	-360mm
Block 3A	RL 12.20	RL 12.00	-200mm	- 475mm
Block 3B	RL 11.50	RL 11.50	0mm	- 300mm

- Removal of additional trees.
 - The proposed modification would result in the removal of a further 7 trees. However, 2 trees previously intended for removal can now be retained, resulting in a net loss of 5 trees spread across the site.

The application is also seeking approval to modify the following conditions of consent:

- Condition A(1)- Approved Plans stamped by Council.
- Condition C(1) - Car Park and Driveway Design – required due to deletion of basement car park.
- Condition C(11) - Lighting to Basement / Pedestrians Routes – Amend this condition to delete reference to basement car parking.
- Condition C(12) - Car Parking Provision / Layout – Delete any reference to basement car parking.

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

2.0 **SUMMARY RECOMMENDATION**

The development is recommended for approval. It is considered that the proposed amendment does not alter the nature of the original proposal and its compliance with *Ashfield Local Environmental Plan 1985* (as amended) and the applicable development control plans.

The proposal as amended will continue to provide adequate separation and maintain an acceptable relationship with the more significant heritage buildings on-site. The reduction in height of the new buildings will also contribute positively to this relationship. The application is accordingly recommended for approval.

3.0 **APPLICATION DETAILS**

Applicant	:	JBA Planning Pty Ltd
Address	:	Level 7, 77 Berry Street NORTH SYDNEY NSW 2060
Owner	:	The Infants Home
Lot/DP	:	LOT: 10 DP: 129727
Date lodged	:	28/03/2012
Date of last amendment	:	22 May 2012
Building classification :		9B
Application Type	:	Local Integrated
Construction Certificate	:	No

4.0 SITE AND SURROUNDING DEVELOPMENT

The site is approximately 1.7ha in area. It is located on the corner of Frederick and Henry Streets. Vehicular access to the site is currently available from a number of locations along Henry and Frederick Streets. The main driveway entrance is located at the south-eastern corner of the site via Henry Street.

The site is currently occupied by a number of childcare buildings within a garden setting. Existing support services and office administration facilities are also scattered across the site.

Surrounding development is residential with low scale detached and semi-detached buildings along Henry Street and Ilford Avenue (southwest and southeast). There is a mix of residential buildings including single detached dwellings and residential flat buildings along Frederick Street to the North West. To the north east of the site is the Bunning's Warehouse building fronting Parramatta Road.

5.0 DEVELOPMENT HISTORY

Previous consents were noted in the assessment of the application. This Section 96 Application seeks to amend DA: 10.2010.102.1, which was approved by the Sydney East JRPP on 15 September 2010.

A section 96(1) application relating to the proposed development was approved by Council on 24 May 2011. This approval deleted conditions relating to the payment of Section 94 Contributions (\$71,200) and fees associated with the replacement of a redundant driveway crossing.

6.0 ZONING/PERMISSIBILITY/HERITAGE

- The site is zoned 5(a)-Special Uses – Infants Home under the provisions of Ashfield Local Environmental Plan (LEP) 1985.
- A small portion of the site at the corner of Frederick and Henry Streets is zoned 9(c) - County Road Widening Reserve under the Ashfield LEP.
- The property is a heritage item.
- The property is located within the vicinity of the Draft Richmond Avenue and Ilford Avenue Conservation Areas.

The proposed works are permissible with Council consent.

7.0 SECTION 79C and 96(2) ASSESSMENT

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C and 96(2) of the Environmental Planning and Assessment Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

Clause 2(a) of the Ashfield LEP aims to “*promote the orderly and economic development of the local government area of Ashfield in a manner consistent with the need to protect the environment*”. The proposed modification will not alter compliance with this objective.

7.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The amended proposal will not alter the development's level of compliance with this Plan.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 1 – Development Standards

Not applicable.

State Environmental Planning Policy No. 6 – Number of Storeys in a Building

Not altered by the amended proposal.

State Environmental Planning Policy No. 55 – Remediation of Land

Not applicable. Given its history a detailed investigation of contamination was not required in the assessment of the original application.

State Environmental Planning Policy No. 64 – Advertising and Signage

Not altered by the amended proposal.

State Environmental Planning Policy (Infrastructure) 2007

Not altered by the amended proposal.

State Environmental Planning Policy (Major Developments) 2005

The provisions of State Environmental Planning Policy (SEPP) (Major Developments) 2005 applied to the original development as it is a community facility with a capital investment value in excess of \$5 million. In accordance with Clause 13B (1)(a) of the Major Developments SEPP, the original application was classified as 'regional development' with the determining authority for the application being the Sydney East JRPP. The development was therefore referred to and determined by the Sydney East JRPP.

The Sydney East JRPP is also the determining authority for applications submitted under Section 96(2) of the EP&A Act.

7.2 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.

Not applicable.

7.3 The provisions of any Development Control Plan.

The proposal does not alter compliance with relevant DCPs.

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

Not applicable.

7.5 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. It is considered that the proposed alterations will have no adverse environmental, social or economic impacts on the locality.

7.6 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 modified development.

7.7 Any submissions made in accordance with this Act or the regulations.

The proposal was notified to all adjoining and nearby affected property owners, occupants and Councillors from 21 April to 7 May 2012. Notification was checked during site inspection and was acceptable. One (1) submission objecting to the proposal was received (refer to **Attachment 3**).

Submissions
Ashfield and District Historical Society

The matters raised in this submission primarily relate to the demolition of Murray House. The Society argues that since the basement car park is no longer being built, Murray House should be retained.

Whilst this may be a worthwhile suggestion, the building known as 'Murray House' has already been demolished.

7.8 The public interest

Matters of the public interest have been taken into consideration in the assessment of the amended application. On balance it is considered that the modified proposal will improve the quality of development without adversely impacting on the amenity of the locality. The approval of the modifications would therefore be in the public interest.

7.9 Section 96(2) Assessment

The submitted application has been considered against Section 96(2) of the EP&A Act. Section 96(2) of the EP&A Act states:

"A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body*

and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The proposed modifications are considered to be of a minimal environmental impact on the basis that they achieve a better amenity and functional relationship for intended users of the facilities without altering compliance with relevant planning instruments. The lowering of the approved finished floor levels due to the deletion of basement car park and the reduction in height of the new buildings will reduce the overall bulk and scale of these buildings and thus improve their compatibility with existing heritage buildings on the site.

Whilst the proposed modifications will result in two (2) fewer car parking spaces than the approved development, the proposal is still acceptable as the development substantially increases the supply of on-site car parking. In this regard it is noted that Ashfield DCP 2007 requires a minimum of 58 car parking spaces for a 180 place childcare centre. There is currently no car parking available on site with staff and visitor car parking taking place in surrounding streets. The provision of 43 car parking spaces is therefore considered acceptable.

The existing buildings on the Infants' Home site are set within a garden setting and the existing trees contribute to its setting and heritage character. Whilst the removal of some additional trees is regrettable, the extent of existing trees to be retained is considered adequate to maintain the heritage values of the site.

The modified development is considered to comprise substantially the same development as that which was originally approved and as such it can be considered for approval under Section 96(2) of the EP&A Act.

8.0 REFERRALS

Heritage Adviser: – Comments from Council's Heritage Adviser are included at **Attachment 4**. The Heritage Advisor has raised no objection to the modified proposal.

Engineering: Council's Design and Development Engineer is supportive of the amendments and no additional conditions have been suggested.

Traffic: Council's Traffic Engineer is supportive of the amendments and raised no objections to the amended car parking layout, access and reduction in the overall provision of on-site car parking.

Building: Council's Team Leader Building is supportive of the amendments and no additional conditions have been suggested.

Tree Management: Council's Tree Management Officer has raised no objection to the removal of additional trees and considers the revised landscape plan to be adequate.

9.0 OTHER RELEVANT MATTERS

Section 94A Contribution Plan

Not applicable to this proposal.

Stormwater Pipes – Have you checked the Drainage Map for affectation by pipes?

Council's stormwater map does not indicate that the subject property is burdened by any Council or Sydney Water stormwater pipes. The applicant would need to liaise with any external bodies if there is any affectation.

Design for Crime Prevention

The amended proposal does not alter compliance with Safety by Design principles.

10.0 BUILDING CODE OF AUSTRALIA (BCA)

A Construction Certificate will be required to be applied for by condition of the original consent.

11.0 CONCLUSION

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Sections 79C (1) and 96 having been taken into consideration.

The proposed modifications are acceptable and therefore recommended for conditional approval.

Attachments

- Attachment 1 – Plans of the Proposal
- Attachment 2 – Locality Map
- Attachment 3 – Submissions
- Attachment 4 – Heritage Adviser Comments

Recommendation

That Joint Regional Planning Panel Sydney East as the consent authority pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) modify Development Consent No. 10 2010.102 for demolition of Murray House and Kindergarten building, removal of trees, restoration and refurbishment of buildings known as the Gorton, Emily Trollope Nursing Ward and the Louise Taplin Ward, construction of new buildings to accommodate a learning and development centre and child and family support services with at grade parking for 43 vehicles on Lot 10 in DP: 129727, known as 17 Henry Street and 185A Frederick Street, Ashfield, in the following manner:

Development Description:

The description of the approved development is to be amended to read as follows:

Demolition of Murray House and Kindergarten building, removal of trees, restoration and refurbishment of buildings known as the Gorton, Emily Trollope Nursing Ward and the Louise Taplin Ward, construction of new buildings to accommodate a learning and development centre and child and family support services with at grade parking for 43 vehicles at 17 Henry and 185A Frederick Street, Ashfield.

Conditions:

The following conditions are to be modified to read as follows:

A General Conditions

(1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers 09086 - DA01 to DA09 - B prepared by NBRS + Partners, Landscape Concept Plan Job No 1016 DWG No s96 L01 prepared by Umbaco Landscape Architects and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

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

(1) Car Park and Driveway Design

The car-park and driveway layouts are to be designed in accordance with AS2890.1:2004 and measures incorporated for the proper and safe movement/circulation of traffic through the street and site. These measures should include but not limited to the following:

- (a) The driveway(s) at the street boundary are to comply with clause 3.2.4 for positioning of driveway and modification to landscaping and fencing for safe clearance viewing of pedestrians and traffic.*
- (b) The driveway(s) at the street boundary are to adhere to Clause 3.2.1. in order to alleviate potential traffic conflict with vehicles entering and exiting out of the driveway. The main driveway at the Henry Street frontage should be increased to a minimum of 6.0 metres and splayed out to the kerb line, particularly to the north- west side of driveway for improved entry off the road.*
- (c) The existing on-street parking on Henry Street may also require reconfiguration for safe viewing and manoeuvring of traffic. The cost for signposting and line marking for this work is to be borne by the applicant and at no cost to Council.*

(11) Lighting to basement/pedestrian routes-safety

Lighting which meets the relevant Australian Standard of 40 lux, spaced at appropriate intervals to provide the required surveillance shall be provided along pedestrian access routes for safety and security purposes during the evenings. Details to be shown on the construction certificate.

(12) Car parking provision/layout

43 off-street parking spaces including spaces for the use by the persons with a disability shall be provided and allocated in accordance with the provisions of AS2890.1 and 2 and the requirements of Ashfield Council's Development Control Plan for Access, Adaptability and Mobility. Details to be shown on the application with the Construction Certificate.

ATTACHMENT 1

**DEVELOPMENT APPLICATION: 10.2010.102.3
17 HENRY STREET ASHFIELD**

**REPORT TO JOINT REGIONAL
PLANNING PANEL**

LEGEND:

 SIGNIFICANT TREE

HERITAGE BUILDINGS

EXISTING BUILDINGS

BUILDINGS TO BE DEMOLISHED

OUTLINE OF PROPOSED BUILDING

BUILDING NAMES

BUILDING 1 GORTON b. 1959
BUILDING 2 EMILY TROLLOPE WARD b.
BUILDING 3 TAPPY'S PLACE b. 1901
BUILDING 4 EMILY'S PLACE altered 1926
BUILDING 5 NURSERY b. 1959
BUILDING 6 KINDERGARTEN modernised
BUILDING 7 MURRAY HOUSE b. 1914
BUILDING 8 LAUNDRY b. 1910
BUILDING 9 RESIDENCE b. 1930
BUILDING 10 STORE
BUILDING 11/12 SYDNEY HOPE COTTAGE

Date	Description
09/03/2012	Issue for Section 96 Application
03/05/2010	Issue for Development Application

architect
IBRS+PARTNERS

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Tel: 61 2 9922 2344 Fax: 61 2 9922 1308
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Registered Architects

Project & Client

he Infants Home Ashfield

7 Henry Street ASHEFIELD NSW 2121

the Infants Home Ashfield

Drawing Title

Finite Analysis








Date 13/03/2012

Scale 1:500 @ A1

4

Drawing Reference
09086-DA01-B

LEGEND:

- | | | | | | | |
|---|---|---|---|---|---|---|
| EXISTING TREE TO BE REMOVED | EXISTING TREE TO BE RETAINED | EXISTING STRUCTURE TO BE DEMOLISHED | EXISTING FENCE/PATH TO BE DEMOLISHED | EXISTING DRIVEWAY TO BE DEMOLISHED | EXISTING WALL TO BE DEMOLISHED | EXISTING FENCE TO BE DEMOLISHED |
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No.	Date	Description
B	09/03/2012	Issue for Section 95 Application
A	03/05/2010	Issue for Detachment Application

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Project & Client

The Infants Home Ashfield

7 Henry Street, ASHFIELD, NSW 2131

The Infants Home Ashfield

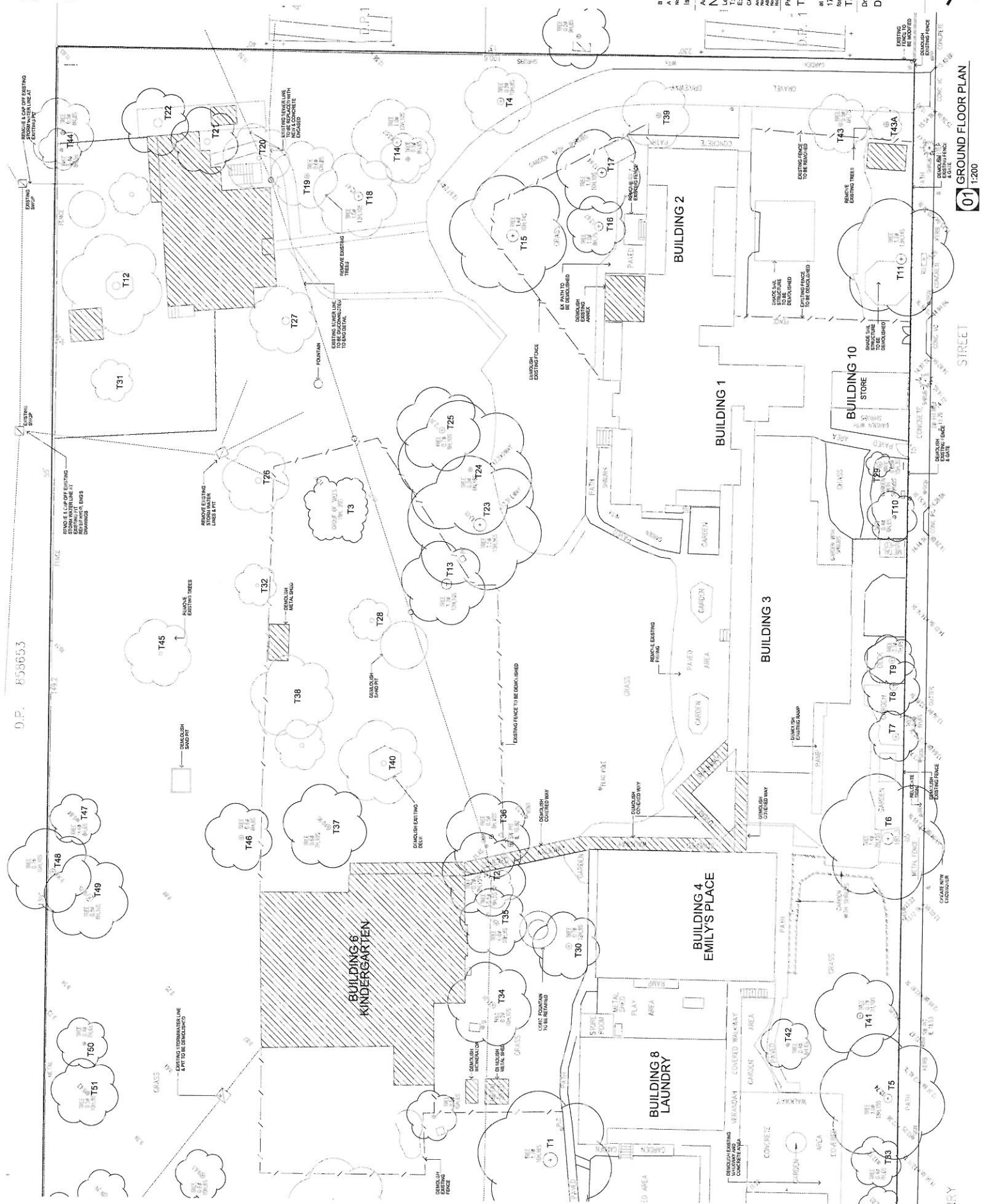
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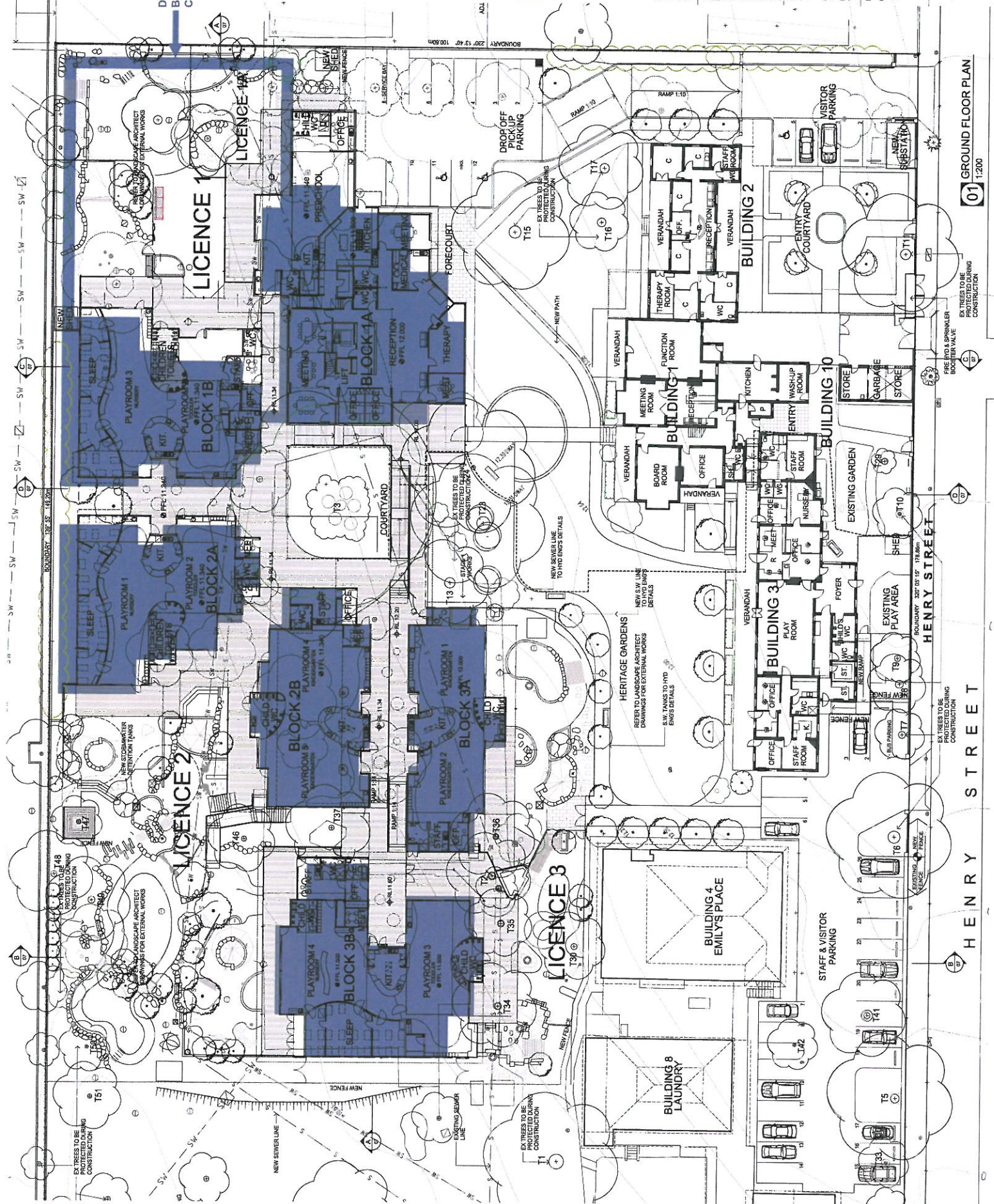
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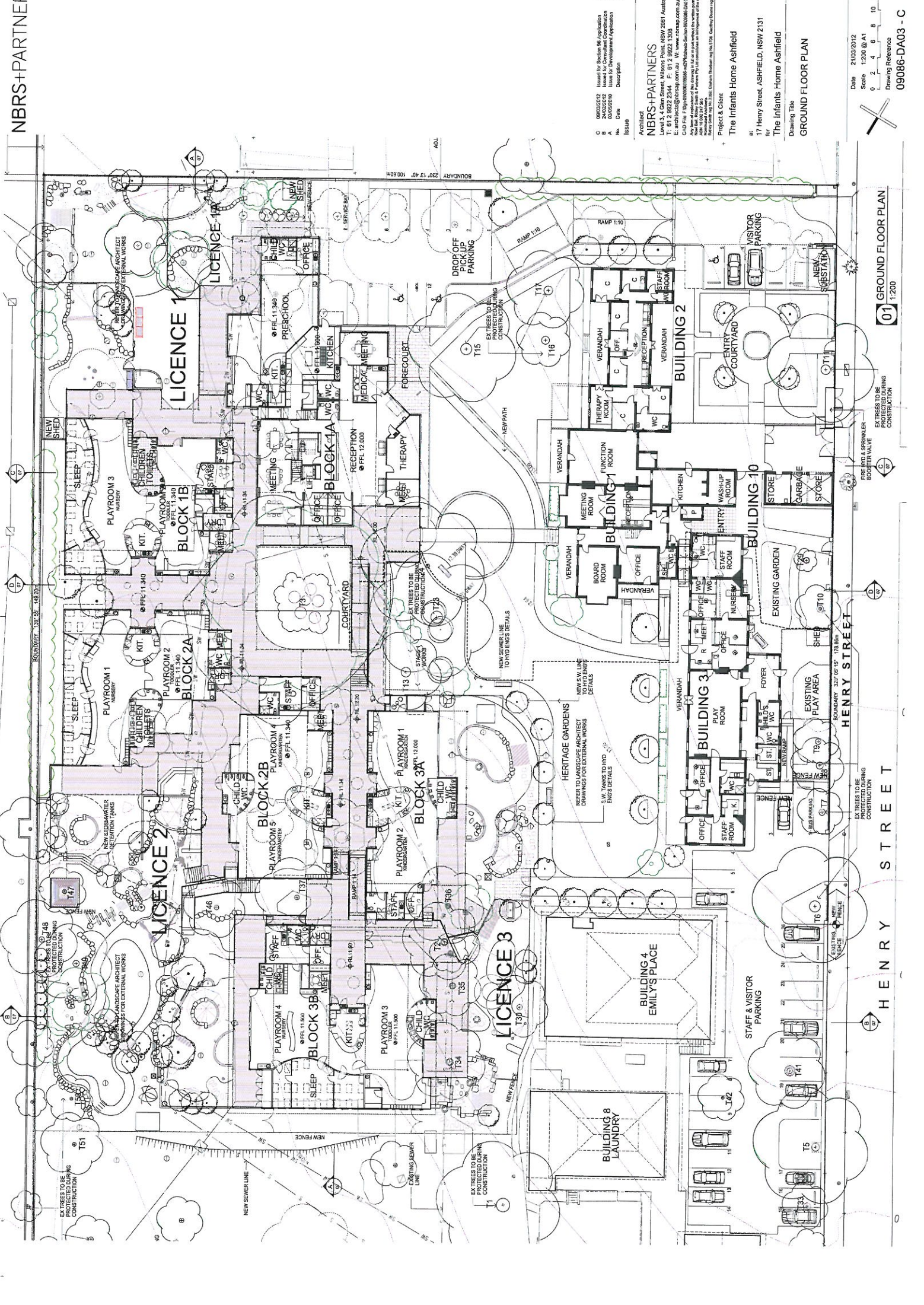
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01 GROUND FLOOR PLAN

STREET





NBRS+PARTNERS	
Level 3, 4 Glen Street, Milsons Point, NSW 2061 Australia	
E: architecture@nbrcp.com.au W: www.nbrcp.com.au	
C.O.D File: T:\projects\09086-DA03-01\09086-DA03-01.dwg	
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Drawing Title: GROUND FLOOR PLAN
Drawing Scale: 1:200
Drawing Reference: 09086-DA03 - C

Project & Client
The Infants Home Ashfield
at 17 Henry Street, ASHFIELD, NSW 2131
for The Infants Home Ashfield

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01 GROUND FLOOR PLAN
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Architect

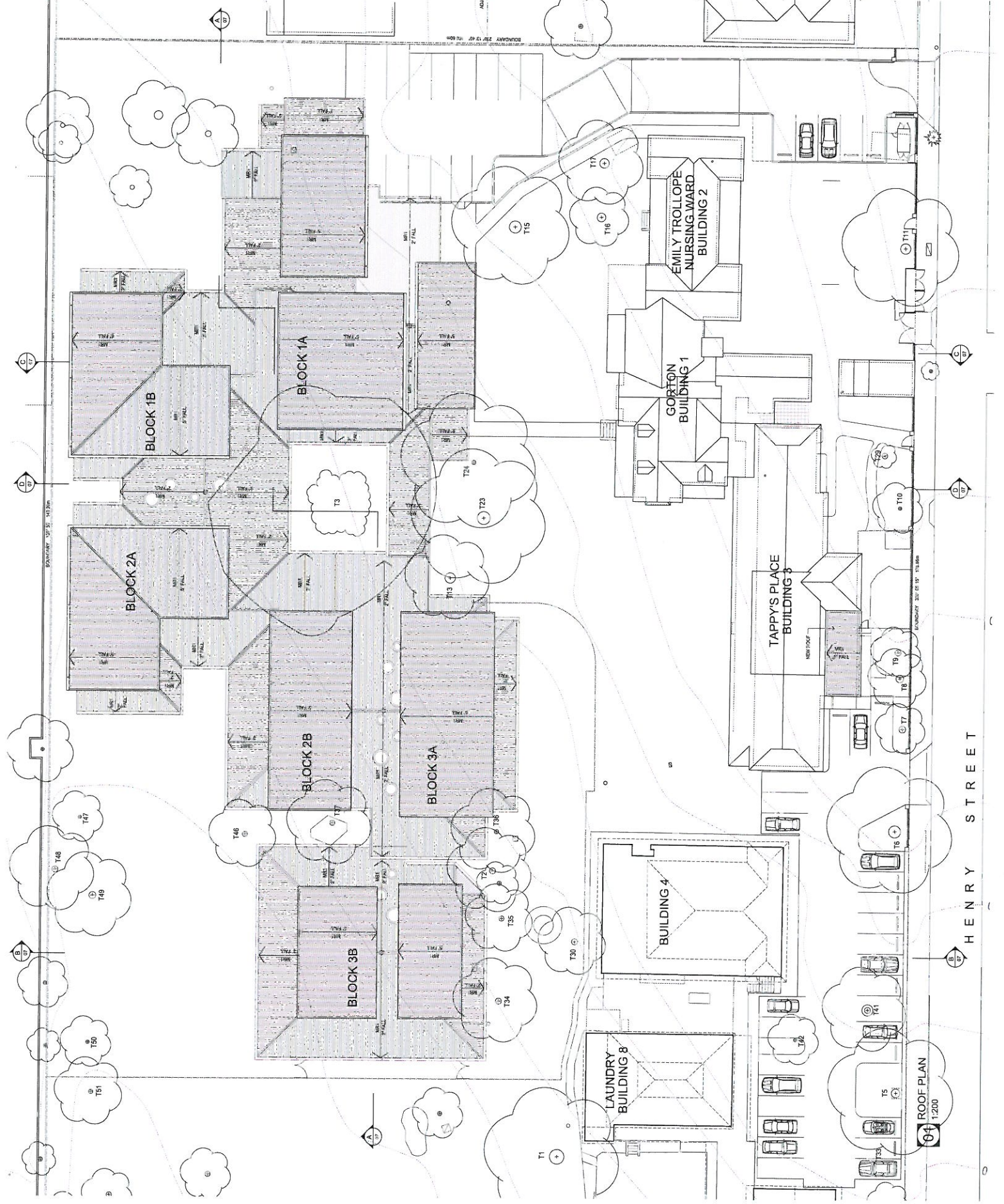
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No.	Date	Description
B	09/03/2012	Issue for Section 98 Application
A	03/05/2010	Issue for Development Application

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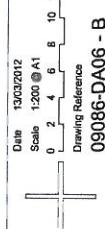
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for
The Infants Home Ashfield

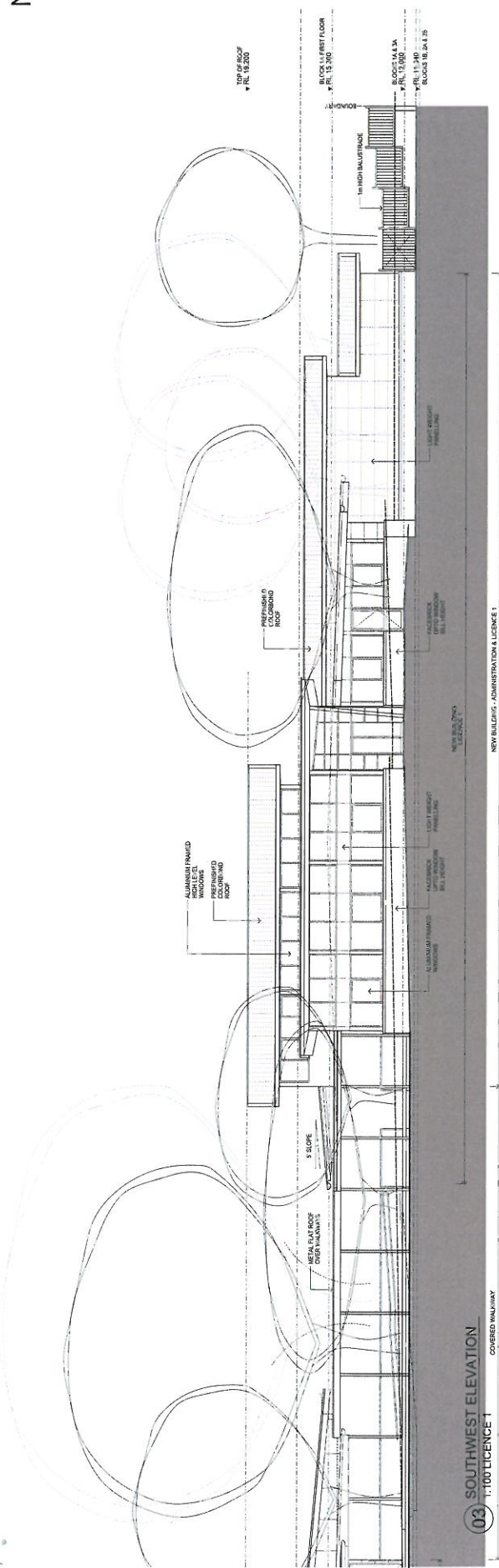
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BUILDING HEIGHT COMPAR

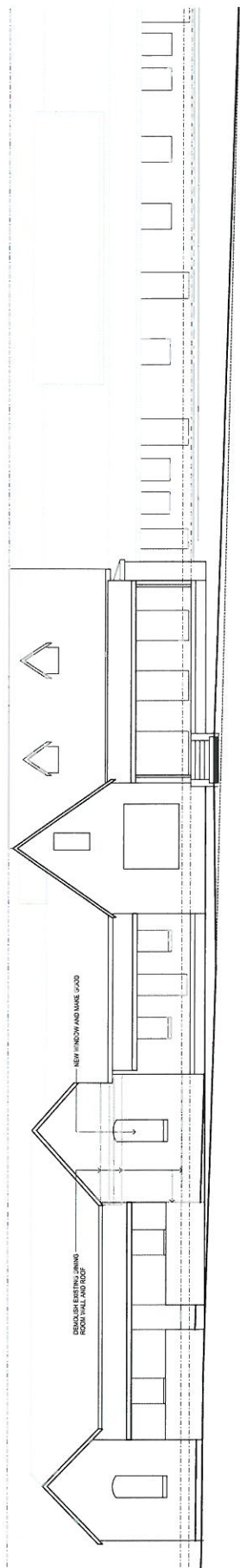


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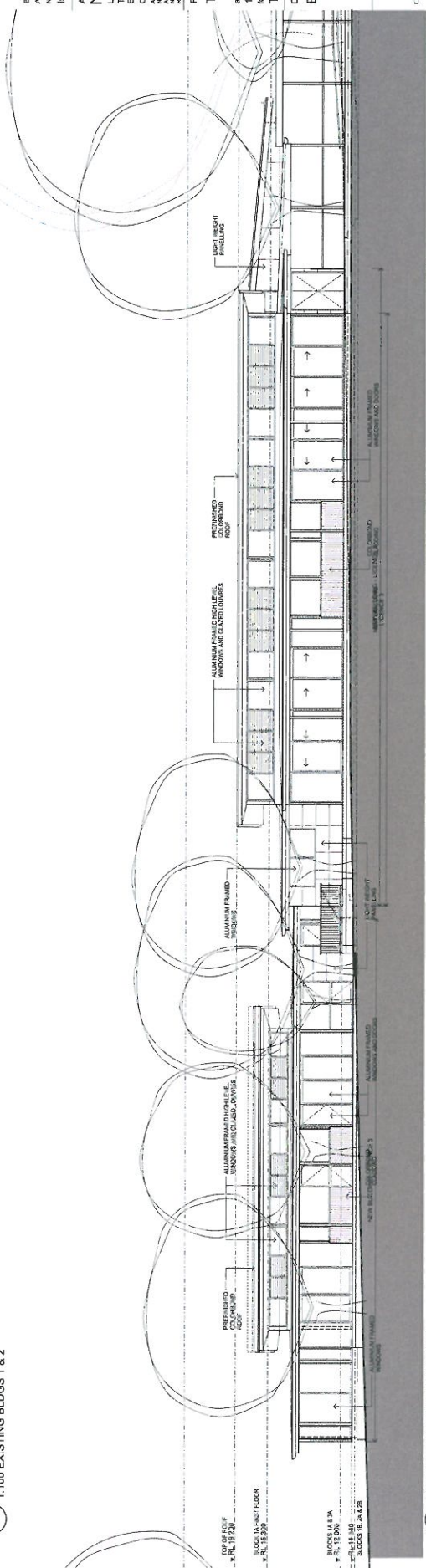
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03 SOUTHWEST ELEVATION
1-100 LICENCE 1



02 SOUTHWEST ELEVATION
1:100 EXISTING BLDGS 1 & 2



01 SOUTHWEST ELEVATION
1:100 LICENCE 2 & 3

ISSUE	No.	Date	Description
B	09/03/2012	Issue for Section 96 Application	
B	03/05/2010	Issue for Development Application	
C			

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Drawing Title
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09086-DA08 - B



ELEVATION
1:200

SECTION C PART



01 SECTION B PA
1:100 LICENCE 3

B	09/03/2012	Issue for Section 96 Application
A	03/05/2010	Issue for Development Application
No.	Date	Description

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The Infants Home Ashfield

Drawing Title

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L'ESPECE 2

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SECTION B PA

ATTACHMENT 2

**DEVELOPMENT APPLICATION: 10.2010.102.3
17 HENRY STREET ASHFIELD**

**REPORT TO JOINT REGIONAL
PLANNING PANEL**

DA 2010.102 - 17 Henry & 185A Frederick St., Ashfield



Ashfield Municipal Council

Scale 1:5,249



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ATTACHMENT 3

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17 HENRY STREET ASHFIELD**

**REPORT TO JOINT REGIONAL
PLANNING PANEL**

ASHFIELD & DISTRICT HISTORICAL SOCIETY Inc

The Society's Rooms are located at
Thirning Villa, Pratten Park
Arthur Street, Ashfield.
Email address: adhs@optusnet.com.au

*P.O. Box 20
Ashfield NSW 1800*

27 April 2012

General Manager
Ashfield Council
PO Box 1145
ASHFIELD NSW 1800

Dear Ms Chan

**RE: Notification of s.96 Application to JRPP - Ashfield Infants Home, Henry Street
Ashfield (DA 10:2010:102.3)**

Thank you for the further opportunity to comment on the proposed modifications to the approval granted by the Joint Regional Planning Panel for new buildings and tree removal at the Infants Home.

The objections to the overall development were detailed by the Society in its original letter dated 9th August 2010 to Council. While this is a s.96 modification application to the existing approval, the nature of the modifications sought are such that the issues raised by the Society in 2010 remain and need to be addressed.

With individual and contributory listings of buildings, landscaped grounds and significant trees under the Ashfield Heritage Study and the Ashfield LEP, the approach adopted by the applicant should be retention and modification (if necessary) of those buildings and natural elements identified.

The Statement of Environmental Effects lodged in May 2010 acknowledges the heritage significance of Murray House and the garden plantings around it noting that it could be retained (p23) but because of existing room layout and/or BCA upgrade requirements concludes that 'development potential of the building' (p25) is limited. No real consideration has been given to the retention of Murray House and continuing its present use as part of the Infants Home child and family enterprise. The first floor is in substantially original condition and the ground floor is and has been used as part of the Infants Home; no doubt concessions apply for any BCA upgrading required to Murray House.

This s.96 modification application deletes the basement car park originally proposed (which extended under Murray House). This presents a further opportunity to provide for Murray House's retention and integration into the overall development as any concern for its stability has been removed with the abandonment of the basement car park.

The heritage values of Murray House and its garden setting should necessitate retention. This is certainly the consistently expressed view of Council's heritage advisors Helen Wilson and Robert Moore, who have advised that Murray House could be readily modified and/or upgraded for continued use as part of the Infants Home re-development.

The Society requests that the applicant be required to further modify its proposal to provide for the retention of Murray House and its setting, in recognition of both the individual and associational value to the heritage significance of the site and its use.

Yours Sincerely,

David Rollinson
President
Ashfield & District Historical Society

ATTACHMENT 4

**DEVELOPMENT APPLICATION: 10.2010.102.3
17 HENRY STREET ASHFIELD**

**REPORT TO JOINT REGIONAL
PLANNING PANEL**



DEVELOPMENT SERVICES HERITAGE ADVISOR'S REFERRAL COMMENTS

ADDRESS:	17 Henry Street, Ashfield	File No: 10.2012.102.3
ADVISOR	Robert Moore	
DATE:	14 May 20122012	
STATUS	Heritage Item	
DESCRIPTION	S96 application to approved development on Infants' Home site	
PREVIOUS COMMENTS	Yes	

The application has been reviewed in respect of heritage issues and has been assessed as follows:

<input checked="" type="checkbox"/>	Acceptable as lodged
<input type="checkbox"/>	Acceptable with the following Conditions of Consent Applied:
<input type="checkbox"/>	Acceptable with the following amendments to the application:
<input type="checkbox"/>	Application to be returned to Heritage Advisor for review after amendments
<input type="checkbox"/>	Planner may assess amendments
<input type="checkbox"/>	Additional information is required as follows:
<input type="checkbox"/>	Not acceptable
<p>Discussion:</p> <p>The principal heritage impact of this development has already occurred in the needless destruction of Murray House. The revised proposal now before Council offers some benefit in reduction of heights and separation between existing and new development.</p>	

Robert Moore