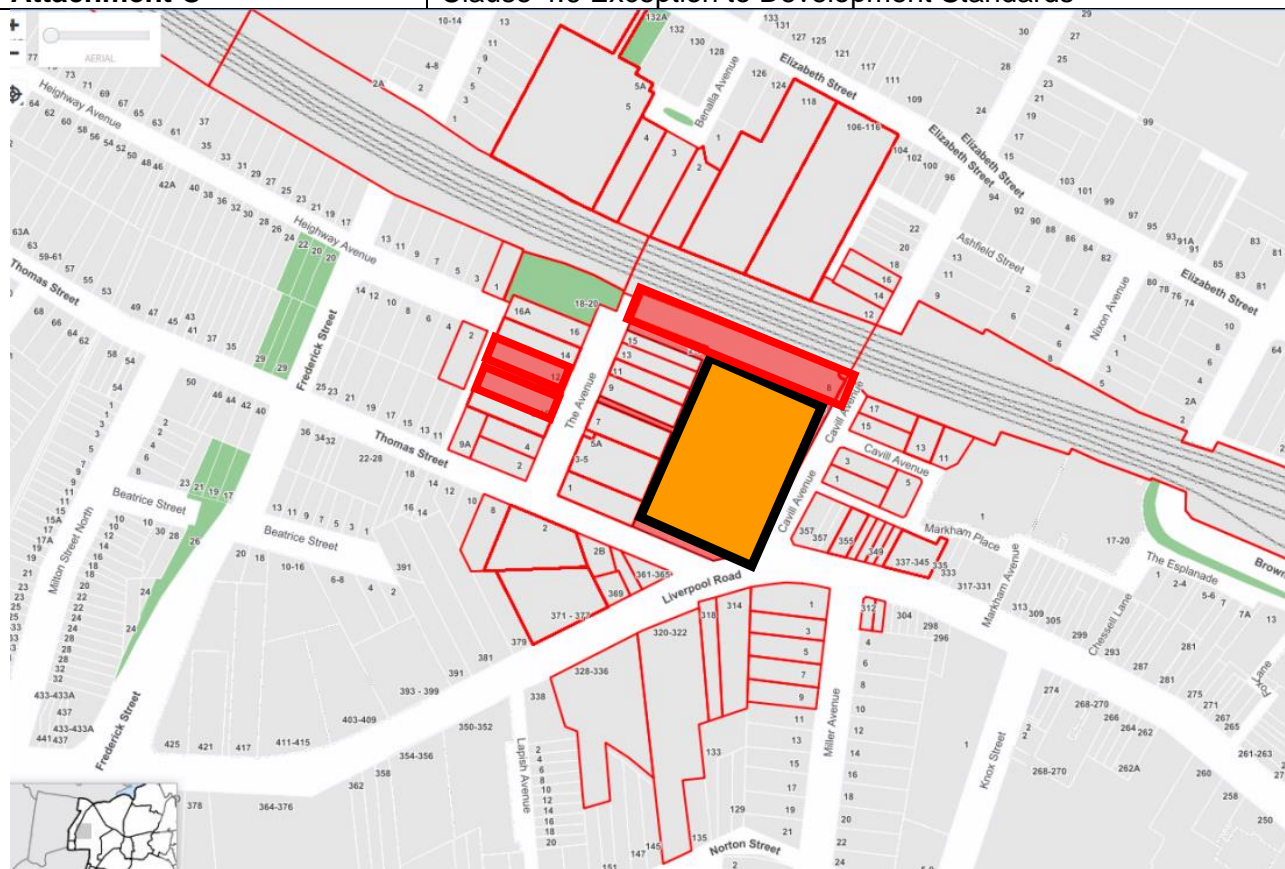






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2020/1094
Address	1 – 9 Thomas Street, Ashfield NSW 2131 (Also known as 2-6 Cavill Avenue)
Proposal	Demolition of all buildings; construction of a 10-storey mixed use development comprising: 3 storey basement car park with 320 spaces, ground floor retail, and 264 residential apartments.
Date of Lodgement	24 December 2020
Applicant	Shayher Alliance Pty Ltd
Owner	Shayher Alliance Pty Ltd
Number of Submissions	Initial: Five (5) After Renotification: Three (3)
Value of works	\$121,821,700.00
Reason for determination at Planning Panel	General development with a capital investment value over \$30 million
Main Issues	ADG non-compliance and non-compliance with clause 4.3 height of buildings under the ALEP 2013
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		
Note: Due to scale of map, not all objectors could be shown.				

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of all buildings; construction of a 10 storey mixed use development comprising: 3 storey basement car park with 320 spaces, ground floor retail, and 264 residential apartments at 1 – 9 Thomas Street, Ashfield NSW 2131.

The application was notified to surrounding properties and five (5) submissions were received in response to the initial notification. Three (3) submissions were received in response to renotification of the application

The main issues that have arisen from the application include:

- ADG non-compliance with visual privacy/ building separation and apartment depth.
- Variation to Clause 4.3 - Height of buildings under the *ALEP 2013* of 1.2m or 4%

The non-compliances are acceptable given the merits of the case and therefore the application is recommended for approval.

2. Proposal

DA/2020/1094 was lodged by Urbis on the 24th December 2020, for the re-development of the site known as 1-9 Thomas Street or 2 – 6 Cavil Avenue, situated upon the following Lots:

- Lot 17 IN DP168456
- Lot 9 IN DP940918,
- Lot 101 IN DP234926,
- Lots 1, 2 & 5 IN DP6262,
- Lots 1 & 2 IN DP556722
- Lot 1 IN DP971932

The development is best illustrated through the photomontages provided by the applicant and replicated in figures 1 - 3 below.

The application will be required to be determined by the Sydney Eastern City Planning Panel because the proposed development has a capital investment value over \$30 million.

The development application involves:

- Demolition of all existing onsite structures
- Construction of a part two/ part three storey basement car park accommodating a total of 320 parking spaces (including retail and residential parking), loading docks, garbage rooms, plant rooms and lift entries/lobbies. The proposed basement carparking is to comprise of the following vehicular allocations:
 - Residential car parking = 264 spaces

- Visitor car parking = 52 spaces
 - Retail car parking = 3 spaces
 - Carwash bay = 1 space
 - Motorbike parking = 13 spaces
 - Bicycle parking = 56 spaces (some spaces located at ground not in basement)
 - Loading Dock = 1 space (to be utilised for waste collection by Council waste trucks)
- Construction of four residential flat buildings (referred to as Building A, B, C and D) containing a total of 264 residential apartments. The proposed flat buildings each vary in height with buildings A & D incorporating 9 levels of residential units, building B having 8 levels of residential units and Building C having 6 levels of residential units. The following unit mix is proposed across the 264 residential apartments:

Type of accommodation	No.
1 Bedroom unit	89
2 Bedroom unit	142
3 Bedroom unit	33
Total number of units: 264	

Note: a total of fourteen (14) units are proposed to be dedicated for the purposes of affordable rental housing. The following is a break-down of units proposed to be dedicated:

Type of accommodation	No.
1 Bedroom unit	10
2 Bedroom unit	2
3 Bedroom unit	2
Total number of units: 14	

- Construction of a new ground floor retail tenancy (including first floor void space) fronting Liverpool Road and incorporating a GFA of 119sqm.
- Creation of a new through site pedestrian link with public access
- Creation of new roof top communal spaces to buildings B, C & D.

On the 11 March 2021 Council Officers contacted the applicant and outlined a number of matters which were required to be addressed via the submission of amended plans and additional information. The requested amendments were submitted on the 14 May 2021. This assessment report is based off the amended plans and additional documentation submitted.

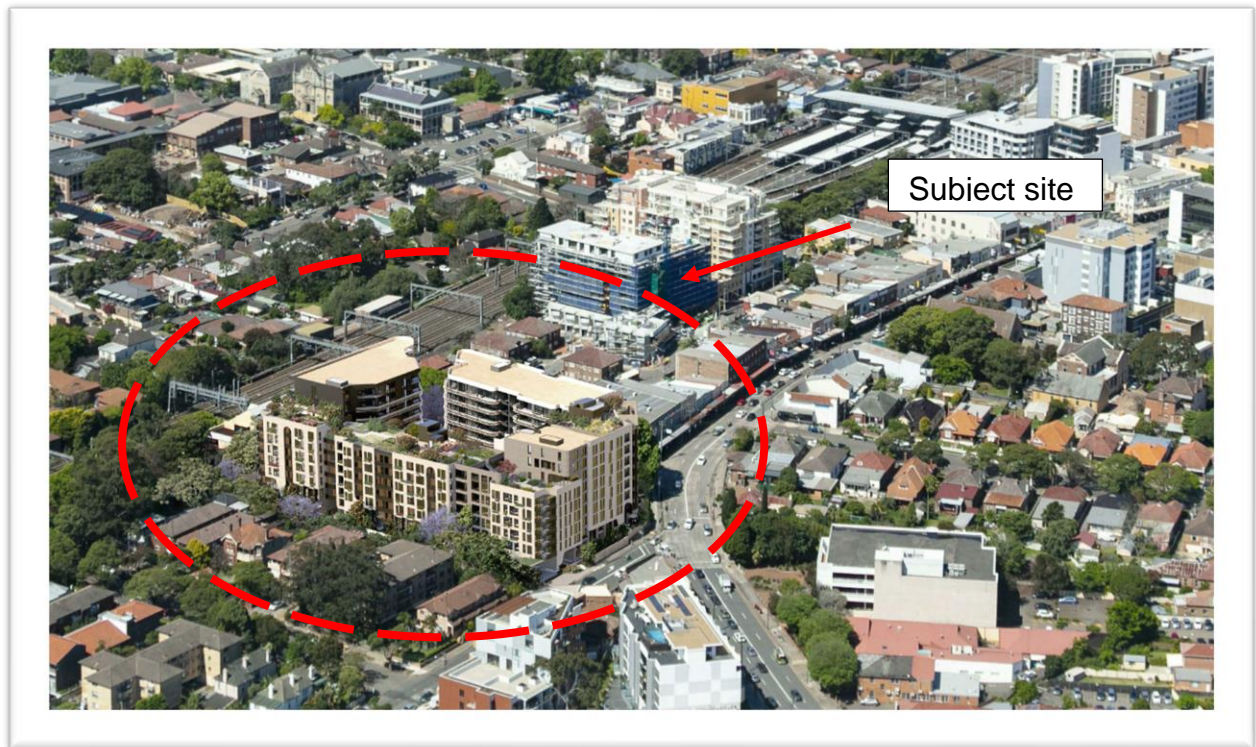


Figure 1: Aerial Photomontage detailing the location/context of the development in the Ashfield Town Centre

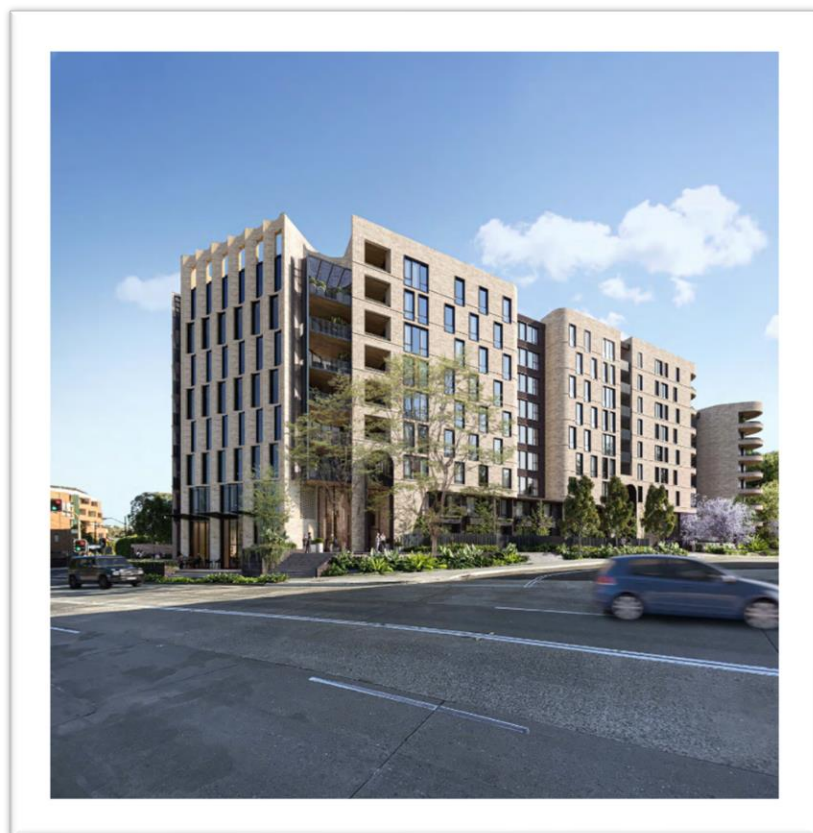


Figure 2: Photomontage viewed from Liverpool Road



Figure 3: Photomontage viewed from Thomas Street

3. Site Description

The site is known as 1 – 9 Thomas Street or 2 – 6 Cavil Avenue, Ashfield and is a corner allotment with a frontage to three (3) streets. The subject site is located on the northern side of Thomas Street with a 50m frontage, the northern side of Liverpool Road where the site has a frontage of 24m and the western side of Cavil Avenue where the site has a frontage of 96m. The site also incorporates two small parcels of land leading to The Avenue, these parcels of land are currently utilised for pedestrian and vehicular access from the Avenue. The subject site comprises of six (6) separate allotments and has a total site area of 8,422sqm (including the two access handles leading from the site to The Avenue). The site is zoned B4 Mixed Use under the ALEP 2013 (as seen within figure 4 below), however it is directly adjacent an R2 Low Density Residential Zone along the western boundary which makes up properties in the Avenue. The extent of the site is outlined in figure 5 below. The property is roughly 400m away from the Ashfield Train Station and 300m away from the Ashfield Mall.

Pedestrian access to the site is currently obtained from Thomas Street and Cavil Avenue, while vehicular access is obtained from Thomas Street, Cavil Avenue and The Avenue. The site is located on the edge of the Ashfield Town Centre a locality currently undergoing substantial re-development.

Located to the north of the site is a three (3) to four (4) storey residential flat building, while to the east is a series of two (2) to three (3) storey red brick residential flat buildings. As mentioned above located immediately to the west of the subject site is land zoned R2 Low density residential, which makes up numerous properties with a frontage to The Avenue. Developments within The Avenue are a mix of single dwelling houses and three (3) storey residential flat buildings. Located within the avenue is several local heritage items including:

- No. 9 The Avenue (Kelvin Grove) – Item 308
- No. 2 The Avenue – Item 306
- No. 4 The Avenue – Item 307

Located immediately to the south of the subject site is Liverpool Road and numerous properties ranging from single storey dwellings to three (3) storey commercial buildings. The property known as 318 – 314 Liverpool Road is currently subject to a development application DA/2020/0583 to construct a three (3) to four (4) storey residential flat building (under appeal with the Land and Environment Court). A review of Council's Heritage Inventory Sheet has also highlighted that the property at 1 Miller Avenue is identified as an item of local heritage significance (Item 222).

Currently located upon the site is two four (4) to five (5) storey commercial buildings, which were previously occupied by the Department of Communities and Justice (prior to the sale of the land to the current landowner).

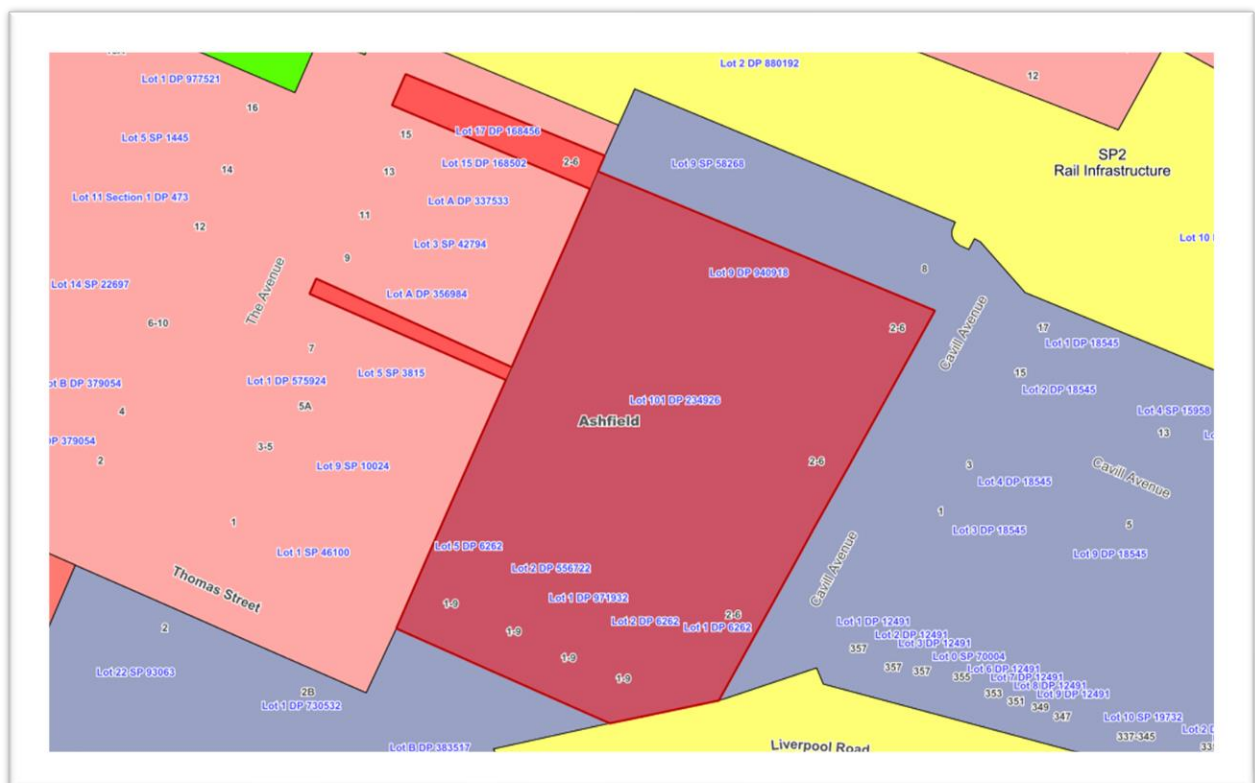


Figure 4: Zoning Map, site identified by red boxes. Purple shade notated B4 Zoning, while light pink outlined R2 Low Density Residential Zone.

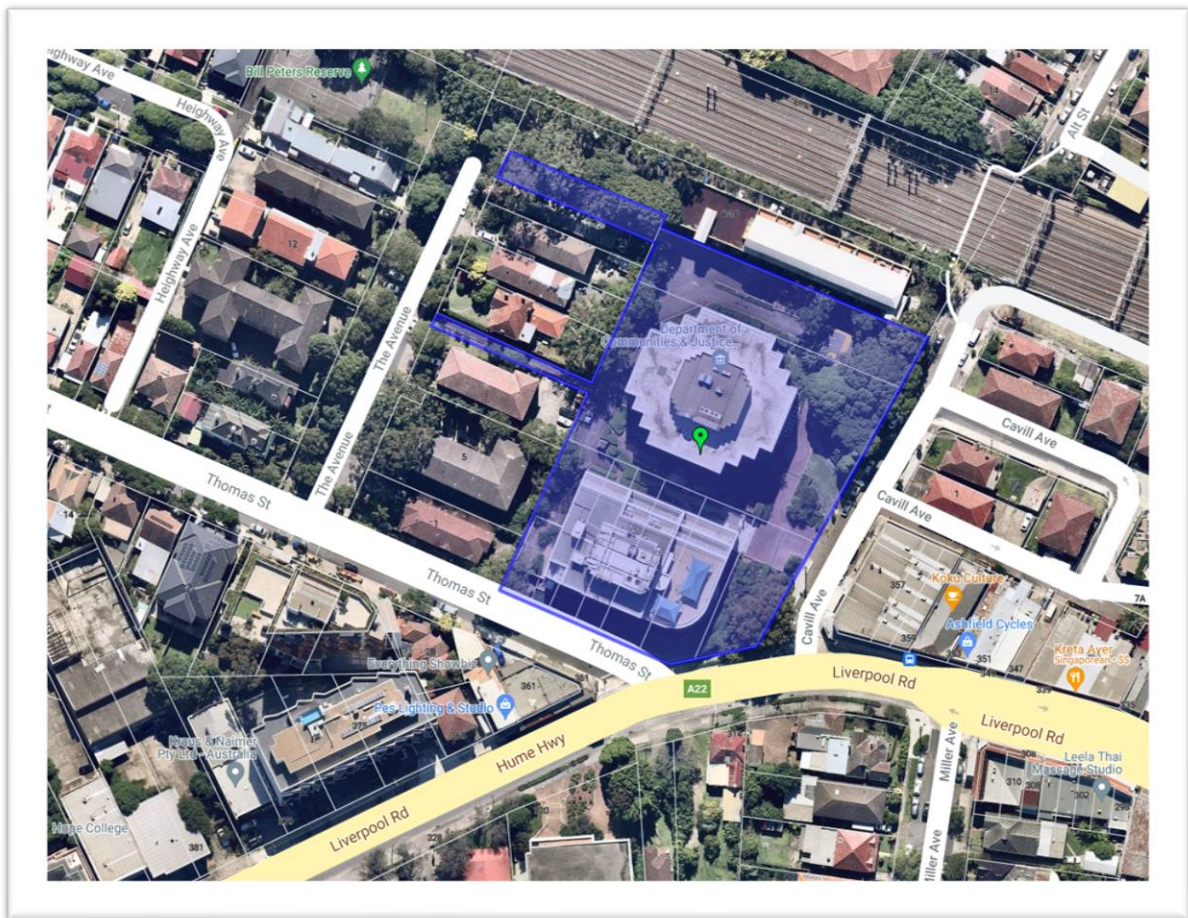


Figure 5: The subject site (identified by blue shading) and surrounds



Figure 6: The subject site as viewed from Cavil Avenue

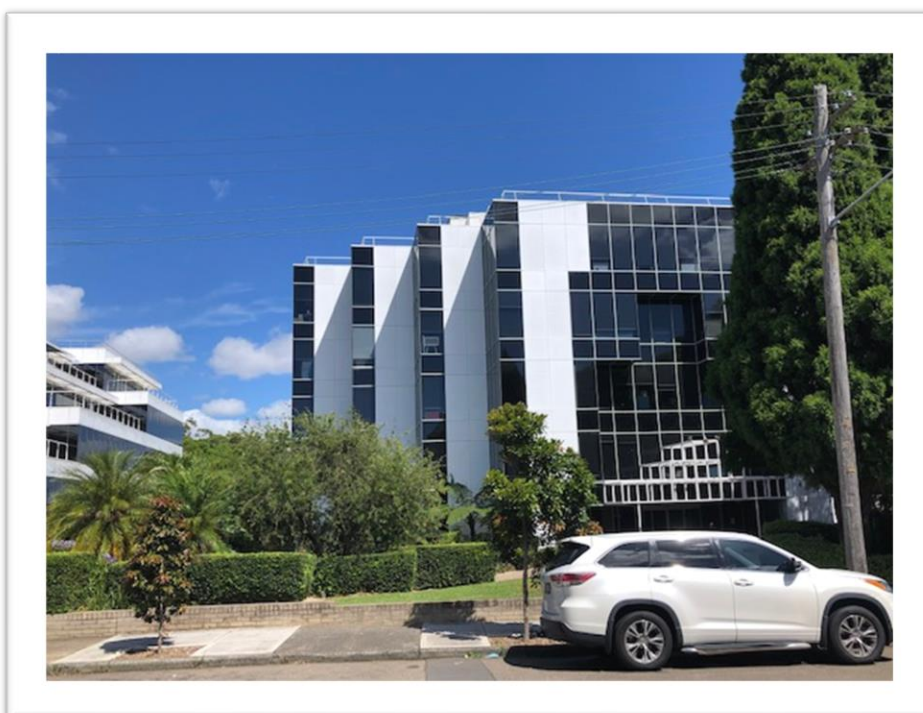


Figure 7: The subject site as viewed from Cavil Avenue

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
PDA/2020/0251	Pre-Development Application meeting - Construction of a new mixed use building, comprising: basement car park (providing 353 car parking spaces and Four residential flat buildings within a 9-storey built form	31/8/2020 – Advice Issued
PP_2017_IWEST_012_01	Planning proposal sought to amend the <i>ALEP 2013</i> to facilitate high density mixed-use development	5/3/2019 – Gazetted

Surrounding properties

Application	Proposal	Decision & Date
DA/2020/0583	314 Liverpool Road – Construction of a Residential Flat Building	Under Appeal
DA/2020/0051	328-336 Liverpool Road – Construction of a residential flat building	Approved

10.2016.276	381 Liverpool Road – Construction of a residential flat building	Approved
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Planning Proposal - PP_2017_IWEST_012_01

On the 5 March 2019 the planning proposal PP_2017_IWEST_012_01 was gazetted. This planning proposal amended the provisions of *Ashfield Local Environment Plan 2013* (ALEP 2013) that relate to 2-6 Cavill Avenue (the site), Ashfield to facilitate a high-density mixed-use development by:

- Retaining the 23m (6 storeys) base maximum building height applicable to the site, and identify part of the site as "Area 1" on the Height of Buildings Map, providing a 7m bonus for affordable housing, allowing a maximum height of 30m (8 storeys) on the site;
- Increasing the maximum Floor Space Ratio (FSR) from 2:1 to 3:1 over the B4 zoned land;
- Suspending the requirements of Clause 4.3(2A) on the site, thereby allowing the top 3m of the maximum building height to be used for purposes other than lift overruns and landscaping;
- Suspending the requirements of Clause 4.3B(3) on the site, removing the need for development within 12m of the Liverpool Road frontage to be restricted to a height of 12m (4 storeys).

The zoning of the site remained unchanged, B4 Mixed Use on most of the site and R2 Low Density Residential on the two access handles.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
11 March 2021	<p>Council Officers contacted the applicant and requested the submission of amended plans/additional information:</p> <ul style="list-style-type: none"> - Submission of amended plans/documentation addressing the proposed clause 4.6 variation related to FSR - Submission of amended plans detailing an increase to the setback of the development along the western boundary (shared with the R2 Low Density Residential Zone) to a minimum of 9m. - Amended plans detailing a decrease to the size of the proposed basement removing any parking above the minimum required by the ADG. - Amended plans detailing improved internal separation between units and clarification on the proposed horizontal metal fins proposed internally. - Amended plans detailing a revision to the proposed units layouts to ensure compliance with the ADG and improve amenity for future occupants

	<ul style="list-style-type: none"> - Additional information confirming that the proposed loading bay has been designed to accommodate a Council waste truck. - Amendment to the design of the proposed building A lobby A1 to accommodate two lifts to the basement carpark. - Additional information confirming how the proposed vehicular exist to Cavil Avenue is to operate. - Submission of an amended traffic report addressing matters raised by Council traffic engineers and the RMS. - Submission of an economic analysis in accordance with the requirements of clause DS13.4 of the DCP. - Submission of revised shadow diagrams outlining the full extent of shadows to be cast by the development. - Submission of additional information outlining how units will achieve cross ventilation requirements - Submission of a revised height blanket study detailing all elements when protrude above the maximum height limit. - Submission of amended plans detailing the units to be allocated for the purposes of affordable rental housing. - Amended plans detailing the location of residents storage cages within the proposed basement. - Amended plans outlining the location and treatment of any fire hydrant boosters and substations - Submission of a revised arborist report outlining the retention of significant street trees.
14 May 2021	The applicant submitted additional information to address the matters raised by Council on the 11 March 2021.

This assessment report is based off the amended plans and additional documentation submitted on the 14 May 2021.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*

The following provides further discussion of the relevant issues:

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

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

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55* and will be suitable for the proposed use in its current state.

5(a)(i) State Environmental Planning Policy – State and Regional Development 2011

Part 4 of *State Environmental Planning Policy (State and Regional Development) 2011* requires referral to a regional planning panel for “development that has a capital investment value of more than \$30 million”. As detailed in the Cost Estimate Report prepared by WT Partnerships, the estimated Capital Investment Value (CIV) of the development is \$121.8 million. Therefore Part 4 of the SEPP applies and the relevant consent authority for the DA will be the Sydney Eastern City Planning Panel.

5(a)(ii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

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

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

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

Apartment Design Guide

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

The following provides further discussion of the relevant issues:

Visual Privacy/Building Separation

Setbacks to Site Boundaries

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

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

Under section 2F of the ADG where a site is at the boundary between a change in zone from apartment buildings to a lower density area the building setback from the boundary is to be increased by 3m. In this instance the western boundary of the site is adjoining the R2 Low Density Residential Zone, which forms The Avenue. As such, elements of the development located along the western boundary are required to be setback an additional 3m.

- Northern Boundary

A review of the proposed Building D has confirmed that the levels 01 to 09 have each been designed to be setback 8m from the northern boundary of the site. Analysis of the neighbouring 8 - 10 Cavil Avenue has established that the existing neighbouring development has been designed to incorporate windows/openings and balconies along its southern (subject sites northern) boundary (as seen in figure 8 below). As such the current proposal's separation distances have been assessed as achieving separation via distance between habitable rooms and balconies. Levels 01 – 04 of the proposal are fully compliant with the ADG requirements for separation, while levels 05 to 08 results in a 1m variation and level 09 results in a 4m setback variation.

The intention of this control is to ensure adequate building separation distances between sites, to ensure that they are shared equitably to provide reasonable external/internal privacy, natural ventilation and sunlight. A review of the proposed northern elevation has highlighted numerous window openings and balconies for the proposed units. As seen within figure 9 below these objectives have been actively considered and designed into the proposed development. The applicant has actively sought to design the proposed building D to not align with the existing floor levels of the neighbouring site and incorporated privacy measures

through windowsills, privacy screens and solid balconies. It is considered that the combination of these treatments coupled with the proposed 8m boundary setback will ensure a reasonable degree privacy. The subject site is to the south of the neighbouring 8-10 Cavil Avenue and as such will not cast additional shadows or impact the existing buildings access to sunlight.

Due to the site's location within the Ashfield town centre, orientation of the development/units and proximity of existing development, privacy impacts are unavoidable and not readily resolved through strict compliance with the 9 & 12m boundary setback control. It is considered that strict compliance with the controls and a required 1m setback increase for levels 04 to 08, would not substantially improve amenity for occupants or neighbours. Instead impacts from the current 8m setback have been resolved through the employment of appropriate design measures. The proposed 8m setback ensures a high degree of passive surveillance to the proposed pedestrian through site link below linking Cavil Avenue and The Avenue, surveillance which could be lost through a requirement for an additional setback.

The proposed 4m setback variation relating to level 09 of Building D, privacy impacts from this level are minimal, with future residents obtaining a view over the top of the existing development. While views downward into neighbouring sites are obscured by balustrades and other solid elements. The proposed variation to level 09 is not expected to hinder the potential re-development of 8 – 10 Cavil Avenue, with the site providing its own opportunities for unit orientation directed to the northerly aspect where the highest degree of amenity would be achieved. The current proposal is considered to find an appropriate balance between resident/occupant amenity, while also attempting to limit overlooking and protect privacy. The proposed variation to the minimum separation distances is recommended for support.



Figure 8: The southern elevation of 8-10 Cavil Avenue as viewed from the subject site's northern boundary (Photo supplied by applicant)

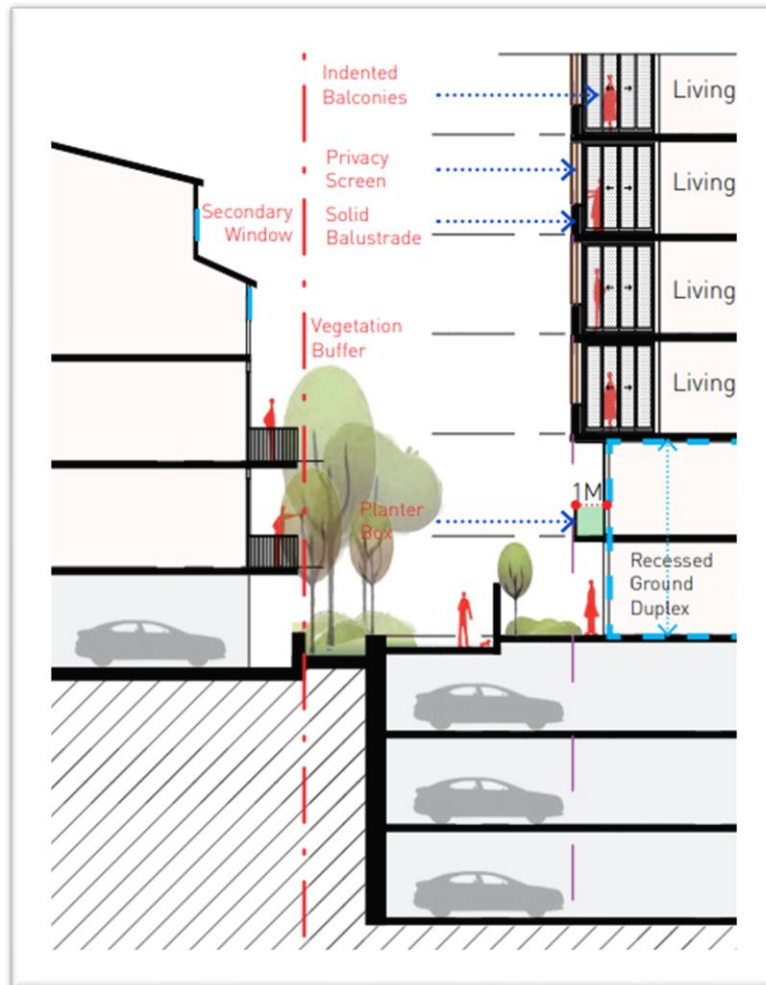


Figure 9: Building interface of 8-10 Cavil Avenue and the proposed Building D in section

- Western Boundary

As outlined above the western boundary of the site is adjoining the R2 Low Density Residential Zone, which forms The Avenue. As such elements of the development located along the western boundary are required to be setback an additional 3m. The proposal has been designed so that Building C addresses the western boundary interface. Building C has a maximum height of roughly 23m, has been designed over 6-7 residential levels and incorporates a 9m setback from the Western Boundary. This building shares a boundary with a number of residential properties along The Avenue and as such has been assessed against the provisions for separation between habitable rooms and balconies. With regards to Building C Levels 01 – 04 of the proposal are fully compliant with the ADG requirements for separation, while levels 05 to 07 results in a 3m variation. The western elevation of Building C relates largely to living room windows and balconies for units.

The intention of this control is to ensure adequate building separation distances between sites, to ensure that they are shared equitably to provide reasonable external/internal privacy, natural ventilation and sunlight. To protect privacy for neighbouring residents and future occupants the applicant incorporated several privacy treatments including:

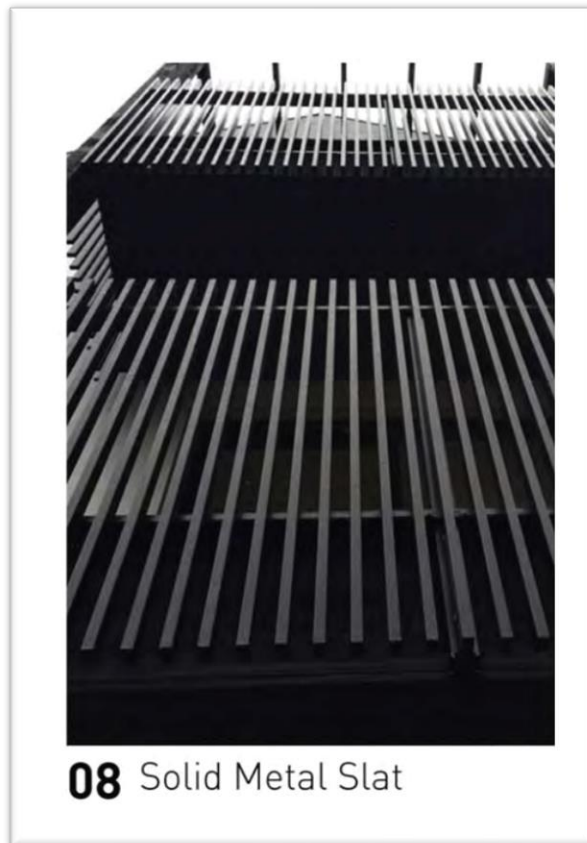
- Ground Floor vegetation screening
- Increased windowsill heights to primary living room windows
- Introduction of planter boxes to external edge of living room windows (level 1 units)

These treatments have been designed to minimise the potential for direct sightlines when viewed from a horizontal plane (seated or standing) and when looking down from an elevated position. These privacy measures when combined with the proposed 9m setback are anticipated to ensure a sufficient level of amenity and privacy for all residents. In this instance privacy impacts will have the greatest impact from levels 01 – 03 as they are on similar floor levels as neighbouring residential developments. These levels are fully compliant with ADG separation requirements and will be appropriately treated with the measures listed above. With regards to levels 05 – 07 (levels which result in the proposed variation) they are situated to be above the roofline of neighbouring residential units in the avenue and incorporate sufficient measures (listed above) to ensure minimal opportunities for occupants to obtain sightlines downwards. Due to the site's location to the east of properties located within The Avenue impacts of overshadowing are expected to be minimal and not substantially improved by strict compliance with the ADG setback controls.

As mentioned above properties along The Avenue are zoned R2 Low Density Residential, many of these existing developments currently already incorporate a built form (approved under previous planning controls) which could not be replicated under today's controls. As such the potential for these neighbouring sites to further re-develop is unlikely. The proposed 3m variation to levels 05 to 07 therefore does not limit the future re-development of neighbouring sites. In the event properties along The Avenue are re-zoned and become a zoning where Residential Flat Buildings are permitted then the requirement for an additional 3m setback to a lower density zone would be removed and the development application would be fully compliant with the minimum required setbacks under the ADG.

As part of the current assessment Council Officers have reviewed the proposed material finishes for the balcony balustrades and note that while some are treated with face brick, the majority are to be solid metal slats. An example of the slats to be utilised is outlined below within figure 10. With regards to the slats concerns are raised about the open form and potential to obtain sightlines through openings. To ensure reduced opportunities for sightlines through balustrades to balconies a design change condition requiring the slats to incorporate a solid element behind the external face of the slats is recommended for the consent. This solid form is to obscure any sightlines and ensure privacy and amenity for residents and neighbours.

Subject to suitable conditions of consent the current proposal is considered to find an appropriate balance between resident/occupant amenity and privacy. The proposed variation to the minimum separation distances is recommended for support.



08 Solid Metal Slat

Figure 10: Solid Metal Slats to be utilised on the balustrades of balconies along the western elevation.

- Southern Boundary

As outlined above the southern elevation of the site is directly adjoining and interfacing with Liverpool Road and Thomas Street. Liverpool Road is noted to have a width of roughly 20m (including footpaths), while Thomas Street has a width of roughly 12m (including footpaths). As a result of the road interface the proposed setbacks for the southern elevation have been assessed against the requirements for street setbacks under section 2G of the ADG. Buildings A and B share this southern elevation, these buildings have a built form of 9 storeys and seek consent for a 5m setback from both Liverpool Road and Thomas Street. The sites location on the corner of Liverpool Road and Thomas Street means that there is not an established streetscape or building line within the immediate locality. Instead the development is proposed to create a new transition of built form through the 5m setback. This setback is expected to provide a clear edge to the Ashfield Town Centre, while also providing cues and sightlines to the beginning on the R2 Low Density Zone located within The Avenue. This new 5m setback re-enforces the street edge, provides sufficient opportunities for articulation, and provides a high degree of passive surveillance to both frontages. This setback also introduces opportunities for additional landscaping and street facing terraces/courtyards assisting to promote a softer built form/streetscape interface.

The southern elevation has been appropriately designed to present a well-articulated and visually interesting built form, which incorporates a variety of materials and compliments the existing character of the area. Any requirement to increase the setback of the development is expected to complete with the defined architectural character and create an undesired visual

break to the façade. The proposed setback does not result in any significant visual privacy impacts, will not result in an unreasonable loss of solar access for neighbouring sites and reflects a built form which is encouraged and desired under the current planning controls. Furthermore, the proposed variation will not hinder or limit the future re-development of neighbouring sites, with the 12 and 20m separation created from Thomas Street and Liverpool Road sufficient to assist in providing adequate separation. For these reasons it is considered that the proposed 1m variation is acceptable and recommended for support.

Internal Separation

As part of the current assessment Council Officers have reviewed the proposed floor plans and note that in some circumstances the applicant has proposed to incorporate secondary window openings within close proximity to primary room windows of a neighbouring unit. In order to avoid privacy impacts and to protect the amenity for all occupants a design change condition requiring the deletion of these windows is recommended for the consent.

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Built form up to four storeys (12 metres):

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Comment:

The proposal results in a variation to the required separation distances between buildings, B – C & C – D on levels 02 to 04 as seen within figures 11 and 12 below. As seen within the below figures the units within the corners of buildings B – C & C – D result in 6m and 5.6m of separation. These units have habitable rooms/ balconies facing other habitable rooms/balconies and as such are required to have a minimum of 12m separation between units. The intention of this control is to allow residents within an apartment opportunity to use their private spaces without being overlooked and to ensure amenity. The applicant has utilised a variety of means to ensure sufficient privacy for all occupants, while also providing sufficient opportunities for amenity. Such privacy treatments include reducing the extent of window openings to units, incorporation of privacy screens and placement of windows within well considered locations to avoid unnecessary potential for sightlines.

Overall it is considered that the incorporation of these treatments ensures that while some sightlines may be obtained between units these are not readily available. The proposal has been appropriately designed to ensure that within localities where overlooking is possible these impacts are shared between balconies and windows. This relationship ensures that opportunities for additional screening to windows by residents is achievable through the introduction of blinds, curtains or shutters. In this instance it is considered impossible to avoid all overlooking and privacy impacts given the high-density nature of the development. The

applicant has taken and demonstrated sufficient and reasonable attempts to minimise and reduce opportunities for direct sightlines and the proposal variation is acceptable and recommended for support.

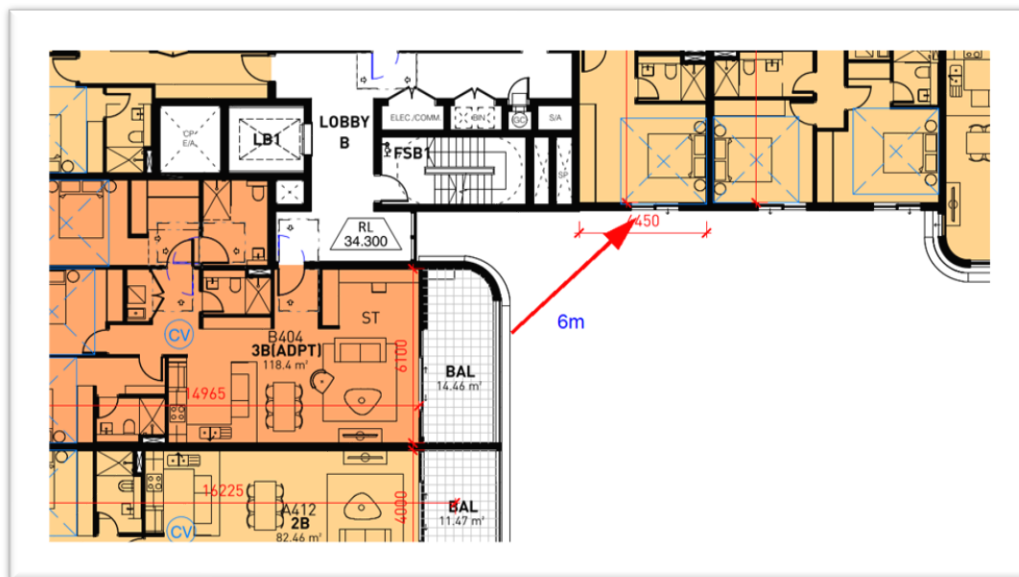
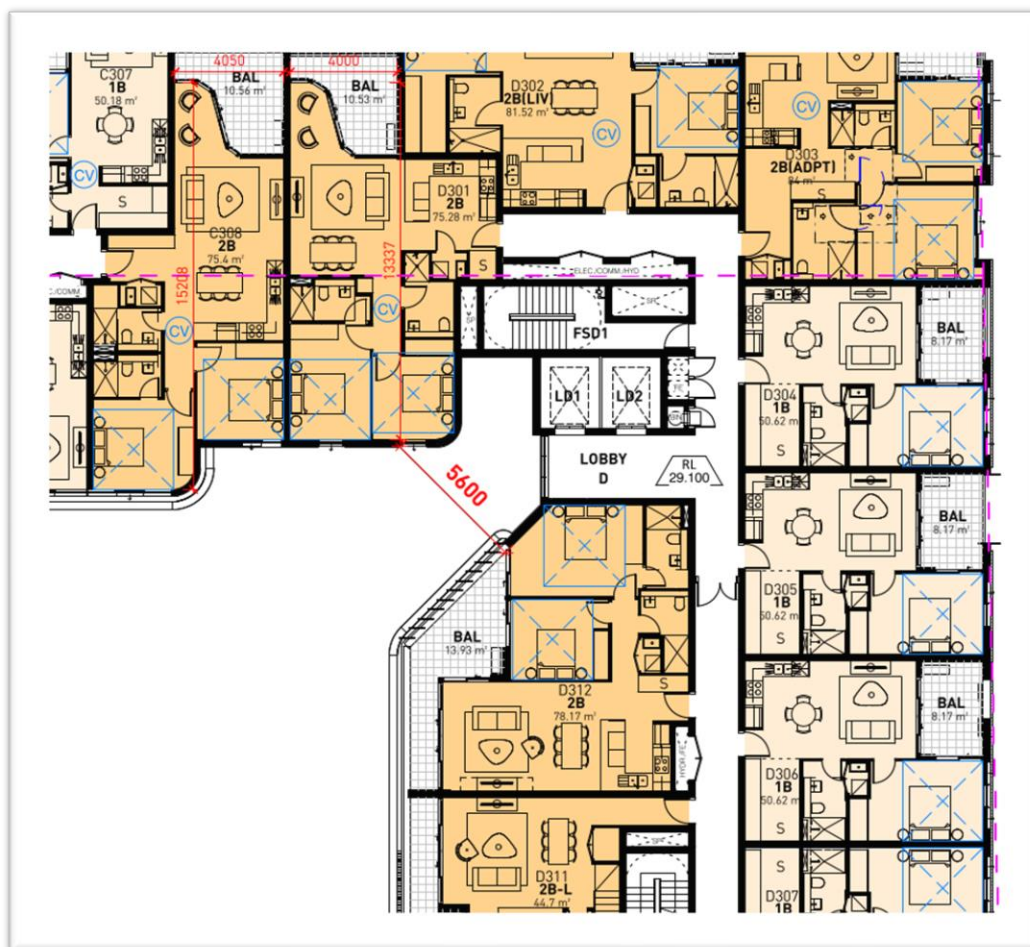


Figure 11: Proposed separation distances between buildings B-C on levels 02 – 04



Built form five to eight storeys (up to 25 metres):

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	18 metres
Habitable Rooms to Non-Habitable Rooms	12 metres
Non-Habitable Rooms to Non-Habitable Rooms	9 metres

Comment:

A review of the proposed levels 05 to 06 has highlighted the same separation variation to Buildings B-C & C-D outlined above under figures 11 and 12. This continuance of a variation is largely resultant to the employment of similar floor plans upon these levels. Under the ADG these elements of the development are required to be separated by 18m. Given the size and shape of the subject site, strict compliance with such separation distances is unreasonable and would limit the development potential of the site. In response to the proposed variation the applicant has employed similar privacy treatments discussed above. These privacy treatments are again suitably employed to avoid substantial privacy impacts and will ensure a high degree of amenity for all occupants. The proposed variation is therefore again recommended for support.

The ADG requirement for 18m separation between habitable rooms/balconies to habitable rooms/balconies for levels 05 to 08 results in a new variation request for separation distances between buildings A-D as seen within figure 13 below. As seen within figure 13 Buildings A and D have a separation of 9.6m (habitable to non-habitable) and 12m balcony to balcony. The design/relationship of these buildings with one another is highlighted below in figure 14. This figure confirms that the design of these spaces considers and responds to the reduced nature of the separation and employs design measures to minimise and disrupt any potential for direct sightlines. Such measures include the employment of solid balustrades to Building A and external façade materials to Building D, these treatments actively disrupt and obscure potential sightlines from neighbouring units.

This treatment combined with the orientation/design of doors and balconies to create spaces which actively encourage residents to turn away from neighbouring units and take advantage of alternative outlooks over the Ashfield locality, as well as the proposed separation of 12m all assist to ensure minimal privacy impacts. The proposed variation has been appropriately considered and designed into the development and will not result in unreasonable privacy or amenity impacts for residents. The proposed variation is therefore considered to be acceptable and is recommended for support.

Built form nine storeys and above (over 25 metres):

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	24 metres
Habitable Rooms to Non-Habitable Rooms	18 metres
Non-Habitable Rooms to Non-Habitable Rooms	12 metres

Comment:

A review of the proposed Level 09 on Buildings A & D has confirmed a similar variation discussed above between buildings A-D as seen within figure 13. Once again, this continuance of a variation is largely resultant to the employment of similar floor plans upon this level. Level 09 employs similar design treatments discussed above as a means to minimise and obscure any potential privacy impacts and provide unit amenity. As discussed above these treatments are well considered and provide a built form desired under current planning controls. No objection is raised to the proposed separation variation, given the design response employed into the development. The proposed variation is recommended for support and the application recommended for approval, subject to suitable conditions of consent.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.

Comment:

Analysis of the proposed floor plans for the unit layouts has highlighted variations to the maximum 8m habitable room depth for units located upon levels 02 – 08. This variation particularly applies to units within Buildings B and C, in the southern western corner (labelled 201, 202, 204, 207 on level 2). A review of these units has confirmed a maximum habitable room depth of 9.5m in some instances. The intention of this control is to ensure that units achieve a functional, well organised, and high standard of amenity. This high standard of amenity is best achieved through the enablement of a unit design which allows for light and ventilation to be received to all primary living areas.

A review of the proposed units which incorporate the proposed variation has highlighted that each have been designed to be either cross-through units or corner apartments with dual frontage. This dual frontage will provide significant opportunities for cross ventilation regardless of the minor variation to maximum habitable room depth. Analysis of the proposed floor plans has also confirmed that elements of the proposed variation relate to the far edge of the kitchen/pantry, with the living and dining areas located well within the 8m maximum depth. This ensures that most of the primary living areas will obtain a high degree of amenity.

Throughout the assessment process, alternative floor plan layouts compliant with the 8m maximum room depth were discussed and reviewed, however it was determined that such

alternative arrangements would not ensure a high standard of amenity and would instead result in a layout not as functional or well organised as the one currently sought. For these reasons the proposed variation to habitable room depth is acceptable, with the applicant demonstrating that the units will maintain a high degree of amenity despite the variation.

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

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

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

Rail Corridors (Clause 85-87)

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

An acoustic report accompanied the application and assessed the potential acoustic impacts of rail noise on the proposed development. The report contains recommendations to be incorporated into the proposed development in order to mitigate acoustic impacts and should be referenced as an approved document in condition 1 on any consent granted.

The application was referred to Sydney Trains for concurrence in accordance with Clause 86 of the *SEPP Infrastructure 2007*. Sydney Trains granted concurrence to the development subject to conditions and those conditions have been included in the recommendation of this report.

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

Clause 102 of the *SEPP Infrastructure 2007* relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 40,000 vehicle. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

Liverpool Road has an annual average daily traffic volume of more than 40,000 vehicles. The applicant submitted a Noise Assessment Report with the application that demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of the SEPP. Conditions are included in the recommendation.

Traffic-generating development (Clause 104)

In accordance with Column 3 in Schedule 3 of Clause 104 *SEPP Infrastructure 2007*, 'residential flat buildings' with 75 or more dwellings with access to classified road are classified

as traffic generating development. Accordingly, the application was referred to RMS for comment.

In a letter dated 4 March 2021, Transport for NSW raised no objection to the development as the traffic generated by the proposed works would have minimal impact on the classified road network under Clause 104 of *SEPP Infrastructure 2007*.

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

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

The application seeks the removal of vegetation from within the site. The application was referred to Council's Tree Management Officer who outlined no objection to the proposal, subject to suitable conditions of consent.

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

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

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

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 2.5 - Additional permitted uses for land
- Clause 2.6 - Subdivision
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre
- Clause 4.3B - Ashfield town centre – maximum height for street frontages for certain land
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Earthworks

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

The site is zoned B4 – mixed use and R2 – Low Density Residential under the *ALEP 2011*. The *ALEP 2013* defines the development as:

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

The proposal seeks consent to construct a mixed-use development which incorporates the following uses:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale)

The development is permitted with consent within the land use table. The development is consistent with the objectives of the B4 zone.

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

Standard	Proposal	noncompliance	Complies
Height of Building			
Maximum permissible: 23m			
30m - by operation of clause 4.3A:	Overall maximum height of development 31.2m (relates to building A).	1.2m or 4%	No
	Building B results in a height of 30.7m	0.7m or 2.3%	No
	Building C results in a height of 24.5m	N/A	Yes
	Building D results in a height of 30.15m	0.15m or 0.5%	No
a) the development will contain at least 1 dwelling used for the purpose of affordable rental housing; and	The proposal is to contain at least 14 units for affordable housing	N/A	Yes
b) at least 25% of the additional floor space area resulting from the part of the building that exceeds the maximum height will be used for the purpose of affordable rental housing	25% of GFA above 23m = 910.24sqm. The proposed 14 units to be dedicated for affordable housing results in 913.71sqm or 25% of additional floor area.	N/A	Yes
Clause 4.3 (2A) – any part of the building that is within 3 metres of the height limit (30m) must not include any area that forms part of the gross floor area of the building.	Clause 4.3 (2B) outlines that this control does not apply to development identified as “Area 3” on the Key Sites Map. The site is identified as “Area 3” on the map. As such	N/A	Yes

Clause 4.3 (B) - Ashfield town centre – maximum height for street frontages on certain land: 12m to Liverpool Road.	clause 4.3 (2A) does not apply. Clause 4.3B (4) outlines that this control does not apply to development identified as “Area 3” on the Key Sites Map. The site is identified as “Area 3” on the map. As such clause 4.3 (2A) does not apply.	N/A	Yes
Floor Space Ratio Maximum permissible: 3:1 & 0.7: or 24,082.88m ² Calculated on the basis that: B4 site area = 7,938.95sqm x 3:1 = 23,816.85sqm R2 site area = 487.9sqm x 0.7 = 341.5sqm	2.86:1 or 24,082.8m ²	N/A	Yes

Calculation of GFA

The proposed gross floor area (outlined above) has included the provision of additional parking spaces to residential units. The proposed 264 spaces associated with apartments, exceeds the minimum required spaces by 37, as recommended by the Roads & Maritime Services’ “Guide to Traffic Generating Developments” which is the appropriate parking control under SEPP 65. In accordance with the definition of gross floor area, parking which exceeds the requirements of the consent authority is to be counted toward GFA, and this results in 37 car spaces (479.52sqm) being included as GFA/ FSR.

Clause 2.5 Additional Permitted Uses

Inclusion of the R2 access handles in the site area

Under clause 2.5 and schedule 1 of the additional permitted uses within the ALEP 2013 the subject site is identified as part 9 – use of certain land at 2-6 Cavil Avenue, Ashfield. Clause 2 of this section outlines that:

“Development for the purposes of an access road (either public or private) is permitted with development consent if the road is used in connection with any other development permissible on land to which the road gives access”

As seen within the provided site plan the proposal seeks consent to demolish the existing vehicular access points from the two various locations along The Avenue and replace these with a pedestrian through site link and a landscape corridor. The proposed pedestrian through

site link is to be located within the access handle which runs adjacent to 15 The Avenue. This pedestrian access handle is considered to meet the intention of the additional permitted uses control outlined above as it provides an access point which is to be utilised in conjunction with the proposed development (permitted in the B4 – Mixed use) for public and/or private use. The creation of a pedestrian access handle within this locality will remove unnecessary vehicular traffic from The Avenue and improve amenity for neighbouring residents. At the same time this corridor promotes alternatives to private vehicle usage and establishes new pedestrian links to the Ashfield Town Centre. The other access handle located between 7 & 9 The Avenue is to be heavily landscaped and planted upon the request of Council officers, to protect and improve amenity for neighbouring residents. It was considered unnecessary to create an additional through site link from The Avenue and provided a significant opportunity to improve tree canopy on the site and surrounds.

In accordance with the requirements of clause 4.5 (6) the proposed removal of the existing vehicular crossings, driveway crossovers, creation of a pedestrian link and creation of substantial landscaped areas within the access handles leading from The Avenue meets the requirement for the development to include the additional lots within the overall site area.

Clause 4.3 Height of Buildings

Clause 4.3 of the *ALEP 2013* provides that maximum building height on any land should not exceed the maximum height shown for the land on the height of building map. The maximum permissible building height for the subject site is 23m. However, Clause 4.3A allows an additional 7m height in the Ashfield town centre provided the development will contain at least 1 dwelling used for the purpose of affordable rental housing, and at least 25% of the additional floor space area resulting from the part of the building that exceeds the maximum height will be used for the purpose of affordable rental housing.

The proposed development nominates 14 units (units B104, A107, C102, C103, C104, C105, C106, C202, C203, C204, C205, C206, A310, A410) located upon levels 01 - 04 of the development for affordable rental housing. They total 913.74m² which is 25% of the additional floor space (3,643.76m²) above the height limit and consequently satisfy Clause 4.3A(3).

Clause 4.3A(4) Affordable Housing

Under clause 4.3A(4) of the *ALEP 2013* affordable housing is outlined as having the same meaning as in *SEPP Affordable Rental Housing 2009*. This SEPP defines affordable rental housing (under Part 1 – Preliminary, section 6 – Affordable Housing) as:

affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

On the 30 October 2018 (C1018(2) Item 11) Inner West Council passed a resolution which required development seeking to utilise clause 4.3A to have a condition imposed which required units to be dedicated for the purposes of affordable housing to be done so in perpetuity and managed by a registered community housing provider.

The affordable housing units identified above are to be managed by a registered community housing provider in perpetuity. A condition requiring a covenant to this effect to be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the *Conveyancing Act 1919*, prior to the issue of an Occupation Certificate, is recommended for the consent.

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3 - Height of buildings

The subject site meets the requirements of clause 4.3(A) and as such the *land* on which the development is proposed is now permitted to achieve a maximum building height of 30m. As seen within figure 15 below and LEP compliance table above the buildings A, B & D propose minor variations to this maximum 30m height limit. Building A incorporates the highest variation of 1.2m (4%).

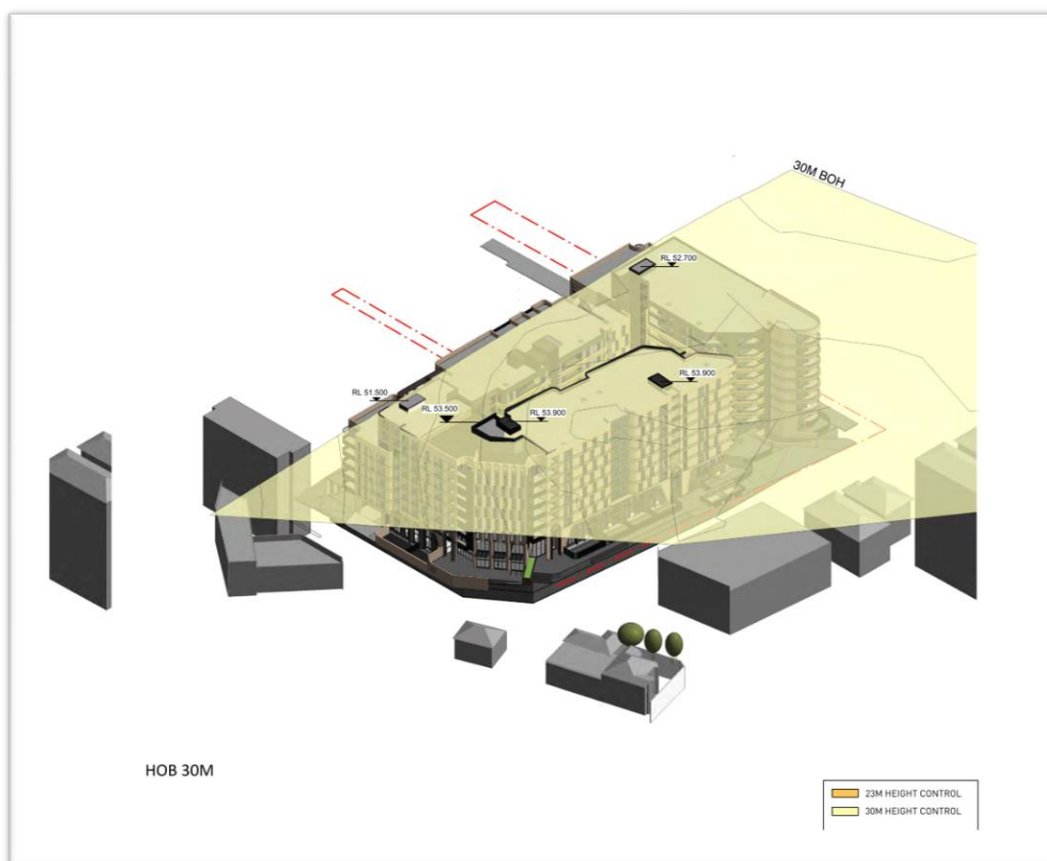


Figure 15: 30m Height Blanket, detailing elements which protrude beyond the maximum height limit.

The applicant seeks a variation to the Height of Buildings development standard under Clause 4.3 of the *ALEP 2013* by 4% (1.2 metres).

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

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

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

- *Given the location of the lift overruns and the substantial depths of the residential flat buildings, the noncompliant components of the roof form are indiscernible from the streetscape or public domain. The minor variations will have negligible consequential impacts on the amenity of neighbouring properties uses in terms of visual intrusion, solar access, privacy, and overshadowing. The positioning of the noncompliant roof elements result in the building appearing similar to that of a compliant building envelope.*
- *The proposal complies with the maximum permitted FSR control that applies to the subject lot (3:1), demonstrating that, notwithstanding the minor non-compliance with the building height control, it is highly consistent with what could be reasonably expect in terms of density, site layout, design, and land use intensity of the site. The minor variations to the height of building control do not result in any additional floor area or intensity of development within the site compared to that proposed for the site.*
- *The minor non-compliances with the building height development standard are not perceptible from the public domain and will have no material impact on solar access to the site or surrounding properties.*
- *A reduction in the building height to achieve strict compliance with the building height control would compromise the efficiency and amenity of the development given that it would require reduced floor-to-ceiling heights or even the removal of an entire storey of built form. The removal of an entire storey would significantly compromise the achievement of density envisaged for the site commensurate with the new FSR and building height development standards under the recently gazetted planning proposal.*
- *A scheme that achieved strict compliance with the 30 metre building height and utilised the allowable GFA would require some redistribution of floor space across the site and result in a more horizontal built with increased footprint, longer elevations without building breaks, and increased massing and physical bulk orientated towards the adjoining properties and the streetscape.*
- *A horizontal extension of the built form would compromise the side and rear setbacks which provide relief and amenity to adjoining properties. It would also increase the dominance of the built form from the public perspective, thus increasing visual impact and minimising privacy. A better design outcome in terms of visual and solar access*

amenity is achieved by redistributing GFA into a more slender, well-proportioned built form and extending the building vertically (as compared to horizontally).

- *The built form comprises four elegantly proportioned residential flat buildings with a vertical expression, within an extensive public domain and set around integrated central landscaped setting.*
- *The site is recognized as a 'transition site' between the Ashfield Town Centre and the prevailing residential land uses to the west. To respond to the adjoining low-density residential uses, the proposal achieves a transition in built form through generous and landscaped setbacks.*

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

It is considered the development is in the public interest because it is consistent with the objectives of the B4 mixed use zone, in accordance with Clause 4.6(4)(a)(ii) of the *ALEP 2013* for the following reasons:

- The proposal results in a mixture of compatible land uses at a height and density generally envisioned by current planning controls. The proposed uses ensure continued growth and longevity of the Ashfield town centre.
- The proposal has been appropriately designed to ensure a high degree of accessibility for pedestrians and cyclists attending both the residential units and retail space. The current design is expected to promote/encourage pedestrian access and public transport patronage over private vehicles and provides a significant opportunity for urban renewal within the Ashfield town centre, which promotes a pedestrian friendly future for the locality.
- The location and design of the retail space is appropriate to ensure that the development does not create unreasonable impact on neighbouring residential uses. Likewise, the size of the commercial space ensures that the existing commercial cores within the town centre do not migrate or re-locate away from their current locations, which are best suited given the proximity to public transport. The addition of residential units above also creates additional opportunities for employment for services dedicated to the day to day operation and management of the residential complex, while the introduction of 264 new residential units will provide a substantial increase to the local population, creating increased demand for services provided by businesses in the Ashfield Town Centre, ensuring their own going vitality and longevity.
- The proposal results in the consolidation of six (6) existing allotments. The proposed lots to be amalgamated provide an efficient and orderly re-development of land, maintaining sufficient and significant opportunities for the re-development of other adjoining sites within the future.

It is considered the development is in the public interest because it is consistent with the objectives of the Height of Buildings development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The proposal has been subject to a detailed architecture/urban design review on three separate occasions by Council's Architectural Excellence Panel. The Panel was generally supportive of the architectural language of the proposal, with initial concerns addressed and resolved by the applicant through the submission of amended plans. The final design is of a high-quality built form and responds to the existing locality. The proposal is a contemporary design which incorporates numerous detailing to provide visual interest and articulation.
- The proposal maintains satisfactory sky exposure and daylight to surrounding land uses. The building elements that exceed the building height control (lift overruns at roof top level) are not perceptible from the public domain and will have no material impact on the streetscape.
- The proposal employs numerous techniques to ensure an appropriate transition of built form. These techniques include:
 - Limiting the overall 30m height to the eastern portion of the site (to Buildings A and D).
 - Providing a minimum 20m setback between elements of the proposal which reach a height of 30m and the western boundary which adjoins the R2 Low Density Residential zone.
 - Providing a 9m heavily landscaped setback from the western boundary to building C, which will reach a maximum height of 24.5m.
 - Creation of a new transition of built form through the 5m street setback from Liverpool Road and Thomas Street. This setback provides a clear edge to the Ashfield Town Centre, while also providing views and sightlines to the beginning on the R2 Low Density Zone located within The Avenue. This new 5m setback re-enforces the street edge, provides sufficient opportunities for articulation, and provides a high degree of passive surveillance to both frontages. This setback also introduces opportunities for additional landscaping and street facing terraces/courtyards assisting to promote a softer built form/streetscape interface.
- The components of the development that exceed the building height control (the lift overruns to the roof top) are not perceptible from the public domain and will have no material impact on solar access to the surrounding streetscape, public areas, or adjoining land uses. A review of the provided shadow diagrams has confirmed that the overall proposal is compliant with Council's requirements for solar access which requires living rooms and principal private open space of adjoining properties receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June.

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

Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the *ALEP 2013*.

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

Clause 5.10 Heritage Conservation

A review of the subject site has identified no heritage significant elements and as such no objection is raised to the proposed demolition and excavation. The subject site is located within the vicinity to several local heritage items as identified by the *ALEP 2013*. These heritage items include:

- No. 9 The Avenue (Kelvin Grove) – Item 308
- No. 2 The Avenue – Item 306
- No. 4 The Avenue – Item 307

In accordance with the requirements of clause 5.10 (4) & (5) of the *ALEP 2013* the consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned. As part of the current assessment the applicant has prepared and submitted a heritage impact statement (HIS) undertaking an assessment of the developments impact to neighbouring heritage items. This HIS has been reviewed by Council's Heritage Advisor who outlined concerns with regards to construction and impacts on neighbouring heritage items, resulting amenity to neighbouring heritage items occupants and potential bulk/scale impacts of the development on the neighbour heritage items. The applicant has responded to these concerns and subsequently imposed an additional 3m setback (total 9m) from the western boundary of the site. This substantial setback result in the overall built form of the proposal being minimised when viewed from The Avenue and assists in ensuring that the heritage significant items (which have a frontage to The Avenue) remain the predominate and significant element in the streetscape.

The development is anticipated to act as a visual backdrop, with the heritage items' presence and setting within the streetscape retained and protected. The proposal is compliant with the requirements of clause 5.10 of the *ALEP 2013* and is recommended for support, subject to suitable conditions of consent which ensure the protection and retention of neighbouring heritage items during construction works.

Clause 6.1 Earthworks

The proposal involves extensive earthworks to facilitate the basement carparking and remediation of the site. The application has been supported by a Geotechnical Report which has assessed the subsurface conditions and other geotechnical conditions such as groundwater, footing design and earthworks. Subject to compliance with the recommendations made by the provided geotechnical report, the proposed development will

not have detrimental effect on drainage patterns, soil stability, amenity of adjoining properties or adverse impacts on waterways or riparian land.

5(b) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

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

The Draft IWLEP 2020 contains provisions for the inclusion of an amended to the land zoning of the site. The subject site is currently zoned B4 – Mixed Use and R2 Low Density Residential as per ALEP 2013. Under the Draft IWLEP 2020 elements of the B4 zone of the subject site are to be zoned B2 – Local Centre, while elements of the R2 zone remain R2. Under the proposed B2 – Local Centre zoning residential flat buildings become prohibited and replaced with shop top housing as the permissible land use in the zone. Under the Inner West LEP 2020 shop top housing is defined as:

shop top housing means one or more dwellings located above ground floor retail premises or business premises

The site has been subject to a site-specific planning proposal, which resulted in the creation of a site specific DCP. This planning proposal undertook an extensive review of the current locality and the desired future character of the locality, which resulted in the creation of the current controls. The current proposal is largely compliant with the site-specific controls and is therefore reflective of the desired future character of the area. The development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

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

IWCDCP2016	Compliance
Section 1 – Preliminary	
B – Notification and Advertising	Yes
Section 2 – General Guidelines	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	Yes
4 - Solar Access and Overshadowing	Yes – See discussion
5 - Landscaping	Yes
6 - Safety by Design	Yes – See discussion
7 - Access and Mobility	Yes – See discussion
8 - Parking	Yes – See discussion
9 - Subdivision	Yes – See discussion
11 - Fencing	Yes – See discussion

13 - Development Near Rail Corridors	Yes
14 - Contaminated Land	Yes
15 - Stormwater Management	Yes – see discussion
B – Public Domain	
C – Sustainability	
1 – Building Sustainability	Yes
2 – Water Sensitive Urban Design	Yes
3 – Waste and Recycling Design & Management Standards	Yes
4 – Tree Preservation and Management	Yes
6 – Tree Replacement and New Tree Planting	Yes
D – Precinct Guidelines	
Ashfield Town Centre – Controls for special areas	No – see discussion
F – Development Category Guidelines	
5 – Residential Flat Buildings	Yes

The following provides discussion of the relevant issues:

Access

Vehicular Access

Vehicular access for residential units is to be obtained primarily via Thomas Street where a large two-way driveway is proposed and provides access to both levels of basement parking. This driveway has been assessed and is compliant with the relevant Australian Standards, no objection is raised to the Thomas Street driveway location or design.

Alternative access (depending on the time of day) will also be provided via a single driveway from Cavil Avenue, as seen within figure 16 below. As part of the provided traffic assessment report the applicant has outlined that the Cavil Avenue driveway will utilise variable message signs (VMS) to manage uni-directional traffic flows. Examples of this signage are outlined below within figure 17. The applicant has advised that the changeover times for direction of travel on this driveway is to remain consistent so not to confuse residents and is to reflect timings of significant egress and ingress movements by residents. The suggested timings are as follows:

- Midnight to 12 noon Monday to Sunday – egress only
- 12 noon to midnight Monday to Sunday – ingress only

It is recommended that the owners corporation/strata management team be ultimately responsible for the management and determination of change over timings, allowing for reviews and modifications based on resident movements. This driveway is to be configured as to only allow residents living at the development access, with visitors to the development required to ingress and egress via the Thomas Street driveway. The proposed driveway arrangements (both Thomas Street and Cavil Avenue) have been reviewed by Council's Development and Traffic Engineers, who outlined no objections, subject to suitable conditions of consent. The proposed driveway arrangements are acceptable and recommended for support.

Once within the basement, residential car parking is to be located at levels B1 and B2. To ensure security for resident's basement entries are to be screened by roller doors on driveway ramps. These roller doors will require swipe card entry to open and ensure security for occupants of units. Once within the residential parking levels of the basement separate lifts associated with various lobbies provide occupants direct access to the above residential levels and ground floor lobby. The proposed vehicular access design is accessible for occupants, provides a high degree of security and is recommended for support.

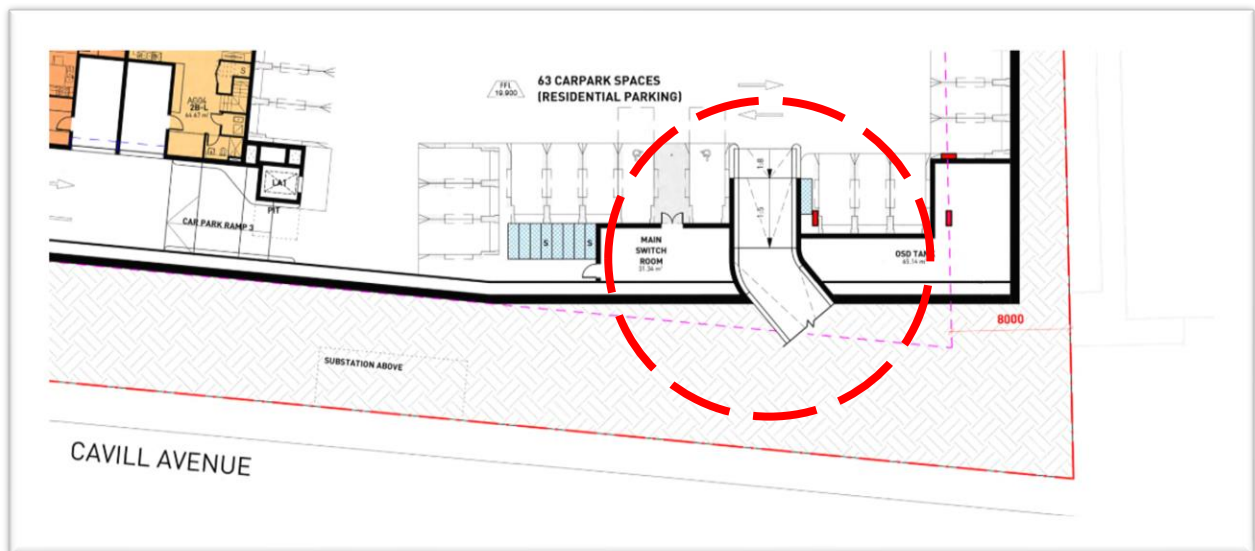


Figure 16: Highlighting single lane driveway exit providing vehicular access from/to Cavil Avenue.

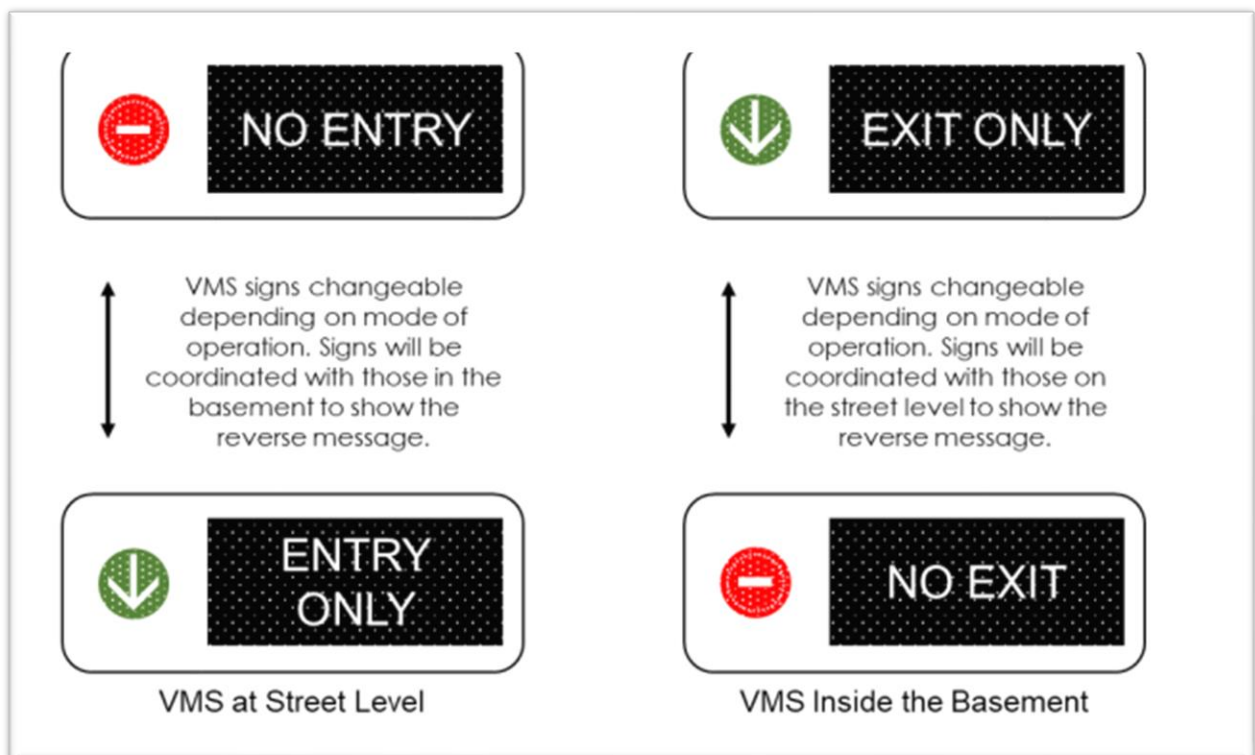


Figure 17: Example of variable message signs (VMS) to be utilised on Cavil Avenue exit.

Pedestrian Access

Pedestrian access for residents is available from Liverpool Road, Thomas Street, Cavil Avenue and The Avenue via dedicated pedestrian paths integrated into the overall design of the development. From these paths' residents will be able to utilise private resident only lobbies/entries. Each of the proposed lobbies areas have been designed to be highly visible from the various street frontages and/or on-site pedestrian links. The proposed lobbies each incorporate a width of at least 2.5m and have glass entry doors, enabling the ability for occupants and members of the public to view the lobby in its entirety and ensuring safety through design. The ground floor lobbies are serviced by two separate lifts. The inclusion of two lifts to service the ground floor lobby ensures reduced wait times for occupants and encourages pedestrian usability for the development and locality. The proposed pedestrian access routes for the development are accessible, compliant with CEPTED and recommended for support.

Mailboxes for residents have been located within the lobby area of each building and provide ready access to mail. Located within the south west corner of the site is a dedicated mail room, which is secure from direct public access and may be utilised also as a parcel delivery room.

Traffic and Road Network

Traffic Generation

As part of the provided traffic impact statement the applicant has undertaken a review of the potential traffic generation utilising rates from the Guide to traffic generating developments. This assessment has determined that the development is expected to generate 52 two-way vehicles per hour in the morning peak (40 trips out, 10 trips in) and 42 vehicles per hour in the evening peak (8 trips out, 40 trips in). This rate of traffic generation represents roughly less than one trip per minute during the busiest period. A review of the traffic generation from the existing development has highlighted that 223 vehicle trips per hour are being undertaken to and from the site during the busiest periods.

Analysis of the estimated traffic generation submitted as part of the previous planning proposal, has highlighted that previous generation models had the development generating 78 vehicles per hour. Based on this assessment the proposed development will generate 171 less vehicle trips per hour than the existing use and 36% less than the previously anticipated traffic generation outlined under the approved planning proposal. The development is therefore considered to have low impact on the existing traffic of the locality. The provided traffic impact assessment has been reviewed by Council's Development and Traffic Engineers who both outlined no objection to the proposal, subject to suitable conditions of consent. Overall, the proposed traffic generation of the development is anticipated to be low and acceptable, subject to suitable conditions of consent.

Mitigation Measures

To minimise traffic disruptions to the local road network the development proposes to only allow left in and left out movements from the Thomas Street driveway. The limitation on these

movements is to be achieved through the introduction of a new median strip to Thomas Street, which will physically limit vehicles from making a right-hand turn. The proposed median strip is roughly 30m away from the traffic lights stop line on Thomas Street and is outlined within figure 18 below. This median strip has been reviewed by Council's Traffic Engineers who initially outlined concerns regarding impacts to a neighbouring "No Parking" zone utilised by neighbouring businesses for deliveries. These concerns were passed onto the applicant, who advised that the design and placement of the median strip is such that it will not impact the no parking zone and will continue to allow for on-going use as a delivery area. This response was further supported by swept path analysis provided by the applicant. This response has been reviewed by Council's Traffic Engineer who advised they had no objection to the proposal, subject to suitable conditions of consent.



Figure 18: Location of proposed median Island strip

Parking

The RMS Guide to Traffic Generating Development outlines the minimum rate of parking and requires a total of 283 car parking spaces for the development. Of these 283 spaces 227 are required to be provided to residents, 53 spaces are required for visitor parking and 3 are required for the retail use. The development proposes a total parking rate of 320 spaces. Of these 320 parking spaces, 264 spaces are associated with apartments (exceeding the minimum required spaces by 37 spaces), 53 are provided to visitor parking and 3 are provided for retail parking.

Under clause 30(1)(a) of SEPP 65 the consent authority is unable to refuse an application if the car parking for the building will be equal to, or greater than the recommended minimum amount of parking specified in Part 3J of the ADG. As outlined above the RMS guide to traffic generating development outlines the minimum parking rate. The proposed additional parking (37 spaces) has been included in the sites overall GFA/FSR (479.52sqm) and the proposal remains compliant with the maximum specified FSR for the site. Therefore, the proposed parking rate above the minimum required must be accepted.

Analysis of the proposed parking rate for the residential portion of the development has highlighted that each of the proposed units is to have access to at least 1 dedicated parking space. This rate of parking for the residential portion of the development ensures a sufficient on-site supply of parking for residents and minimises demand for on-street parking spaces within the locality.

The proposal has been reviewed by Council Traffic Engineers who outlined no objection to the proposed rate of parking, subject to suitable conditions of consent. These conditions relate to the local road network improvements discussed above under access. The proposed rate of residential parking is acceptable and is recommended for support.

Ashfield Town Centre – Controls for special areas – 2 – 6 Cavit Avenue

As a result of the planning proposal PP_2017_IWEST_012_01 the subject site has had site specific DCP controls created under Chapter D – Precinct Guidelines within the IWCDCP 2016. These controls are best contextualised through figure 19 below. An assessment of the proposal against the relevant sections of the site specific DCP controls is undertaken below:

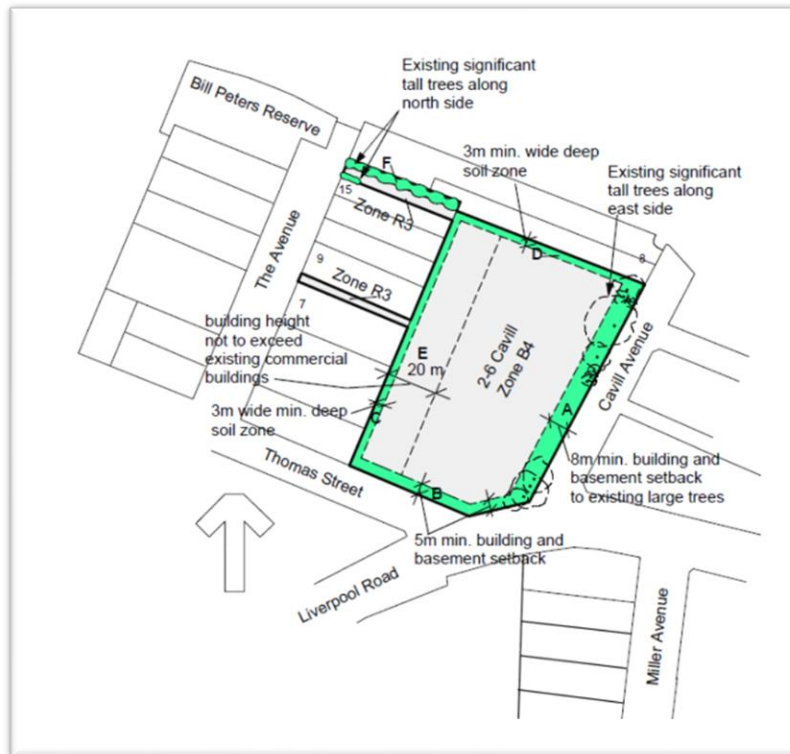


Figure 19: Site Specific DCP control diagram – label map 9 in DCP

DS12.3 – Pedestrian Links

Clause DS 12.3 of the site specific DCP requires major new development to apply a public easement on the land title to enable pedestrian pathway links between Thomas Street and Cavil Avenue. The current proposal provides a through site link for pedestrians from Thomas Street to Cavil Avenue and from The Avenue to Cavil Avenue. To ensure these links are open to the public and able to be utilised by the public a condition requiring an easement to this effect to be registered against the title of the property is recommended for this consent. This condition requires the easement to be registered on the land to which development is to be carried out on in accordance with section 88E of the Conveyancing Act 1919, prior to the issue of an Occupation Certificate.

DS12.8 – Varying Building Heights

Clause DS12.8 of the site specific DCP requires that any development on the subject site incorporate a variety of buildings heights to ensure that the building scale/heights are sympathetic and respond to nearby building scales and townscape. The proposal has been assessed against this requirement and is compliant. As outlined above within the LEP compliance table and figure 1 photomontage the proposed buildings each have varying maximum heights. These building heights have been appropriately considered to increase as the site approaches the Ashfield Town Centre and decrease as the site moves towards the R2 Low Density Residential Zone. The developments presentation to Cavil avenue, Liverpool Road and Thomas Street is of a scale and form which is in-line with the desired future character of the area and permissible under current planning controls. Existing properties

surrounding the development along Cavil Avenue are within a period of transition and will one day achieve a building height and form similar to that proposed by the current development. The proposal has been reviewed by Council's Architectural Excellence Panel (AEP) who outlined no objection to the scale/heights of the proposal. The application is compliant with the requirements of DA12.8.

DS12.9 – Standard of Composition

Clause DS12.9 of the site specific DCP requires that any development on the subject site include a contemporary design which ensures no monolithic building outcomes and ensures that the building design meets the appropriate standards of Architectural composition. The subject proposal has been reviewed by Council's AEP on 3 separate occasions (once at pre-da and twice during the course of DA assessment), on all of these occasions the AEP outlined that the general architectural intent is supported, with the proposal meeting the requirements of clause DS12.9. The proposal is of a high architectural standard which provides a high degree of articulation, self-finished materials (such as face brick) and adequate relationship with the surrounds and town centre. The proposal provides an appropriate context to the "human scale" and will act as an appropriate gateway to the town centre.

DS12.11 – Solar Access Nearby Properties

DS12.11(ii) requires that development not overshadow residential properties in Millier Avenue in winter between 9am and 3pm. A review of the provided shadow diagrams has confirmed that 1 Millier Avenue will be impacted by shadows cast by the development between 1pm and 3pm on June 21. A review of the control objectives has highlighted notations which outline that the existing buildings on site are located to avoid impacts of overshadowing to neighbouring properties in Millier Avenue after 11am. It is understood that the intention of this control is to continue this level of existing amenity. As part of the current assessment Council has undertaken extensive reviews of the proposed shadow impacts and explored alternative options to minimise shadows cast through the redistribution of floor space and building bulk. Throughout this assessment it was determined that any such requirement for re-distribution would result in a greater loss of solar access for other neighbouring sites. It is also considered that the strict imposition of this control is at odds with the desired built form requested through other site-specific controls (which actively encourage a 9 storey built form on the Liverpool road – Cavil Avenue frontage) and the permitted height and FSR controls.

As discussed below the proposal is compliant with the requirements for solar access expressed under Chapter A part 4 of the IWC DCP2016, in that Millier Avenue will continue to receive a minimum of 2 hours solar access on 21 June. Due to the site's orientation and 1 Millier Avenue's location to the south-east (of the subject site) impacts of overshadowing from a 9th storey built form are unavoidable and compliance with control DS12.11 unachievable, unless significant variations to other site specific controls are awarded. Such variations are expected to result in a worse urban design/architectural outcome for the development/locality and are not recommended. Instead the proposed variation to clause DS12.11 is considered acceptable given the merits of the case and the proposed variation is recommended for support.

DS13.4 – Variations Amount of Commercial Floorspace

Clause DS12.9 of the site specific DCP requires that any development on the subject site which proposes a lesser amount of commercial/business floor space provide an economic analysis which demonstrates that there will not be any adverse impacts on business in the town centre. In response to this requirement the applicant has outlined that as part of the previous planning proposal a strategic economic assessment prepared by JBA was submitted. This analysis concluded that:

- *Ashfield is a less desirable and competitive location relative to neighbouring centres, affecting its ability to sustain employment growth and attract new businesses.*
- *Ashfield is unlikely to compete with neighbouring centres such as Parramatta and Sydney CBD to attract and retain employment due to strategic planning and policy frameworks, the delivery of major infrastructure and urban renewal projects outside of Ashfield, and historically limited economic role and function of Ashfield. It is a less desirable locational for commercial businesses.*
- *The NSW Government is actively relocating staff from Ashfield to Parramatta and investing significantly in infrastructure and urban renewal projects that encourage employment to grow in centres surrounding Ashfield. As these infrastructure projects and urban renewal projects are completed, Ashfield will increasingly become a less desirable location for employment.*
- *Economic activity will continue to gravitate to major employment hubs where it can gain access to larger labour markets, access to more customers, and operate from premises that provide greater amenity and workspace flexibility.*
- *Ashfield has the greatest proportion of employment that is population serving i.e. economic activity generated to service the local community. Ashfield is forecast to experience minor employment growth; therefore, its economic role and function is not expected to change.*
- *While Ashfield lacks the factors that enable it to attract and retain employment it is identified as an ideal location for population growth. Ashfield's position on the public transport network provides residents with the greatest access to a range of surrounding employment locations and community facilities.*
- *Ashfield is likely to experience population growth exceeding forecasts. Increases in population will increase demand for local goods and services, which will support local employment growth.*

The Assessment provides a robust quantitative and qualitative economic analysis of the loss of the existing commercial office space and satisfactorily demonstrates that the proposed development will not have an adverse impact on the business in the town centre. The proposal is in-line with the type of development envisioned by the planning proposal and is recommended for support.

Solar Access and Overshadowing

The revised plans have been assessed against the provisions of Chapter A – Part 4 Solar Access and Overshadowing. Within this section residential flat buildings are required to:

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

Or

- *ensures living rooms and principal private open space of adjoining properties receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June.*

The shadow impacts resultant from the proposed development application are compliant with the above controls. Shadow diagrams provided by the applicant sufficiently detail that the proposed overshadowing maintains a minimum of 2 hours between 9am and 3pm on 21 June for neighbouring properties. Due to the site orientation the proposed shadows cast by the development alter throughout the day and result in each of the neighbouring properties receiving at least the minimum rate of solar access required. The proposed solar access rate is acceptable.

Adaptable Housing

The development proposes to create twenty-seven (27) units for the purposes of adaptable housing. As part of the current assessment Council has reviewed the pre and post adaptation plans and notes that minimal alterations are required to create the adaptable layout. The proposed units are considered to meet the requirements for adaptable housing and provide a variety of layouts and unit mixes for persons with disabilities should they be required. The proposed adaptable housing is acceptable and recommended for support.

Community and Pedestrian Safety

The entry and exit points of the development have been appropriately located to sure a high degree of passive surveillance, lighting and compliance with CEPTED principles, all combining to improve community and pedestrian safety for those seeking to attend the site. The provided driveway/footpath intersection has been appropriately designed to incorporate sufficient sightlines for vehicles entering and existing and that the applicant is to install appropriate signage (stop signs, mirrors, etc) to ensure a high degree of pedestrian safety. The proposal is expected to result in an acceptable rate of pedestrian safety and is recommended for support.

Security

As part of the current application the applicant has provided a crime prevention through environmental design ('CPTED') assessment. This assessment has identified and recommended measures to be implemented to ensure security and safety residents. These measures include recommendations such as:

- Entrances should be secured and controlled via electronic cards and intercom.
- Elevator access to levels should only be available via an electronic swipe card or intercom system
- Access to the residential car park should be controlled by an electronic access door and secured by swipe card or intercom system to limit unauthorised access.

The provided recommendations outlined within this assessment ensure a high level of security for all persons utilising the development and are recommended for support. A condition requiring compliance with the recommendations of this report is included in the draft consent.

Waste Collection / Loading

The proposed loading bay is accessed from Thomas Street via the same driveway as private vehicles. This space has been amended since initial lodgement and now includes bollards and other measures to ensure pedestrian and vehicle separation and safety. The proposed loading bay is to be utilised for residential waste collection and in the event of an emergency, access for emergency service vehicles. As part of the current application the applicant has provided details which analyses matters such as the exiting road network, type of vehicles to utilise the space, delay times and management procedures. This document has been reviewed and is acceptable.

The proposed loading dock has been reviewed by Council's engineers and waste management team and is deemed to be acceptable, subject to suitable conditions of consent. The applicant has adequately demonstrated via swept paths that large vehicles such as Council garbage trucks can enter and exit in a forward direction and achieve waste collection on-site with minimal disruption to the existing road network. Given the proposed location of the loading dock on basement level 2, amenity impacts resulting from waste collection are expected to be minimal. As such standard conditions of consent regarding waste collection are recommended.

Western Elevation Driveway

During assessment, it was noted that the driveway entry presents a large blank wall to the western elevation/boundary and adjoining pedestrian link. This wall achieves a height of 4.1m and while incorporating articulation near the Thomas Street frontage becomes blank when moving north further into the site. This wall is best illustrated through figure 20 below.

Concerns regarding the treatment of this wall and avoidance of a blank presentation which may be graffitied were outlined to the applicant on the 3/6/2021. At this time Council outlined their intent to impose a design change condition and requested feedback from the applicant regarding what treatments would be appropriate to improve this presentation. In response the applicant has provided additional detail and measurements to the wall as seen in figure 21 below. The applicant has advised that 6.2m of the wall will have decorative brick, while the remaining 9.5m will have 'running pattern'. Council has reviewed this response and considers a reliance of decorative brick insufficient to provide articulation and avoid graffiti. Therefore, a

design change condition requiring the continuation of a 'running pattern' for the remainder of the 6.2m stretch of wall is recommended for the consent.

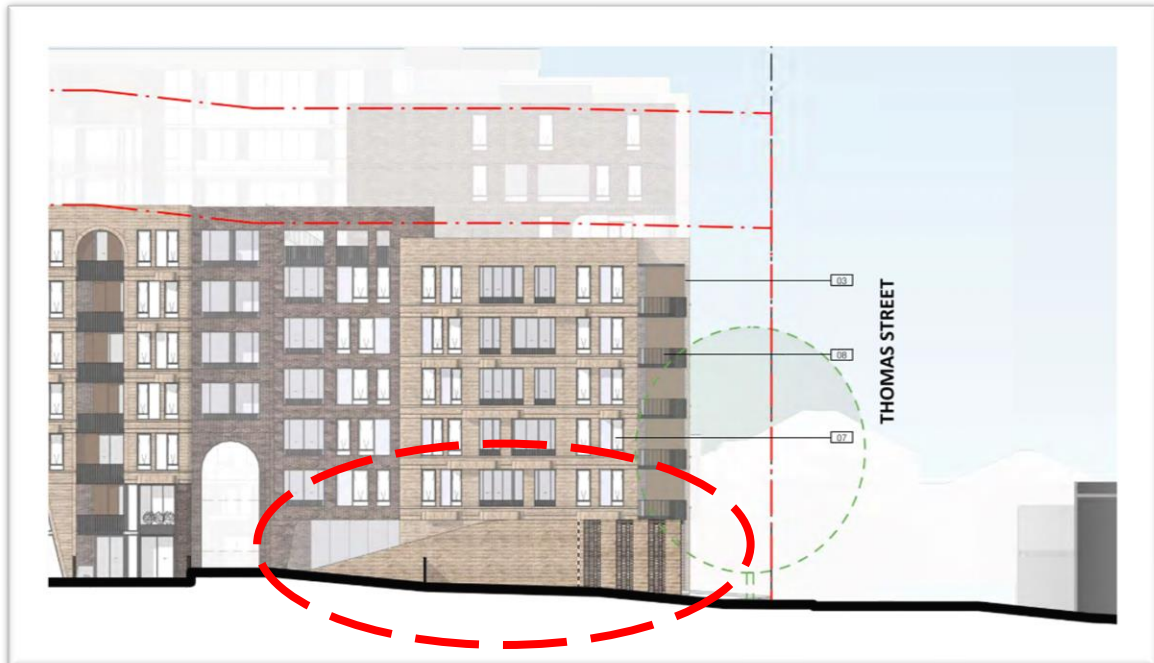


Figure 20: Driveway wall along western elevation which currently incorporates minimal visual interest

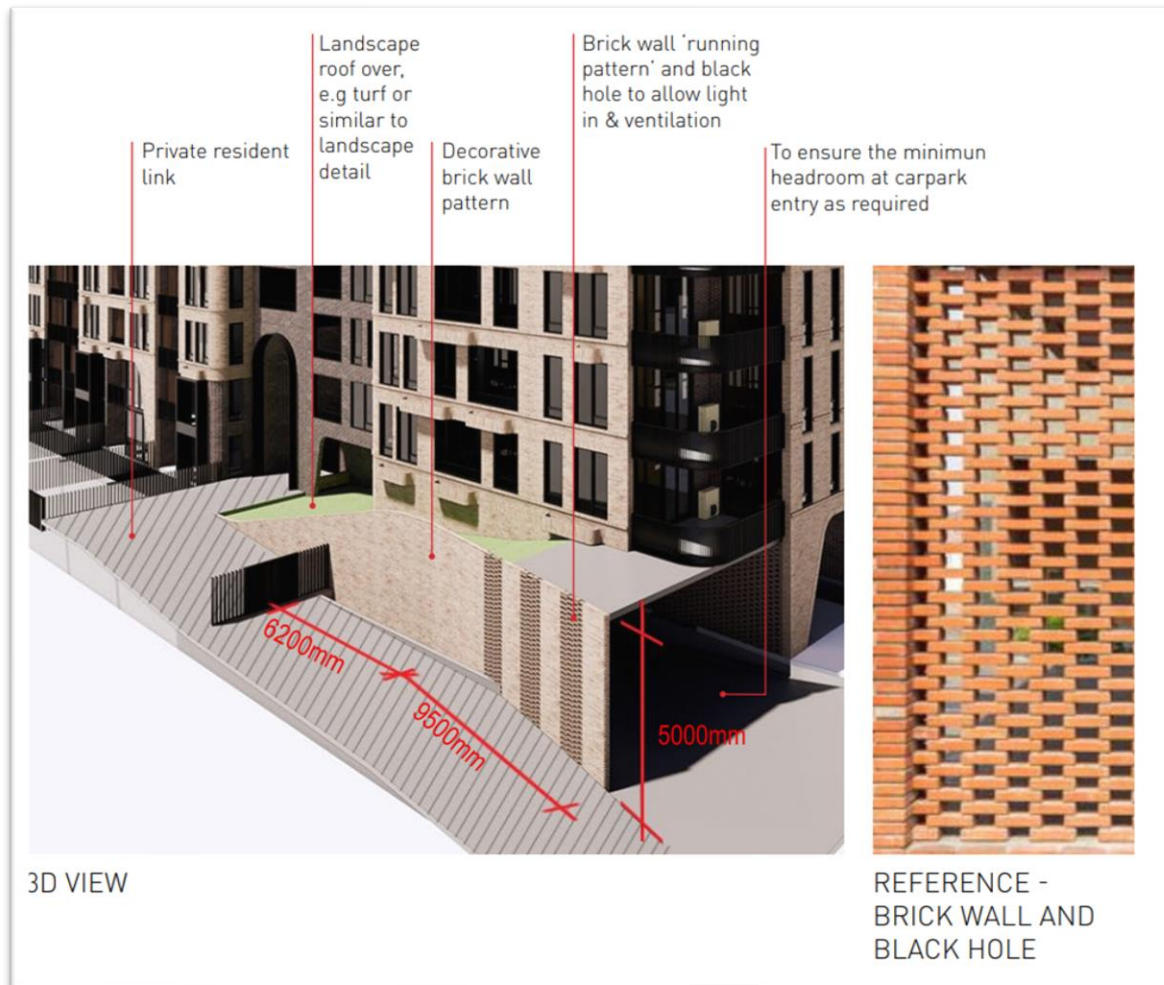


Figure 21: Driveway wall along western elevation additional details provided by applicant

Fencing

The proposal seeks consent for the construction of new open form fencing located along the southern and eastern boundaries of the site shared with Thomas Street and Cavil Avenue. This fencing is generally 1.5 to 1.8m in height and of an open form as to allow visibility to the proposed courtyards and entry doors beyond. The proposed height and form of the fencing is acceptable for the intended use of the space and is not out of character with the locality. The proposed fencing will not result in unreasonable impacts for neighbouring sites, ensures sufficient passive surveillance to the main entry and other elements of the proposed residences, and is acceptable. Details of the proposed fencing have been provided by the applicant and are outlined below within figure 22.



3D VIEW



Figure 22: Fencing details to Thomas Street provided by applicant

Visual Privacy

In this instance due to the site's location within the Ashfield town centre, orientation of the development/units and proximity of existing development some privacy impacts are unavoidable. Nevertheless, the proposal has been appropriately designed to respond to its context and actively avoids potential privacy impacts through the utilisation of setbacks, window design and façade treatments. The amended design has appropriately considered the potential re-development of neighbouring sites and actively sought to minimise or locate glazing and openings away from shared boundaries where possible. As discussed above balustrades and balconies relating to private open spaces are to be treated with obscuring treatments and as such actively minimise direct sightlines into neighbouring properties. The proposal results in an acceptable level of visual privacy for occupants and neighbours and is recommended for support, subject to suitable conditions of consent.

Retail

The application has not sought signage or hours of operation for the proposed retail space. A condition is recommended requiring a separate first use and signage application for the retail space.

Stormwater

Council's Development Assessment Engineers have reviewed the provided stormwater management plan and outlined that the proposed scheme is satisfactory, subject to conditions of consent requiring compliance with the relevant Australian Standards. These conditions have been recommended for the consent.

5(d) The Likely Impacts

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

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

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

5(f) Any submissions

The application was notified in accordance with Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill for a period of 30 days to surrounding properties. Five (5) submissions were received in response to the initial notification and three (3) submissions were received in response to renotification of the application.

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Unsympathetic to the locality

Comment: The proposal has been subject to a planning proposal and site specific DCP which altered and created site specific controls, considered the desired future character of the area and an appropriate built form. The current proposal is largely compliant with the requirements of the site specific DCP and controls created under the planning proposal. The proposal is in-keeping with the desired future character of the area and is appropriately designed to respond and contribute to the existing locality. The proposal is therefore recommended for support.

Issue: Non-compliance with minimum separation distances

Comment: An assessment on the proposals non-compliances with the minimum separation distances has been undertaken above under the assessment section of the report. The proposed non-compliances are considered acceptable given the merits of the case.

Issue: Loss of solar access to 8 Cavil Avenue

Comment: 8-10 Cavil Avenue is located to the north of the subject site and is not impacted by shadows cast from the current proposal. An assessment of the extent of overshadowing to be cast has been undertaken and outlined above within the assessment section of the report. The proposal is compliant with Council's requirements for solar access and shadows.

Issue: Impact to existing trees

Comment: As part of the current assessment Council Officers have reviewed the submitted arborist reports and reviewed the proposals impacts on existing on-site trees. Council's urban forests team initially expressed an objection to the proposals impacts on existing significant trees located at the corner of Liverpool Road and Cavil Avenue. These concerns were expressed to the applicant who has since provided additional information outlining that these trees are to be retained and protected.

This amendment has been reviewed by Council's urban forests team who outlined no objection to the revised proposal, subject to conditions of consent. These conditions have been recommended for the consent. Other on-site trees which are unable to be retained or have been deemed not worthy of retention have been recommended for removal, subject to suitable replacement plantings. The provided landscape plans detail an extensive extent of replacement plantings which is supported by Council.

Issue: Impacts from construction

Comment: Appropriate conditions of consent regarding hours of construction, compliance traffic management and methods of demolition are recommended for consent. These conditions are sufficient to ensure minimal amenity impacts resulting from construction

Issue: Oversupply of units and impact on ability to rent and sell existing units

Comment: Factors such as property prices and other private market factors are not a matter of consideration under the *Environmental Planning and Assessment Act 1979* and cannot be considered in the assessment of the current application.

Issue: Traffic and parking impacts on the locality

Comment: An assessment on the proposed parking rate and traffic generation has been undertaken above under the assessment section of the report. This assessment has determined that the proposed rate of parking is more than the minimum required and that the traffic generation is significantly less than what is currently generated by the existing developments on-site. The proposed impacts of traffic and parking is expected to be minimal and acceptable subject to conditions of consent.

Issue: Loss of greenspace

Comment: The revised proposal provides extensive areas of communal open space (in excess of the minimum requirements) and an extensive rate of landscaped area. The proposed design provides numerous through site links and open areas for residents and neighbours. The proposed spaces comply with the minimum requirements for landscaped area and the re-development of the site results in improved landscaping. The development also incorporates extensive on-site plantings to offset and expand the extent of trees within the locality.

Issue: Impacts to privacy

Comment: An assessment on the potential privacy impacts to neighbouring sites has been undertaken above under the assessment section of this report. Overall, it is considered that the development has been appropriately designed to mitigate privacy impacts for neighbouring sites. Where concerns regarding privacy impacts have been identified these have been resolved through design change conditions recommended for the consent as discussed above. Overall, the proposal is expected to ensure a reasonable degree of amenity for neighbouring sites and contributes to the desired future character of the locality.

Issue: Acoustic impacts

Comment: Appropriate conditions of consent regarding acoustic mitigation measures during construction have been recommended for the consent. Compliance with these conditions of consent is expected to ensure that unreasonable acoustic impacts from construction are mitigated and managed. With regards to acoustic impacts arising from the operation of the development, the primary use is to be residential, with acoustic impacts expected to be in-line with that of a residential use.

As part of the current assessment the applicant has provided an acoustic report which measures the existing acoustic levels and provides recommendations to ensure minimal acoustic impacts to future residents and neighbours. This report has been reviewed by Council's Environmental Health Team who outlined no objection to the proposal or potential acoustic impacts, subject to suitable conditions of consent. To ensure minimal acoustic impacts for neighbouring residential receivers an additional condition requiring the submission of an updated acoustic report which includes an acoustic assessment and

recommendations to minimise noise generation from the driveway roller door and through site pedestrian gates is recommended for the consent.

Issue: Pedestrian Safety along Cavil Avenue

Comment: An assessment on the proposed vehicular access point on Cavil Avenue has been undertaken above under the assessment section of the report. This assessment has highlighted that vehicular access from Cavil Avenue is to be one way and with alternating directions depending on the time of day. The proposed driveway has been designed to comply with the relevant Australian Standards and ensures adequate pedestrian sightlines. The arrangement has been reviewed by Council's Development Engineers who outlined no objections subject to suitable conditions of consent. The design and placement of this driveway ensures that it will not become the main vehicular entry/exit point for the development. Instead it is anticipated that pedestrians will be prioritized along Cavil Avenue through the current design. The proposed driveway ensures sufficient pedestrian safety and is recommended for support.

Issue: Impacts to Biodiversity

Comment: The subject site is not mapped biodiversity under the Biodiversity Act and is not subject to any additional biodiversity controls. The proposal has been appropriately designed to retain significant on-site trees (where feasible) and incorporates a significant introduction of new trees, improving the canopy for the locality. A site inspection and review by Council's Urban Forests Team has not highlighted any signs of wildlife which may be significantly impacts by the proposal.

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.

- Architectural Excellence Panel (AEP) – The proposal has been reviewed by Council's Architectural Excellence Panel (AEP) in accordance with the requirements of SEPP 65. The AEP initially expressed concerns regarding the apartment depths/unit layouts, unit separation distances and material finishes. These concerns were passed onto the

applicant who has provided amended plans addressing the above matters. The provided amended plans were reviewed again by the AEP who continued to express some concerns regarding building separation and unit layouts. These concerns have been reviewed and considered in the assessment of the proposal. Appropriate conditions of consent addressing these concerns have been recommended for the consent.

- Building Certification – The proposal has been reviewed by Council's Building Certification Team, who outlined no objection to the proposal, subject to suitable conditions of consent. These conditions relate to BCA, fire safety and construction method compliance and have been recommended for the consent.
- Development Engineering – Council's Development Assessment Engineering Team has reviewed the proposed basement parking, stormwater, geotechnical report and traffic impact assessment and outlined generally no objection to the amended proposal, subject to suitable conditions of consent. These conditions relate to security damage bonds, stormwater management and construction methods. Conditions provided by Council's Development Engineering Team have been incorporated into the recommended conditions of consent.
- Environmental Health – Council's Environmental Health Team have undertaken a review of the development with regards to SEPP 55 contamination, acoustics and operation of the retail premises. Council's Environmental Health Team have outlined no objection to the proposal, subject to suitable conditions of consent regarding contamination management and remediation, acoustic compliance and compliance with relevant Australian Standards for food and kitchen facilities. Further details on these matters can be found within the assessment section of this report.
- Heritage Advisor – The proposal has been reviewed by Council's Heritage Advisor who outlined concerns regarding bulk/scale, impacts on amenity to occupants of heritage items and impacts from construction. These concerns have been reviewed and considered in the assessment of the proposal. These concerns are resolved by recommended conditions of consent.
- Traffic Services – The proposal has been reviewed by Council Traffic Engineers who outlined no objection to the amended proposal, subject to suitable conditions of consent.
- Urban Forests – The proposal has been reviewed by Council's Urban Forests Team who outlined no objection to the proposed tree removal and proposed landscape/planting plans. Appropriate conditions of consent regarding tree replacement and protection of neighbouring trees are recommended for the consent.
- Resource Recovery (Commercial) – The proposed commercial waste collection and disposal methods have been reviewed and are acceptable, subject to suitable conditions of consent. No objection is raised to the proposed commercial waste management scheme.

- Resource Recovery (Residential) – The proposed residential waste collection and disposal methods have been reviewed and are acceptable, subject to suitable conditions of consent. No objection is raised to the proposed residential waste management scheme, with Council garbage trucks able to collect residential waste on-site, ensuring no need for waste bins to be present to the kerb while awaiting collection.

6(b) External

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

- Ausgrid – The proposal has been referred to Ausgrid for review and comment. In response Ausgrid have outlined no objection to the proposal, subject to suitable conditions of consent. These conditions are recommended for the consent.
- Transport for NSW - The proposal has been referred to TfNSW for review and comment. In response TfNSW have outlined no objection to the proposal, subject to suitable conditions of consent. These conditions are recommended for the consent.
- Sydney Trains - The proposal has been referred to Sydney Trains for review and comment. In response Sydney Trains have outlined no objection to the proposal, subject to suitable conditions of consent. These conditions are recommended for the consent.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$3,437,219.03 would be required for the development under Ashfield Section 94/94A Contributions Plan 2011. A condition requiring that contribution to be paid is included in the recommendation.

This contribution has been calculated off the proposed introduction of 89 residential units less than 60sqm, 142 residential units between 60-84sqm, 33 residential units greater than 84sqm and a retail premise with a GFA of 118.98sqm. A credit for an existing commercial premise with a GFA of 10,619sqm has been applied.

8. Conclusion

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

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

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

9. Recommendation

- A. The applicant has made a written request pursuant to clause 4.3 – Height of Buildings of the *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Sydney City East Planning Panel, grant consent to Development Application No. DA/2020/1094 for demolition of all buildings; construction of a 10-storey mixed use development comprising: 3 storey basement car park with 320 spaces, ground floor retail, and 264 residential apartments at 1 – 9 Thomas Street, Ashfield NSW 2131 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Attachment B – Plans of proposed development

Attachment C- Clause 4.6 Exception to Development Standards