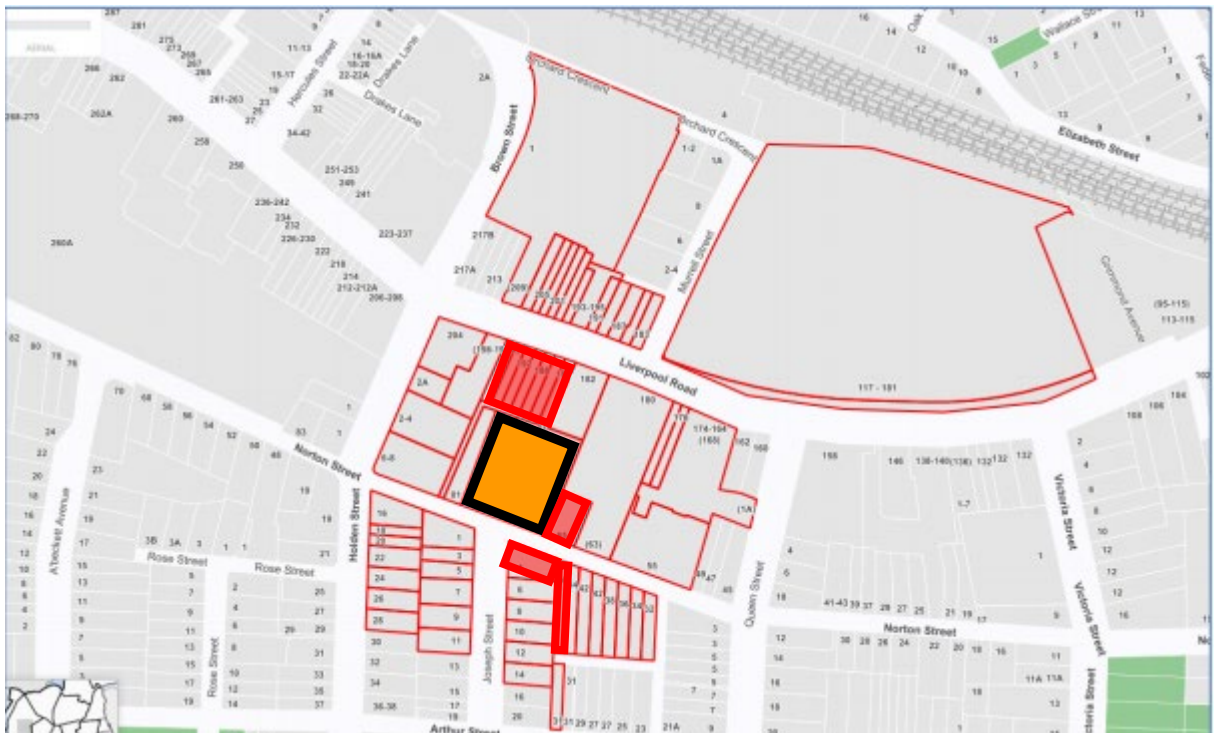


INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Council Application No.	DA/2020/0520
Panel Reference	PPSSEC – 61
Address	73 Norton Street, ASHFIELD NSW 2131
LGA	Inner West
Proposal	Demolition of existing structures and construction of a 3-8 storey mixed use development containing 88 units, a registered club and landscape works to an existing right of carriageway.
Date of Lodgement	08 July 2020
Applicant	Deicorp Construction Pty Ltd
Owner	Polish Club Limited
Number of Submissions	Initial Notification: Fourteen (14) After Renotification: Eight (8)
Value of works	\$37,101,063.00
Reason for determination at Planning Panel	General development with a capital investment value over \$30 million
Main Issues	ADG compliance, operation of the club and impacts to residential neighbours, impact to heritage items
Recommendation	Approval 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 an application for demolition of existing structures and construction of a 3-8 storey mixed use development containing 88 units, redevelopment of an existing registered club (the “Ashfield Polish Club”) and landscape works to an existing right of way at 73 Norton Street, Ashfield.

The application was notified to surrounding properties in accordance with Council policy. 14 submissions were received in response to the initial notification and 8 submissions were received in response to the re-notification.

The main issues that have arisen from the application include:

- ADG non-compliance with deep soil landscaping, visual privacy/ building separation and apartment depth
- Variation to maximum floor space ratio
- Impact to neighbouring heritage items
- Pedestrian access to the club premises
- Amenity impact to residential neighbours resulting from the operation of the club

The non-compliances are considered acceptable on the balance of the assessment, subject to suitable conditions of consent, and therefore the application is recommended for approval.

2. Proposal

DA/2020/0520 was lodged by Deicorp Projects Ashfield Pty Ltd (the applicant) on the 8th of July 2020, for the redevelopment of the existing registered club known as the Ashfield Polish Club at the site 73 - 75 Norton Street Ashfield. Amended plans/additional information was provided by the applicant on the 4 November 2020. The current assessment report is based on the information provided on the 4 November 2020.

The development proposal involves:

- Demolition of all existing structures
- Construction of a 3 – 8 storey mixed use building accommodating:
 - Three (3) levels of basement parking.

- A new registered club premises on the ground floor with a floor area of 1,892sqm. Fitout and use of the club including a function room, gaming room and deli/bakery with the following trading hours:
 - Monday – Thursday: 10:00am to 12:00am
 - Friday – 10:00am to 02:00am
 - Saturday – 07:00am to 02:00am
 - Sunday – 07:00am to 12:00am
 - Gaming Machines: Monday to Sunday – 10:00am – Close
- 88 residential units in the levels above.
- The consolidation of the four (4) existing lots comprising the site into a single lot and the stratum subdivision of the amalgamated lot into 2 lots, with 1 lot comprising the registered club and its car parking and the other comprising the apartments and their car parking.
- Landscaping works to the subject site and to the existing driveway on the adjoining property at 182 Liverpool Road, Ashfield, which currently provides a right of carriage way (pedestrian) to the main entrance of the proposed club.

Of the 88 units proposed to be constructed above the ground floor registered club, 18 are to be 1-bedroom units, 64 are proposed to be 2-bedroom units and 6 are to be 3-bedroom units. A total of 4 units (units 201, 211, 212, 214) located upon level 2 of the development are proposed to be dedicated for the purposes of affordable rental housing in accordance with the requirements of 4.3A of the Ashfield LEP 2013. The 4 units proposed to be for the purposes of affordable rental housing consist of 3 – 2 bedroom units and 1 – 1 bedroom unit. 9 of the 88 units are proposed to be adaptable housing (units 105, 201, 214, 311, 411, 505, 605, 701, 703). Computer generated images detailing the proposal have been prepared by the applicant and are replicated below. These images provide an indication of the proposal's final appearance.

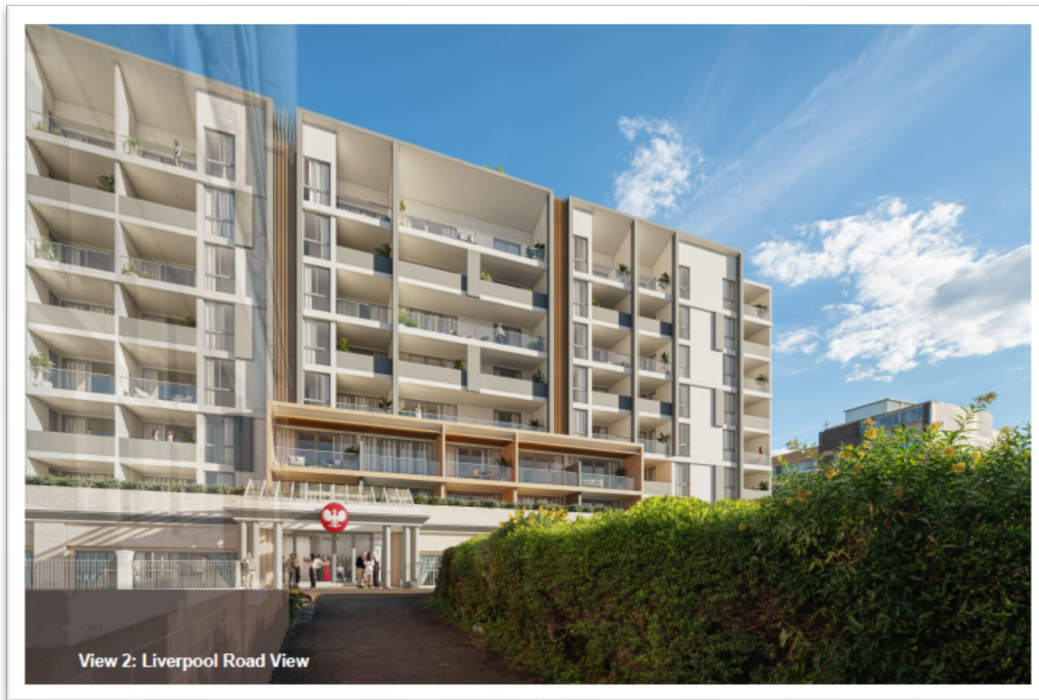


Figure I – Computer Generate Image of proposals frontage to 182 Liverpool Road. Note Pedestrian entry landscaping upgrades have not been included in this image mockup



Figure II – Computer Generate Image of proposals frontage to Norton Street.



Figure III – Computer Generate Image of proposals as aerial view.

3. Site Description

The subject site is known as 73 – 75 Norton Street, Ashfield and is located on the northern side of Norton Street between Holden Street and Queen Street. The subject site comprises of four (4) separate allotments known as Lot 12 in DP 592302, Lot 1 in DP 180145, Lot B in DP 336541 and Lot 1 in DP 170305. The extent of the subject site is detailed within Figure 1 below. The combined allotments have a frontage to Norton Street of 51.5m, a maximum depth of 59.4m and result in a total site area of 3108sqm. The subject site is approximately 150m away from the Ashfield Mall and 420m away from the Ashfield Train Station.

The primary building on the site addressing Norton Street is a 1 – 2 storey brick building completed in 1967 on 73 Norton Street and represents the original Club Building, with another building directly to the north. The third building is a single storey building constructed in 1985 on 75 Norton Street which incorporated the existing 2 storey late 19th century residence known as “Fairholm”.

Located along the western side of the subject site is an existing at grade car park accommodating 29 vehicles and utilised by the existing Polish Club. Access to the site and to the Club is obtained both from Norton Street and Liverpool Road.

Access to the subject site from Liverpool Road is obtained by a 3m wide right of carriage way, burdening the western and southern boundaries of 182 Liverpool Road (currently operated as PAWA Community Care). As part of the current application the applicant has supplied owners’ consent from the 182 Liverpool Road for the application to be lodged, this consent also outlines no objection to the proposal, potential intensification of use and landscape/lighting upgrades for the existing driveway/right of carriage way.

The subject site is located within the Ashfield Town Centre as such the locality is characterised by a variety of built forms and urban character.

To the north of the site within is:

- 182 Liverpool Road - A 2-storey building known as Polish House occupied by PAWA Community Care, formerly the Polish-Australian Welfare Association. This site is identified as an item of local heritage significance under the ALEP 2013 – Item 195.
- 184 – 194 Liverpool Road - Numerous 2-storey shop/dwelling buildings occupied at the ground floor level for a variety of retail and commercial uses, including restaurants, a hair and beauty salon, a solicitor’s practice, a training facility and 2 vacant shops. Properties 188 – 196 Liverpool Road are identified as items of local heritage significance under the ALEP 2013 – Item 198.

The land immediately to the east comprises the property known as 65 Norton Street and 172-180 Liverpool Road. These properties contain:

- 65 Norton Street - A 3-storey residential flat building containing 6 dwellings over ground floor garages constructed circa 1970.
- 172 – 180 Liverpool Road - A group of single storey buildings occupied by the Exodus Foundation comprising a Church and hall on the section of 172-180 Liverpool Road addressing Liverpool Road, a single storey facilities building centrally on the land and a single storey office building addressing Norton Street. 172 – 180 Liverpool Road is identified as an item of local heritage significance under the ALEP 2013 – Item 195.

The land immediately to the west of the site comprises the property known as 81 Norton Street. This property contains an older-styled single storey dwelling house on Norton Street and a more recently constructed single storey warehouse building adjacent to its rear boundary.

The land to the south, on the opposite side of Norton Street, is a residential precinct which comprises the properties known as 1 and 2-4 Joseph Street. These properties contain: a 2-

storey dwelling house on 1 Joseph Street; and a 2-storey residential flat building containing 6 dwellings over ground floor parking on 2-4 Joseph Street.



Figure 2 – Original Club Building



Figure 3 – 1980 Club Building



Figure 4 – 1985 Club Building and “Fairholm”

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
006.1973.9160	Air conditioning	11/12/1973
006.1986.48	Alterations to club	12/3/1986
006.1990.73	Alterations to club	8/5/1990
10.2001.126	Fire safety upgrades	13/10/2001
10.2005.32	Repairs to fire damaged club	18/5/2005
009.2011.23	Pre-DA for Mixed use development including Polish Club, 104 units and 186 parking spaces	Advice issued – 14/11/2011
PDA/2020/0123	Pre-DA for mixed use development	Advice issued - 12/6/2020
DA/2020/0520	Demolition of existing structures and construction of a 3-8 storey mixed use development containing 88 units, a registered club and landscape works to an existing right of carriageway.	Current application

Surrounding properties

198 – 200 Liverpool Road, Ashfield

Application	Proposal	Decision & Date
PDA/2020/0344	PRE DA for mixed use development	Advice issued – 12/10/2020

On the 9 October 2020 Council staff conducted a pre-development application meeting for the potential re-development of sites 184 – 200 Liverpool Road & 81 Norton Street, Ashfield (site identified below within figure 5). This pre-da discussion undertook an initial review/assessment of a mixed-use development scheme incorporating ground floor commercial uses and 7 – 8 levels of residential units above, with vehicular access from Norton Street. Council has issued advice on this matter to the applicant of 184 – 200 Liverpool Road and the subject site, in an attempt to ensure both proposals respond and co-ordinate together in order to facilitate a high level of amenity for all future occupants. At this time the scheme for the re-development of 184 – 200 Liverpool Road is understood to be preliminary and certainty or timing of any development application submission is unknown.

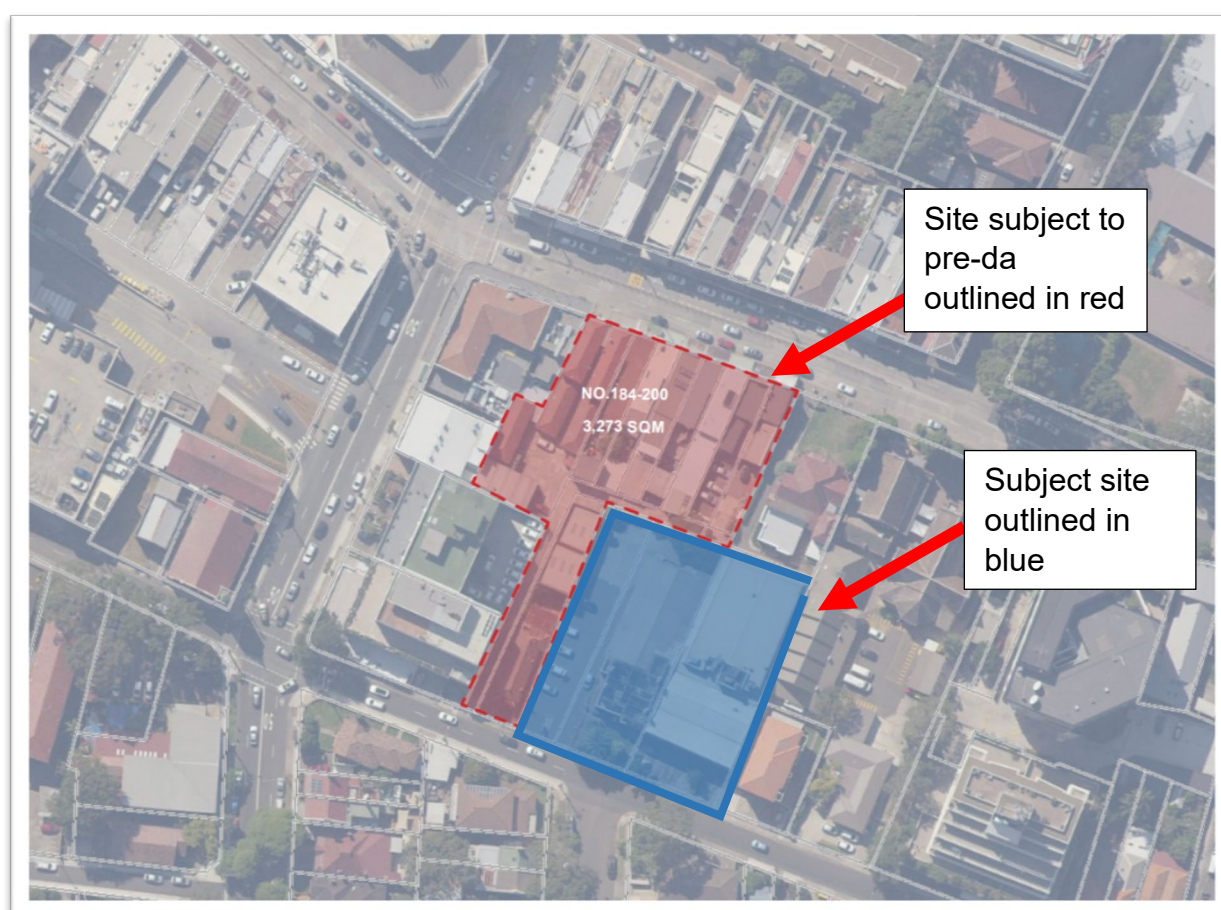


Figure 5 – Outline of site subject to pre-da (red) and subject site (blue)

Application	Proposal	Decision & Date
CDCP/2020/0190	CDC for construction of a two storey dwelling house	Approved - 4/8/2020

4(b) Application history

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

Date	Discussion / Letter / Additional Information
8/7/2020	Development application lodged with Council for assessment
16/7/2020 – 2/9/2020	Initial public notification of the development application. In response 14 submissions were received.
6/10/2020	<p>Following an assessment of the application Council officers issued a formal request for additional information/amended plans addressing the following matters/concerns:</p> <ul style="list-style-type: none"> - Loading bay design – Amended plans detailing a revised loading bay design based off revised swept paths - Basement carpark design – Amended plans detailing compliance with Australian Standards - Rate of car parking – Amended plans detailing a revised rate of parking for the residential units and registered club - Traffic Generation – Submission of additional information further analysing the potential traffic generation of the development and impact on the locality - Liverpool Road pedestrian assess – Submission of revised landscape plans detailing landscaping upgrades to the proposed pedestrian access from Liverpool Road over 182 Liverpool Road. - Acoustic impacts – Submission of additional information with regards to the potential acoustic impacts of the registered club to new units above. - Solar access – Additional information regarding impacts of solar access loss in the event the neighbouring site 198 -200 Liverpool Road was to re-develop. - Minimum separation distance – Amended plans detailing setbacks compliant with ADG separation distance requirements - Norton Street presentation – Amended plans detailing improved activation and visual interest along Norton Street. - Common circulation spaces – Amended plans detailing the introduction of an additional resident's lift providing ground floor pedestrian access. - Heritage impacts – Additional information regarding the potential impact of the development on neighbouring heritage items - Club operation – Additional information regarding the proposed club operation, including details on frequency of any potential events

	<ul style="list-style-type: none"> - Food premises fit out – Additional information regarding food premises fit out and compliance with Australian Standards - SEPP 64 signage – Submission of a signage strategy - Stormwater – Submission of a revised stormwater management plan.
4/11/2020	Applicant lodged additional information/ amended plans in response to Councils letter
17/11/2020 – 15/12/2020	Application was placed on re-notification, with members of the public provided an additional opportunity to review the amendments and provided comments.

The current assessment report is based on the information provided by the applicant on the 4/11/2020.

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. 64 – Advertising and Signage*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Ashfield Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

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

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

The site has been used in the past for activities which could have potentially contaminated the site. It is considered that the site will require remediation in accordance with *SEPP 55*.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) has been provided to address the management of contaminated groundwater onsite and the treatment and/or

disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. To ensure that these works are undertaken, it is recommended that conditions are included in any consent in accordance with Clause 7 of SEPP 55.

5(a)(i) *State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)*

The current application is not accompanied by sufficient information to make a detailed or accurate assessment of any signage relating to the development. Following discussions with the applicant it has been agreed that any signage for the polish club and the residential components of the development is to be approved by a separate future application, with no consent for signage or signage zones provided under the current application. A condition stating that no signage or signage zones are approved by this application and that signage is subject to a separate application is recommended for the consent.

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 proposal has been reviewed by Council Architectural Excellence Panel (AEP) in accordance with the requirements of SEPP 65. The AEP initially expressed concerns regarding the ground floor Norton Street frontage/streetscape interface, lack of consideration with regards to neighbouring sites and the potential impact on the subject site in the event of re-development, concerns regarding apartment depths and identification and separation of residential and commercial entries. These concerns were passed onto the applicant who has subsequently provided amended plans addressing the above matters. The provided amended plans have been assessed below and are considered to be generally compliant with the requirements of SEPP 65 and the ADG.

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

The following provides further discussion of the relevant issues:

Deep Soil Zones

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

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Greater than 1,500m ² with existing tree cover	6m	7% (217.5sqm)

Comment:

The current proposal results in a variation to the minimum required 7% deep soil landscape zone and only provides 6.3% (196sqm) with dimensions of 5m x 31m. This landscape zone is located along the northern boundary of the site. The intention of this landscaping zone is to ensure that the site allows for and supports healthy plant and tree growth.

In this instance strict compliance with the minimum 7% landscaped area requirement is not readily achievable, with the site's location within a major urban Centre having limited space for deep soil and the nature of the proposal with 100% non-residential uses at ground floor level. Regardless of the non-compliance, the proposed landscape zone is considered to meet the intention of the control, with submitted landscape plans detailing the planting of four (4) new significant trees (height of 20-25m) and four (4) smaller trees (height 3-5m) within this locality. The planting of these trees ensures an improved degree of amenity for the commercial club on the ground floor and for residents located above and improved overall environmental performance for the site. The proposal has incorporated and provided sufficient soil depth and space for the growth and establishment of these trees and provides an appropriate introduction of additional landscaped area/greenery to the Ashfield Town centre, assisting to soften the built form. In this instance no objection to the proposed landscape zone variation is raised by Council and the application is recommended for support.

Visual Privacy/Building Separation

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

Comment:

Site Setbacks - Nil Boundary

As seen within submitted architectural plans the development proposes nil boundary setbacks for residential units within the following localities:

- Levels 1 – 7 north east corner of the site (units 110 – 707), directly adjacent 180 Liverpool Road
- Levels 1 – 2 south east corner of the site (units 113 – 213), directly adjacent 65 Norton Street
- Levels 1 – 2 south west corner of the site (unit 120),

As prescribed within the ADG no building separation can be allowed for blank walls, as such the setbacks mentioned above are compliant with ADG controls. Despite this Council has undertaken a review of the proposed blank wall setbacks and their relationship to neighbouring sites. This review has highlighted that the proposed nil boundary setbacks are appropriately located to facilitate and co-ordinate with the re-development of neighbouring sites. Acceptance of the currently proposed nil boundary setbacks provides opportunities for neighbouring sites to obtain a similar built form and to ensure the creation of a consistent streetscape, as neighbouring sites also re-develop.

In this instance it is anticipated that amenity impacts from the nil proposed boundary setbacks will be minimal, with the greatest impact felt by residents of 65 Norton Street whose windows will view out onto the blank wall. Such an outcome is similar to that currently existing on-site (as seen within figure 6 below) and is an unavoidable impact to enable a consistent streetscape to Norton Street. A review of other elements of the proposal which incorporate nil boundary setbacks has found minimal environmental impacts for neighbours with existing structures not relying on openings to the shared boundary or currently abandoned and highly likely to undergo substantial re-development in the near future.



Figure 6 – Built form Interface of the existing Polish club and neighbouring 65 Norton Street (red brick building).

Site Setbacks – Western Boundary

A review of the proposed western side boundary setbacks for residential units on levels 3 – 7 of the proposal has confirmed a variation to the ADG required 9m setback to habitable rooms, with units in this locality proposed to incorporate a 6m boundary setback. The intention of this control is to ensure adequate building separation distances between sites and to ensure that they are shared equitably in order to provide reasonable external and internal privacy. The proposed western elevation incorporates a number of balconies, windows and openings for proposed units. In this instance 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 9m boundary setback control and an additional 3m setback. In response to this site constraint the applicant has appropriately designed the existing development to incorporate solid elements or obscure treatments to balcony balustrades and raised windowsills to window openings, each assisting to limit and minimise sightlines and opportunities for privacy impacts. The current proposal is considered to find an appropriate balance between residential or occupant amenity, while also attempting to limit overlooking and protect privacy.

A review of the immediately adjoining sites to the west of the subject site (81 Norton Street and an existing right of way) as well as analysis of the preliminary scheme provided under PDA/2020/0344 has highlighted minimal opportunities for the creation of future units directly opposite the subject sites western boundary (without the acceptance of significantly reduced or nil boundary setbacks). While such setbacks may be supported along the Norton Street frontage (where they align with the current proposals nil boundary setbacks) they are unlikely

to be supported beyond the Norton Street frontage, due to insufficient lot width and an inability to provide adequate separation from neighbours. The neighbouring site is therefore constrained by their own lot width and will not be significantly hindered by the acceptance of the proposed 3m variation to setback requirements.

The proposed variation is considered to be acceptable due to the constraints of the site and the merits of the design proposal; and the application is recommended for approval.

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:

The current proposal results in a variation to the above room depth requirements with units 102, 103, 202, 203, 302, 303, 402, 403, 502, 503, 602 & 603 proposed to have a maximum open plan habitable room depth of roughly 9.4m. 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. Due to the current depth of the above-mentioned units concerns regarding the ability of light and ventilation to reach all primary living areas is raised, in particular it is considered that light and ventilation will not be achieved to the proposed kitchens.

In order to achieve a higher degree of amenity and reduce the overall room depth a minor design change amendment requiring the relocation of the proposed laundry and kitchen placements is recommended for the consent. The recommended condition is to read as outlined below and seeks to achieve a unit layout similar to that demonstrated in figure 7 below.

Prior to the release of a construction certificate, amended plans are to be provided to the principle certifying authority demonstrating compliance with the following:

1. *The proposed laundry's to units 102, 103, 202, 203, 302, 303, 402, 403, 502, 503, 602 & 603 are to be relocated to be adjacent the eastern wall of the proposed kitchen shared with the proposed bathroom. The proposed kitchen is to be shifted internally towards the western boundary as to be closer to the west facing windows and to accommodate the relocated laundry area.*

Compliance with the above design change condition will assist in reducing the overall room depth for the above mentioned units where they relate to primary living areas and ensure greater compliance with the intention of the ADG control. Subject to the imposition of the above design change condition the proposed variation is considered to be minor and acceptable/recommended for support.

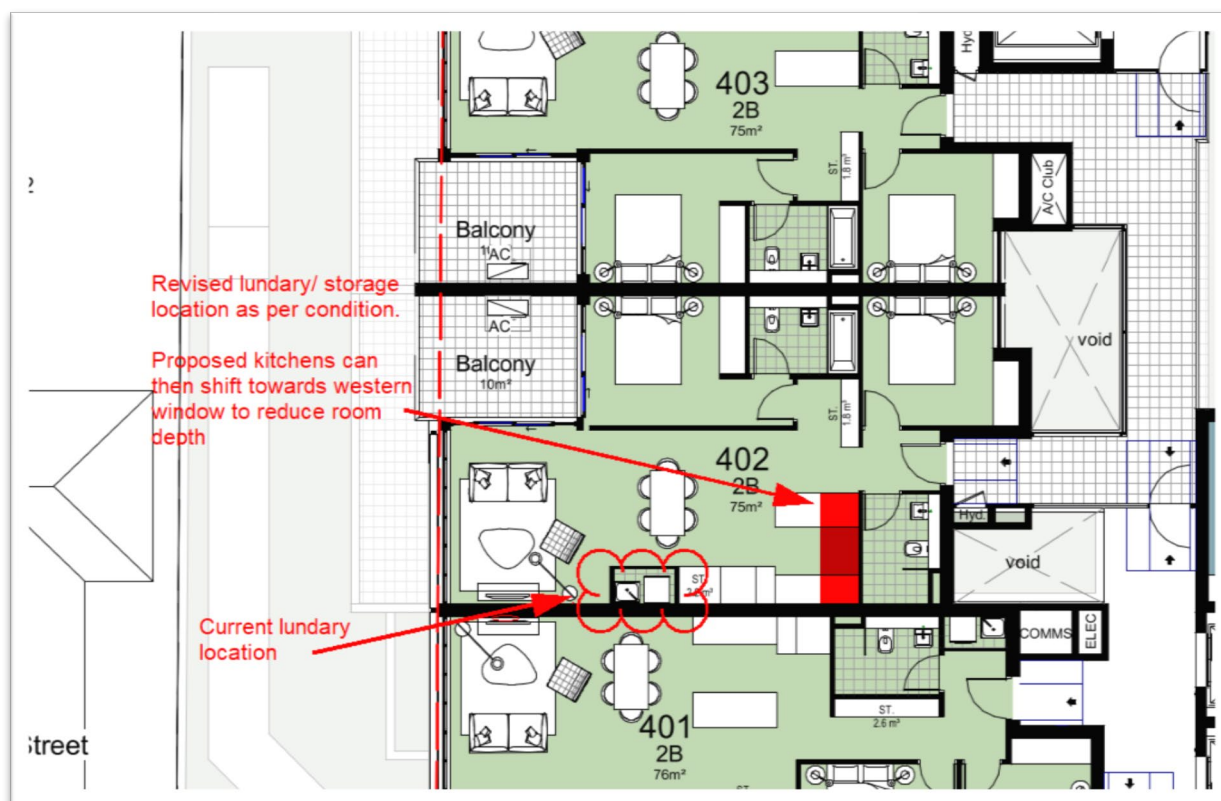


Figure 7 – Visual representation of recommended design change condition

Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 Bedroom apartments	8m ²	2 metres
2 Bedroom apartments	10m ²	2 metres
3+ Bedroom apartments	12m ²	2.4 metres

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

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3 metres.

Comment:

The proposal results in a minor variation to the ADG requirement for units located upon a podium to have a private open space (POS) instead of a balcony and for a minimum 15sqm of POS to be provided to each unit. This variation relates to units 4 of the 88 apartments - 102, 103, 109 & 110 on level 1 of the proposal. As seen from the analysis of the provided level 1

plan these variations are minor, with each unit still obtaining a highly functional POS. No objection is raised to this minor variation and the application is supported in its current form.

5(a)(ii) *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)(iii) *State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)*

Development with frontage to classified road (Clause 101)

The site has a frontage to Norton Street, a classified road. Under Clause 101 (2) of *SEPP Infrastructure 2007*, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The application was referred to Roads and Maritime Services (RMS) for comment. RMS raised no objections with the application with regard to ingress and egress to the site which remains adequate to support the intended vehicle movements by road. The application is considered acceptable with regard to Clause 101 of the *SEPP Infrastructure 2007*.

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 11 December 2020, the RMS 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)(iv) *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 whose raised no objection to the proposed tree removal.

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)(v) *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 2.6 - 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 5.10 - Heritage Conservation
- Clause 6.1 - Earthworks

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

The site is zoned B4 – Mixed Use under the *ALEP 2011*. The *ALEP 2013* defines the development as a mixed-use:

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:

registered club means a club that holds a club licence under the [*Liquor Act 2007*](#).

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

The proposed uses are permitted with consent within the B4 zone. The development proposal is considered to be consistent with the relevant objectives of the zone.

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

Standard	Proposal	non compliance	Complies
Height of Building Maximum permissible: 23m 30m - by operation of clause 4.3A: a) the development will contain at least 1 dwelling used for the purpose of affordable rental housing; and 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 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 (B) - Ashfield town centre – maximum height for street frontages on certain land: 12m to Norton Street.	29.8m The proposal is to contain at least 4 units for affordable housing The proposed 4 units to be dedicated for affordable housing total 25% of additional floor area 27m (to top of habitable floor) 12m frontage to Norton street	N/A N/A N/A N/A	Yes Yes Yes Yes
Floor Space Ratio Maximum permissible: 3:1 or 9324m ²	3.1:1 or 9621m ²	273sqm or 2.9%	No

The following provides further discussion of the relevant issues:

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 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 4 units (units 201, 211, 212, 214) located upon level 2 of the development for affordable rental housing. They total 419m² which is 25% of the additional floor space (1668m²) above the height limit and consequently satisfy Clause 4.3A(3). Furthermore, Clause 4.3 (2A) states “If a building is located on land in Zone B4 Mixed Use, any part of the building that is within 3 metres of the height limit set by subclause (2) must not include any area that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area”. The proposed development has a maximum of 27m height to top of the habitable floor. Consequently, the development satisfies Clause 4.3 (2A) and does not technically breach the maximum permissible building height for the land.

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 - Floor space ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of the Ashfield LEP by 2.9% (273sqm).

In this instance the proposed gross floor area variation is attributable to the provision of parking spaces to residential units. The proposed 117 car spaces associated with the apartments exceeds the minimum number of 96 spaces 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 21 car spaces (273sqm) being included as GFA/ FSR, and is the direct cause of the current clause 4.6 variation.

Clause 4.6 allows the consent authority 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 or 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 Ashfield LEP below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Ashfield LEP justifying the proposed contravention of the development standard which is summarised as follows:

- *The residential car park is located at the 2 lowest basement levels of the building, Levels B2 and B3, which are located totally underground and which are not visible from the public domain in Norton Street or from surrounding properties.*

- *The elimination of car parking spaces would not result in any physical change to the structure of the proposed building or the design of its basement parking levels nor will it have any effect on the height, bulk or scale of the development.*
- *The parking to be provided will increase on-site parking opportunities in an area where on-street parking is at a premium. The gross floor area of any parking spaces in excess of requirements does not result in any increase in the extent or density of the proposed development.*
- *The proposed building will be consistent with the prevailing FSR of contemporary mixed-use buildings in this locality and represents an appropriate and satisfactory response to the opportunities and constraints offered by the site and its setting.*
- *The inclusion of any parking in excess of requirements in the building as proposed to meet the parking demand created by its residential component will not result in the building being inconsistent with:*
 - *the FSR of other contemporary mixed-use developments in the Town Centre in this locality which have taken advantage of the building height incentive to provide affordable housing; or*
 - *the built form of existing development in this area or the desired future character of development in the Town Centre.*

The applicant's written rationale adequately demonstrates compliance with the development standard is 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 Ashfield LEP 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 Polish Club and residential units. 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 redevelopment/expansion of the existing Polish Club provides a significant opportunity for the enhancement of an existing commercial premises providing further opportunities for new employment opportunities within the immediate locality. 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. The overall redevelopment of the site provides a significant opportunity for viability, vitality and amenity to the town centre as a primary business, employment and civic centre of Ashfield.

- The proposal results in the consolidation of four (4) 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 floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the Ashfield LEP for the following reasons:

- As discussed above the variation to the FSR development standard is resultant from the provision of residential car parking above the minimum required by the RMS guide to traffic generating development. This additional parking will not be visible from the public domain, does not result in additional bulk and scale or amenity impacts for neighbouring sites and assists to reduce demand for on-street parking within the locality. Acceptance of the variation does not alter the developments general compliance with density and intensity of land use envisioned by current planning controls as the unit yield remains compliant.
- The proposal is consistent with the bulk and scale of development emerging within the Ashfield town centre, in particular the proposal is of a similar height and built form to developments recently approved/constructed along Murrell Street directly opposite the subject site. It is anticipated that neighbouring sites within the immediate locality will also result in a similar built form once re-developed in the future.
- As assessment of the proposal's impact upon the neighbouring heritage items to the north of the subject site has been undertaken by Council's Heritage Advisor and is discussed below. This assessment has determined that the proposal will not impact the heritage significance the neighbouring heritage items and is generally acceptable, subject to suitable conditions of consent.
- The proposal results in a high degree of amenity for neighbouring sites and is acceptable, subject to suitable conditions of consent. An assessment on potential amenity impacts can be found within the assessment section of this report, however the proposal is considered to be generally compliant with applicable planning controls and will result in the protection/continued enjoyment of neighbouring properties and the public domain.
- The locality to which the development relates to is currently experiencing a phase of transformation (with the exception of neighbouring heritage listed sites), the proposal is in-keeping with the desired future character of the area and generally compliant with current planning controls.

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

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

Heritage Conservation (Clause 5.10)

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 existing structure located at 75 Norton Street which incorporated the existing 2 storey late 19th century residence known as “Fairholm” is considered to have been altered and damaged by fire to the point where retention is not warranted.

The subject site is located within the vicinity to several local heritage items as identified by the ALEP 2013. These heritage items include:

- 180 Liverpool Road - An early church building designed by a well-known Sydney architect.
- 182 Liverpool Road (Red Cliff, 1894) - Polish House.
- Shops 188-196 Liverpool Road (erected in 1928) - A pleasing building with great potential to be a more important contributor to the streetscape, despite having been modified.
- Shops 198-198A Liverpool Road - A modestly-scaled building which, with its neighbours, makes a good visual contribution to the streetscape.
- 204 Liverpool Road - Hotel Ashfield, corner of Liverpool Road and Holden Street - A stylish, substantial and largely intact example of an interwar pub.

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 no concern with regards to construction and impacts on neighbouring heritage items, but initially outlined a request for a further review of the potential bulk/scale impacts of the development on the neighbour heritage items. The applicant has responded to this request and provided an additional heritage impact response dated 3/11/2020. In this response the following photomontages are provided:



Figure 8 – Photomontage of proposal viewed from Liverpool Road with heritage items located at 180 – 182 Liverpool Road in foreground (Photomontage is identified as figure 1 in heritage response letter dated 3/11/2020).



Figure 9 – Photomontage of proposal viewed from corner of Liverpool Road & Holden Street with heritage items located at 204 Liverpool Road in foreground (Photomontage is identified as figure 2 in heritage response letter dated 3/11/2020).

Council's Heritage Advisor has reviewed this additional information and outlined that figure 8 above shows that the building is sufficiently set back from the Uniting Church and Polish House, in order to avoid unreasonable bulk and scale impacts on the heritage significant items. Due to the location of the subject site the built form of the development is to be set back roughly 46m from Liverpool Road and a minimum of 9m from the common boundary shared with 182 Liverpool Road. These substantial setbacks result in the overall built form of the proposal being minimised when viewed from Liverpool Road and assist in ensuring that the heritage significant items (which have a frontage to Liverpool Road) remain the predominate and significant element in the streetscape, as seen within figure 8 above.

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.

Affordable Rental Housing

As detailed above, the proposal is located within land benefitted by Clause 4.3 of the ALEP 2013, which provides an additional 7m height in 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 4 units (units 201, 211, 212, 214) located upon level 2 of the development for affordable rental housing. They total 419m² which is 25% of the additional floor space (1668m²) above the height limit and consequently satisfy Clause 4.3A(3).

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.

5(c) 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 changing of the site's zoning from the current B4 – Mixed Use Zone to B2 – Local Centre Zone. This zoning change will continue registered clubs as a permissible use and will allow the construction of shop top housing. The development would essentially remain permissible and is not significantly affected by the proposed provisions of the draft LEP despite the change in zoning.

The development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (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
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
D – Precinct Guidelines	
Ashfield Town Centre	Yes

E1 – Heritage items and Conservation Areas (excluding Haberfield)	
1 – General Controls	Yes
2 – Heritage Items	Yes
8 - Demolition	Yes
F – Development Category Guidelines	
5 – Residential Flat Buildings	Yes

The following provides discussion of the relevant issues:

Access

Registered Club

Access to the proposed registered club is to be obtained via separate vehicular and pedestrian entry points. Patrons attending the club via vehicle will be able to access a basement parking area off Norton Street, where club patron parking is to be provided, from here patrons can then access a lift to the foyer of the club. Such an access scheme provides a fair and equitable means for patrons to enter and is recommended for support.

Pedestrian access to the premises is to be obtained from two separate points, the main point of entry is to be from Liverpool Road via the existing driveway utilised by 182 Liverpool Road. This access point is made possible by a 3m wide right of carriage way, burdening the western and southern boundaries of 182 Liverpool Road (currently operated as PAWA Community Care) and is identified in figure 10 below. As part of the current application the applicant has supplied owners' consent from the owners of 182 Liverpool Road to the application. This consent also outlines no objection to the proposal, potential intensification of use or landscape and lighting upgrades for the existing driveway/ right of carriage way, as detailed below within figure 11.

The provision of owner's consent from 182 Liverpool Road is sufficient for Council to recommend support for the proposed pedestrian access over the neighbouring site. To ensure continued legal right for pedestrian access across the neighbouring site a condition requiring the establishment of an easement for a right of way is recommended for the consent, should one not currently exist (or not cater for pedestrian access in the manner currently proposed).

As seen within figure 11 below the proposed driveway located on 182 Liverpool Road is to be renewed incorporating new paving, plantings and pedestrian lighting. This entry way has been designed to be well overlooked by residential units above ensuring a high degree of passive surveillance. This surveillance from units combined with lighting upgrades to the driveway/path ensures an acceptable access way compliant with the requirements of CEPTED.

The redeveloped club is to also incorporate a pedestrian access from Norton Street, with a secondary pedestrian access located directly opposite a bridal room and function room, with a clear and accessible path from the Norton Street entry to the main lobby and reception area. This entry is not identified as being the main pedestrian entry point for the club and is expected to only be utilised by patrons who have contacted the club prior to arrival. The proposed pedestrian entry from Norton Street is acceptable subject to conditions, as it also incorporates a number of points for passive surveillance including ground floor club windows.

During the notification period, several concerns/ objections regarding the proposed pedestrian access over 182 Liverpool Road were outlined to Council. These concerns relate to; inability of emergency service vehicles to park, intensification of pedestrian access via the driveway of 182 Liverpool Road, impact to heritage item and loss of commercial frontage to Norton Street.

With regards to concerns regarding emergency services vehicle access to the site, these concerns have been passed onto the applicant who has in turn provided an amended Loading Dock Management Plan which outlines that the proposed loading dock is of sufficient size to accommodate ambulances and fire trucks in the event of an emergency. This management plan also outlines measures to ensure a clear emergency services access path, with the club and loading bay appropriately designed to enable direct access between areas. In the event the loading bay is unavailable then sufficient direct access is maintained from the pedestrian entry point off Norton Street. The driveway at 182 Liverpool Road is to be only for pedestrians/patrons of the Polish Club and will not be utilised by residents above, who will have their own separate private access point off Norton Street. Other concerns regarding impact to the Polish House heritage item have been assessed by Council's Heritage Advisor who outlined no objection to the pedestrian way.

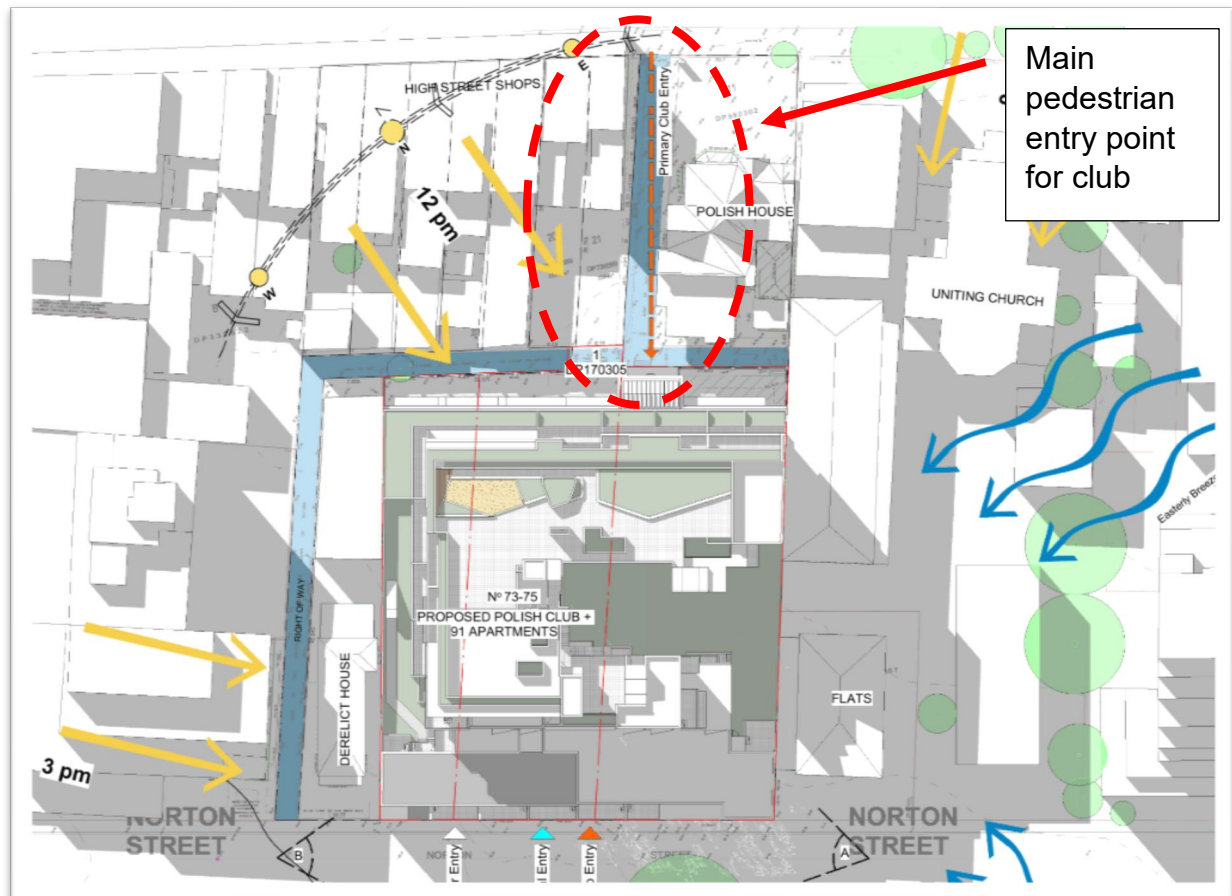


Figure 10 – Location of main pedestrian entry via the driveway of 182 Liverpool Road identified by red circle.



Figure 11 –Main pedestrian entry landscape and lighting upgrades (extract from landscaping plans).

Residential Units

Access for residential units is to be obtained via vehicle and pedestrian entries from Norton Street. Vehicular access is to be via the same driveway entry point as patrons of the club and loading bay. Once within the basement, residential car parking is to be located at levels 2 and 3. In order to ensure security and separation between patrons and residents basement level 2, it is proposed to incorporate a resident entry roller door and separate resident exit roller door. 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 two separate lifts 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.

Pedestrian access for residents is limited to Norton Street where residents will be able to utilise a private resident only lobby/entry, where mailboxes are also to be located. This lobby area has been designed to be highly visible from Norton Street, incorporating a width of roughly 2.5m and 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 lobby is 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.

Acoustic Impacts

A key feature of the current proposal is the mixed-use nature of the development and the interface of the ground floor club, with residential units above. These separate land-uses have a significant potential to be conflicting and may impact residential amenity. Internal noise generation and impacts to residents above have been reviewed and are considered acceptable, subject to suitable conditions of consent and compliance with the Plan of Management and recommendations of the acoustic report.

Outdoor Dining

An initial review of the proposal highlighted significant concerns regarding the proposed outdoor dining areas of the club (located along the northern boundary) and residential units above, these concerns were passed onto the applicant who has subsequently provided an amended acoustic report and Plan of Management detailing mitigation measures both through design and management to ensure minimal amenity impacts for neighbouring residents. These mitigation measures include:

- An awning /slab is to be placed above the outdoor dining area, a minimum 5 metres beyond the above residential unit's balcony edge. The awning is to be lined with noise absorbing material of NRC > 0.8 (e.g. echo soft 25).
- A maximum of fifty (50) patrons are allowed in the outdoor dining area at any one time.
- No music to be played outside outdoor dining area after 10:00 pm.
- Acoustic Louvres are to be used in the Outdoor Gaming Area, facing the Outdoor Dining Area. Fantech Sound Bar Louvre (SBL 1) or similar are to be installed.
- Signage will in place on the premises encouraging members and guests to depart in an orderly and prompt manner. Announcements will be made at regular intervals after 9:00pm asking members and guests to show consideration for neighbours and to depart in an orderly and prompt manner.
- Install a contact number at the front of the Polish Club so that complaints regarding the operation can be made.
- Implement a complaint handling procedure. If a noise complaint is received the complaint should be recorded on a Complaint Form

These measures have been reviewed and assessed by Council's Environmental Health Officer who outlined that the proposed mitigation measures are generally acceptable, subject to suitable conditions of consent regarding additional acoustic testing during initial operation and compliance with noise level emission standards, these conditions are recommended to form part of the consent.

A review of the above measures has highlighted that the proposed acoustic awning is to relate only to the outdoor dining area (which relates to the restaurant), this notation creates the potential for not all outdoor seating elements to be sufficiently treated (in particular elements

which relate to the lounge and bakery/deli outdoor seating), as such to ensure that acoustic impacts from all outdoor seating are appropriately minimised a design change condition requiring the following is recommended:

- An awning /slab is to be placed above all outdoor seating areas. This awning/slab is to extend a minimum 5 metres beyond the above residential unit's balcony edge. The awning is to be lined with noise absorbing material of NRC > 0.8 (e.g. echo soft 25).

With regards to the proposal's requested mitigation measure for no music to be played within the outdoor dining area after 10pm, this is not extensive enough to protect neighbouring residents' amenity and is not supported by Council. A review of the provided acoustic report has noted numerous references to live music and entertainment bands which may potentially operate in the club space. Such entertainment may be able to operate internally with minimal environmental impact, but due to the proximity and design of residential units above any external music played within the outdoor seating area at the subject premises is highly likely to impact resident amenity, as such a condition prohibiting any amplified music within any part of the outdoor areas at any time is recommended.

No objection is raised to the operation of the proposed outdoor seating/dining during daytime hours, subject to the imposition of the above design change condition and other acoustic treatments outlined by the applicant within the provided acoustic report.

Patrons Entering/Exiting

The proposed location of pedestrian entry and exit locations for the registered club has potential to result in significant acoustic impacts for residential units located above. In particular concerns are raised with regards to acoustic impacts from patrons lingering within the immediate vicinity prior to entry or after exit. In order to minimise acoustic impacts and ensure that patrons do not linger a condition requiring security personal to undertake regular patrols of the entry/exit (including the entry driveway on 182 Liverpool Road) to move patrons along, after 9:00pm is recommended for the consent. This condition also requires that the Plan of Management be updated to reflect this new requirement.

Subject to the imposition of appropriate acoustic, plan of management and operational conditions, the proposed development will not result in unreasonable acoustic impacts for neighbouring properties, the application is recommended for approval subject to these abovementioned conditions.

Hours of Operation

A review of the amended plan of management has highlighted that the premises seeks consent for the following hours of operation for each of the various uses:

Club Trading Hours

- Monday to Thursday: 10:00am to 12:00am (Midnight)

- Friday – 10:00am to 02:00am
- Saturday – 07:00am to 02:00am
- Sunday – 07:00am to 12:00am (Midnight)

Restaurant Trading Hours

- Monday to Sunday – 11:00am to 10:00pm

Café & Deli Trading Hours

- Monday to Friday – 10:00am to 8:00pm
- Saturday to Sunday – 10:00am to 1:30am (30 mins before club close)

Gaming Hours

- Monday to Sunday – 10:00am to 30 mins before club close

Function Area

- The applicant has outlined a request for the function area not to have set hours. Instead that it operates at hours when booked between the club operation hours.

Outdoor Areas

- Sunday to Thursday – 10:00am to 10:00pm
- Friday and Saturday – 10:00am to 11:00pm

The applicant has outlined that the requested hours of operation listed above continue on the current hours of operation for the existing registered club which is to be demolished. As part of the current assessment Council has reviewed the proposed hours of operation and considers them to be generally acceptable, subject to suitable conditions of consent regarding acoustic impacts, patron management, compliant management and imposition of a trial period for hours of operation after midnight.

The proposed hours of operation have been referred to the NSW Police Force and Council's Environmental Health Team, both of these in-put officers outlined no objection to the proposed hours of operation (subject to suitable conditions of consent), but did express concerns regarding the frequency, patron numbers and hours of operation for the function room. These concerns are reviewed/assessed below under the heading function room.

The recommended trial period is to last 12 months from the date of issue of a final occupation certificate relating to the registered club premises. A further application under

the *Environmental Planning and Assessment Act 1979* for continued use of extended hours of operation (listed above) will be required to renew the extended hours.

Although it is accepted and understood by Council that the club is already trading on the site, the proposal represents a significant extension and upgrade of the club facilities and opportunity for additional patronage. In addition, the club does not currently exist in an environment with hundreds of residential neighbours living directly above it and more planned immediately next door. In this instance, it is considered appropriate to impose a trial period on the trading hours after midnight.

Any further application will be required to be accompanied by the complaints register for the premises and will assess the environmental impact of the trial hours of operation on residents. The imposition of the trial period of operation is vital to fully realise any long-term or on-going amenity impacts resultant from the registered club's operation, while also providing sufficient and reasonable opportunities to reduce/minimise these impacts at a later time if required.

Outdoor Seating and Dining

As discussed above the location and design of the proposed outdoor seating and dining spaces has great potential to significantly impact residential amenity of units located above. While the application is accompanied by sufficient information detailing acoustic measures to minimise amenity impacts, the complete extent of potential impacts will not be realised until the spaces are operational. For this reason, Council supports the proposed outdoor seating/dining hours requested by the applicant and recommends that the following trial hours for the outdoor seating/dining areas be imposed:

Sunday to Thursday – 10:00am to 10:00pm

Friday to Saturday – 10:00am to 11:00pm

Upon completion of the 12-month trial the hours of operation for this space are to revert to;

Sunday to Thursday – 10:00am to 10:00pm

Friday to Saturday – 10:00am to 10:00pm

Following the completion of the 12-month trial period the applicant may submit a further application under the *Environmental Planning and Assessment Act 1979* for continued use of extended hours of operation or additional extended trading hours for this portion of the premises. Upon lodgement of such an application Council will then undertake a further review of the amenity impacts from this portion of the premises and notify surrounding neighbours of the potential change in order to obtain feedback on any potential amenity impacts which have resulted over the previous 12 months.

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 considered to be acceptable and the application is recommended for support.

Social Impact Assessment

A Social Impact Assessment (SIA) was submitted with the application and has been reviewed by Council's Social Planner. Planning controls currently relating to the subject site do not include provisions relating to social impact and as such the social impact assessment has been undertaken on merit. The provided SIA has undertaken an analysis of the proposed development, existing demographics for the locality, existing uses currently operating on site and employment opportunities within the locality. The key findings of this report include:

- *As the development results in the retention of an existing Club premises on the same site, there is no resultant increase in licensed premises in the area and as such, there is unlikely to be any increased demand for services relating to problematic consumption of alcohol, or gaming issues.*
- *As the residential flat building includes 2 and 3 bedroom apartments, there may be an increase in families moving into the area, which could result in an increased demand for childcare and education services. This increase in demand represents a positive social impact in terms of providing support for existing childcare and schools in the area.*
- *The retention of the Registered Club results in the retention of an established community facility which has been an established part of the Ashfield community for over 50 years.*
- *The proposal is unlikely to generate any negative impacts on crime and public safety in the area. The security features included in the new Club building, and in the residential development, including the introduction of casual surveillance from residential dwellings to surrounding streets, and improved technical surveillance in and around the Club premises results in improved safety and security in and around the site.*

- *The proposed development is unlikely to materially change the way the site relates to community. The subject site will still operate as a Registered Club and in this respect, the existing interaction between the site and the community is likely to remain largely the same.*

The provided SIA has been reviewed by Council's Social Planner who outlined no objection to the development, subject to suitable conditions of consent. This review has included an assessment of existing neighbouring uses including the "loaves and Fishes" premises and found no conflict between the various uses. The proposal is expected to have a positive impact to the locality through the introduction of additional employment opportunities, retention of existing club and resulting social, cultural and leisure activities for members and guests, provision of additional housing stock within the town centre and provision of additional affordable/adaptable housing. The proposal is recommended for support, subject to appropriate conditions of consent.

Community and Pedestrian Safety

As discussed above the entry and exit points of the development have been appropriately located to ensure 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 club. However, as part of the current assessment the community and pedestrian safety of those utilising Norton Street has also been reviewed, in-particular an assessment on the safety and accessibility of the proposed driveway/footpath intersection has been undertaken. This review has highlighted that 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.

Parking

The RMS Guide to Traffic Generating Development outlines the minimum rate of parking and requires a total of 96 car parking spaces for the residential portion of the development, while the parking demand for the club portion of the development is to be based on a traffic generation assessment, with comparisons drawn from similar clubs. Currently the development proposes 117 car spaces associated with the apartments exceeding the minimum required spaces by 21, while the club is to be dedicated 75 spaces, this results in a total on-site parking rate of 192 spaces. Figure 12 below provides an extracted from the revised traffic assessment report which details a breakdown of the proposed parking allocation.

Land Use		Development Yield	RMS Guide	Council DCP Minimum	Proposed
Residential	1-Bedroom	18 units	11 spaces	18 spaces	18 spaces
	2-Bedroom	64 units	58 spaces	64 spaces	64 spaces
	3-Bedroom	6 units	9 spaces	6 spaces	12 spaces
	Visitors	Total units: 88	18 spaces	22 spaces	22 spaces
	Total Residential		96 spaces	111 spaces	117 spaces
Polish Club (1,800m ²)		466m ² (Dining, Lounge, Bar)	Not available see Table 3	77 spaces	75 spaces
		300 seats (Auditorium)	Not available see Table 3	55 spaces	
		30 Staff	Not available see Table 3	10 spaces	
Total Club			75 spaces	142 spaces	75 spaces
Total for the Site			171 spaces	253 spaces	192 spaces

Figure 12 – Parking Allocation Breakdown – Extracted from revised traffic report supplied by applicant.

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, while three-bedroom units will have access to 2 parking spaces. The development also proposes to provide an additional 4 visitor parking spaces, above the minimum required under the RMS guide to traffic generating development. 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 proposed rate of residential parking is acceptable and is recommended for support.

Analysis of the existing club has highlighted that the premises currently utilises 58 parking spaces for servicing/members or patrons, with 29 spaces located at the ground floor under the existing club building and 29 spaces within along the western boundary of the site. The club currently has a floor area of 1,200m², which is being increased to 1,800m² under the current proposal. Of the 75 spaces to be dedicated to the registered club, 10 are to be dedicated for staff use and the remaining 65 are to be utilised by members or patrons of the club. As part of the justification for the provision of 75 vehicular parking spaces the applicant has provided an analysis of other similar developments within the locality and their current parking, staff and member rates. This parking comparison has highlighted that the proposed rate of parking for staff is slightly less than that of similar developments in the locality, while the parking rate for members is comparatively higher than that of similar developments in the locality.

The proposal has been reviewed by Council Traffic Engineers who outlined concerns regarding the potential for peak demand for all services of the registered club (and subsequent parking) to occur within a similar window and create an overflow of parking demand into local streets within the locality. This significant parking demand event has been outlined to likely occur at times when the function area is in operation along with other areas of the club and is unlikely to occur from operation of the proposed restaurant, café/deli and lounge area.

This concern has been reviewed by Council Officers and is readily mitigated through outlining to patrons the of the lack of parking available on site / within the locality and a requirement for

the applicant to inform members of events who have booked into the function area on the location and accessibility of public transport.

As stated above the site is approximately 150m away from the Ashfield Mall (with multistorey public carpark) and 420m away from the Ashfield Train Station and highly accessible via public transport. This high degree of accessibility is expected to reduce the likelihood of patrons utilising private vehicles to access the site. Furthermore the nature of the development is such that it is anticipated that members/patrons of services such as the proposed restaurant, café/deli and lounge area are more likely to be locals to the vicinity and will not rely on private vehicles, instead taking advantage of the good public transport and pedestrian accessibility.

While the same may not be true of patrons of the function area, the imposition of the above mitigation measures is expected to minimise unreasonable demands for parking and ensure that the development can be adequately serviced through the proposed 75 parking spaces. In this instance it is considered that any requirement for increased parking to service the club is likely to result in further encouragement of patrons/members to drive to the site, with a potentially perceived oversupply of parking. Likewise, a requirement for additional on-site parking servicing the club and subsequent increase in vehicles to the locality will negatively impact the current road network and create further congestion.

On balance, the proposed parking rate of 75 spaces to service the club is considered acceptable subject to appropriate conditions of consent and is recommended for support.

Function Room

The current proposal seeks consent for the construction and operation of a new function room, with an area of 410m² and capacity for a maximum 300 patrons. A review of the proposed plan of management has highlighted that the club intends to utilise this space for a variety of events including:

- weddings,
- engagement parties,
- birthday parties,
- communions & christenings,
- Polish cultural events,
- Polish national days,
- Polish scouts,
- Polish folk dancing,
- Zumba, Ceroc dancing,
- Ballroom dancing,
- Tango dancing,
- local community events,
- charity events,
- seniors' events,
- Mother's Day and Father's Day events,
- ANZAC Day events,
- Australia Day celebrations,

- Oktoberfest celebrations,
- Christmas and Easter events,
- 80s Disco Vibration Reunion parties,
- meeting spaces, conferences, corporate events

The applicant has outlined that the frequency of these events occurring will be dependant upon the type of event and frequency of bookings. The size and intensity of the proposed function room is such that if left unrestricted, could result in significant impacts for neighbouring residents above and residents within the locality, through loss of parking and acoustic impacts. The applicant's request for the function room to remain unrestricted with regards to frequency of events is therefore not supported.

Discussions with NSW Police have highlighted that the existing club has consent for the operation of large events where liquor can be sold or supplied until 01:30am, on up to 12 occasions within any 12-month period. NSW Police have provided a recent history of events where the club has requested approval to hold such an events, a review of which has confirmed that many of them relate to events identified as "Club Vibrations" Big Disco Party. NSW Police have outlined that they hold serious concerns with regards to the impact that continued operation of these late-night events would have on residents living above the premises and neighbourhood, should they be allowed to continue upon re-development of the club. These concerns are shared by Council and it is considered appropriate (due to the introduction of new residential accommodation) that restrictions and limitations to the hours of operation and frequency of late-night events to be held within the function room be imposed.

To ensure a sufficient balance between club operation and residential amenity it is recommended that the following operational condition regarding the proposed function area be imposed upon the consent:

- The approved function room/area may only operate a maximum of 12 events until 2:00am, only on Fridays or Saturdays, within the 12 months from the issue of the Final Occupation certificate for the registered club development approved in this consent. Following the completion of this 12-month period no events within the function room/area may operate to 2:00am, instead events must conclude by 12:00am (Midnight), with service ceasing 30 minutes prior.

A continuation of the events/function room trading will require a further application under the *Environmental Planning and Assessment Act 1979*. Any further application for trading must be accompanied by the complaints register required to be kept under this consent.

This condition has been created as a means to allow the operation of the function room on a 12-month trial basis, providing opportunities for real world operation so that any and all potential amenity impacts may be fully understood. This condition has been created on the basis that the proposed function room and club is to be newly constructed and subject to modern acoustic treatments. Upon submission of a further application for continuation of the function room/area Council will review the developments complaint register and any community submissions to determine if the areas operation has had unexpected and

unreasonable amenity impacts. Should it be determined that unreasonable/unexpected impacts have occurred then Council then may require the applicant to undertake further acoustic treatments or mitigation measures prior to the granting of any extension for additional use of the space.

The proposed function room is recommended for support subject to the imposition of the above restriction.

Staffing

The applicant has outlined that the proposed club is to incorporate the following minimum staffing levels during operation:

- 2 x Gaming staff,
- 10 x Function Staff,
- 2 x Kitchen Staff;
- 2 x Restaurant Staff;
- 1 x Bar Attendant;
- 1 x Café/Deli Attendant;
- 1 x Receptionist;
- 1 x Duty manager;
- 2 x Security guard (one for outside seating)

The proposed staffing levels have been reviewed and are generally acceptable subject to suitable conditions of consent. As per the provided plan of management staff members will be encouraged to utilise public transport and not private vehicles in order to lessen demands for on-site parking. The proposed staffing numbers have been reviewed by NSW police who outlined no objection subject to suitable conditions of consent and requirements regarding the number of security guards at the premises. These conditions have been placed into the consent and are recommended for support.

Patron Numbers

The applicant has outlined that the proposed club is to incorporate the following maximum patron numbers in each of the proposed areas (excluding function area discussed above):

- Bar Area - A maximum of 40 people seating or standing at any given time (excluding the club on duty staff).
- Restaurant - A maximum of 60 people at any given time (excluding staff).
- Outdoor Lounge - A maximum of 40 people at any given time (excluding staff).
- Outdoor Restaurant - A maximum of 50 people at any given time (excluding staff).
- Outdoor Gaming - A maximum of 25 people at any given time (excluding staff).

- Indoor Gaming - A maximum of 25 people at any given time (excluding staff).
- Deli and Café - A maximum of 30 people at any given time (excluding staff).

The proposed club is therefore seeking to be able to accommodate a maximum of 270 patrons (excluding function area) at any one time. The site is approximately 150m away from the Ashfield Mall and 420m away from the Ashfield Train Station and highly accessible via public transport. This high degree of accessibility is expected to reduce the likelihood of patrons utilising private vehicles to access the site. Furthermore the nature of the development is such that it is anticipated that members and patrons of services such as the proposed restaurant, café/deli and lounge area are highly likely to be locals to the vicinity and will not rely on private vehicles, instead taking advantage of the highly accessible location. For these reasons the proposed maximum patron numbers are acceptable and is recommended for support. The site's location within the Ashfield Town Centre and within close proximity to public transport make the subject it a suitable location for a development such as the one currently proposed and suitable to accommodate the proposed patron numbers.

Waste Collection / Loading

The proposed loading bay is accessed from Norton 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, commercial waste collection, commercial deliveries and in the event of an emergency, access for emergency service vehicles. As part of the current application the applicant has provided a loading dock plan of management, which details and 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 considered to be 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 exist in a forward direction and achieve waste collection on-site with minimal disruption to the existing road network. As part of the traffic assessment the applicant has outlined that reversing a vehicle into the loading dock space should not take longer than 60 seconds and that the highest inbound trip rate is estimated to be an average of 1 vehicle every 75 seconds. Therefore, the anticipated longest queue length as a result of trucks reversing into the loading back is anticipated to be one vehicle. While such a queue time is acceptable, hours of deliveries and waste collection are recommended to be conditioned as to occur outside of peak operation hours and pedestrian movements. The provided loading bay plan of management identifies these times as being 8:00am to 10:00am and 3:00pm to 6:00pm Monday to Friday. These time frames as well as acoustic impacts on neighbouring residential properties must be considered and mitigated and as such the following management condition is recommended for the consent:

The collection of waste/ recycling and deliveries to the site must only occur between the following hours:

Monday to Friday - 7:00am to 8:00am, 10:00am to 3:00pm, 6:00pm to 8:00pm

Saturday to Sunday and public holidays - 9:00am and 5:00pm weekends

to avoid noise disruption on the surrounding area. Garbage and recycling collection must take place on-site via the loading dock.

The imposition of such a condition is expected to mitigate impacts to traffic entering and existing the site as well as ensure pedestrian safety for members of the public who might utilise Norton Street. The proposed loading dock and waste collection/ delivery method is recommended for support, subject to suitable conditions of consent.

Stratum Subdivision

The proposed stratum subdivision has been considered against the provisions of the Comprehensive Inner West Development Control Plan 2016. The IWCDP 2016 does not have controls relating to Stratum Subdivision and as such a merit assessment has been undertaken. The proposed subdivision plan aligns with the provided architectural plans and detail a clear delineation of commercial and residential spaces, as well as the necessary easements over these spaces, to enable access and maintenance.

A review of the proposed stratum subdivision ground floor plan has highlighted that the proposed loading dock is to fall under the care/ownership of Lot 2 (Residential), no objection is raised to this layout, however the plans do not sufficiently detail an easement for right of carriageway or services benefiting Lot 1 (Commercial) to enable use of the proposed loading bay for deliveries or waste collection. To ensure that Lot 1 (Commercial) obtains a legal right to rely on and utilize the proposed loading bay a condition of consent requiring the principle certifying authority to be satisfied that the necessary easements for access and services regarding utilization and operation of the loading bay by Lot 1 (Commercial) prior to the issue of a subdivision certificate is recommended for the consent.

The proposed stratum subdivision will result in minimal environmental impact for neighbouring sites and is acceptable subject to suitable conditions of consent.

Adaptable Housing

The development proposes to create nine (9) units (units 105, 201, 214, 311, 411, 505, 605, 701, 703) 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.

Fencing

The proposal seeks consent for the construction of new open form fencing located along the northern boundary of the site shared with 182 Liverpool Road. This fencing is generally 1.2m in height and of an open form as to allow visibility to the proposed seating area located below. The proposed height and form of the fencing is acceptable for the intended use of the club 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 club, and is acceptable.

Security

As part of the current application the applicant has provided a crime prevention through environmental design ('CPTED') report. This report has identified and recommended measures to be implemented to ensure security and safety for patrons to the club and residents living above. 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.
- Access should only be available to commercial car parks in business hours to deter offenders using the space in the evening or early morning.
- Access to Level 1 and Level 2 communal areas should be restricted through lift access or swipe card system.

The provided recommendations outlined within this report 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.

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 means that 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. Amended architectural plans submitted with the proposal detail that balustrades and balconies relating to residential corridors and private open spaces are to be treated with obscuring treatments and as such actively minimise direct sightlines into neighbouring properties. With regards to the proposed open corridor design the introduction of obscuring treatment, design internally to the site/building and nature as a transitional space all combine to ensure reduced amenity impacts for

neighbouring sites and an acceptable design outcome. 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.

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(e) The Likely Impacts

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

5(f) 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(g) 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 28 days to surrounding properties, as a result of this notification 14 submissions were received in response. Following the submission of amended plans the application was subsequently re-notified for an additional 28 days and 8 submissions were received in response to re-notification of the application.

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

Issue: Impacts to traffic and parking for the locality and Norton Street

Comment: As part of the current application the applicant has provided a traffic and parking impact assessment report and traffic modelling data. This information has been reviewed by Council Traffic Engineer and by Roads Marine Services (RMS). This assessment has determined that the proposals impact on the locality through the increase in traffic and parking is acceptable, subject to suitable conditions of consent. A detailed assessment of parking allocation can be found with the assessment section of this report.

Issue: Norton Street presentation is out of character with current streetscape

Comment: The proposal and its presentation to Norton Street has been assessed against current planning controls and has been found to be generally compliant. The built form presentation to Norton Street is one which is envisioned and desired by current planning controls and represents the desired future character for the locality. It is considered that Norton Street and the Ashfield Town Centre is in the process of undergoing substantial transformation. No objection is raised to the proposal's streetscape presentation to Norton Street.

Issue: Loss of solar access and overshadowing

Comment: The proposal's solar access impacts and overshadowing have been assessed within the assessment section of this report. The proposal is compliant with Council's controls for solar access and overshadowing and ensures that neighbouring properties retain a sufficient rate of solar access for amenity.

Issue: Bulk and scale impacts to 65 Norton Street

Comment: An assessment on the potential bulk and scale impacts of the development has been undertaken above within the assessment section of the report. The proposal is generally compliant with current planning controls and is considered to reflect the desired future character of the area.

Issue: Loss of pedestrian sightlines from garages at 65 Norton Street

Comment: This matter has been reviewed by Council's Development Assessment Engineers, who have deemed the outcome acceptable, subject to conditions. Concerns relating to loss of pedestrian sightlines relate to three individual garages, each able to accommodate 1 vehicle and relating to private residents. As such the frequency of vehicles existing the garages is minimal and in-line with that of a single dwelling. A review of Norton Street has highlighted one-way traffic movements, with impacted garages retaining sufficient sightlines to incoming traffic. Therefore, potential safety concerns relate only to pedestrian movements, this is considered to be readily addressed through the instillation of mirrors and signs to ensure that all members of the public are aware of the potential for cars reversing, appropriate conditions requiring such measures to be installed is recommended for the consent.

Issue: Club Management of patrons and history of customers loitering in Norton Street

Comment: See assessment section of this report. The proposed club is recommended for support subject to conditions regarding management of patrons, limitations on event frequency and trial hours of operation. The combination of these measures is sufficient to ensure minimal impact to neighbouring properties. A requirement for security to move on patrons from the locality has also been recommended for the consent.

- Issue: Invalid initial notification, due to reliance on pedestrian access over 182 Liverpool Road not being sufficiently identified.
- Comment: The proposal was re-notified in accordance with Council's notification policy, upon submission of amended plans. These amended plans and accompanying documentation include sufficient detail outlining the proposed pedestrian entry way of the club. The application has been notified in accordance with Council's policy and provided sufficient time frame for members of the community to review and make comment.
- Issue: No upgrade to pedestrian access way over 182 Liverpool Road
- Comment: The proposal has been amended since the time of initial notification and now includes pedestrian pathway upgrades to 182 Liverpool Road. These upgrades include new landscaping, lighting and paving. Owners consent for the works to take place has been provided with the application.
- Issue: Intensification of pedestrian access over right of carriageway
- Comment: See assessment section above for details regarding access to the site. The applicant has supplied owners' consent from the neighbouring 182 Liverpool Road, who outlined approval for use of the driveway for pedestrian access and landscape upgrades. A condition requiring the creation or confirmation of an easement for pedestrian access to the site is recommended for the consent.
- Issue: Non-compliance with SEPP 65 and minimum separation distance
- Comment: An assessment on the developments compliance with SEPP 65 has been undertaken above under the assessment section of the report. Since the time of initial lodgement the proposal has been amended and the measuring point of separation distance boundaries amended to comply with the requirements of SEPP 65 and the ADG.
- Issue: The proposal fails to consider implication of potential re-development on neighbouring land
- Comment: The proposal has been amended since initial lodgement and now considers the impacts resultant from neighbouring sites should they be re-developed in the future. The proposed amendments are acceptable and ensure a sufficient rate of amenity for the subject site in the event neighbouring sites also re-develop.
- Issue: Legal right to utilise driveway of 182 Liverpool Road for pedestrian access
- Comment: The applicant has supplied owners' consent from 182 Liverpool Road, who outlined approval for use of the driveway for pedestrian access and landscape upgrades. A condition requiring the creation or confirmation of an easement for pedestrian access to the site is recommended for the consent.

- Issue: Ability for emergency service vehicles to access the site
- Comment: See assessment section above within main body of the report. The applicant has identified sufficient access for emergency services vehicles in the event of an emergency.
- Issue: Impacts to neighbouring heritage items, including the Polish House
- Comment: The development's potential impact upon the heritage listed items within the vicinity has been assessed by Council's Heritage Advisor under the provisions of clause 5.10 of the ALEP 2013. This assessment has determined that the proposal will have minimal impacts upon neighbouring heritage items and is acceptable, subject to suitable conditions of consent.
- Issue: Loss of commercial frontage to Norton Street
- Comment: The proposal maintains an entry from Norton Street, however the main entry of the club is to be via the Liverpool Road access way over 182 Liverpool Road. The development's presentation and frontage to Norton Street has been assessed as part of the current application and is acceptable subject to suitable conditions of consent.
- Issue: Location of signage is detrimental to Polish House Heritage Item
- Comment: Following discussions with the applicant it has been agreed that any signage for the polish club and the residential components of the development is to be assessed under a separate future application, with no consent for signage or signage zones provided under the current application. A condition stating that no signage or signage zones is approved by this application and that signage is subject to a sperate application is recommended for the consent.
- Issue: Fire Safety Compliance and impact to heritage item
- Comment: Plans currently submitted by the applicant detail the location of fire hydrants and boosters addressing Norton Street and are not located within the vicinity to any heritage items. The location of the hydrants and fire safety equipment are appropriately located not to interfere with the heritage items or heritage significant fabric. Appropriate conditions of consent regarding compliance with Australian Standards and fire safety are recommended for the consent.
- Issue: Disabled access to the premises
- Comment: The applicant has provided an access report with the current application and sufficiently detailed that disabled access to the premises is achievable from a variety of locations. A condition of consent requiring compliance with Australian Standards for accessibility has also been recommended.

5(h) 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 ground floor Norton Street frontage/streetscape interface, lack of consideration with regards to neighbouring sites and the potential impact on the subject site in the event of re-development, apartment depths and identification and separation of residential and commercial entries. These concerns were passed onto the applicant who has provided amended plans addressing the above matters. The provided amended plans have been assessed above and are generally compliant with the requirements of SEPP 65 and the ADG.
- 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.
- Community Services/ Social Planning – The proposal has been referred to Council's Social Planner for a review on the potential social impacts of the development. Council's Social Planner has provided comment on the proposal. These comments and an assessment on the social impact assessment is outlined above within the assessment section of the report.
- 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 commercial food kitchens, detailed within the amended plans/ additional

documentation provided by the applicant. 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 and has been determined to be satisfactory subject to suitable conditions of consent regarding the protection and retention of neighbouring heritage items. These conditions are recommended for the consent and should form part of any final approval.
- Traffic Services – The proposal has been reviewed by Council Traffic Engineers who outlined concerns regarding the potential for peak demand for all services of the registered club (and subsequent parking) to occur within a similar window and create an overflow of parking demand into local streets within the locality. This significant parking demand event has been outlined to be likely occur at times when the function area is in operation along with other areas of the club and is unlikely to occur from operation of the proposed restaurant, café/deli and lounge area. These concerns are readily addressed through a requirement for the premises to encourage usage of public transport by patrons and other mitigation measures. Details of this assessment is located above within the assessment section of this report.
- 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.

- NSW Police (Crime Prevention) – The NSW Police Crime Prevention unit has reviewed the proposal and outlined no objections, subject to suitable conditions of consent. These conditions have been incorporated into the recommended consent.
- NSW Police (Licensing) - The NSW Police Licensing unit has reviewed the proposal and outlined concerns regarding the holding of late night events and impact to residents amenity, these concerns are discussed above and resolvable subject to suitable conditions of consent. These conditions have been incorporated into the recommended consent.
- Roads Marine Services (RMS) - The proposal has been referred to RMS for review and comment. In response RMS have outlined no objection to the proposal, subject to suitable conditions of consent. These conditions are recommended for the consent.
- Sydney Water Corporation - The proposal has been referred to Sydney Water for review and comment. In response Sydney Water have outlined no objection to the proposal, subject to suitable conditions of consent. These conditions are recommended for the consent.

7. Developer Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$1,342,251.44 would be required for the development under the 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 18 residential units less than 60sqm, 64 residential units between 60-84sqm, 6 residential units greater than 84sqm and a commercial premise with a GFA of 1800sqm. Credit for an existing commercial premise with a GFA of 1200sqm has been applied.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in SEPP 65, *Ashfield Local Environmental Plan 2013* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development will not result in any significant adverse impacts on the amenity of the adjoining properties or 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 4.6 to vary Clause 4.4 *Floor Space Ratio* of the *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the proposal is consistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Sydney Eastern City Planning Panel as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0520 for Demolition of existing structures and construction of a 3-8 storey mixed use development containing 88 units, a registered club and landscape works to an existing right of carriageway at 73 Norton 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

Attachment D – Statement of Heritage Significance