

**JOINT REGIONAL PLANNING PANEL**  
**Sydney East**

<b>JRPP No</b>	2010SYE110
<b>DA Number</b>	10.2010.301
<b>Local Government Area</b>	Ashfield Council
<b>Proposed Development</b>	Demolition and construction of a Part 8 and Part 9 Storey mixed use development over basement carparking comprising 120 dwellings & retail space
<b>Street Address</b>	2A Brown Street, Ashfield
<b>Applicant/Owner</b>	Russell Olsson Associates
<b>Number of Submissions</b>	61
<b>Recommendation</b>	Approval with conditions
<b>Report by</b>	Atalay Bas, Manager Development Services

## Assessment Report and Recommendation

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### 1.0 Description of Proposal

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

- Demolition of existing commercial building and tree removal;
- Construction of a part 8 and part 9 level mixed use development comprising of:-
  - Building A 9 storey predominantly fronting Brown Street;
  - Building B 8 storey located behind building A and predominantly fronting Drakes lane;
  - Three (3) retail & one (1) supermarket tenancy at the ground floor;
  - Five (5) basement parking levels accommodating 282 vehicles inclusive of two levels of public car parking spaces on basement levels B2 and B3 that will be dedicated to Council for sole use by the general public;
  - Loading/unloading & waste room on ground level;
  - One hundred twenty (120) residential apartments comprising of 26 x 1 bed, 76 x 2 bedroom, 7 x 2 bedroom + mezzanine, 6 x 3 bedroom and 5x 2 bedroom self office/home office apartments;
  - A public through-site link from Brown Street to Drakes Lane via a lift and stairway access; and
  - Colonnade along Brown Street elevation.

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

### 2.0 Executive Summary

The proposal involves the demolition of an existing commercial building and tree removal to allow for the construction of a part 8 and part 9 level mixed use development, located at 2A Brown Street, Ashfield. Two (2) detached buildings are proposed, first a 29.2m high building along Brown Street known as building A and the second a 26.7m high building fronting Drakes Lane known as building B. The proposal incorporates 120 residential apartments, 420m<sup>2</sup> of supermarket floor space at ground level with 152m<sup>2</sup> of ancillary mezzanine office space, 285m<sup>2</sup> of individual retail space (3 small shops) at ground level, 5 levels of basement car parking accommodating a total of 282 car spaces, inclusive of 2 levels of public car parking, and a public through site link from Brown Street to Drakes Lane.

Part C3 of Ashfield Development Control Plan (ADCP) stipulates a maximum 6 storey height limit for the subject site. However, the ADCP also allows a 2 storey bonus to the maximum building height only when there is a community benefit and/or the provision of affordable housing. The proposed scheme will dedicate to Council 2 basement car parking levels as a community facility. The 2 basement levels contain 96 car parking spaces that can be used by the general public. Whilst building A exceeds the maximum height limit by 1 storey, there is planning merit to support the variation particularly given that the proposal positively contributes to the streetscape and there are no amenity issues with the building.

Pursuant to Clause 17B of Ashfield Local Environmental Plan 1985 (ALEP 1985), the FSR control for the subject site is 2:1 with a 1:1 bonus, allowing a maximum FSR of up to 3:1 on the basis that the extra floor space is used for residential purposes and the consent authority is satisfied the development will not result in an adverse impact.

The proposal has a floor space ratio of 3.5:1 exceeding the maximum allowable requirement

by 0.5:1. However, a SEPP No.1 objection to vary the FSR has been lodged justifying the departure. In this instance the SEPP No.1 objection can be supported and is discussed in detail in sections 8.0 and 17.0 of this report.

Part C3 of ADCP requires a “development setback” along Drakes Lane as a residue lot for the purpose enabling a public verge/footpath area wide enough to contain public seating, space for tree planting and adequate pedestrian flow capacity. This area is also required to be dedicated to Council and form part of public open space.

The ground floor of the proposal has a setback ranging from 1.0m to 3.0m to Drakes Lane. However, floors above are cantilevered and thus built to the Drakes Lane property boundary. Whilst the proposal does not provide a “development setback” the objective of this requirement has been provided in that the applicant will provide a right of way benefitting the general public allowing a landscaped pedestrian link between Hercules Street, Drakes Lane and Brown Street. The proposed public right of way area includes a verge for the footpath on Drakes Lane, a public seating area and tree planting in deep soil near Brown Street and along the southern property boundary.

The proposal generally meets the objectives of the 10 principles of good design pursuant to the provisions of State Environmental Planning Policy No.65 – design qualities of Residential Flat Development (SEPP No. 65). Council’s SEPP 65 consultant is of the view that, for equitable development potential, a 9m setback from the centre line of Drakes Lane should be applied above podium level.

Fifty five (55) ‘pro-forma’ letters in support of the proposal has been received as well as four (4) objections raising issues of amenity, traffic generation, overdevelopment, privacy and overshadowing.

The proposed development is considered to be in keeping with the general objectives of the Ashfield LEP and DCP and other relevant controls and is therefore recommended for conditional approval.

### 3.0 Site and Surrounding Development

The subject site with a site area of 3,687m<sup>2</sup> is located within the street block bounded by Brown Street, Hercules Street and Liverpool Road and is located diagonally opposite Ashfield Railway Station. The subject site is also located within the core of the Ashfield Town Centre. The site has its main frontage to the western side of Brown Street and secondary frontage to Drakes Lane. The land falls towards the northern end of Brown Street, where it levels off opposite the Ashfield Railway Station.

The Site abuts a 7 storey commercial building to the south east and an existing electricity substation to the south. To the east of the site is an 8 storey mixed use development. To the west of the site is Hercules Street commercial strip, with those shops fronting Hercules Street.

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

## **BACKGROUND**

### 4.0 Application Details

Applicant	Mr R Olsson
Owner	Mercland Ashfield Pty Ltd
Value of work	\$ 23,686,900

Lot/DP	Lot 2 DP: 1111574
Date lodged	06/12/2010
Date of last amendment	10 March 2011
Application Type	The development application relates to a type of development that the Minister of Planning has categorised as being of regional significance. The Sydney East Joint Regional Planning Panel is the consent authority for the purposes of determining the application.
Construction Certificate	Not submitted as part of the DA.
Section 94 Levy	Applies.

## 5.0 Previous Discussions/Pre-lodgement

On 10 August 2004 Council granted consent to a 'master plan proposal' for the following development:-

*"Torrens Title subdivision into two allotments, demolition of an existing car park and single storey portion of an existing office building and construction of a new multi-storey mixed residential/commercial building".*

The subdivision of the subject site, which comprised a parcel of land fronting Liverpool Road and Brown Street, did proceed and the subject land is one of the parcels created through this consent. No further plans were submitted for the mixed used development component.

The terms of the consent included the following:

1. *A final development application shall be lodged with Council based on the plans prepared by Allen Jack Cottier, architects, marked Drawing No.'s DA2001 – DA2004 Issue B (inclusive) and DA2101 – DA3102 Issue B (inclusive) providing the following details:-*
  - a. *A fully-scaled architectural floor plan for each level of the proposed buildings which reduces the floor area of the proposed development by a minimum of 429sqm so as to achieve a maximum floor space ratio for the whole site of 3.5:1 (including both proposed lots and the existing building to the front of the site off Liverpool Road).*
  - b. *A fully detailed sample board which indicates all proposed materials, finishes and a colour scheme for the proposed development.*
  - c. *Fully detailed architectural drawings for each elevation of the proposed building indicated where the materials, finishes and colour scheme shown on the sample board referred to above will be used.*
  - d. *A minimum of ten (10) percent of the final number of residential units shall be designated as adaptable units in accordance with the requirements of Ashfield Development Control Plan for Access, Adaptability and Mobility. A fully detailed typical floor plan layout for these units shall be submitted with the final development application.*
  - e. *A fully detailed amended car parking layout for all four levels which provides a minimum of eighty-four (84) public car parking spaces over public parking levels 1 and 2 with one (1) disabled parking space being provided on each level. A minimum of one hundred and fifty-five (155) spaces over residential parking levels 1 and 2 shall also be provided with a minimum of thirty-two (32)*

*visitor parking spaces and twelve (12) retail spaces being provided over these levels. The retail spaces shall be provided on the level closest to the ground floor retail tenancies proposed.*

- f. The motorbike area on Residential Parking Level 2 shall be replaced with a carwash area. The carwash area shall be replaced with a disabled car parking space to be allocated to one of the required adaptable units.*
- g. A fully detailed floor plan of the existing building located to the front of the site off Liverpool Road showing how this building is to be modified by the proposed demolition of the existing single storey and car parking structure to the rear of this building.*
- h. Additional drawings and specifications shall be provided to Council with the final development application that address the acoustic issues raised in the report prepared by Challis Consulting Pty Limited dated 17 December 2003.*
- i. Rainwater tanks and a rainwater harvesting system for the irrigation of external areas shall be incorporated into the design of the proposal and included in the final development application submission.*
- j. A roof top communal open space area shall be established within the development and shall be provided with facilities such as BBQ's, seating and pergola structures for shade and shelter.*
- k. External clothes drying areas shall be provided on the balcony areas of the units, and such areas shall be located on balconies so that they are not directly visible from public places or the internal courtyard area of the proposed development.*
- l. A bicycle parking area shall be incorporated into the public car parking area design without the loss of any public car parking spaces.*
- m. The ground floor resident storage area shall be converted to a community facility providing meeting space and areas for recreational activities.*
- n. The applicant shall enter into discussions with Council before the final application is lodged in order to reach agreement on how the issue of affordable housing is to be addressed in the proposed residential unit development.*

The proposal largely complies with the above requirements but differs in the following areas:

- 1 (a) The reduction in floor space identified in this condition is not reflected in the proposed building which results in the subject land and the existing commercial building at 223-227 Liverpool Road, Ashfield having a combined FSR of 3.57:1, not 3.5:1. In the proposal this floor space is largely taken up in the new supermarket area at ground level previously shown as car parking so there is no impact on building bulk. The number of apartments has been reduced from 129 in the master plan scheme to 120 in the current proposal.
- 1 (j) The proposal does not provide roof top communal open space areas. A condition of consent has been included to establish this open space.

- 1 (k) A condition of consent has been included requiring the provision of external clothes drying facilities for each apartment.
- 1 (m) The proposal does not incorporate ground floor resident storage or a meeting room.
- 1 (n) The applicant has not proposed an affordable housing component in the scheme. Additional public car parking (96 spaces) – 12 spaces more than in the master plan is the sole community benefit offered.

The applicant and their consultant representatives have met with Council staff on several occasions. On 17 November 2009, the applicant and their consultant representatives presented the proposed development to the elected members of Council at a Committee Meeting.

The previously approved master plan and its density have formed the basis on which this DA submission has been prepared.

Refer to **Attachment 3** for a copy of the master plan.

During the last pre-lodgement meeting, amongst other things, the following matters were raised:-

- Impact of the driveway and the interference with Brown Street.
- Turning circles for delivery and service vehicles.
- Impact on existing bus stops and pedestrian safety and sight lines.
- Traffic generation and circulation particularly along Drakes due to the basement exit ramp.
- Management of the public car park component.
- Scale of the portion of the rear building on the angle of Drakes Lane - future development potential of those sites.
- Extent of proposed landscape area - additional plantings to be provided in front of the ground floor units to the court yard to improve privacy.
- Waste management garbage room and truck movement/circulation head heights.
- Retention of existing trees.

Extensive discussions have occurred with the applicant with a view to resolving the above issues. In response to the above issues, revised plans and additional information was submitted and adequately addressed the issues that were raised.

## **ASSESSMENT**

### **6.0 Statutory Consideration**

The development site is zoned 3(a) - General Business under the provisions of ALEP 1985, which permits the proposed development. Provisions of ALEP 1985, which are of particular importance in the consideration of this application, relate to Clause 17B FSR and Clause 39B mixed use development in commercial zones.

Provisions of ADCP parts C1, C3 and C11, which are of particular importance in the consideration of this application, relate to building height, development setback, social impacts & residential development, parking, access & mobility.

Design objectives and controls of SEPP No.65 relevant to this application relate to scale.

### **7.0 Compliance Table**

Planning Control	Requirement	Proposed	Compliance Yes/No
FSR (ALEP 1985)	Max 2.0:1, however, an additional 1.0:1 is allowed for residential uses.	3.5:1	No <i>Applicant lodged SEPP No.1 objection. A 3.5:1 FSR is similar to previously approved master plan.</i>
Height (ADCP Part C3)	Maximum 6 storey with a 2 storey bonus allowed for community benefit/affordable housing	Part 9 and part 8 storey. Proposal provides 2 levels of public car parking as community benefit.	Part <i>Proposed height similar to previously approved master plan.</i>
	Ground floor minimum height of 4.0m from floor to underside of ceiling.	5.0m	Yes
	Storeys above ground floor level to have maximum of 3.2m floor to floor, with minimum 2.7m between floor to underside of ceiling	Floor to floor 3.0m.	Yes
Setbacks (ADCP Part C3)	Requires "development setback" along Drakes Lane as a residue lot for the purpose enabling a public verge/footpath area wide enough to contain public seating, space for tree planting, and pedestrian flow capacity. This area to be dedicated to Council and form part of public open space.	Building built to the property boundary along Drakes Lane for the upper levels.	No <i>Ground floor has a setback ranging from 1.0m to 3.0m. However, floors above are built to the property boundary.</i>
Communal open space (ADCP Part C3)	25% communal open space i.e. min 893sqm.	948sqm	Yes
Pedestrian safety and amenity (ADCP Part C3)	Awning and active shopfront requirement.	Colonnade and retail shopfront along Brown Street and Drakes Lane.	Part compliance The proposal provides active frontage and colonnade for pedestrian comfort.
Social consideration & Residential Development (ADCP Part C3)	10% of apartments shall be small studios no larger than 45sqm.	No studio apartments less than 45sqm.	No
	20% of apartments shall be 1 bedroom no larger than 60sqm.	20% apartments less than 60sqm provided.	Yes
Vehicular Parking (ADCP Part C11)	Residential 120 spaces	121	Yes
	Visitor 30 spaces	30	Yes
	Retail (1,617sqm) 40.4 spaces	42	Yes
	Car wash bay 1 space & courier parking 1 space.	5 car wash bays provided, however, no courier parking space allocated.	Yes <i>1 courier parking space can be conditioned.</i>
	Loading bay min required 1 space	1	Yes
Access & Mobility (ADCP Part C1)	All apartments to comply with "Design Checklist 2" in respect to universal accessible design.	Overall, 53 of the 120 apartments (or 44%) are wheelchair accessible.	No <i>Applicant has submitted access report justifying the adequacy of universal accessible design.</i>
	10% or in this case 12 apartments shall be adaptable housing	10% (12) apartments are adaptable.	Yes

## **COMMENTS & DISCUSSION**

### **8.0 Floor Space Ratio**

Pursuant to Clause 17B of Ashfield Local Environmental Plan 1985, the FSR control for the subject site is 2:1 with a 1:1 bonus, allowing a maximum FSR of up to 3:1 on the basis that the extra floor space is used for residential purposes and the consent authority is satisfied that the development will not result in an adverse impact on any one or more of the following:-

- (i) The scale and character of the streetscape;
- (ii) The amenity of any existing or potential residential units on neighbouring land;
- (iii) Sunlight access to surrounding streets, open space and nearby properties;
- (iv) Wind flow patterns to surrounding streets, open space and nearby properties.

The proposal has a floor space ratio of 3.5:1 exceeding the maximum allowable requirement by 0.5:1. However, a SEPP No.1 objection to vary the FSR has been lodged justifying the departure. In this instance the SEPP No.1 objection is well founded and can be supported for the following reasons:-

- The location of the subject site is of significant importance to achieve and implement the Public Domain strategy contained in Ashfield Town Centre Strategy. The proposed scheme provides a good public pedestrian link between Hercules Street/ Brown Street/ Liverpool Road and Ashfield Station. The proposal also provides a colonnade along Brown Street thus providing pedestrian comfort and active frontage along both Brown Street and Drakes Lane;
- The proposed scheme will promote the growth of retail, residential and commercial functions within the city centre;
- Promotes sustainable design in that living and working environments are not heavily reliant on artificial heating, cooling and lighting;
- The proposed scheme incorporates a contemporary façade treatment and high quality architectural details;
- The scale and character of the streetscape will not be adversely affected;
- The external amenity impacts upon existing and future residential development are acceptable;
- Reasonable solar access is maintained to surrounding land and properties;
- Wind flow patterns to surrounding public and private spaces are not likely to be adversely affected;
- Council's SEPP 65 consultant is of the view that:-
  - *"The density is certainly appropriate in this location irrespective of the value to the community of the additional parking in exchange for an additional FSR;*
  - *The proposal has good cross ventilation and solar amenity to most units. The units are well designed with well-sized and orientated balconies."*

## 9.0 Building Height

Part C3 of the ADCP stipulates a maximum 6 storey height limit for the subject site. However, the ADCP also allows a 2 storey bonus to the maximum building height only when there is a community benefit and/or the provision of affordable housing.

The proposed scheme will dedicate to Council two basement car parking levels as a community benefit. The 2 basement levels contain 96 car parking spaces that can be used by the general public.

Whilst building A exceeds the maximum height limit by 1 storey, there is planning merit to support the variation particularly given that the proposal positively contributes to the

streetscape and there are no amenity issues with the height of building A.

Council's SEPP 65 consultant is of the view that, *"the street façade follows the curve of Brown Street and is skilfully handled in terms of how it accommodates the slope of the land and the heights of adjacent properties. The street pattern of Ashfield is reinforced by the built form. The gap between the two buildings allows for views into and across the site and reduces the apparent length of the building"*.

The applicant has provided a sketch that compares the building height of the previously approved master plan to that of the proposed scheme. The sketches illustrate that the proposed scheme is approximately 1.5m lower in overall height compared to the previously approved master plan.

#### 10.0 Building Setback

Part C3 of ADCP requires a "development setback" along Drakes Lane as a residue lot for the purpose enabling a public verge/footpath area wide enough to contain public seating, space for tree planting and adequate pedestrian flow capacity. This area is also required to be dedicated to Council and form part of public open space.

The ground floor of the proposal has a setback ranging from 1.0m to 3.0m to Drakes Lane. However, floors above are cantilevered and thus built to the Drakes Lane property boundary. Whilst the proposal does not provide a "development setback" the objective of this control has been provided in that the applicant will provide a right of way benefitting the general public allowing a landscaped pedestrian link between Drakes Lane and Brown Street.

The proposed public domain "verge area" area includes:-

- footpath 2.1m to 4m wide along Drakes Lane;
- public lift for access for the mobility impaired from the lower to upper level;
- 4m wide paved pedestrian area on the upper level;
- 5 public seats along the edge of the space;
- 2m wide deep soil area planted with small trees along the southern site boundary;
- bollards to separate pedestrians from the car access right-of-way to the adjoining property near Brown Street.

#### 11.0 Active Shop Front & Awnings

Part C3 of ADCP requires the provision of active shop front and awnings for the subject site. The proposed scheme provides retail shops and a supermarket along the Brown Street frontage which provides adequate active frontage.

The proposal provides a colonnade rather than an awning along the Brown Street frontage. The provision of a colonnade is considered to be superior to that of an awning in this instance as it provides better pedestrian amenity and a more traditional treatment to this area of public/private interface.

The provision of awnings is ideal in instances where there can be a continuous cover with no breaks, thus providing pedestrian comfort. If an awning were proposed for this site it would not be contiguous with other buildings due to the location and design of adjoining buildings.

#### 12.0 Social Consideration & Residential Development

Part C3 of ADCP requires that 10% of apartments (12 apartments in this case) shall be small studios no larger than 45sqm. The proposal provides no apartments less than 45sqm. The

applicant is of the view that the proposal complies with principle 9 – of SEPP 65 “Social Dimensions” as a variety of apartment types have been provided. Their research has shown that market trends do not support a demand for apartments of less than 45m<sup>2</sup> in area. The proposal provides for 24 apartments less than 60m<sup>2</sup> in area and a variety of other apartment sizes and configurations.

Council's SEPP 65 consultant is also of the view that the proposed mix of dwellings is appropriate to the area and will encourage a good variety of choice. The associated commercial and retail space will provide additional amenity for residents of the area and more activity within the town centre.

### 13.0 Impact on existing bust stops and pedestrian safety and sight lines

The Sydney Regional Development Advisory Committee and State Transit Authority of NSW have informed Council that the location of the proposal vehicular entry/exit on Brown Street will have an impact on the existing bus zones.

On Friday 4 March 2011 Council's traffic committee resolved to relocate the bus zones further to the east along Brown Street, just past Fox's Lane. This will enable no stopping restrictions to be installed on either side of the proposed vehicular entry/exit for a distance of 10m, as requested by Sydney Regional Development Advisory Committee.

The applicant has agreed to carry out the works required to establish the bus 'lay-by' area which will include excavating and levelling the escarpment to allow for future bus shelters and a pedestrian path. Relevant conditions of consent have been recommended to this effect.

### 14.0 Traffic generation and circulation along Drakes Lane due to the basement exit ramp

The main vehicular entry/exit is proposed from Brown Street in the north-west corner of the site. This access point is for use by residents, visitors, customers and service vehicles. An exit to Drakes Lane is also proposed specifically for cars. Some 280 car parking spaces are proposed in five basement levels.

Concern was raised with the egress to Drakes Lane and its potential to create vehicle queuing in Drakes Lane, which would present a problem for traffic wishing to turn right into Drakes Lane from Hercules Street (Drakes Lane is narrow and there is limited width to facilitate two way traffic).

This could, in turn, create delays for northbound traffic on Hercules Street. These queues could then affect the operation of Liverpool Road and the Liverpool Road/Hercules Street intersection.

Colston Budd Hunt & Kafes Pty Ltd was commissioned by Ashfield Council to review the traffic aspects of the proposed mixed use development. In summary, their review has concluded:-

- *“The applicant's reported traffic flows in Drakes Lane are similar to those counted by us;*
- *Our estimate of traffic generation for the proposed development is slightly higher than that of the applicant's consultant;*
- *We agree that the majority of traffic would be likely to exit the development using the Brown Street driveway;*

- *To assess the sensitivity of the Drakes Lane/Hercules Street intersection, we have assessed a higher proportion of traffic exiting via Drakes Lane than the applicant's consultant;*
- *With these higher flows, the intersection of Hercules Street with Drakes Lane would operate at a good level of service at peak times;*
- *There would not be significant queuing in Hercules Street northbound as a result of the additional traffic using Drakes Lane;*
- *Therefore, the intersection of Hercules Street with Liverpool Road would not be affected by queuing from Hercules Street/Drakes Lane;*
- *There should not be significant potential for conflict between buses in Brown Street and service vehicles exiting the development; and*
- *We would suggest a condition of consent be included requiring the driveway to cater for the simultaneous left turns by a 12.5 metre truck and B99 car, without requiring the service vehicle to cross the centre line in Brown Street”.*

The recommended condition has been included in the recommendation.

#### 15.0 Management of the public car park component

The proposal provides five basement levels of which basement level B1 will be allocated to the supermarket and retail shops, Basement level B2 and B3 will be dedicated to Council for the purposes of public car parking and basement levels B4 and B5 will be allocated to residents. It should also be noted that a small portion of Basement levels B2 and B3 contain ramps and car parking for the residents which is physically separated from the public car parking area.

In order to effectively manage and monitor the public and supermarket car parking areas a condition has been recommended which requires the applicant to install individual parking bay sensors relaying occupancy details to a dynamic sign at the entrance of the building (which will indicate the number of available spaces) and messaging to Council parking patrol officers who will monitor the turnover of car parking spaces.

In addition, a further condition has also been included requiring the applicant to install conduit & cabling and other infrastructure to allow for the potential installation of future entry and exit boom gates and other monitoring devices.

#### 16.0 Access & Mobility

Part C1 of ADCP requires that all apartments comply with universal accessible design principles as stipulated by “**Design Checklist 2**”.

Not all of the proposed 120 apartments comply with universal accessible design principles. The applicant has engaged an access consultant who has provided the following comments:-

- *“The proposal provides 48 Adaptable and Universal Access apartments in single level and two storey designs which is equivalent to 40% of the 120 apartments.*
  - o Level 2 – B12, B13, B14, B16, B17, B18, A11, A12, A13, A14, A15.*
  - o Level 4 – B31, B32, B33, B34, B36, B37, B39, A26, A27, A28, A29, A30.*
  - o Level 6 – B52, B53, B54, B55, B57, B58, B60, A41, A42, A43, A44, A45.*
  - o Level 8 – B61, B62, B63, B64 B65, B66, B67, B68, A48, A49, A50, A51, A52.*
- *5 additional apartments on level 2 in two storey designs have an accessible open plan area at the entry level with a toilet. These apartments provide wheelchair*

*accessible entry with access to potential living area and a bathroom which achieves a reasonable degree of consistency with Council's requirements for Universal Access.*

- *The remaining 67 apartments are two storeys with entry to the bedroom level with stairway access to living areas (i.e. they are split level designs with stairway access between the two levels).*
- *Overall, 53 of the 120 apartments (or 44%) provide a wheelchair accessible entry to living areas which include at least a toilet with 48 providing bedroom and kitchen areas that can be adaptable housing consistent with the general universal access principles within Council's DCP 2007.*
- *The provision of accessible pathways to all 120 apartment entrances by lift access also satisfies the DDA Premises Standard and draft BCA 2011.*

*In summary this assessment confirms that the development provides the capacity to achieve a much higher accessibility and adaptability rating that exceeds the original Master Plan consent, 1998 Access and Mobility DCP and SEPP 65 requirements.*

*It is also evident that 40% - 44% adaptability and universal access of the apartments compares more favourably with the contemporary 2007 DCP access and mobility provisions".*

The justification provided in the submitted access report is valid and is supported from a planning point of view. The main reason for the proposal's inability to achieve 100% compliance with universal access principles is the 'loft/mezzanine style design' of the split level apartments, which are a fairly typical feature of current multi level residential development. It should also be noted that the proposed scheme provides a considerably greater number of accessible apartments than that of the approved master plan.

#### 17.0 Section 79c Assessment

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

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

The proposal is permissible with consent and is considered to generally comply with the aims and objectives of Ashfield Local Environmental Plan 1985.

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

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

##### **State Environmental Planning Policy No. 1 – Development Standards**

The applicant has lodged an objection pursuant to SEPP No.1 - Development Standards. The standard proposed to be varied is Clause 17B of the ALEP 1985 relating to floor space ratio. The maximum permitted floor space ratio for the site is 2:1, however, 3:1 is permitted for mixed-use buildings where the additional floor area is only used for residential purposes and the consent authority is satisfied that the development will not result in any significant adverse amenity impacts.

The proposal has a floor space ratio of 3.5:1. There are no stated objectives to identify the intent behind Council's FSR control and as such the generic intent behind this development standard should be considered. Therefore, it is considered that the purpose of a floor space ratio control is to establish standards for the maximum development density and intensity of land use and to control building bulk and scale.

It is considered that the resultant built form of the proposed 0.5:1 additional floor space, appropriately responds to the built form and character of the surrounding locality and does not establish an intensity of development that will adversely impact on the amenity of the surrounding neighbourhood. Further, Council's SEPP 65 consultant is of the view that the proposed density is acceptable and appropriate in the site's context.

In view of the circumstances, the SEPP 1 objection is considered to be well founded and worthy of support. For further discussion refer to Section 8.0 of this report.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application. The previous uses on site does not indicate that the site is contaminated, however, as the proposal will involve ground disturbance a condition of consent has been included which requires the applicant to address potential contamination matters through a detailed site investigation.

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

Assessment reveals that the proposal generally complies and satisfies all of the ten design quality principles of SEPP No. 65 – Design Qualities of Residential Flat Development. Of particular importance is the issue of scale in relation to future potential development of adjoining sites.

#### **18.0 The provisions of any Development Control Plan**

The proposal has been considered against the provisions of Ashfield Development Control Plan 2007. It is considered the application generally complies with the relevant parts as discussed in this report and therefore warrants support. Where there are variations or issues of non-compliance with the provisions of the DCP these are responded to in the 'Comments and Discussion' section.

#### **19.0 Any matters prescribed by the regulations that apply to the land to which the development application relates.**

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

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

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

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have any significant

adverse environmental and social impacts upon the locality.

The proposal will be a positive addition to the Ashfield CBD streetscape. The design of the buildings are well thought out and articulated and contain human scale elements such as the screens. The buildings have an arrangement of base (retail), middle and top, which is consistent with the objectives for multi-level development in the town centre. The choice of materials (brick, metal panels and render) will respond well to and complement the existing built form in the locality.

#### 21.0 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. The proposed development is considered to be suitable in the context of the locality when considering height and bulk, scale, contribution to the streetscape, traffic, access and safety, loading and unloading, site facilities, waste management, location and treatment of ingress/egress, ground floor design and public domain treatment.

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

The proposal was notified to approximately 1,100 adjoining and nearby affected property owners and occupants, from 10 December 2010 to 17 January 2011.

#### 23.1 Summary of submissions

Fifty five (55) 'pro-forma' letters in support of the proposal were received during the notification of the development application. The letters raised the following points in support of the application:-

- 84 public car parking spaces will provide additional facilities for shoppers;
- proposal will bring much needed foot traffic to the area which the shopkeepers are crying out for; and
- proposed supermarket should make this area of Ashfield a destination point and will help invigorate the railway station precinct.

Four (4) submissions against the proposal were received during the notification of the development application. Refer to **Attachment 4** for a copy of the submissions.

The matters raised in these submissions are summarised below. The issues raised by the objectors have been addressed in the report in detail.

Submissions	<i>Issues Raised</i>
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Ms Mona Ayper Akin  Unit 149/1 Brown Street Ashfield	<ul style="list-style-type: none"> <li>• Already congested area. Additional traffic on a narrow street will have serious health, pollution, noise and environmental implications for existing residents.</li> <li>• Further growth in Brown Street unsustainable.</li> <li>• Loss of sunlight and view of the sky.</li> <li>• Reduced market value.</li> </ul>
Luke Zhang & Sandra Sii  77/1 Brown Street Ashfield	<ul style="list-style-type: none"> <li>• Construction noise.</li> <li>• Traffic congestion on narrow road.</li> <li>• Sunlight and views will be blocked.</li> <li>• Removal of mature trees.</li> </ul>
BBC Consulting Planners on behalf of GE  223 – 239 Liverpool Road Ashfield	<ul style="list-style-type: none"> <li>• Overdevelopment of the site.</li> <li>• Unreasonable shadow impacts on the GE site. More than half of the northern end of existing building on GE site is heavily overshadowed from 9am to approx 2pm in winter. Lower levels will receive no solar access.</li> <li>• Proposal does not comply with Ashfield LEP FSR;</li> <li>• Exceeds building height control.</li> <li>• View loss impacts result in total loss of northern and north-easterly views from GE site. A compliant proposal will at least maintain some views from upper floors of the GE building.</li> <li>• Future development potential of site compromised.</li> </ul>
Dr David Hamer  110/1 Brown Street Ashfield	<ul style="list-style-type: none"> <li>• Loss of view, privacy and light, lives on 8<sup>th</sup> floor and has views to Blue Mountains and sees magnificent sunsets. Has full height windows to take advantage of the views and paid a premium for the apartment. Existing views will be lost as a result of scheme.</li> <li>• Traffic congestion.</li> <li>• Changes required to NW block to improve view and natural light loss.</li> <li>• Suggested changes to development:- <ul style="list-style-type: none"> <li>○ A park would be far preferable to a medium-rise block of flats.</li> <li>○ Courtyard should be open to public if development goes ahead.</li> <li>○ Reduce size of development.</li> </ul> </li> </ul>

## 23.2 Response to submissions

### Traffic congestion and its impacts

Colston Budd Hunt & Kafes Pty Ltd (CBHK) was commissioned by Ashfield Council to review the traffic aspects of the proposed mixed use development. As part of the review CBHK has also carried out traffic counts during peak periods on a weekday morning and afternoon and Saturday lunchtime which are the busiest times for residential and retail developments.

The results show that the proposal will not result in adverse traffic congestion or impacts upon the locality.

### Further growth in Brown Street unsustainable/Overdevelopment

The proposed scheme provides a good public pedestrian link between Hercules Street/ Brown Street/ Liverpool Road and Ashfield Station. The proposed scheme will also promote the growth of retail, residential and commercial functions within the city centre;

The proposal promotes sustainable design in that living and working environments are not heavily reliant on artificial heating, cooling and lighting. In addition, Council officers and Council's SEPP 65 consultant are of the view that the proposed density is appropriate in this location.

#### Loss of sunlight, overshadowing

Due to Brown Street being more than 20m wide, the proposed development will not significantly reduce sunlight access to adjoining residential properties.

The commercial property to the south east known as the GE building will receive sunlight to the top floors from 12 noon in mid winter and thus the shadow will gradually decrease towards 3.00pm. This shadow cast to the commercial building is considered to be acceptable given the nature of the use.

#### Loss of views

It is acknowledged that distant views enjoyed by residents/occupants of the upper floors of adjoining buildings will be impacted by the proposal. However, there is no reference in the Ashfield LEP or Town Centre DCP to controls relating to view sharing in recognition of the fact that the site is located in a very built up area where development would be highly compromised if such controls were in place. Indeed, the planning controls for the Ashfield CBD promote multi-level development, which is consistent with its destination as the major commercial and retail hub of the Ashfield LGA.

The proposed scheme comprises two towers, which assists in breaking up the building bulk and provides view corridors through a north-east/south-west axis mid block through the site. It is also important to note that the proposed scheme is 1.5m lower than the previously approved master plan for the site.

The Land and Environment Court "Planning Principle" that is based on Tenacity Consulting v Warringah Council (2004) NSW LEC 140 (April 2004) is often cited in relation to view loss.

This planning principle arose because the Warringah LEP (Clause 61) required that *"development is to allow for the reasonable sharing of views"*, but did not define what was meant by the term *"view sharing"*. The development relating to this particular case was refused consent on the basis that it did not meet the LEP control of view sharing. As indicated previously there is no similar control in the Ashfield LEP or Town Centre DCP.

The planning principle states that the first step for the assessment of development applications where view sharing is required is to establish the quality of the views being affected. The planning principle says: *"Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured"*.

With reference to the planning principles, the first question is whether the impacted view is iconic. One of the views enjoyed by the resident of 100/1 Brown Street is towards the western horizon, which includes the outline of the Blue Mountains and sunsets. Whilst the Blue Mountains are a significant landscape feature, they are a considerable distance away (approx 60 kms) and more a distant outline of the horizon. Sunsets are a general phenomenon of nature and will still be viewed across the western horizon irrespective of

whether or not the proposed buildings are developed. The view towards the Blue Mountains and the sunset could not be described as iconic.

The 'GE' building adjoins the site to the south/south-west and is currently used for commercial purposes. It should be noted that the existing building on the development site was formerly connected to and part of this commercial building before its subdivision and separation.

The lower levels of the 'GE' building will be overshadowed by the proposed development given its proximity to the new building and the scale of the new development. This would be the case even with a substantially lower building. The upper floors will still receive good solar access.

It is also acknowledged that upper level district views to the north-east will be lost given the relative heights of the two buildings. Even a six level building on the subject land with the same layout and configuration would effectively block these views. In the context of a CBD location where multi-level development is anticipated it would be very difficult to preserve 360 degree views between sites. The 'GE' building still enjoys good views to the north-west, east and south.

It is not clear how the proposed development would compromise the potential redevelopment of the 'GE' building site as it has good access with two street frontages and is of sufficient area to ensure adequate building separation can be achieved.

#### Reduced market value

There is no evidence that the proposal will reduce property values. The proposal does provide public benefit and improvements to the public domain.

#### Construction noise

Relevant conditions of consent have been included which require the applicant/builder to comply with Council requirements in respect to demolition and construction works.

#### Removal of trees

Council's landscape officer has considered the removal of trees and the submitted landscape plan. As a result of negotiations, the applicant has submitted revised landscape plan that provides additional planting.

#### Non compliance with FSR and height

Floor space ratio and height of the building has been extensively discussing in previous sections of this report. Refer to sections 8, 9 and 17.

#### Future development potential compromised for adjoining sites

The application includes a concept plan based on the existing planning controls for the site for the adjoining sites at 241-255 Liverpool Road, Ashfield to the south of the subject land (refer to plan DA 27). The plan shows a potential mixed use development for these properties and demonstrates that a reasonable development can be achieved which maximises the development potential of the sites under existing LEP and DCP provisions.

#### Changes to the proposal to improve the building

The proposed development is considered to be acceptable in its current form.

#### 24.0 The public interest

Matters of the public interest have been taken into consideration in the assessment of the application. The proposed development is considered to be suitable in the context of the locality and therefore warrants support.

#### 25.0 Referrals

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

Department	Comments
Council's Urban Designer	<p>Council's SEPP 65 consultant has reviewed that proposal and raises the following issue:-</p> <ul style="list-style-type: none"> <li>Scale of the proportion of the rear building on the angle of Drakes Lane, which is drawn to the property boundary. Redevelopment potential of properties that back onto lane could be compromised. To provide equitable development potential consideration should be given to the provision of a setback of 9.0m from the centre of the lane.</li> </ul> <p><i>Officer Comment: As outlined in Section 23 of this report a concept plan has been prepared for the above properties mentioned in the SEPP 65 consultant's report. This plan demonstrates that were the sites developed under current controls a reasonable development could be achieved which takes advantage of allowable floor space provisions including the FSR bonus for residential development.</i></p> <p>Refer to <b>Attachment 5</b> for a copy of the assessment report made by Council's SEPP 65 consultant during the pre-lodgement and final DA stage.</p>
NSW Police Force	No significant issues raised. Conditions recommended in respect to lighting and surveillance system.
RTA <i>Sydney Regional Development Advisory Committee</i>	Required the relocation of the existing bus zones and several conditions of consent to improved traffic flow from the site. These conditions have been included in the recommendation.
Energy Australia	<p>Requires a condition be imposed requiring:-</p> <ul style="list-style-type: none"> <li>the design and construction not affect the existing substation.</li> <li>the design of the proposed development will need to take into account the presence of the substation so that the health and safety of occupants of the development are not adversely affected.</li> </ul> <p>Conditions have been included to this effect.</p>
Council Building Surveyor	<p>Several BCA issues raised relating to:-</p> <ul style="list-style-type: none"> <li>compliance with travel distance.</li> <li>fire safety.</li> <li>mechanical ventilation.</li> </ul> <p>Conditions have been included requiring compliance with the BCA.</p>
Council Engineer	No major issues raised subject to conditions of consent.
RailCorp	Require further information prior to construction such as:-

	<ul style="list-style-type: none"> <li>• Geotechnical and structural report in accordance with RailCorp requirements;</li> <li>• Construction methodology with details pertaining to structural support during excavation;</li> <li>• Cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor.</li> </ul> <p>Conditions have been included as per RailCorp requirements.</p>
Council Landscape Officer	No issues as a comprehensive landscape plan has been provided.
State Transit Authority of NSW	Relocation of the existing bus zones. Conditions have been included to this effect.
Transport New South Wales	No major issues subject to conditions of consent.
Council Community Services	Requires that the proposal incorporate adequate access, pedestrian safety and mix of hosing types. Proposal achieves these requirements.
Councils Waste Management Officer	No issues raised subject to conditions of consent.

### **Financial Implications**

**Contribution under Council's Contributions Plan (Section 94) are payable in accordance with the Plan.**

### **Conclusion**

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposed mix use building generally complies with the prevailing planning controls and is considered to be a satisfactory response to the site and its context and accordingly approval of the application is recommended subject to conditions.

### **Attachments**

- Attachment 1 – Plans of the Proposal
- Attachment 2 – Locality Map
- Attachment 3 – Copy of previous master plan approval
- Attachment 4 – Submissions
- Attachment 5 – SEPP 65 Comments

## **Recommendation**

- A** That the objection to Clause 17B of the Ashfield Local Environmental Plan 1985, lodged pursuant to State Environmental Planning Policy No. 1, is considered to be well-founded and it is recommended that the objection be supported; and
- B** That Council as the consent authority pursuant to Clause 80(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No 10.2010.301.1 on Lot 2 in DP: 1111574, known as 2A Brown Street, Ashfield, subject to the following conditions:

## **Conditions**

### **A General Conditions**

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

The development must be carried out only in accordance with the approved plans and specifications listed below, prepared by Olsen & Associates Architects Pty Ltd and any supporting documentation received with the application, except as amended by the conditions specified hereunder:-

Job No	DWG No	Issue	Title
0912	DA 01	B	Site / Analysis Plan
0912	DA 02	B	B5 Parking plan
0912	DA 03	B	B4 Parking plan
0912	DA 04	C	B3 Parking plan
0912	DA 05	C	B2 Parking plan
0912	DA 06	C	B1 Parking plan
0912	DA 07	C	Level 1A plan
0912	DA 08	C	Level 1B plan
0912	DA 09	C	Level 2 plan
0912	DA 10	C	Level 3 plan
0912	DA 11	C	Level 4 plan
0912	DA 12	B	Level 6 plan
0912	DA 13	C	Level 6 plan
0912	DA 14	B	Level 7 plan
0912	DA 15	C	Level 8 plan
0912	DA 16	C	Mezzanine Plan
0912	DA 17	B	Section AA
0912	DA 18	B	Section BB
0912	DA 19	C	Elevation - South
0912	DA 20	C	
0912	DA 21	C	
0912	DA 22	C	Elevation - West
0912	DA 23	C	Elevation - East
0912	DA 24	B	Elevation West (Courtyard)
0912	DA 25	B	Shadow Diagrams
0912	DA 26	D	Perspective / Finishes

0912	DA 27	B	Envelope Study
0912	DA 28	B	Masterplan Height Analysis
0912	DA 29	B	Masterplan Height Analysis
0912	DA 30	A	Adaptable Apartments
0912	DA 31	A	Public Right of Way
0912	DA 32	A	Stratum Plans
100102	L01	C	Concept Landscape Plan
100102	L02	C	Sections and elevations

## **(2) Dedication of land to Council**

Basement levels B2 and B3 which provide public car parking, shown respectively on drawings 0912.DA05, Issue B May 2010 and drawing 0912.DA04, Issue B, May 2010 shall be dedicated to Council free of all costs to Council, to be available to members of the public for use as a public car park, the fee simple of which shall be vested in Council ("the public car park land"). The public car park land shall not include residential lobbies, residential storage, nor residential car parking or bicycle storage spaces.

## **(3) Creation of stratum allotment for the public car park land**

The land which is the subject of the development consent shall be subdivided to include a stratum subdivision so as to create one stratum allotment for B2 and B3 which will be the public car park land.

A certificate of occupation shall not be issued for the whole of the development the subject of this consent until the Applicant for consent or any successor in title, at its cost, obtains development consent for the stratum subdivision of the public car park land and the stratum allotment is transferred to Council, in fee simple, at no cost to Council.

## **(4) All essential services to be provided to the car park land prior to dedication**

The public car park land shall contain, at no cost to Council, all essential services including fire services, drainage/stormwater services, ventilation services, line markings, lighting services and be fully compliant with all relevant provisions of the Building Code of Australia, at the time the land is transferred to Council in accordance with condition 3 above.

Part of the essential services which are to be installed within the stratum allotment and be operational at the time of transfer of the land to Council include a "time stay" system which will control the length of stay for each car park user of the public car park land. The Applicant or its successor in title shall be responsible for the maintenance and upkeep of all essential services including the "time stay" system within the stratum allotment for B2 and B3 forming the public car park land.

## **(5) Public pedestrian right of way: Drakes Lane to Brown Street**

A pedestrian link from Drakes Lane to Brown Street shall be available as a public pedestrian right of way through the western portion of the development site. The public pedestrian right of way is specifically identified on drawing No. DA 31 Issue "A" prepared by Olsson & Associates Architects Pty Ltd titled "Public Right of Way Plan".

## **(6) Creation of easement for public pedestrian right of way**

The Applicant shall at its cost prepare the terms of an easement for public pedestrian right of way and submit the documentation creating the easement to Council for its approval prior to lodgement with the Land Titles Office. Proof of lodgement of the documents, creating the easement for public pedestrian right of way with the Land Titles Office, shall be provided to Council prior to release of the occupation certificate.

The terms of the easement to be created for the public pedestrian right of way shall include, but not necessarily be limited to, the following matters:

- A lighting system to be incorporated along the public pedestrian right of way at the Applicant's cost.
- The maintenance of, and public liability insurance for users of, the public pedestrian right of way to be the responsibility of the Applicant, with Certificates of Currency to be provided to Council annually.
- Opening hours of the public pedestrian right of way to be at least between the hours of 6.00am in the morning and 12 midnight in the evening seven (7) days per week.
- The lift system which is part of the public pedestrian right of way, shall be fully operational for public use during the opening hours of the public pedestrian right of way.

#### **(7) Easements for access to public car park land**

An easement for access shall be created in favour of Council for the purpose of permitting vehicular ingress to and egress from the public car park land. The easement for access shall be created at the Applicant's cost in conjunction with the stratum plan.

Prior to lodgement of all documentation, creating the easement with the Land Titles Office, Council shall approve the wording of the terms of the easement. The Applicant shall provide proof of lodgement of the documentation creating the easement, with the Land Titles Office, to Council prior to release of the Occupation Certificate.

#### **(8) Easement for services relating to the public car park land**

Easements for access and maintenance shall be created in favour of Council relating to all services installed within the public car park land. The easements shall be created at the Applicant's cost in conjunction with the stratum plan.

Prior to lodgement of all documentation creating the easements, with the Land Titles Office, Council shall approve the wording of the terms of the easements. The Applicant shall provide proof of lodgement of the documentation creating the easements, with the Land Titles Office, to Council prior to release of the occupation certificate.

#### **(9) Electronic display system for car parking within the development site**

To minimise the amount of vehicles circulating in the car parking and to prevent queuing of cars at the Brown Street car park entrance, the Applicant shall, at its cost, install an electronic display system (dynamic signage) at the entrance to the car park, in a prominent position, which shall indicate to intending vehicular users of the site, availability of parking spaces within the site.

The dynamic signage should be visible from Brown Street so motorists are aware of the number of vacant spaces prior to entering the car park. Details of the proposed signage shall be submitted to Ashfield Council for approval prior to release of the Construction Certificate.

**(10) Driveway**

The proposed driveway shall cater for the simultaneous left turns by a 12.5 metre truck and B99 car without requiring the service vehicle to cross the centre line in Brown Street.

**(11) Individual Bay sensors**

The applicant shall install individual bay sensors relaying occupancy details to a dynamic signage at the entrance of the building and integrated with an infringement system to advise rangers of over stays. Details of this system shall be submitted and approved by Ashfield Council prior to the release of the Construction Certificate.

**(12) Provision of Conduit and cabling**

The applicant shall make provisions and installation of conduit & cabling to allow for the installation of future entry and exit boom gates and auto pay stations for payment of parking fees over and beyond time limited parking including cabling for a management computer, cctv and reporting system. Details shall be submitted and approved by Ashfield Council prior to the release of the Construction Certificate.

**(13) Delivery vehicles to the site**

All deliveries to the subject site are to be limited to vehicles with maximum length of 10.7metres, and of which are required to enter and exit the Brown Street driveway from the correct side of the road. The following conditions are also applicable:

- (1) Access to the loading dock shall be restricted to only one vehicle at any one time.
- (2) Vehicles longer than 10.7 metres are prohibited from accessing the subject site.
- (3) A Loading Dock Management Plan (LDMP) shall be prepared to Council's satisfaction and shall implement appropriate measures to prevent more than one vehicle accessing the loading dock at any one time. The LDMP shall be submitted for approval, prior to the release of the Occupation Certificate

**(14) Design and construction of car parking bays and ramps**

The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including grades, turn paths, sight distance requirements, aisle lengths, loading bay dimensions and parking bay dimensions) should be in accordance with AS2890.1- 2004 and AS2890.2 – 2002 for large vehicles.

**(15) Inclusion of Car share pods**

In order to encourage alternative forms of transportation, two (2) 'car share' pods shall be sign posted on level B2 of the proposed public car park to the satisfaction of Council. A visual led light system shall be provided to these two spaces to allow easy identification. Details of

the proposed identification system shall be provided for approval of Ashfield Council prior to release of the Construction Certificate.

**(16) Pedestrian safety along Brown Street**

Pedestrian safety shall be ensured in the area, particularly with regard to the interaction of trucks and pedestrians along the Brown Street frontage of the site. Clear sight line measures shall be provided at the property line to the Brown Street driveway to ensure adequate visibility between vehicles leaving the car park and pedestrians on the frontage road footpath- reference section 3.2.4 AS2890.1-2004.

**(17) Lodgement of separate Development application**

A separate development application is to be submitted to Ashfield Council for the use and fit-out of the proposed retail and supermarket tenancies.

**(18) Building work in compliance with BCA**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

***B      Design Changes***

**(1) External finishes**

External finishes shall be in accordance with the "Perspective Finishes Dwg DA 26 Issue C", except as follows:

- (i) Ground level columns along Brown Street shall have a stone cladding, with their shape made rectangular as required to enable the cladding to be applied. Details are to be submitted to the satisfaction of Ashfield Council for approval, prior to the release of the Construction Certificate, and are to include large scale fixing details.
- (ii) Façade concrete perimeter beam shown as A on the perspective along Brown Street, located above the ground level columns and extending approximately to the floor level of Level 1, shall have a stone cladding. Details are to be submitted to the satisfaction of Ashfield Council for approval, prior to the release of the Construction Certificate, and are to include large scale fixing details.

The purpose of the above amendments is to have a building finish which is an appropriate minimum standard for the landmark position of the building, and to have a finish that is long lasting and better resistant to deterioration compared to a painted concrete surface.

The composite metallic panel cladding identified as J on the Drawing legend, shall be applied to the westerly façade shown on Elevation/north, DA 21 issue B and elevation East, DA 20 issue B, and marked in red. The purpose of the above amendments is to have a finish which is an appropriate minimum standard for the landmark position of the building, and to have a finish that is long lasting and better resistant to deterioration compared to a painted concrete surface.

All external paint finishes at ground level shall have anti-graffiti coatings.

**(2) Clothes Drying Areas**

External clothes drying areas shall be provided on the balcony areas of the apartments. These areas shall be located on balconies so that they are not directly visible from public places or the internal courtyard area of the proposed development. Details shall be submitted with the Construction Certificate.

**(3) Provision of roof top communal open space**

A roof top communal open space area shall be established within the development and shall be provided with facilities such as BBQ's seating and shelter. Details shall be submitted and approved by Ashfield Council prior to issue of the Construction Certificate.

**(4) Bicycle parking**

A bicycle parking area shall be incorporated into the public carparking area without the loss of any public carparking spaces.

**(5) Basement head height**

The ceiling height for the internal waste and recycling collection areas shall be a minimum 4.3 metres and free from suspended pipes, ducts etc. Details are to be provided on revised plans with the submission of Construction Certificate.

**(6) Vehicle wash bays**

All vehicle wash bays shall be provided with a tap connected to a continuous supply of water and the wash bays shall be bunded and graded to a floor waste connected to the sewer.

**(7) Provision of wash bays in basement levels B5 and B4**

A minimum of four (4) resident's visitor parking spaces located on basement B5 and B4 shall be converted into a dual car was bay/visitor car parking.

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

**(1) Damage deposit/footpath, road, kerb and gutter**

A Damage Deposit of **\$50,000** is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc. Note: Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

**Bank Guarantees** are accepted in lieu of any Council security deposit/bond subject to the following:

A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

## **(2) Footpath and Asphalt works to be carried out on Public land**

The following construction works shall be carried out by the applicant to the requirements of Council's Works & Infrastructure Department. This work shall be carried out prior to the release of the Occupation Certificate. Plans for Council's perusal shall be submitted as stated below:

### 1. Construction Works - General

- (a) A Demolition and Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hour of operation, access arrangements and traffic control will be submitted to Council, for approval, prior to the issue of a construction certificate.
- (b) Any pruning of Council trees needed to aid construction works shall be carried out in accordance to the Australian Standard AS4373 "Pruning of amenity trees" and conducted in accordance with the NSW Workcover Authority Code of Practice, Tree Work 2007.
- (c) Council shall be notified directly the moment any existing street sign located outside the site is removed or damaged during construction phase.

### 2. Construction Works – Brown Street

- (a) The public footpath for the full site frontage on Brown Street shall be completely reconstructed with the use of pavers similar in material, pattern and colour to the reconstituted type granite paving which have been used in Liverpool Road in the Ashfield Town Centre. All trees surrounds shall be in filled with permeable paving similar to existing. Details are to be submitted to the satisfaction of Ashfield Council for approval, prior to the release of the Construction Certificate.
- (b) The existing narrow central median island in Brown Street shall be temporarily removed prior to the demolition of existing buildings to allow an area for future construction zone. A temporary marked centre line shall be provided in place of the removed median island. Discussions with Council's Engineering Department

shall be undertaken prior to marking out the area. The removal of the median island and the temporary line making shall be undertaken by the applicant at their cost to Council's satisfaction

- (c) The existing narrow central median island in Brown Street that is required to be removed as item (b) above shall be reinstated, at least one metre in an easterly direction (towards the Railway commuter car park from the northern end); this work will then allow kerb side parking to the front of the site along the bend in Brown Street. The parking will be of a type as determined by Council and provided for in general benefit to the area. The median shall be off-set a distance in position so as not to interfere in the proper and safe movement of buses and vehicles in the southerly direction. Plans illustrating the relocated central median island shall be submitted and approved by Ashfield Council and the Local Traffic Committee prior to the issue of the Construction Certificate. The relocated median island shall be constructed to Council's satisfaction prior to issue of Occupation Certificate.
- (d) In conjunction with the median being off-set, the southern corner of the access lane to the existing apartments off Brown Street, opposite the median, shall be cut back to allow garbage vehicles and other vehicles of maximum length servicing the apartments, to turn left (only) from the lane into Brown Street. Plans illustrating this requirement shall be submitted and approved by Ashfield Council and the Local Traffic committee prior to the issue of the Construction Certificate.
- (e) The applicant shall be responsible for the removal, design and re-construction of the median islands and associated kerb alterations.
- (f) No Stopping restrictions, subject to traffic committee approval, shall be signposted a minimum of 10 metres to both side of the driveway in Brown Street for the safe viewing of traffic and proper vehicle ingress and egress out of the driveway.
- (g) All bus stop facilities to the southern side of Brown Street in vicinity of the proposed site driveway shall be relocated further down Brown Street to and within the current parking area on the southern side of Brown Street adjacent to The Esplanade. The applicant shall provide notice to Council of minimum period of (6) weeks before commencement of construction for Council to arrange the necessary relocation of the bus stop.
- (h) The applicant shall be responsible for the design and construction of an indented area, to Council's satisfaction, within the embankment at the new location of the bus stop. The indented area shall be constructed approximately 16.0 metres by 2.0 metres to facilitate the provision of bus shelters. The embankment shall be lowered on the eastern side of the intended bus shelter area to allow passengers, sitting down, to adequately view buses in approach to the stop. A plan of this indented area and associated lowering of the embankment shall be submitted to Council for approval prior to the release of the Construction Certificate. Liaison should be made with Council's Engineering officers to determine criteria in the design of the intended area and lowering of embankment prior to submitting plans for approval. The work shall be carried to the satisfaction of Council prior to commencement of construction and the relocation of the bus stop to this location.

- (i) A second and a new narrow central median island is to be constructed across the proposed site driveway in the middle of Brown Street to physically enforce and only allow vehicle movements left turn in and left turn out of the driveway. The design and positioning of the median shall provide a safe and sufficient width in travel lane movement between parked buses to the northern side and any standing vehicles to the southern side of Brown Street. The median shall not hinder/obstruct in the manoeuvre of any vehicular access in and out of the driveway. Further splaying to either side of the driveway should be considered, if deemed necessary. Plans illustrating the new median island shall be submitted and approved by Ashfield Council and the Local Traffic committee prior to the issue of the Construction Certificate. The new median island shall be constructed to Council's satisfaction prior to issue of Occupation Certificate.
- (j) The new median island above shall extend a minimum of 10 metres to the west of the driveway and extend east to as far as the commuter carpark entry to prevent any likely hood of 'U' turning from this end of the median.
- (k) The applicant shall be responsible for the design and construction of the new median island above.
- (l) All signs and marking for the alteration and provision of street parking and bus zone reallocation with the development shall be carried out by Council at cost borne by the applicant.
- (m) Details and measures to safeguard on the warning and viewing of traffic and pedestrians when exiting the driveway in Brown Street shall be submitted to Council prior to the release of the Construction Certificate.

### 3. Construction Works – Drakes Lane

- (a) The full length of Drakes Lane shall be is to be re-sheeted with 30mm of Asphaltic Concrete (AC 10) each edge adjacent to the kerb shall be milled to provide a satisfactory matching edge prior to issue of the Occupation Certificate.
- (b) The exit ramp onto Drakes Lane should be kept closed and not allow traffic movement out from 4.00am to 10.00am and 2.00pm to 7.00pm. The applicant will provide appropriate signage and measures to identify when the exit ramp is in operation. This measure shall include an electronic time system that automatically operates the proposed boom gate.
- (c) Vehicles exiting Drakes Lane coming out of the exit ramp should be warned and made to give-way in advance to entering vehicles coming in from Hercules Street. The applicant is to provide further details to Council in determining how to address this issue prior to issue of the Construction Certificate.
- (d) To avoid incorrect entry via Drakes Lane to the site, appropriate signage shall be placed in a visible location warning motorists that Drakes Lane access is exit only.
- (e) Notwithstanding the narrow width of the east-west section of Drakes Lane between Hercules Street and the north-south section of Drakes Lane, the remainder of the east –west section of the lane up to the exit ramp shall allow for the safe passing of a service vehicle and a car, in the event of an unscheduled service delivery as well as being able to cater for current vehicle manoeuvre in

and out of the property driveways, especially with delivery trucks accessing the driveways and serving the properties.

- (f) The kerb and gutter adjoining the development on the north–south section and east–west section of Drakes Lane shall be reconstructed to Council’s specification together with the Asphaltic Concrete sheeting of all of Drakes Lane.

### **(3) Support for Drakes Lane & Holden Street Road Reserve**

The applicant shall in writing free Council of any indemnity or cost for any road or other pavement failure due to the excavation and construction of the proposed building or any other works associated with this development.

A traffic management plan outlining how demolition, excavation and construction of the proposed building will be managed, shall submitted and approved by the relevant Road Authority (that being Ashfield Council), prior to the release of the Construction Certificate.

A detailed plan of showing how each road reserve will supported during the excavation and construction phase for site, and how if required Council’s road reserve will need to be reconstructed (backfilled) including stop work points for inspections purposes. These details shall be prepared by a suitably qualified Engineer and submitted and approved by the relevant Road Authority (that being Ashfield Council), prior to the release of the Construction Certificate.

### **(4) Services adjustment or relocation**

The applicant shall meet the full cost for Telstra, Sydney Electricity, Sydney Water or Natural Gas Company to adjust/relocate their services as required. The applicant shall make the necessary arrangements with the service authority. (For information on the location of these services contact the “Dial before you Dig” service on 1100.)

Documentary evidence from the public utility authorities confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate under Section 68 of the Local Government Act, 1993, for construction of the development.

### **(5) Stormwater disposal-calculations**

- (a) Calculations and details of the proposed method of stormwater disposal shall be prepared by a suitably qualified professional civil engineer in accordance with **Council’s Stormwater Management Code** and submitted to, and approved by, Council prior to the release of the Construction Certificate.

The Construction Certificate plan to be submitted to Council must consist of the following items:

Separate catchment areas within the site draining to each collection point or surface pit classified into the following categories:

- (i) Roof areas.
- (ii) Paved areas.
- (iii) Grassed areas.
- (iv) Garden areas.

- (v) The percentages of Pre-development and Post-development impervious areas
- (b) At each pit and or bend, a level of pipe is to be shown (the minimum grade for pipes is 1%).
- (b) All flowpaths both internal and external, which pass through or around the proposed development site, are to be shown on the Construction Certificate plan.
- (c) The detention tank as shown on plan number 209-728 drawing H-03 shall be designed so that inspection/access openings shall be provided over the trash screen as well as over the outlet pipe. There shall be no impediments to the removal of debris through these openings. Inspections shall be possible without residents or owners having to remove heavy access covers.
- (e) Calculations and details are to be provided to Council showing that provisions have been made to ensure that the piped drainage system including pits have been sized to accept runoff from all storms up to the 100 year ARI, (including overflows from roof gutters).
- (f) All garbage and waste areas must drain to the sewer and not the stormwater system.

**(6) Stormwater detention storage facility**

- (a) On-site Stormwater Detention storage shall be provided in conjunction with the stormwater disposal. This storage shall be designed in accordance with Council's Stormwater Management Code. Details of the storage shall be submitted to and approved by Council prior to the release of the Construction Certificate.
- (b) All on-site stormwater detention pits must be located on Common Property and not on private property.
- (c) Prior to the release of the Construction Certificate, a maintenance schedule is to be prepared which clearly outlines the routine maintenance necessary to keep the OSD system working, this information is to be included in the Positive Covenant required for this development. Some of the issues that will need to be addressed are:
  - where the storage and silt arrestor pits are located
  - which parts of the system need to be accessed for cleaning and how access is obtained
  - description of any equipment needed (such as keys and lifting devices) and where they can be obtained
  - the location of screens and how they can be removed for cleaning
  - who should do the maintenance (i.e. commercial cleaning company)
  - how often should it be done

The abovementioned maintenance schedule is to be submitted to and approved by Ashfield Municipal Council prior to the release of the Occupation Certificate.

**(7) Erosion, dust, topsoil and sediment control**

Temporary measures shall be provided during construction e.g. bunding, shade cloth to prevent dust leaving the site, sandbags around Council/private stormwater pits etc. in order to prevent sediment, dust, topsoil and polluted waters discharging from the site. Plans showing such measures shall be submitted to Council and approved prior to the release of the Construction Certificate.

#### **(8) Waste Management Plan**

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

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

#### **(9) Construction and Site Management Plan**

Prior to demolition works and issue of a Construction Certificate the applicant shall submit to Council or the accredited certifier a construction and site management plan that clearly sets out the following:

- (a) what actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like,
- (b) the proposed method of loading and unloading excavation machines, building materials, formwork and the erection of any part of the structure within the site,
- (c) the proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period,
- (d) how it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways,
- (e) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a chartered Civil Engineer or an accredited certifier.

Where it is proposed to:

- pump concrete from within a public road reserve or laneway, or
- stand a mobile crane within the public road reserve or laneway, or
- use part of Council's road/footpath area,
- pump stormwater from the site to Council's stormwater drains, or
- store waste and recycling containers, skip, bins, and/or building materials on part of Council's footpath or roadway,

AN ACTIVITY APPLICATION FOR A CONSTRUCTION ZONE, A PUMPING PERMIT, AN APPROVAL TO STAND A MOBILE CRANE OR AN APPLICATION TO PUMP WATER INTO A PUBLIC ROAD, TOGETHER WITH THE NECESSARY FEE SHALL BE SUBMITTED TO COUNCIL AND APPROVAL OBTAINED BEFORE A CONSTRUCTION CERTIFICATE IS ISSUED.

NOTE: A SEPARATE APPLICATION TO COUNCIL MUST BE MADE FOR THE ENCLOSURE OF A PUBLIC PLACE (HOARDING).

## (10)

## LANDSCAPING PLAN

Submission of a *Detailed Landscape Plan* at scale 1:100 or 1:200 (prepared by a landscape architect, landscape designer or other suitably qualified person who is eligible for membership of the Australian Institute of Landscape Architecture or the Australian Institute of Landscape Designers and Managers) to the Principal Certifying Authority. The plan should be consistent with the approved development plans including any approved *Landscape Concept Plan* and include –

- All trees are to be planted from minimum 200 litre containers grown to Natspec 2 " Specifying Trees, a guide to assessment of tree quality" specification.
- All proposed tree planting shown in the Landscape Concept Plan L01 and L02 (issue c) is to be relocated from the lawn areas and instead planted into the adjacent mulched garden areas.
- All existing trees that are to be retained are to be protected in accordance with AS 4970-2009 Protection of Trees on Development Sites.
- Utility services are not to be located in the mulched garden areas or within the dripline of the existing retained and protected trees.
- Maintenance/Embellishment Strategy - to ensure plants are successfully established and maintained- show construction work exclusion areas, irrigation details, staking, topsoil, mulch etc.
- Landscaping details are to be provided for approval with the Construction Certificate. All site works and landscaping is to be carried out in accordance with the approved plans prior to completion of work and/or occupation of the premises.

## (11) Section 94 Development Contributions

**In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction**

**Certificate to cater for the increased demand for community infrastructure resulting from the development:**

	CONTRIBUTIONS (NEW DEVELOPMENT)				Sub-Total
	Residential Accommodation less than 60sqm GFA	Residential Accommodation between 60-84sqm GFA	Residential Accommodation greater than 84sqm GFA	Retail Shops (per sqm)	
Number of Dwellings	22	21	77	740 sqm	N/A
Local Roads	\$2,944.69	\$2,810.84	\$13,169.31	\$12,105.95	\$31,030.79
Local Public Transport Facilities	\$9,419.78	\$13,864.93	\$72,482.01	\$2,863.80	\$98,630.52
Local Car Parking Facilities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Local Open Space and Recreation Facilities	\$165,652.24	\$243,822.63	\$1,274,637.10	\$111,584.60	\$1,795,696.57
Local Community Facilities	\$10,232.62	\$15,061.33	\$78,736.48	\$0.00	\$104,030.43
Plan Preparation and Administration	\$7,526.48	\$11,078.19	\$57,913.71	\$5,061.60	\$81,579.98
<b>TOTAL</b>	<b>\$195,775.82</b>	<b>\$286,637.92</b>	<b>\$1,496,938.61</b>	<b>\$131,615.95</b>	<b>\$2,110,968.30</b>

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\$C_C = \frac{\$C_P \times CPI_C}{CPI_P}$$

Where:

$\$C_C$  is the amount of the contribution for the current financial quarter

$\$C_P$  is the amount of the original contribution as set out in this development consent

$CPI_C$  is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.

$CPI_P$  is the Consumer Price Index for the financial quarter at the time of the original consent.

Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9716 1800. Payment may be made by cash, money order or bank cheque.

Council's Development Contributions Plan may be viewed at [www.ashfield.nsw.gov.au](http://www.ashfield.nsw.gov.au) or a copy may be inspected at Council's Administration Centre.

## (12) Long service levy

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building works in excess of \$25,000.00 are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to

the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most councils.

### **(13) Lighting to basement/pedestrian routes-safety**

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

### **(14) Surveillance**

A surveillance system, for the building, open space and basement car park is to be designed by a professionally recognised security firm, which include the following:

- o a closed circuit television (surveillance cameras);
- o the Manager's office having the relevant control panels; and
- o Tapes/digital data 'on disc' to be properly stored and retained on site for a minimum of twenty-one (21) days for the availability of Council or NSW Police.

Details to be shown on the construction certificate and provided to Ashfield Police prior to occupation.

### **(15) Entry control - safety**

At the entry to the resident basement car park, the following shall be provided:

- a boom gate;
- an intercom system between visitors and residents to entry and exit from the car park.

EACH GROUND LEVEL ENTRY AREA TO THE BUILDING SHALL HAVE AN INTERCOM SYSTEM WHOSE PURPOSE IS TO CONTACT RESIDENTS OR THE MANAGER/CARETAKER TO ALLOW ENTRY TO VISITORS .DETAILS TO BE SHOWN ON THE APPLICATION WITH THE CONSTRUCTION CERTIFICATE.

### **(16) Preparation of geotechnical report**

To ensure that the structural integrity of the proposal and neighbouring buildings will be maintained, a full geotechnical report must be submitted to the Council or the PCA prior to the issue of a construction certificate and prior to the commencement of excavation works. The report must include an investigation of site and soil conditions as well as the proposed means of construction and must contain, where required, recommendations to ensure that excavation, backfilling and construction, including temporary works during construction, will not affect the structural integrity of neighbouring buildings or the structural stability of neighbouring public land, property or services. The report is to be prepared and certified by an appropriately qualified practicing geotechnical engineer.

All demolition, excavation, backfilling and construction must be undertaken in accordance with the recommendations of the geotechnical report.

### **(17) Vibration damage assessment**

To minimise vibration damage and loss of support to buildings in close proximity, a report shall be prepared by a qualified Geo-technical engineer detailing the maximum size of hammer to be used where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence). The report is to be submitted to Council prior the issue of a Construction Certificate.

**(18) Street numbering**

An application for street numbering shall be lodged with Council for approval, prior to the release of a Construction Certificate, or Subdivision Certificate, whichever occurs first.

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

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

**(20) Strata subdivision certificate to be obtained from Council**

Prior to the issue of a strata certificate under Section 37 of the *Strata Titles Act 1973*, the applicant is to submit an application for a Section 37 certificate together with a survey plan prepared by a registered surveyor, and at least six copies for certification by an accredited certifier, the General Manager of Council or authorised person of Council.

**(21) Subdivision certificate to be obtained from Council**

A subdivision certificate, being a certificate that authorises the registration of a plan of subdivision under Division 3 of Part 23 of the *Conveyancing Act 1919* is to be obtained from Council in accordance with Section 109C(1)D of the *Environmental Planning and Assessment Act 1979*.

**(22) Plan of subdivision - Council signature**

A final plan of subdivision, prepared by a registered surveyor, and six (6) paper copies, are to be submitted to Council for signature, prior to registration at the Land Titles Office.

**(23) Sydney Water - Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then follow the "e-Developer" icon or telephone Sydney Water 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of an occupation or subdivision certificate.

**(24) Documentary evidence- compliance with consent– strata plan**

The Strata Plan of subdivision will not be issued until documentary evidence of compliance with conditions of Development Consent No. has been submitted to Council.

**(25) NSW Transport Rail Corp Requirements**

The following information is required to be submitted and approved by NSW Transport rail Corp prior to issue of the Construction Certificate:-

- (a) Geotechnical and structural report that meets the requirements of NSW Transport.
- (b) Construction methodology with details pertaining to structural support during excavation.
- (c) Cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor.

The applicant may contact Project Coordinator of the Rail Corridor Management Group on 8922 4315.

**(26) Energy Australia Requirements**

The construction of the proposal shall not affect the existing substation. Energy Australia shall be consulted and its requirements be met in the construction of the development.

**(27) NSW Police Force Requirements**

Conditions and requirements imposed by Ashfield Local Area Command in their letter dated 6 January (which is attached to this consent) shall be complied with. Compliance method of the conditions shall be submitted and approved by Ashfield Council prior to release of the Construction Certificate.

**(28) NSW Transport Requirements**

The following information is required to be submitted and approved by NSW Transport, Centre for Transport Planning and Product Development, prior to issue of the Construction Certificate:-

- (a) Preparation of a transport and accessibility impact assessment addressing:-
  - The objectives, priorities and targets of the NSW state plan 2010, metropolitan plan for Sydney 2036, NSW Bikeplan and the relevant policy advice including
    - Planning guidelines for walking and Cycling; and
    - Active Living Development: Designing Projects for Active Living
  - Measures to increase the use of public and active transport modes to meet travel demand – consistent with the NSW State Plan
  - Means to reduce parking provisions of the site as informed by a Workplace Travel Plan.

- How the development will contribute to implementing the bicycle link along Brown Street adjacent to the site proposed in the Ashfield bikeplan together with upgrades to the existing pedestrian environment.
- (b) Preparation of Workplace Travel Plan, which includes car share and car pool spaces
  - (c) Preparation of transport access guide to inform the future residents, customers and other visitors about available travel choices
  - (d) Inclusion of a car share and car pool spaces in the car park
  - (e) Provision of bicycle parking and amenities for staff at convenient and safe locations including the car park.

**(29) Exhaust fumes from car park**

Any exhaust ventilation from the carpark is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. details demonstrating compliance are to be provided with the Construction Certificate.

**(30) No external service ducts**

Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate.

**(31) SEPP 65 – Design Verification**

Prior to release of the Construction Certificate design verification is required to be submitted from the original designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No – 65 Design Quality of Residential Flat Building Development.

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

**(1) Construction zone**

All construction vehicle activity should be accommodated on site. A construction zone would only be considered pending Traffic Committee approval, and that construction vehicles could use the kerb immediately outside the site without interfering with traffic movement through the area. A plan showing details of the length required and reasons to why construction vehicles could not be accommodated on site shall be submitted to Council in a minimum period of (6) weeks before commencement of construction for referral to the Traffic Committee. Relevant fees will apply as set out in Council's Fees and Charges.

All construction traffic at the site is to enter and leave via Brown Street. No construction traffic is to use Drakes Lane without firstly submitting a Traffic Management Plan to Council for approval.

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

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

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

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

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

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

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

**WARNING:** Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

#### **(4) Road opening permit- Council controlled lands**

A “road use-opening permit” shall be obtained for all works carried out in public or Council controlled lands. Contact Council’s Works and Infrastructure Department for details.

#### **(5) Public liability insurance – Works on Council/public lands**

The applicant or any contractors carrying out works on public or Council controlled lands shall have public liability insurance cover to the value of \$10 million and shall provide proof of such cover prior to carrying out the works.

#### **(6) Traffic control on public roads**

Where works are undertaken on public roads, adequate traffic control in accordance with AS 1742.3 1996 “Traffic Control Devices for work on Roads”, particularly regarding traffic movement controllers, advance warning signs and directions to motorists, shall be provided. Where such measures are not satisfactorily provided to this Australian Standard, Council may provide such and recover the costs from any bonds held.

#### **(7) Engineering staff to inspect roadworks/drainage**

An inspection by Council’s staff will be required for (kerb/gutter/crossing etc) at the following stages:

- (i) After excavation.
- (ii) After the erection of formwork and the placement of reinforcement and prior to pouring of concrete.
- (iii) After placement of road base course.
- (iv) After completion of any pits.
- (v) After pipes have been laid and prior to backfilling.
- (vi) On completion of works.

A minimum of 24 hours notice is required to be given to Council to obtain an inspection. Work is not to proceed until the works or activity covered by the inspection is approved.

#### **(8) Spoil and building materials on road and footpath**

Spoil and building materials shall not be placed or stored within any public roadway or footpath.

#### **(9) Sanitary facilities - demolition/construction sites**

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

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

#### **(10) Building location - check survey certificate**

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

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

#### **(11) Crane permit**

SHOULD THE APPLICANT NEED TO USE A CRANE DURING THE COURSE OF BUILDING, IT WILL BE NECESSARY TO FIRST OBTAIN A "CRANE PERMIT" FROM COUNCIL'S ONE STOP SHOP. A FEE OF IS PAYABLE FOR THE PERMIT. THE APPROVAL OF OTHER AUTHORITIES (EG POLICE DEPARTMENT, RTA) MAY BE REQUIRED FOR THE USE OF A CRANE.

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

- If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or involves the enclosure of a public place; a hoarding or fence must be erected between the work site and the public place.

- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- ANY SUCH HOARDING, FENCE OR AWNING IS TO BE ERECTED PRIOR TO WORKS COMMENCING AND ONLY WITH COUNCIL APPROVAL IN ACCORDANCE WITH WORKCOVER REQUIREMENTS. THE TEMPORARY STRUCTURES ARE TO BE REMOVED WHEN THE WORK HAS BEEN COMPLETED.

### **(13) Site fencing/security**

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

### **(14) Dilapidation Reports**

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

### **(15) Support for neighbouring buildings and notice to adjoining owners**

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - (a) must preserve and protect the building from damage, and
  - (b) if necessary, must underpin and support the building in an approved manner, and
  - (c) must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Notes:

- (i) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works.
- (ii) allotment of land includes a public road and any other public place.

#### **(16) Demolition work plan**

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

#### **(17) Asbestos sheeting removal - EPA/Workcover Authority**

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

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

#### **(18) Lead removal certification**

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

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

#### **(19) Garbage skips on Council land - Council approval**

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

#### **(20) Haulage route information**

Full details of proposed haulage routes, estimated number of vehicle movements and trip locations related to demolition/construction activities are to be submitted to Ashfield Council prior to work commencing.

#### **(21) Works zone application to Council - construction vehicles**

The applicant is to apply to Council for a "works zone" along the site frontages for construction vehicles prior to work commencing. Contact Council's Customer Service on 9716 1800 for details and the necessary fees you need to pay.

Note: A minimum of 2 months notice to Council is required.

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

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

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

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

**(2) Excavations and backfilling - safety/standards**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

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

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

**(4) Advertisements on hoardings prohibited**

***No advertisements of any kind shall be affixed to the hoarding except a board which may show the builder's or architect's name or any particulars regarding the subject building.***

**(5) Billposters - sign on hoarding**

***A sign "Billposters Will Be Prosecuted" shall be attached to or printed upon the front of the hoarding.***

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

Demolition, excavation and construction work, including loading and unloading of materials and machinery, shall be restricted to between the hours of 7.00 am to 6.00 pm, Monday to Friday and from 7:00 am to 1.00 pm on Saturday. Work is prohibited on Sundays, and on public holidays.

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

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

**(8) Noise control during construction and demolition**

For construction and demolition periods of 4 weeks or less the L10 level, measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 20dB.

**(9) Dust control**

Adequate measures are to be implemented, including, for example, water spraying/mesh barriers, to prevent dust from causing any nuisance.

You are to ensure that ALL vehicles leaving the site are free of mud and debris. Loads are to be fully covered and vehicles/wheels washed down to ensure that no nuisance occurs.

**(11) Retaining walls and drainage**

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

**(12) Demolition requirements/standards**

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

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (E) ALL OTHER MATERIALS AND DEBRIS IS TO BE REMOVED FROM THE SITE AND DISPOSED OF TO APPROVED OUTLETS.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (e.g. ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not to be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) CONSTRUCTION AND DEMOLITION WASTE, PARTICULARLY TIMBER, BRICKS AND TILES, CONCRETE AND OTHER MATERIALS NEED NOT BE DISPOSED OF- THEY CAN BE RECYCLED AND RESOLD IF SEGREGATED PROPERLY FROM ANY HAZARDOUS WASTE CONTAMINATION.
- (o) FOLLOWING DEMOLITION ACTIVITIES, SOIL MUST BE TESTED BY A PERSON WITH SUITABLE EXPERTISE TO ENSURE THE SOIL LEAD LEVELS ARE BELOW ACCEPTABLE HEALTH CRITERIA FOR RESIDENTIAL AREAS. FULL CERTIFICATION IS TO BE PROVIDED FOR APPROVAL BY THE PRINCIPAL CERTIFYING AUTHORITY.

#### **(13) Noise transmission - stair shaft - BCA**

The walls of the stair shaft to have a Sound Transmission Class of not less than 45 and to be constructed in accordance with the relevant provisions of Part F5 of the *Building Code of Australia*.

#### **(14) Noise transmission - dividing walls - BCA**

The walls dividing bathrooms, laundries and kitchens in one flat from habitable rooms in an adjoining flat having a Sound Transmission Class of not less than 50 and being constructed in accordance with the provisions of Part F5 of the *Building Code of Australia*.

#### **(15) Noise transmission - soil/waste pipes - BCA**

Soil and waste pipes, including those that pass through a floor shall be separated from the rooms of any flat immediately adjacent thereto by construction having a Sound Transmission Class in accordance with Part F5 of the *Building Code of Australia*.

#### **(16) Site investigation & site audit statement**

Following demolition activities, the soil must be tested by a person with suitable expertise, to ensure the soil contaminant levels are below acceptable health criteria for residential areas. The soil investigation shall be carried out in accordance with the NSW Environment Protection Authority's *Guidelines for consultants reporting on contaminated sites*. A site Audit Statement shall be issued at the completion of the investigation by an approved NSW Environment Protection Authority Auditor in accordance with the NSW Environment Protection Authority's Guidelines for the NSW Site Auditor scheme.

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

**(1) On site detention system – check survey**

Prior to the construction of an on-site detention system involving permanent construction work (e.g. construction of concrete slabs, walls, pipe-systems or pits etc, and prior to the placement of any concrete for ground floor, car park or garages) a “check survey from a registered surveyor” must be forwarded to the Council indicating compliance with the approved plans before any concrete pour is approved by the relevant Council building surveyor or Authorised Certifier.

**(2) Stormwater runoff-collection/discharge (Non Standard Condition)**

Stormwater runoff from all roof and paved surfaces shall be collected and discharged by means of a gravity pipe system to the nearest appropriate Council stormwater pit at a maximum Permissible Site Discharge of 126 L/sec for the 1:100 ARI.

**(3) Pumpout system specifications**

A pumpout system may be permitted to discharge small volumes of stormwater from the basement car parking area. Full details of the pump size, capacity, performance curves, friction losses etc from the manufacturer's specifications must be submitted with the stormwater drainage calculations demonstrating that the pump will function in accordance with the manufacturer's specifications for the required volume of stormwater at the subject total head. Minimum pump capacity allowable is for a 5 minute 1 in 20 ARI storm.

The drainage sump storage area for the pump shall be a bunded area able to cater for a 1 hour 1 in 20 ARI storm to minimise flooding in the event of a power blackout during a storm.

A dual pumpout arrangement will be necessary, these pumps will be required to be connected in parallel and alternate automatically, with each pump being capable of emptying the holding tank or holding area at the permissible site discharge rate. (All pumps must be Class 1 Zone 2, if the pumps are located within a building (i.e. in the basement).

The stormwater volumes discharged from the pumpouts are to be included in the permissible limited amount of stormwater discharged from the site.

**(4) Stormwater runoff**

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

**(5) Surface overflow paths – storm recurrence event**

Surface overflow paths shall be provided to allow for the 1-hour 1 in 100 year storm recurrence event, and any more intense events.

Should it not be possible to provide an overland escape route for excessive stormwater an increase of 50 % in the required volume of stormwater storage will be required.

**G      Conditions that must be complied with before the building is occupied**

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

THE BUILDING OR ANY PART THEREOF MUST NOT BE USED OR OCCUPIED UNTIL AN OCCUPATION CERTIFICATE HAS BEEN OBTAINED FROM THE PRINCIPAL CERTIFYING AUTHORITY.

NOTE:      IF COUNCIL IS CHOSEN AS THE PRINCIPAL CERTIFYING AUTHORITY A FEE IS APPLICABLE PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE.

**(2)      Redundant vehicular crossings-removal and replacements**

All redundant vehicular crossings on Holden Street shall be removed and replaced with concrete pavers within the footpath area similar to the type in Hercules Street as well as concrete kerb and concrete gutter at no cost to Council at the applicant's expense. This work shall be carried out prior to the release of the Occupation Certificate.

**(3)      Finished ground surface levels at property boundary**

Finished ground surface levels shall match existing levels at the property boundary.

**(4)      Vehicle access driveway**

The existing vehicular access driveway adjacent to Drakes Lane shall be reconstructed in accordance with Council's standard drawing and specifications. The driveway shall be located a minimum of 1.0m clear of any existing stormwater pits, lintels or poles and 2m clear of any trees within the road reserve. The driveway shall also be located a minimum of 0.5m clear of any utility service opening such as Telstra, Sydney Electricity, Sydney Water or Natural Gas Company. This work shall be carried out prior to the release of the Occupation Certificate.

**(5)      Engineering conditions to be satisfied prior to the issue of occupation certificate**

Prior to the release of the Occupation Certificate when the on-site building works are completed there are three (3) conditions that must be satisfied.

They are:

**(a).      *Work-As-Executed Plans***

A "Work-as-Executed" plan prepared and signed by a registered surveyor is to be submitted to Council's Engineering Department at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's drainage system is to be shown together with the following information:

- location
- pipe diameter
- gradient
- pipe material i.e. PVC or EW etc

- orifice size
- trash screen at orifice
- all buildings (including floor levels) and finished ground and pavement surface levels

*(b) Engineer's Certificate*

A qualified practising Civil Engineer shall certify on the completion of drainage works in respect of:

- \* the soundness of the storage structure;
- \* the capacity of the detention storage;
- \* the emergency overflow system being in place;
- \* the works being constructed in accordance with the Council approved plans; and
- \* the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Code.
- \* basement car park pumps are class one zone two.

*(c) Restriction-As-To-User*

A "Restriction-as-to-User" is to be placed on the title of the subject property to indicate the location and dimensions of the detention area. This is to ensure that works, which could affect the function of the stormwater detention system, shall not be carried out without the prior consent in writing of the Council.

Such restrictions shall not be released, varied or modified without the consent of the Council.

**(6) Positive Covenant-stormwater detention/surface flow paths-occupation certificate**

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the

- (a) surface flow path
- (b) finished pavement and ground levels
- (c) prevent the erection of any structures or fencing
- (d) on-site stormwater detention system

The wording in the Instrument shall be submitted to and approved by Ashfield Municipal Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate. The Instrument shall be registered prior to the completion of development.

**(7) Floor space ratio compliance**

The floor space ratio of the proposal must not exceed 3.5:1 calculated in accordance with Ashfield Local Environmental Plan 1985.

Prior to issue of an Occupation Certificate, a registered surveyor shall provide certification of the total and component floor space areas (by use) in the development, to the satisfaction of Ashfield Council.

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

### **(1)      Management of shopping trolleys**

Prior to certificate of occupancy being issued, a coin operated shopping trolleys system shall be in place to prevent the removal of shopping trolleys from the premises. Trolley bays shall be installed within the carpark areas or in designated areas within the confines of the property.

### **(2)      Noise levels not to be exceeded**

The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz -8kHz inclusive) by more than 5dB between 7:00am and 10:00pm at the boundary of any affected residence. The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Bank Centre Frequency (31.5Hz - 8kHz inclusive) between 10:00pm and 7:00am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 10:00pm and 7:00am.

### **(3)      Air conditioners - noise control - Protection of the Environment Operations Act 1997**

The air conditioners as approved by this consent shall be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997* that will adversely affect the amenity of the premises in close proximity to the property.

### **(4)      Garbage bin storage/placement for collection - strata title plan**

All garbage/recycling bins are to be kept in the garbage bin storage area in the main block. Bins are only to be placed in the designated pick up area on the day of garbage collection and are to be returned to the storage area immediately after collection. This requirement is to be incorporated into the Strata Title of the property.

### **(5)      Garbage recyclables and green waste - Council to be indemnified**

Council and its servants shall be indemnified against any claim for damages resulting from collection of recyclable and green waste or the collection of garbage material from the site.

### **(6)      Accessibility to be maintained**

A continuous path of travel not exceeding 1:14 grade or complying with AS 1428 and/or a lift is to be maintained between the main street entrance to the residential complex, adaptable units, accessible car parking spaces, letter boxes, garbage storage area, recreation areas and clothes drying areas.

### **(7)      Acoustic compliance**

Compliance with the acoustic recommendations submitted by Vipac Engineers & Scientists Ltd report 20c – 09 – 0317 – TRP – 452602 – 1 dated 16/06/2010

### **(8)      Waste Management**

The waste bin collection shall not be undertaken between the hours of 7.00pm – 7.00am each day.

**(9) Shopfront appearance**

To preserve the streetscape, roller shutters are not to be placed over the entrance or the windows of the retail premises

***Advisory Notes***  
Nil