

Development Assessment Report

SUBJECT: Determination of Development Application

ADDRESS: 2A Brown Street, Ashfield

DA No: 2010.301.1

JRPP REF: 2010SYE110

PREPARED BY: Atalay Bas – Manager Development Services

PREPARED FOR: Sydney East Joint Regional Planning Panel

REASON: Capital Investment Value Greater Than \$10million

DATE: 26 May 2011

1.0 Description of Proposal

- 1.1. Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks approval for:
- 1.2. Demolition of existing commercial building, tree removal and construction of two (2) x 8 storey mixed use buildings comprising of:-
- Building “A” 8 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, 79 x 2 bedroom, 4 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.

2.0 Background

- 2.1. The application was considered by Sydney East Joint Regional Planning Panel at its meeting held on 30 March 2011. In considering the matter the Panel resolved:-

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- “1. The Panel is concerned with the current proposal as presented to it and is unanimous in its decision that it could not approve that proposal.
2. However, the Panel is of a mind that it would approve an amended proposal that achieves the following

 - (a) The removal of the ninth floor component of proposed Building A in its entirety.
 - (b) The remaining floor space (without addition to any other building) that exceeds the LEP floor space ratio standard shall be the subject of a new Objection under State Environmental Planning Policy No.1 – Development Standards (SEPP 1). This Objection shall be properly prepared and justified under the principles laid down in the Land & Environment Court matters of *Wehbe v's Pittwater* and *Winten v's North Sydney*.
3. In arriving at its decision the Panel is of the view that the additional floor space above that permitted in the LEP, in its current form, creates impacts on views and shadows that are unacceptable.
4. The Panel is also of the view that the submitted SEPP 1 Objection is not well founded.
5. The amendments required in Point 2 above must be submitted to Council within 30 days of the date of this meeting. The Council staff will assess the new information and plans and provide a further written advice to the Panel incorporating an amended recommendation and conditions (where required). The new SEPP 1 Objection shall also be provided to the Panel.
6. Upon receipt of the supplementary Council report confirming that the Panel's requirements have been achieved and that the remaining variations to relevant numerical standards have been properly justified, the Panel will meet by electronic means of communication to determine the Development Application.”

3.0 Discussion

- 3.1. The applicant on 28 April 2011 submitted revised plans deleting the ninth floor component of proposed Building “A”. The only structures remaining are the lift tower and stair enclosures. The roof terrace has also been retained and as such lift access is available to the proposed roof terrace on building “A”.
- 3.2. The revised scheme has resulted in apartments A48, A49 and A50 located on level 8 being 2 bedroom rather than 3 bedroom apartments. This has resulted in the creation of 3 additional 2 bedroom apartments.
- 3.3. Other than the deletion of the ninth floor, other aspects of the scheme has remained similar to that considered by JRPP on 30 March 2011.
- 3.4. As a result of the modifications some conditions of consent has been revised or deleted to reflect the changes.
- 3.5. The applicant has also submitted a revised SEPP No.1 objection.
- 3.6. The applicant has engaged Storey & Gough Lawyers to review the revised SEPP No.1 objection. Storey & Gough Lawyers has provided a letter, attached to this report, indicating that the revised SEPP No.1 objection discuss all relevant criteria and properly concludes that the SEPP 1 objection should be upheld.

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- 3.7. The applicant has not been able to obtain concurrence from NSW RailCorp. However discussions are being held with RailCorp in respect to obtaining concurrence. The applicant has sent a letter to RailCorp in respect to this matter, which is attached to this report.

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 revised Proposal
- Attachment 2 – Copy of revised SEPP No.1 Objection
- Attachment 3 – Copy of letter from Storey & Gough Lawyers
- Attachment 2 – Copy of letter sent to RailCorp

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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 the Sydney East Joint Regional Planning Panel 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	C	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	D	Level 8 plan
0912	DA 16	D	Mezzanine Plan
0912	DA 17	B	Section AA
0912	DA 18	B	Section BB
0912	DA 19	D	Elevation - South
0912	DA 20	D	
0912	DA 21	D	

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0912	DA 22	C	Elevation - West
0912	DA 23	C	Elevation - East
0912	DA 24	C	Elevation West (Courtyard)
0912	DA 25	B	Shadow Diagrams
0912	DA 26	D	Perspective / Finishes
0912	DA 27	B	Envelope Study
0912	DA 28	C	Masterplan Height Analysis
0912	DA 29	C	Masterplan Height Analysis
0912	DA 30	A	Adaptable Apartments
0912	DA 31	A	Public Right of Way
0912	DA 32	A	Stratum Plans
0912	DA 33	B	Neighbouring Shadow Studies
0912	DA 34	B	Neighbouring Shadow Studies
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, service metres, energy efficient 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

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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.

The proposed lighting services shall be approved by Ashfield Council prior to issue of the Construction Certificate. The proposed lighting system shall be energy efficient, achieving the highest energy rating available.

Separate and independent service meters for electricity and water shall be installed for the public car park land. Details shall be approved by Ashfield Council prior to release of the Construction Certificate.

(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.

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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

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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

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(1) External finishes

External finishes shall be in accordance with the “Perspective Finishes Dwg DA 26 Issue D”, 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 and seating. 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

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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 wash bay/visitor car parking.

(8) Provision of public Art

A public art feature shall be designed for the elevation of the building along the Drakes Lane frontages. This feature shall provide visual interest for pedestrians and interpret or reflect the local setting and/or landscape character and/or the cultural setting of the area. The feature shall be designed to ensure long-term durability and be resistant to vandalism. Details shall be approved by Ashfield Council prior to issue of Occupation Certificate, and the applicant is advised to liaise with Council during design stages.

(9) Protection of street trees

No trees on public property (footpaths, roads, reserves, etc) shall be removed or damaged during construction including for the erection of any fence, hording or other temporary works. Street trees shall be protected during construction work at all times. Details of the method employed to preserve and protect street trees shall be submitted and approved by Ashfield Council prior to release of the Construction Certificate.

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:

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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) Trees located on Council footpath shall be retained and protected at all times. Council approval is required for pruning of Council trees which is needed to aid construction works and shall be carried out in accordance with 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.

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- (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

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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 top 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.

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- (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

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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 pipied 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:

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- 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:

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- (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 –

- (a) 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.

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- (b) 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.
- (c) All existing trees that are to be retained are to be protected in accordance with AS 4970-2009 Protection of Trees on Development Sites.
- (d) Utility services are not to be located in the mulched garden areas or within the dripline of the existing retained and protected trees.
- (e) Maintenance/Embellishment Strategy - to ensure plants are successfully established and maintained- show construction work exclusion areas, irrigation details, staking, topsoil, mulch etc.
- (f) 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.
- (g) All street trees shall be retained and protected in accordance with AS 4970-2009 Protection of Trees on Development Sites.

(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
TOTAL	\$195,775.82	\$286,637.92	\$1,496,938.61	\$131,615.95	\$2,110,968.30

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:

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

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 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. The proposed lighting shall be at the highest energy efficient rating. 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

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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 ever 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

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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 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.

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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

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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.

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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.

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(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

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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

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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.

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(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.

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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).

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- (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.

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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.

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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

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- 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**

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The floor space ratio of the proposal must not exceed 3.47:1 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 or an electronic shopping trolley wheel locking 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

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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

(10) Air conditioners

To preserve the streetscape, air conditioners or any plant equipment shall not be placed along the street façade or any place/part of the building that is visible from the public domain.

***I* Advisory Notes**

Nil