

Development Assessment Report

SUBJECT: Determination of Development Application 2013.114.1

ADDRESS: 260A Liverpool Road, 244 Liverpool Road, 252 Liverpool Road ASHFIELD,
254 Liverpool Road, 256 Liverpool Road ASHFIELD

DA NO: 2013.114.1

JRPP REF: 2013SYE054

PREPARED BY: Ellen Robertshaw of DFP Planning Consultants on behalf of
Ashfield Council

PREPARED FOR: Sydney East Joint Regional Planning Panel

DATE: 28 March 2014

Overview of Report

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 consent for the demolition of existing structures at 244-256 Liverpool Road, upgrade and expansion of existing shopping mall to include:

- An additional 6,784m² of retail gross floor area (excluding fire stairs). The additional retail floorspace includes new retail premises on the forecourt area and on the Liverpool Road frontage of 244-256 Liverpool Road.
- 101 new residential dwelling units and 67 serviced apartments in three new buildings (described as Buildings A, C & D) with:
 - Building A comprising 67 serviced apartments over 6 storeys (Level 5 – Level 10) with dining and lounge areas at Levels 3 and 4 respectively.
 - Building C comprising 70 dwellings within Levels 6-12 with 2 levels of car parking elevated above loading/manoeuvring area below the residential apartments.
 - Building D comprising 2 storeys of car parking (at Level 3 (which is roughly equivalent to ground level at the Liverpool Road frontage of the site) and Level 3.5) and 31 dwellings (split over 2 and 6 level components).
- 100 place child care centre (at car parking level 6 – roof top)
- Parking for 1,159 vehicles:
 - 653 retail spaces.
 - 88 residential spaces + 20 residential visitor spaces.
 - 24 spaces for serviced apartments.
 - 24 spaces for the child care centre (accessible for use as retail car parking on weekends).
 - 330 public car parking spaces (provided in accordance with a deed between Ashfield Council and the owners of Ashfield Mall).
 - 20 Council staff car parking spaces.

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- Improvements to the entry mall area from Liverpool Road
- Associated works along the Norton Street elevation.

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

2.0 Summary Recommendation

The development is recommended for approval.

Background

3.0 Application Details

Applicant	:	Abacus Funds Management Limited
Owners	:	Abacus Group Holdings Ltd & Perpetual Trustee Company Ltd (260A Liverpool Road)
Value of work	:	\$64.9 million (ex GST)/\$71.39 million (inclusive of GST)
Lot/DP	:	Lot 1 DP736779 (260A Liverpool Road) Lot A DP405790 (244 Liverpool Road) Lots A & B DP404055 (252-254 Liverpool Road) Lot 100 DP734467 (256 Liverpool Road)
Date lodged	:	31/05/2013
Date of last amendment	:	20 December 2013
Application Type	:	Local
Construction Certificate	:	Not submitted as part of the DA
Section 94 Levy	:	Applies. The S94 contribution has been calculated to be \$10,031,034.35 (indexed to December 2013), comprising a contribution of \$2,671,221.27 for the residential apartments, additional retail floorspace and serviced apartments and \$7,359,813.08 towards car parking (to account for the deficiency in car parking provided on site).

4.0 Site and Surrounding Development

The subject site is located on the southern side of Liverpool Road within the Ashfield town centre. It is approximately 150m from Ashfield railway station.

Ashfield Mall represents a major site within the town centre and has frontage to Liverpool Road, the main shopping street within Ashfield. The site primarily occupies the majority of the street block bound by Liverpool Road to the north, Knox Street to the west, Norton Street to the south and Holden Street to the east. The site also forms part of the Ashfield Civic Precinct, which includes the Council Administration building, town hall and other facilities. The main pedestrian entrance to the mall is from Liverpool Road at the town square.

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The subject site has a total site area of 23,430m² comprising:

- 260A Liverpool Road 21,887m²
- 244-256 Liverpool Road 1,543m²

Surrounding development comprises retail and commercial development along the Liverpool Road frontage with low and medium density residential development to the west, south and east. Refer to **Attachment 2** for a locality map.

5.0 Development History

Abacus lodged a Development Application with Ashfield Council for the redevelopment of the Ashfield Mall and adjoining properties on 16 February 2006. That Application was refused by Council on 11 December 2007.

An appeal against the refusal was lodged in the NSW Land & Environment Court on 14 March 2008 (Matter No. 10261). The plans lodged with the Court provided for improvements to the existing shopping mall including 1,898 square metres of new retail floor space, upgrading of the existing public plaza, and 268 additional car parking spaces. The plans also included two rows of terrace housing containing 12 dwellings, three residential flat buildings containing 116 dwellings above the existing roof top car park, a child care centre and basement car parking. The proposed development comprised residential towers to a maximum height of RL62.265 and 50,454 square metres of 'gross floor area', which exceeded the applicable FSR standard by 2,083.63 square metres, requiring a SEPP 1 objection. The commissioner found the proposal to be satisfactory.

This previous approval is relevant to the current proposal in so far as the heights of proposed Buildings A and C do not exceed the height of the development approved by the Court. Furthermore, the Court accepted that the SEPP 1 objection in relation to the non compliance with the floor space ratio was reasonable on the basis that *the development is appropriately responsive to the underlying objective of the floor space ratio development standard and...its built form and appearance in the locality are satisfactory.*

Assessment

6.0 Zoning/Permissibility/Heritage

This application was lodged in May 2013 at which time Ashfield LEP 1985 applied to the site. Pursuant to the provisions of Ashfield LEP 1985, the site was zoned 3(a) - General Business and 5(a) Special Uses-Civic Purposes. Ashfield LEP 2013 was published on 23 December 2013, however, in accordance with the savings provisions of Clause 1.8A of Ashfield LEP 2013:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

The proposed works are permissible with Council consent.

The property is not located within a Heritage Conservation Area.

The property is not a heritage item.

The property is located within the vicinity of several heritage items including Ashfield Baptist Church and Robert Goodman Hall and Ashfield Presbyterian Church.

The property is located within the Ashfield Town Centre.

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The property is affected by a number of easements and rights of carriageway. Although it appears that the proposal will not impact on these easements or rights of way, should the application be approved a condition of consent requiring the applicant to renegotiate the easements with Council will be imposed.

The proposed works are permissible with Council consent.

7.0 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.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

The following is an assessment of the proposed development against the relevant provisions of Ashfield LEP 1985.

Ashfield LEP 1985			
Clause	Control	Proposed	Complies
9	Zoning – 3(a) General Business zone and 5(a) Special Uses “Civic Purposes” zone	Development for the purpose of <i>mixed development</i> is permissible with consent within the 3(a) zone pursuant to Clause 39B. No change of use is proposed in the 5(a) zone, and the proposed landscape works are permissible with consent as they are for a civic purpose.	Yes The development comprising Buildings D and C includes retail development on the ground level under Building D. These buildings will need to be included in the same stratum lot to ensure the development is permissible.
10A	Land may be subdivided, but only with development consent.	The proposed development proposes the Torrens and stratum subdivision of the subject site into three (3) lots, being Lot 100 (Retail), Lot 101 (Serviced Apartments) and Lot 102 (Residential).	Yes Note: No subdivision of the serviced apartments is proposed. A condition that the serviced apartments cannot be subdivided will also be included should the development be approved.

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Ashfield LEP 1985																			
Clause	Control	Proposed	Complies																
17B	<p>Floor space ratio 2:1 applies to whole site (Cl. 17B(2)). In accordance with Clause 17B(3), a FSR bonus of 1:1 applies to development on 244-256 Liverpool Road for development 'involving residential or: cinemas, childcare centres, recreation facilities, clubs or educational establishments' provided it does not result in any adverse impacts in terms of:</p> <ul style="list-style-type: none"> the scale and character of the streetscape, amenity of any existing or potential residential units on neighbouring land, sunlight access to surrounding streets, open space and properties, or wind flow patterns to surrounding streets, open space and properties. (Cl. 17B(4)). 	<p>260A Liverpool Road: FSR = 2.13:1</p> <p>244-256 Liverpool Road: FSR = 2.51:1.</p> <p>The FSR for the total development over the entire site is 2.15:1.</p>	<p>No.</p> <p>The FSR proposed is similar to that of a previous redevelopment proposal that was ultimately approved by the L&E Court.</p> <p>The applicant has demonstrated that the development will not result in any adverse impacts as noted in Clause 17B(4) and therefore the 'bonus' FSR of 1:1 on 244-256 Liverpool Road is triggered.</p> <p>A SEPP 1 objection to the FSR development standard has been provided. The extent of variation is 4.2% (or 2,053m²). It is considered that the SEPP 1 objection should be upheld. See also Section 7.1.3.</p>																
29	Development likely to increase the demand for public amenities and public services may be subject to Section 94 Contributions as a condition of consent.	N/A	<p>Yes. Conditional.</p> <p>The total contribution has been assessed as broken down as follows:</p> <table border="1"> <thead> <tr> <th>Community Infrastructure Type</th> <th>Contribution</th> </tr> </thead> <tbody> <tr> <td>Local Roads</td> <td>\$143,994.37</td> </tr> <tr> <td>Local Public Transport Facilities</td> <td>\$120,054.54</td> </tr> <tr> <td>Local Car Parking Facilities</td> <td>\$7,359,813.08</td> </tr> <tr> <td>Local Open Space and Recreation Facilities</td> <td>\$2,215,564.97</td> </tr> <tr> <td>Local Community Facilities</td> <td>\$67,960.51</td> </tr> <tr> <td>Plan Preparation and Administration</td> <td>\$123,646.88</td> </tr> <tr> <td>TOTAL</td> <td>\$10,031,034.35</td> </tr> </tbody> </table>	Community Infrastructure Type	Contribution	Local Roads	\$143,994.37	Local Public Transport Facilities	\$120,054.54	Local Car Parking Facilities	\$7,359,813.08	Local Open Space and Recreation Facilities	\$2,215,564.97	Local Community Facilities	\$67,960.51	Plan Preparation and Administration	\$123,646.88	TOTAL	\$10,031,034.35
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37	Council must assess the likely effect of the proposal on the heritage significance of a heritage item or conservation area and on its setting, when determining an application to carry out works in its vicinity.	<p>Site is proximate to a number of heritage items including Ashfield Baptist Church and Ashfield Presbyterian Church.</p> <p>A Heritage Impact Statement was provided with application.</p>	Council's Heritage Adviser has assessed the proposal. No objection has been raised as the proposal is unlikely to impact on the heritage significance of identified properties. The plans indicate that the proposal will not significantly overshadow heritage items.																
39B	Mixed development (being development for residential and commercial purposes) is permissible with consent within the 3(a) zone.	Proposed mixed development is consistent with the provisions of this clause.	Yes																

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7.1.2 Regional Environmental Plans

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 and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

Relevant SEPPs are considered below:

State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)

An objection under SEPP 1 has been lodged with the application. The application proposes a variation to Clause 17B of Ashfield LEP 1985 in relation to the maximum permissible floor space ratio (FSR).

The maximum FSR across the site is 2:1 however a bonus FSR of 1:1 is permitted on 244-256 Liverpool Road in accordance with Clause 17B(3) of Ashfield LEP 1985 in circumstances where the development includes a use such as a child care centre and will not result in any adverse impacts on the environment.

The FSR for the total development across the entire site will be 2.15:1.

The LEP does not include any stated objectives relating to the intent of the FSR control. The absence of specific objectives was considered by the Commissioner of the Land and Environment Court in the matter of *Abacus v Ashfield Municipal Council*. At paragraph 66 of the judgement in relation to that matter, Commissioner Bly accepted that the underlying objectives of the FSR standard are to seek:

- *a reasonable quantum of development.*
- *an absence of environmental problems including internal and external residential amenity and traffic.*
- *buildings with an appropriate character, bulk and scale.*

The proposed development is considered to be consistent with these underlying objectives in that:

- The total gross floor area (GFA) of the proposed development is 50,456m² which is 1,200m² less than the GFA of the development approved by the Court.
- Overshadowing impacts on adjoining or nearby properties will be similar to the existing development.
- The development is unlikely to create wind tunnels.
- The traffic generation of the development has been assessed and it is considered that the surrounding street network has sufficient capacity to accommodate the additional traffic, subject to some minor intersection improvements.
- Amenity impacts of residential apartments within the development have been assessed and are considered to be satisfactory in terms of solar access, cross ventilation and amenity generally.

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- The height, bulk and scale of the proposed development is considered appropriate having regard to its town centre location and visual impacts when viewed from vantage points beyond the site.

Having regard to the above it is considered that the SEPP 1 objection is well founded and worthy of support.

State Environmental Planning Policy No. 55 – Remediation of land

Remediation of the site is not required prior to the carrying out of the proposed development.

State Environmental Planning Policy No. 64 – Advertising and Signage

The application does not include any new signage, however, replacement signage zones are proposed. The location of the signage zones is considered acceptable. The content and potential impacts of these signs including any illumination, will be subject to a separate development application.

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

Buildings C and D have been assessed having regard to the ten design principles contained in SEPP 65 and the proposal generally satisfies these principles. A Design Verification Statement signed by a registered architect has been provided.

An assessment of the proposal against the Residential Flat Design Code (RFDC) is provided in the table below.

The apartments in Building A are proposed to be provided as serviced apartments and therefore have not been assessed against the provisions of the RFDC or SEPP 65. Many of the serviced apartments will not comply with the design principles of SEPP 65 or the rules of thumb as set out in the RFDC.

Residential Flat Design Code			
Clause	Control	Proposed	Complies
Building Height	Ensure height controls are good fit for FSR controls.	Building heights exceed controls, and FSR provisions have been applied to the whole of the site (as per previous court judgement). Photomontages provided.	No However height controls appear appropriate fit for FSR controls.
Building Depth	10-18m generally. Wider must satisfy day lighting and natural ventilation controls.	16m depth generally.	Yes
Building Separation	For buildings 5-8 storeys the recommended separations are: 18m between habitable rooms and balconies, 13m between habitable rooms and non-habitable rooms, 9m between non-habitable rooms.	The separation between Building C and D is 8m however privacy treatments are proposed to be provided to habitable rooms. These treatments include off set windows.	No but justifiable in the circumstances
Street Setbacks	Identify desired streetscape character, common setback, and relate setbacks to area's street hierarchy.	Building C has 'frontage' to the service laneway entry from Holden Street. A reduced/nil setback to these laneway is proposed, however, the residential apartments are elevated above the laneway.	Acceptable as amenity will not be compromised.
Side + Rear Setbacks	Relate to existing streetscape patterns. Test with building separation, open space and deep soil zone.		

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Residential Flat Design Code			
Clause	Control	Proposed	Complies
Floor Space Ratio	Ensure consistency with building height, footprint, 3D envelope and open space requirements.	As above, building height and FSR is not consistent with Council controls. 3D envelope plans provided.	No but acceptable in the circumstances.
Deep Soil Zone	Minimum 25% open space area to be deep soil zone. Exceptions in urban areas.	No deep soil zones have been provided as the site is already fully developed. The site is within a developed urban area.	No but acceptable in the circumstances.
Fences and Walls	Define edges between public and private land, contribute to public domain.	The development uses appropriate landscaping and security features to clearly define edges between public and private land.	Yes
Open Space	25-30% of site area is to be provided as open space area.	The area of the site to be occupied by Buildings C and D has been estimated to be 2,886m ² . 30% of 2,886m ² = 866m ² . The proposal provides for a total of 2,388m ² of open space, 1,576.6m ² of which is to be provided as communal open space.	Yes
Orientation	Optimise solar access and contribute to streetscape character	18 apartments are south facing/single aspect apartments – see commentary below re: Daylight Access. The development makes a positive contribution towards the streetscape with an active frontage and balconies.	No but acceptable in the circumstances.
Safety	Carry out formal risk assessment.	A risk assessment has been undertaken as part of the Social Impact Statement.	Yes
Building Entry	Create desirable entries to identify development, orientate visitor and contribute to streetscape.	The main pedestrian entry to Buildings C and D is from Liverpool Road. The access has been modified from the original application to provide a wider, more obvious entry which is easily identifiable. Whilst the access through to Building C is somewhat circuitous, it will be clear and identifiable.	Yes
Parking	Provide adequate parking for building's users and visitors.	With respect to the parking for the residential flat building, the proposal provides for 88 resident spaces + 20 visitor spaces. The 88 resident spaces does not provide for at least 1 space per apartment.	No It is considered that at least 1 space per residential apartment should be provided. This can be achieved by allocating some of the residential visitor spaces to apartments. Reallocation of some retail parking as residential visitor parking is also recommended. See also discussion re: car parking at Section 7.5.2. Should the application be approved a condition of consent will be imposed requiring reallocation of parking to ensure each residential apartment is provided with a minimum of 1 car parking space.

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Residential Flat Design Code			
Clause	Control	Proposed	Complies
Vehicle access	Limit width of driveways to 6m. Local entries away from pedestrian entries.	Not significant or relevant in this proposal. Vehicular access is considered appropriate.	Yes
Apartment layout	Single aspect apartments to be limited in depth to 8m.	Apartments greater than 8m in depth have been provided with a highlight window to ensure that they have adequate daylight	Yes
	Back of kitchen to be no more than 8m from a window.	See above	Yes
	Minimum apartment sizes: - 1 bedroom 50m ² - 2 bedroom 70m ² - 3 bedroom 95m ²	Apartment Type A1 (6 apartments in total) are 2 bedroom apartments and are 67m ² in area. These apartments are two level apartments and the living area is functional, open and well designed. Adequate storage within the apartment is available. These apartments all have a northerly aspect to the living areas	No But reasonable in the circumstances.
Apartment mix	Provide diversity of apartments, maintain equitable access to new housing by cultural and socio-economic groups.	The development proposes: <ul style="list-style-type: none"> • Studios – 22 • 1 bedroom – 33 • 2 bedroom – 44 • 3 bedroom – 2 The high proportion of studio apartments (22%) will provide an affordable product.	Yes
Balconies	Minimum depth 2m.	All balconies are a minimum of 2m in depth	Yes
Ceiling Heights	2.7m for habitable rooms	Provided for all residential buildings.	Yes
Flexibility	Promote loose-fit buildings which can accommodate whole or partial changes of use.	Building A has not been designed to comply with SEPP 65 and therefore will not be capable of future change of use to a residential flat building.	Yes for Buildings C and D within the scope of the project
Acoustic Privacy	Ensure high level of amenity.	An acoustic report assessment has been provided which identified treatments required to all residential dwellings to protect residents from loading/unloading, car park, road and rail noise. Assessment against aircraft noise has not been undertaken, however, as the site is located outside the 2029 ANEF noise contour this is not required.	Yes

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Residential Flat Design Code			
Clause	Control	Proposed	Complies
Daylight Access	Minimum 3hrs sunlight between 9am and 3pm mid-winter to 70% of living rooms and private open space. Limit single aspect south facing units to max. of 10%	18% (or 18 apartments) within Building C are single aspect/south facing apartments. The applicant has provided a daylight analysis assessment in relation to these apartments. That assessment confirms that the 'lux' (illumination) levels of the 18 south facing apartments exceed international standards and will comply with the thermal comfort requirements of BASIX. The applicant also intends to provide R1.0 floor insulation to the south facing apartments on Level 6 to reduce heat loss. Building D achieves satisfactory daylight access. Building A does to comply, but SEPP 65 does not apply to serviced apartments.	No But acceptable in the circumstances.
Natural Ventilation	Buildings depths 10-18m 60% residential units to have cross ventilation. 25% of kitchens to have natural ventilation.	Building depths acceptable. In order to address inadequacies of cross ventilation for single aspect apartments, the applicant proposes to install occupier controlled louvre grills to a plenum in the corridor ceiling. This treatment will be provided for each single aspect apartment. In addition, in order to ensure there is no cross contamination of ventilation between apartments, separate ducts for each apartment will be provided.	The provision of ducting of natural air to single aspect apartments is considered to be an acceptable alternative solution.
Façades	Promote high architectural quality in RFBs which define and enhance the public domain and street character.	A high level of architectural design quality is proposed to be provided.	Yes
Roof Design	Provide quality roof designs which contribute to overall design.	The roof levels of each building contribute functional open space areas with suitable landscape treatments.	Yes
Energy Efficiency	Reduce mechanical heating and cooling, minimise emissions.	The BASIX report confirms that the proposal will satisfy the required targets for water, thermal comfort and energy efficiency.	Yes
Waste Management	Waste management plans to be provided.	Provided.	Yes
Water Conservation	Reduce mains consumption. Reduce quantity of urban stormwater run-off.	A 6,000l rainwater storage tank is proposed	Yes

The proposed development generally satisfies the rules of thumb of the RFDC. Where there are instances of 'non-compliance' these are justifiable or acceptable in the circumstances of this particular development proposal.

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State Environmental Planning Policy (Infrastructure) 2007

The proposed development includes the provision of more than 2,000m² of new retail floorspace. Therefore, in accordance with the provisions of Clause 104 of the Infrastructure SEPP, the application was referred to the NSW Roads and Maritime Services (RMS) for their assessment and consideration.

A response from RMS was received on 16 July 2013. The RMS raised no objection to the proposal subject to a number of conditions. These will be included as conditions of consent should the application be approved.

7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

At the time of lodgement of the DA, draft Ashfield LEP 2013 had been exhibited for public comment but had not been published.

Ashfield LEP 2013 was published on 23 December 2013, however, in accordance with the savings provisions of Clause 1.8A of Ashfield LEP 2013:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

Notwithstanding, in accordance with Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, this development proposal has been assessed against the provisions of the draft LEP. The Table below is an assessment of the proposed development against the relevant provisions of draft Ashfield LEP 2013.

Draft Ashfield Local Environmental Plan 2013			
Clause	Control	Proposed	Complies
2.2	Zoning – B4 Mixed Use	Development for the purpose of child care centres, commercial premises, residential flat buildings, shop top housing and tourist and visitor accommodation is permissible with consent within the B4 zone.	Yes
2.6	Subdivision of land may be undertaken, but only with development consent.	The proposed Torrens and stratum subdivision works would be permissible with consent under the Draft LEP.	Yes. NOTE: No subdivision of serviced apartments

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Draft Ashfield Local Environmental Plan 2013			
Clause	Control	Proposed	Complies
4.3	<p>Maximum building height 23m (being 23m above existing ground level and the highest point of the building).</p> <p>A 7m bonus will apply provided 25% of the apartments within the additional height are provided as affordable housing. As no affordable housing is proposed as part of this development no bonus would apply.</p>	<p>The proposed building height will be 38.07m when measured from existing ground level.</p> <p>Buildings A, C and D exceed the maximum permissible height.</p> <p>The roof level (including parapets) of Building A is RL59.19 and the roof of Building C (including parapets but excluding lift overruns, stairs and roof top pergolas) is RL65.265.</p> <p>Ground level in the vicinity of Buildings A and C is RL 30.</p> <p>This means that the heights of Buildings A and C above existing ground level are 29.19m and 35.265m respectively.</p> <p>Building A exceeds the maximum permissible height by 6.19m and Building C exceeds this height by 12.265m.</p> <p>Building D has a maximum height of 23.3m which exceeds the maximum permissible height by 300mm.</p>	<p>No</p> <p>Although the height in accordance with the definition is non compliant, Building C does not actually commence at 'ground level'. The ground level below Building C comprises a loading dock area. The building itself commences at RL38 which results in a building height of 27.265m. Notwithstanding Buildings A and C (and Building D) exceed the maximum allowable height limit as per the definition in Ashfield LEP 2013.</p> <p>The application has been supported by photomontages from various vantage points around the site. Views from near, middle and far distances have been provided. Contextually, the heights appear appropriate based on the potential visual impacts and having regard to the town centre location of the site. Therefore, non compliance with the building height provisions of the draft LEP is considered reasonable in the circumstances.</p>
4.3AA	7m of bonus building height afforded to development which comprises at least one dwelling to be used for affordable housing.	No affordable housing is proposed, therefore the provisions of this Clause do not apply and the bonus building height is not afforded to the proposal.	N/A
4.3AB	Maximum building height of 12m extending for a distance of 12m from the primary street frontage to Liverpool Road.	No portion of the development fronting Liverpool Road extends beyond the building envelope set at 12m in height, setback 12m from the street frontage.	Yes

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Draft Ashfield Local Environmental Plan 2013			
Clause	Control	Proposed	Complies
4.4	<p>Maximum floor space ratio of 2:1 applies to No. 260A, while maximum FSR of 3:1 applies to No. 244-256.</p> <p>NOTE: No FSR bonus offered under the draft LEP.</p>	<p>The method of calculating GFA under the draft LEP is different to that based on the definition of GFA under Ashfield LEP 1985.</p> <p>The total GFA of the development based on the draft LEP definition will be 47,394m² compared to 50,456m² under Ashfield LEP 1985.</p> <p>The differences relate to exclusion of common vertical circulation areas and the floor area being measured from the inside of the walls under the draft LEP definition.</p> <p>The FSR for the various parcels which comprise the site are: 260A Liverpool Road - 2.01:1 244-256 L'pool Road – 2.25:1 Therefore, although that part of the development on 244-256 Liverpool Road will comply with the 3:1 FSR restriction, the development on 260A Liverpool Road will exceed the 2:1 restriction by 150m².</p> <p>The total FSR of the development across both parcels will be 2.02:1 based on the draft LEP GFA definition.</p>	<p>No but as noted in the discussion in relation to FSR (under Ashfield LEP 1985) the non compliance with the maximum FSR provisions will not result in any adverse impacts and is contextually appropriate based on the nature, scale and character of the development.</p>
5.6	<p>Architectural roof features are permissible, provided they comprise a decorative element on the uppermost portion of a building, do not comprise an advertising structure, do not include GFA or be capable of being converted to GFA and will not result in overshadowing.</p>	<p>The development comprises landscape features including pergolas on the roof top level of the residential buildings, which are classified as decorative elements forming part of the building structure.</p>	<p>Yes</p> <p>Although these decorative elements contribute to the building height of the proposal, they will not result in additional overshadowing of adjoining residential development as the built structures are small, light-weight and do not present significant additional building mass.</p> <p>In addition, these features provide visual interest to the building when viewed from a distance.</p>
5.10	<p>Development on land within the vicinity of a heritage item or conservation area must assess the extent to which the carrying out of the works would affect the heritage significance of the item or area concerned.</p>	<p>Heritage assessment of the proposed development is required to determine the likely impacts.</p> <p>The development is unlikely to overshadow nearby heritage items.</p>	<p>Council's Heritage Adviser has assessed the proposal. No objection. Unlikely to impact on the heritage significance of identified properties.</p>
6.3	<p>Properties affected by an ANEF contour 20 or greater must provide an acoustic assessment of the proposal and whether it is capable of satisfying AS 2012-2000.</p>	<p>The site is not affected by the ANEF contour.</p>	<p>N/A</p>

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Draft Ashfield Local Environmental Plan 2013			
Clause	Control	Proposed	Complies
6.4	Serviced apartments may not be strata subdivided, and may only be converted to a residential flat building if the design quality principles of SEPP 65 and the RFDC are met.	The serviced apartments are not designed to accord with the design quality principles of SEPP 65 and the RFDC. Pursuant to Clause 6.4, the serviced apartments will not be capable of conversion to a residential flat building under the provisions of the Draft LEP.	Noted. A condition of consent prohibiting strata subdivision of the serviced apartments will be imposed should the application be approved.

7.3 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield Development Control Plan (DCP) 2007. The Table below is an assessment of the proposed development against the relevant provisions of the DCP.

Ashfield Development Control Plan 2007			
Clause	Control	Proposed	Complies
Part B – Site Analysis			
B	Site analysis plan required which addresses the 10 principles.	A site analysis has been provided.	Yes
Part C1 – Access and Mobility			
C1-2.1	Universal Access Design means a design that is usable by all people (especially people with disability and frail older people) by meeting the seven performance criteria of universal housing design, generally based on the Australian Network for Universal Housing Design.	The development has the potential to meet the performance criteria of the Australian Network for Universal Housing Design.	A condition requiring details demonstrating compliance with the performance criteria of the Australian Network for Universal Housing Design and Design Checklist 2 of the Ashfield Interim Development Assessment Policy 2013 will be imposed.
C1-2.3	Residential flat buildings to have all apartments complying with accessible design principles in Design Checklist 2.	Access report provided which indicates that development is meets DCP and AS requirements for access to and throughout the development.	Yes
C1-2.4	Minimum 10% of units to be adaptable housing.	101 residential units proposed, therefore 10 adaptable units are required. 10 are provided	Yes
C1-3.1	Minimum 10% of bedrooms in other residential forms to be accessible.	67 serviced apartments are proposed, therefore 7 accessible units are required. 4 are provided.	No (but consistent with BCA)
C1-4.1	Access to and within all areas or facilities of the building where there is a reasonable expectation of access by any owner, occupier, employee or visitor.	Access report provided which indicates that development is meets DCP and AS requirements for access to and throughout the development.	Yes
Part C3 – Ashfield Town Centre			
C3-2.1	Maximum 6 storeys above ground level for new development.	Proposed development will result in a variety of building heights with retail and residential components.	No. Buildings A & C exceed height limit when measured from existing

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Ashfield Development Control Plan 2007			
Clause	Control	Proposed	Complies
C3-2.4	Optional bonus of 2 storeys available if public benefits such as community facilities are provided.	Development provides a child care centre and therefore claims the 2 storey bonus. Refer discussion regarding Clause 4.3 of draft Ashfield LEP 2013.	<p>ground level. See also commentary to Clause 4.3 of draft Ashfield LEP 2013.</p> <p>The applicant has provided justification as to why an exceedance of the maximum building height is reasonable in the circumstances. Photomontages of the development when viewed from near, middle and far distances have been provided. These photomontages demonstrate that the development is unlikely to have an adverse visual impact.</p>
			<p>The highest buildings are located towards the centre of the site in which case the pedestrian scale to the street has been maintained. The additional height can be accommodated without adverse streetscape or amenity impacts. This development will result in new landmark buildings which by definition must be visible. The taller buildings incorporate reasonable modulation. Although this development will result in a change to the visual character of the Ashfield Town Centre, it does not necessarily suggest that such a change is inappropriate. It is considered that in the circumstances the height of the development is reasonable</p>
C3-2.5	Development is not to compromise the ability of adjacent sites to build to their full FSR potential with regard to maintaining solar access for potential residential flat development on adjacent sites. 3D building envelope study of adjoining sites required.	Development will not prevent adjoining buildings from achieving RFB development. 3D building envelope drawings have been provided.	Yes, although additional treatments to windows and balconies of Building A will be required where the building setback is less than 9m. See also Section 7.7.2.
C3-2.8	External facades to be parallel with the streets that they front.	Facades at ground level are not exactly parallel, but adjoin the alignment of the Council building. Upper levels are parallel to the street.	Yes

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Ashfield Development Control Plan 2007			
Clause	Control	Proposed	Complies
C3-3.1	Development setback required to service entrance from Holden Street.	The service lane from Holden Street is part of the Ashfield Mall property. Lots with frontage to Liverpool Road have right of access across this lane but it is not a public road per se. The proposal does not incorporate the development setback to create a laneway/mews, but rather builds above it.	No but reasonable in the circumstances.
C3-3.6	Mixed development on sites greater than 2,000m ² are to provide 25% communal open space.	Site area of land to be occupied by RFB C and D = 2,886m ² . 25% of 2,886 = 721.5m ² required 1,576m ² provided.	Yes
C3-3.9	Planter boxes shall provide adequate depth, volume, area, soil conditions and drainage.	Planter boxes have been designed to accommodate the proposed landscape planting and provide adequate depth, volume area, soil conditions and drainage, as per the landscape plan.	Yes
C3-4.2	Active street frontages required to Liverpool Road from No. 244-256.	The development provides an active street frontage to Liverpool Road in the form of an extension to the civic mall area and new retail space.	Yes
C3-4.4	Ground level car parks are to be set back behind an active street frontage.	New car parking areas are provided behind the active street frontage.	Yes
C3-4.7	Street awnings required to Liverpool Road from No. 244-256.	The development will incorporate street awnings to Liverpool Road.	Yes
C3-6.1	Ground floor parts of buildings in the town centre must contain business uses and not residential uses.	Ground floor components of the development comprise only retail floor area, and not residential.	Yes
C3-7.1	10% of the dwellings shall be smaller studio apartments no larger than 45m ² .	101 residential units proposed. 10% is 10 units. Development proposes 22 x studio apartments with an area of < 45m ² .	Yes (exceeds control)
C3-7.2	20% of the dwellings shall be one bedroom units no larger than 60 m ² .	101 residential units proposed. 20% is 20 units. Development proposes 33 x 1 bedroom units, 29 of which are less than 60m ² in area.	Yes (exceeds control)
C3-8.1	Driveways to be provided via lanes and streets from Knox Street, Norton Street and Holden Street.	Appropriate vehicle access is provided via these streets.	Yes
C3-8.2	Access to underground parking should be sited and designed to minimise noise impacts on nearby dwellings.	Access points to existing roads will be as per existing arrangements.	Yes

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Ashfield Development Control Plan 2007			
Clause	Control	Proposed	Complies
C3-8.5	Waste storage and collection areas to be provided on site. Waste generation management plan to be provided.	A waste management plan has been provided. Retail waste will be collected from within the Level 3 loading bay and in the right of way from Knox Street, consistent with present arrangement. Residential waste will be collected by private contractors from an onsite bay adjacent to the Level 3 loading dock. The waste storage rooms are proposed to be located on Level 3 of Buildings C and D. Bins will be required to be physically transported to the garbage truck on the day of collection. Waste from the serviced apartments and child care centre will be stored in a new storage facility on Level 2 and bins will be required to be physically transported the r-o-w from Knox Street on the day of collection. Collection of all retail, commercial and residential waste will be by private contractor.	Yes
C3-8.7	Service areas to be designed to not have excessive, or inadequate functional area.	An additional loading dock facility is proposed to be provided in the loading dock entering from Knox Street. The existing loading dock on level 3 will operate in its current form.	Yes
C3-8.9	Mailboxes to be provided in one accessible location adjacent to main entrance to the development.	Mailboxes not identified on plans – suitable location at the entry from Liverpool Road below Building D.	Capable of compliance.
C3-9.1	Residential flat buildings to comply with BASIX.	BASIX certificate provided.	Yes
C3-9.2	Non-residential development to comply with BCA Section J.	Section J Report provided.	Yes

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Ashfield Development Control Plan 2007			
Clause	Control	Proposed	Complies
Part 11 – Car Parking			
C11-3.2	<p>(Car Parking) For mixed developments incorporating different categories of uses, a separate calculation will be made for each component. If the use of the building is likely to change in the future, this will usually mean more parking is needed. Proposals should allow for the maximum amount of car parking possible or Council might not be able to approve a future application because of a lack of parking.</p> <p>The DCP parking rates are:</p> <p>Retail: 1 space/40m² of retail GFA</p> <p>Residential: 1 space/dwelling unit</p> <p>Residential visitor: 1 space/4 residential apartments</p> <p>Serviced apartments: 1 space/serviced apartment</p> <p>Child Care Centre: 1 space/4 children</p>	<p>The development proposes a total of 1,159 car parking spaces on site. These have been allocated as follows:</p> <ul style="list-style-type: none"> • Retail – 653 spaces • Residential – 88 spaces • Residential visitors – 20 spaces • Serviced apartments – 24 spaces • Child care centre – 24 spaces. • Public car parking (subject to a deed) – 330 spaces • Council staff parking – 20 spaces <p>In accordance with the DCP the proposed development would require the following car parking to be provided:</p> <p>Retail: 170 spaces (based on an increase in retail GFA of 6,783.9m² @ 1 space/40m² of retail GFA</p> <p>Residential: 101 spaces @ 1 space/dwelling unit</p> <p>Residential visitor: 26 spaces @ 1 space/4 residential apartments</p> <p>Serviced apartments: 67 spaces @ 1 space/serviced apartment</p> <p>Child Care Centre: 25 spaces @ 1 space/4 children.</p>	No Refer discussion at Section 7.5.2.
C11-3.6	Variations permissible where they are consistent with objectives of Part C11.	Subject to traffic report.	See above
C11-4.1	Accessible parking to be provided at a minimum rate of 5% of all spaces.	Total car parking proposed for the development (i.e. – excluding public car parking and Council staff parking = 809 spaces 5% of 809 = 40 spaces Total number of accessible spaces proposed = 50 spaces	Yes

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Ashfield Development Control Plan 2007			
Clause	Control	Proposed	Complies
C11-4.2	<p>Bicycle parking to be provided at the following rates:</p> <p><u>Child care centre</u>: 1 per 4 employees. <u>Flats</u>: 1 per 10 flats, 1 visitor per 10 flats. <u>Retail</u>: 1 per 20 employees <u>Commuter parking</u>: 5% of total supply</p>	<p>The development proposes a total of:</p> <ul style="list-style-type: none"> 12 bike spaces on the forecourt area on Level 3 12 bike spaces on parking Level 3 of Building C 12 spaces on residential parking level 3.5 of Building C 5 spaces on parking Level 3.5 of Building D. <p>On levels 5 & 6 the following is proposed:</p> <ul style="list-style-type: none"> 120 spaces for retail customers 12 spaces for the serviced apartments and 4 spaces for the CCC 6 spaces on level 6. <p>Altogether a total of 183 bicycle parking spaces are proposed to be provided.</p>	<p>The total number of employees for the development is not known at this stage but it is considered that the provision of 183 spaces will provide adequate storage for cyclists. A condition requiring a minimum of 183 bicycle parking spaces will be provided will be imposed should the application be approved.</p>
C11-4.2	<p>Motor cycle parking to be provided at a rate of 1 space per 25 car parking spaces.</p>	<p>39 motorcycle parking spaces are proposed. In accordance with the DCP a total of 46 motor cycle spaces are required.</p>	<p>No Additional motor cycle parking will be required to be provided in accordance with the DCP. A condition requiring a minimum of 46 motor cycle parking spaces will be provided will be imposed should the application be approved.</p>
C11.4.3	<p>Vehicle parking to be provided at the following rates:</p> <p><u>Mixed</u>: 1 space for all dwellings including serviced apartments, plus 1 visitor space per 4 dwellings plus 1 car wash bay, including 1 accessible car parking space for each accessible and adaptable unit. <u>Retail shops</u>: 1 space per 40m² GFA <u>Child care centre</u>: 1 space per 4 children</p>	<p>See commentary to C11-3.2 above</p>	
Part 19 – Child Care Centres			
C19-2.1a	<p>Child care centres to be located appropriately.</p>	<p>The site is situated in an appropriate locality.</p>	<p>Yes</p>
C19-2.3	<p>Height – up to two storeys Front and rear landscaped areas to be provided.</p>	<p>N/A Landscaped outdoor play areas are proposed.</p>	<p>Yes</p>
C19-2.5	<p>Must accord with the Children's Services Regulation 2004.</p>	<p>Documentation provided which shows that the development is capable of meeting regulations.</p>	<p>Yes</p>
C19-2.6	<p>Must be suitably designed to satisfy relevant NSW EPA noise requirements.</p>	<p>Acoustic Report identifies that relevant noise criteria will be met.</p>	<p>Yes</p>
C19-2.7	<p>Child care centre must be accessible and be located on the ground floor of the building that they occupy.</p>	<p>Centre will be accessible. The centre is located on one level.</p>	<p>Yes</p>

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Ashfield Development Control Plan 2007			
Clause	Control	Proposed	Complies
C19-2.10	A Centre Plan of Management is required for any child care centre DA.	Consent is not being sought to operate the child care centre.	N/A However, see comments re: requirement to commence of operation of the CCC prior to other developments
Appendix 2 of Part C19	DA checklist for Child Care Centres	The DA only proposes the child care centre building as part of this application. A separate development application will be lodged for the use of that building which will address all aspects of Appendix 2 of Part C19. The applicant has submitted sufficient information with respect to hazardous materials assessment, electromagnetic radiation emissions and contaminated land to demonstrate that this use is feasible and practical.	N/A
Part C12 - PUBLIC NOTIFICATION IN THE PLANNING PROCESS & ALL ASPECTS OF LAND MANAGEMENT			
Section 2	Details the requirements for notification of a major development application, including amended plans	<p>The DA was initially notified from 19 June 2013 until 31 July 2013 in accordance with Council's DCP. This included letters to nearby and adjoining properties owners and residents, a notice on the land and notice in the local newspaper. As a result of this notification 13 submissions (including 1 late submission) were received.</p> <p>On 7 November 2013, the applicant lodged amended plans. The nature of the amendments required renotification of the application. This renotification commenced on 10 February 2014 and finished on 3 March 2014. As a result of this notification one submission from Ausgrid has been received.</p> <p>The issues raised in the submissions are discussed in Section 7.7 of this report.</p>	Refer Section 7.7 of this report
Part D – Environmental Management			
D1-2.1	Provide a Waste Management Plan with DA.	A waste management plan is provided.	Yes

In February 2014 Ashfield Interim Development Assessment Policy 2013 came into effect pursuant to Section 79C of the *Environmental Planning and Assessment Act* (public interest provisions). The Interim Policy effectively updates the provisions of Ashfield DCP 2007 to accord with Ashfield LEP 2013.

This application has been assessed against the above provisions of the Ashfield DCP being the relevant planning guidelines in place at the time the DA was prepared and assessed. The development is generally consistent with the aims and objectives of the Ashfield DCP. Any instances of non-compliance are justifiable in the circumstances and are discussed in the table above and in the following sections of this report.

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

Clause 7 of the Environment Planning and Assessment Regulation 2000 (the Regulation) requires that consent authority to consider the provisions of the Building Code of Australia. An assessment against the Deemed to Satisfy provisions of the relevant sections of the BCA has been provided. This assessment revealed that in order to comply a number of issues are required to be resolved a Construction Certificate (CC) stage. The BCA assessment details the non-compliances that require either amendments to the plans or an Alternative Solution to satisfy the Performance Requirements of the BCA. The resolution of the majority of these issues can occur at CC stage.

Clause 92 of the Regulation 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.

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

These matters have been considered as part of the assessment of the development application and are discussed below. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts upon the locality.

7.5.1 *Context and setting*

The site is within the Ashfield Town Centre and the bulk of the site has been developed as the Ashfield Mall shopping centre which comprises pedestrian forecourt entry, a two storey shopping centre and multi level car park with associated loading/unloading facilities.

The site is close to public transport and has ready access to services and amenities. It is well located in terms of providing for additional retail floorspace and residential accommodation. The proposed development appropriately utilises an existing development whilst expanding the retail offer and providing new residential accommodation on a well located and serviced site.

All essential services are available and capable of accommodating the increase in demand.

7.5.2 *Parking and traffic*

ARUP Assessment

An assessment of the traffic and parking impacts of the proposed development was lodged with the DA. That assessment was independently reviewed by ARUP on behalf of Council and it was found that there were a number of shortcomings of that assessment.

The applicant subsequently lodged an amended assessment including revised traffic generation rates. ARUP has also reviewed that assessment and found that revised traffic generation rates and the assessment of additional traffic generation in terms of the impacts on the traffic network were acceptable.

In terms of car parking, ARUP recommends that resident car parking be provided at a rate of

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1 space per apartment.

In terms of vehicular manoeuvring, ARUP has assessed the swept path analysis provided with the application and has advised that this analysis has demonstrated that two vehicles are unable to pass each other in the current layout of the residential car park. This can be addressed by the installation of convex mirrors within the residential car parks. A condition to this effect will be imposed should the application be approved.

With respect to servicing arrangements, and in particular, waste management for Building C, ARUP has advised that the applicant has provided a satisfactory response to the issues previously identified by ARUP.

Other conditions deemed necessary by ARUP should the application be approved include:

- Preparation of a loading dock management plan.
- Preparation of a work place travel plan in accordance with the DCP.
- Preparation of a detailed construction traffic management plan.

Conditions requiring the submission of the abovementioned plans will be imposed should the application be approved.

Car Parking

An assessment of car parking provision, having regard to Ashfield DCP and the town centre location of the site, has been undertaken. That assessment has considered the existing provision of car parking, the car parking approved as a result of the appeal to the Land and Environment Court in relation to a previous development application and the car parking now proposed to be provided in relation to the current development proposal.

The table below is a breakdown of car parking provision of the existing, Court approved and proposed developments against the various land uses within those developments

Comparison of Car Parking Provision for existing, Court approved and proposed developments						
Floorspace Type	Existing Development		Court Approved Development		DA 114/13 (December 2013)	
	Floorspace (GFA) in m ² or No. of Apartments	Car parking	Floorspace (GFA) in m ² or No. of Apartments	Car parking(1)	Floorspace (GFA) in m ² or No. of Apartments	Car parking(1)
Retail/commercial (m ² GFA)	28,991	708	32,965	795	35,775	653
Townhouses (No.)	0		12		0	
Residential apartments (No.)	0		116	146	101	108
Serviced apartments (No.)	0		16	16	67	24
Child care centre (m ² GFA)	0		811	17	717	24
Council public car parking spaces		330		330		330
Council staff parking spaces		40		20		20

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Total Car Parking Provision		1,078		1,324		1,159
Notes						
(1) Residential car parking includes residential visitors. Ashfield DCP requires car parking for residential visitors to be provided at a rate of 1 space/4 residential apartments.						

Existing Development

As noted in the table above, there is currently a total of 1,078 car parking spaces provided as part of the existing Ashfield Mall development. These 1,078 spaces comprise:

- 708 retail spaces
- 330 public car parking spaces
- 40 Council staff spaces

The GFA of the existing Ashfield Mall development is 28,990.8m² (as noted on Drawing No. DA8001 Issue A). The provision of 708 retail spaces equates to 1 space per 41m² of retail GFA which is roughly equivalent to Council's DCP parking requirement of 1 space per 40m² of retail GFA.

Court Approved DA

As previously noted, there is a current approval for the redevelopment of the subject sites which was approved by the NSW Land and Environment Court (the Court approved DA). That application provided a total of 1,324 car parking spaces, 795 of which were nominated as retail car parking spaces. The retail GFA of the Court approved development was 32,965m² and the provision of 795 retail spaces equated to 1 space per 41.4m² of retail GFA; again, roughly equivalent to the DCP parking requirement.

The residential component of the Court approved DA provided for 146 car parking spaces. Conditions of approval required that each residential apartment or town house be allocated a minimum of 1 space. This would account for 128 of the 146 residential car parking spaces meaning that there were only 18 residential visitor spaces available for that development. In accordance with Council's DCP residential visitor car parking for the 128 residential apartments and townhouses would require 32 spaces. Therefore, Court approved development provided for a shortfall in residential visitor spaces in the order of 14 spaces.

Although it is not clear how many places were to be provided in the child care centre approved as part of the Court approved DA it is likely that this would have been in order of 100 places based on the GFA of the proposed centre. In that regard Council's DCP would require a total of 25 car parking spaces, however, only 17 spaces were provided. Therefore, a shortfall in parking for the child care centre was also considered reasonable.

The Court approved development provided for a total of 16 serviced apartments and parking was proposed to be provided for these in accordance with the DCP rate of 1 space per serviced apartment.

With respect to the car parking provision for the Court approved DA it is noted that:

- Retail car parking was provided in accordance with the DCP and in accordance with the rate of provision for the existing centre.
- There was a shortfall in residential visitor parking of 14 spaces.

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- Parking for the residential apartments and townhouses was required to be provided at a rate of 1 space per residence.
- There was a shortfall in parking for the child care centre in the order of 8 spaces.
- Parking for the serviced apartments was provided in accordance with the DCP.

Current DA

The table below is a breakup of the various uses proposed as part of the current development together with an assessment of parking demand (based on the DCP) and parking provision:

Proposed Development (DA114/13)				
Floorspace Type	Floorspace (GFA) in m ² or No. of Apartments	DCP Parking Requirement (1)	Parking Provided	Car parking deficiency
Retail/commercial	35,775	878	653	225
Residential apartments	101	101	101	
Residential visitors (2)	101	25	7	18
Serviced apartments	67	67	24	43
Child care centre	717	25	24	1
Public car parking spaces		330	330	
Council staff parking spaces		20	20	
Total		1,446	1,159	287
Notes				
(1) DCP Parking Rates: Retail - 1 space/40m ² of retail GFA Residential - 1 space per apartment Residential Visitors - 1 space/4 apartments Serviced apartments - 1 space per serviced apartment Child care centre - 1 space/4 children (2) If approved, the development will be required to provide 1 space per residential apartment. The total residential car parking proposed is 108 spaces. The residual parking provided after allocation of 1 space per residential apartment is 7 spaces.				

If car parking was to be provided strictly in accordance with the DCP parking requirements, 225 additional car parking spaces would be required for the retail/commercial component, 61 spaces for the residential/serviced apartments component and 1 for the child care centre, which is a theoretical shortfall of 287 spaces. Discussion regarding the allocation and distribution of car parking for the proposed development follows.

The current DA proposes to increase the retail GFA by 6,784m² to 35,775m², however, the retail car parking provision is proposed to be reduced from 708 spaces to 653 spaces.

A retail GFA of 6,784m² would generate a demand for 170 car parking spaces based on the DCP rate of 1 space/40m², however, the reduction in car parking actually results in a shortfall in retail car parking in the order of 225 spaces.

With respect to the residential parking, although not proposed, it is considered that each

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apartment should be allocated at least one car parking space. This would account for 101 of the proposed 108 residential spaces, leaving only 7 spaces available for residential visitors. Based on the development comprising 101 apartments, a total of 25 residential visitor spaces would be required if provided in accordance with the DCP. Therefore, there would be a theoretical shortfall in residential visitor parking of 18 spaces.

The Court approved DA also resulted in a shortfall in residential visitor spaces of 14 spaces. It is a generally accepted practice in mixed use developments that there is shared use of retail parking and parking for residential visitors. This outcome has been considered by ARUP who have no objection to this approach in relation to the proposed development. Therefore, on the basis that a shortfall in residential visitor spaces has already been accepted as appropriate in relation to the Court approved DA and shared use of retail spaces by residential visitors is an acceptable option, the quantum of residential parking provided for the proposed development is considered acceptable, notwithstanding that some reallocation of spaces will be required.

The parking provision for the serviced apartments is less than that required by Council's DCP. The DCP requires parking for serviced apartments to be provided at a rate of 1 space per serviced apartment. The current proposal provides for 1 space per 3 apartments. However, in the circumstances, based on the town centre location of the development, its proximity to public transport and the fact that serviced apartments are not occupied 100% of the time, a reduction in car parking provision is considered reasonable.

Similarly, the shortfall in car parking for the child care centre (1 space) is considered reasonable based on the availability of parking elsewhere on site.

Therefore, whilst the shortfall in parking for residential visitors, serviced apartments and the child care centre is considered acceptable in the circumstances, the deficiency in retail car parking spaces is of concern. Not only does the development proposal provide for even less retail car parking spaces than currently provided (a reduction of 55 spaces), the additional retail GFA would also generate demand for extra parking. The assessed shortfall in retail car parking on site is 225 spaces.

The applicant has sought to rely on the 330 Council public car parking spaces to make up for the shortfall in retail car parking, however, neither the existing development or the Court approved DA relied on this public car parking to satisfy the demand generated by the retail GFA of the development. In both cases car parking was provided to satisfy the requirements of the DCP. Therefore, it is not considered reasonable in the circumstances to allow the shortfall in retail car parking provision to be offset by use of these Council public car parking spaces, notwithstanding that there is the potential for them to be used by customers of the centre.

Council's Section 94 Contributions Plan provides for a developer contribution to be paid where it is not possible to provide all retail car parking required for a proposed development. The objective of this approach is the co-location of off-street car parking facilities to minimise vehicular access points and impacts on the pedestrian environment. ARUP has also commented in relation to quantum of parking provided on the site and advises that *traffic generation for retail land uses has a direct relationship with the quantum of available car parking. Minimising the increase in on-site car parking therefore will provide wider benefits in reducing the impact on the local road network surrounding the mall.*

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Although there is a shortfall of 287 across the total development, the shortfall in parking for residential visitors (18 spaces), the serviced apartments (43 spaces) and the child care centre (1 space) is considered reasonable in the circumstances. However, the shortfall in retail car parking (225 spaces) is not considered to be reasonable and therefore, in this instance, a condition requiring the applicant to pay a contribution towards the provision of car parking within the town centre for the shortfall of 225 retail spaces will be imposed should the application be approved.

The current contribution for a deficiency of 225 car parking spaces is \$7,359,813.08 (indexed to December 2013).

7.5.3 Public domain

The majority of new work is wholly contained within the subject site. Notwithstanding, the application proposes significant works in areas which are publically accessible including the Liverpool Road forecourt of 260A Liverpool Road and the area between Building D and Liverpool Road. This area will 'read' as an extension of the civic forecourt area and will include new retail floorspace, including cafes and seating.

The improvements to that part of the Liverpool Road forecourt which was zoned 5(a) Special Uses under Ashfield LEP 1985 will be subject to a separate development as these works are not permissible under the 5(a) zoning.

In addition to the above, improvements to the landscaping along the Knox Street and Holden Street frontages of the site are proposed, together with landscaped treatment of the presently bland facade to Norton Street.

The elevation of Building D to Liverpool Road includes fin walls as an architectural feature which extends into the airspace above the pedestrian area of Liverpool Road. These walls will be above the awning over the footpath and are therefore considered reasonable as they contribute to the streetscape by adding interest and articulation to the building.

7.5.4 Utilities

Ausgrid has advised that the site is currently serviced by substations which are operating close to full capacity. Therefore augmentation of supply may be required and the applicant will be required to consult with Ausgrid prior to construction commencing. An appropriate condition can be imposed in the event the application is approved.

The applicant has undertaken their own investigations with respect to electrical services and proposes a new chamber substation to the eastern side of the development on Holden Street. This substation will be located adjacent to two existing substations.

The additional retail floorspace proposed on the forecourt of the Mall site may impact on an electricity easement in the vicinity. Therefore, the applicant will be required to make satisfactory arrangements with Ausgrid prior to proceeding with these works.

It is proposed to connect all new residential apartments to the National Broadband Network (NBN) under the current NBN developer agreement process.

Sydney Water has also commented on the application and advised that the site is currently serviced in terms of water and sewer, however, the applicant will be required to make

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application for a Section 73 Certificate at which time Sydney Water will specify any works required and whether amplification and/or changes to the system are applicable.

7.5.5 Heritage

The site is proximate to a number of heritage items including the Ashfield Baptist Church and Hall (on the corner of Holden Street and Norton Street) and the Ashfield Presbyterian Church on Knox Street. A heritage impact statement prepared by Urbis was submitted with the application.

That statement has been reviewed by Council's heritage adviser who has advised as follows:

In my opinion, the proposed works do not involve impact on the heritage significance of these items. The proposed new high rise buildings will be influential in the developing the character of the new, increasingly dense commercial and residential centre which Ashfield is becoming.

7.5.6 Water and Drainage

A soil and water management plan prepared by Brown Smart Consulting has been submitted with the DA.

Brown Smart Consulting indicates that over 98% of the site is currently impervious. The proposed development incorporates provision for rainwater harvesting and re-use on site. The quantum of permeable area will be increased through the introduction of additional on site landscaping. Accordingly, no onsite detention is proposed to be provided.

The stormwater drainage system has been designed in accordance with the Australian Rainfall and Runoff (1998 Edition) publication, AS/NZS 3500.3, Ashfield Council standards and accepted engineering practices. Stormwater management is a combination of piped and overland flow paths. Stormwater will be treated and managed prior to discharge into the existing Council system in Norton Street. Treatments proposed include pit litter baskets for inlet pits, rainwater tanks for stormwater re-use and a gross pollutant trap (GPT) prior to discharge.

Only minimal water sensitive urban design (WSUD) measures can be incorporated due the extent of structures and hard pavements across the site. However, the following measures are proposed:

- Opportunity to reduce site runoff volumes through rainwater harvesting and re-use; and
- Treatment of stormwater prior to discharge.

Council's drainage engineer has reviewed the proposed method of stormwater management and advises that sufficient detail with respect to stormwater drainage management has not been provided. Therefore, should the application be approved satisfactory arrangements regarding drainage will be required to be made with Council's drainage engineer.

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7.5.7 Soils

It is proposed to manage soil erosion through the implementation of sediment and dust controls during construction in accordance with Council's guidelines and Landcom's "Managing Urban Stormwater – Soils and Construction."

7.5.8 Air and microclimate

The completed development is unlikely to impact adversely on air quality or alter the microclimate of the area.

No details regarding dust control during demolition, excavation and construction have been provided. These details will be required to be submitted prior to release of the CC.

7.5.9 Flora and Fauna

The proposed development is unlikely to result in any adverse impacts on flora and fauna given the already developed nature of the site.

7.5.10 Waste

It is proposed to service the various components of the development using private contractors. Notwithstanding, Council's waste management officer has commented on the proposed method of waste management. The applicant has addressed the identified shortcomings in the proposed method of waste collection and storage and it is considered that the amended scheme is acceptable.

7.5.11 Energy Efficiency

A BASIX certificate and Section J report have been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met.

7.5.12 Noise and vibration

An acoustic assessment which considers both internal and external noise sources including surrounding traffic noise, noise emissions associated with traffic generated by activities on site, noise associated with mechanical plant and noise generated by the proposed child care centre use has been submitted. The acoustic assessment found that noise generated by the development will comply with all relevant standards.

The assessment recommends certain acoustic treatments be implemented to ensure internal noise levels comply with relevant Australian Standards.

7.5.13 Technological hazards

An electromagnetic emissions (EME) assessment has been provided. That assessment found that the emission levels were well below the exposure limits set by ARPANSA, Australia's radiation protection authority.

7.5.14 Safety, security and crime prevention

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The Social Impact Assessment (SIA) submitted with the application includes a Crime Prevention Through Environmental Design (CPTED) analysis. The CPTED assessment found that:

- The development incorporates good lines of sight from Liverpool Road through to the Mall entry at Level 3.
- Additional access control and surveillance will be required for some areas. Surveillance measures could include a security guard or cameras.
- The child care centre and residential apartments provide a good level of passive surveillance of the Level 6 car park.
- Way finding and access through the centre will be improved.
- Effective management of various internal and external spaces will be required to deal with vandalism.

The implementation of a site management plan is recommended. The requirement for this can be included as a condition of consent should the application be approved.

7.5.15 Social impact in the locality

A SIA has been undertaken. That assessment concluded that proposed development will result in a range of positive impacts and that these generally align with the community's expectations for the Ashfield town centre. The identified negative impacts can be managed through implementation of recommended mitigation measures.

Should this application be approved a condition requiring the preparation of a plan of management detailing the methodology for the implementation of these mitigation measures will be imposed.

7.5.16 Economic impact in the locality

An Economic Impact Assessment (EIA) was submitted with the application. This EIA, which was prepared by Urbis, was peer reviewed by DFP Planning Consultants. A response to the issues raised by DFP was provided which addressed the anomalies identified in the original EIA and updated the assessment based on the changes to the proposal.

Essentially the proposed development will have a number of positive impacts including job creation. The development will have employment benefits resulting in the creation of at least 177 direct and indirect construction jobs and 277 direct and indirect related jobs once the centre is operational.

In terms of economic impacts:

- The expansion in retail floorspace within Ashfield Mall is unlikely to impact adversely on the function and role of the retail strip of the Ashfield town centre and other retail centres within the estimated catchment of the development. The proposed development could have a synergistic effect in terms of attracting more custom to the Ashfield town centre retail strip.
- There is sufficient growth in terms of real growth in expenditure capacity and population growth to accommodate the proposed expansion.

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Therefore, it is considered that proposed development will not have any adverse economic impacts and is supportable from an economic impact perspective.

7.5.17 Design

The proposed development will become an identifying landmark within the Ashfield Town Centre. The scale of the development is generally consistent with Council's vision for the centre which envisages tower elements located deep within the block whilst maintaining an appropriate scale adjacent to the street.

The visual impact of the tower elements has been assessed from near, middle and far distances and the impact is considered to be acceptable. The towers have been modified to incorporate strong vertical elements, articulation of facades through deeper recesses and use of a broader palette of materials and finishes.

The additional height proposed on the site will not result in any adverse impacts in terms of loss of solar access or privacy to adjoining and nearby residents or public domain areas.

Overall, it is considered that the proposed development will make a significant contribution to the Ashfield Town Centre and the additional height and density can be accommodated on site without any significant or adverse impacts on the local built or natural environments.

7.5.18 Construction

As noted above, there is the potential for the amenity of the surrounding neighbourhood to be affected during the demolition, excavation and construction stages of the development. Impacts that will need to be addressed could include:

- Construction noise and vibration
- Dust and air borne particulate impacts
- Construction worker parking
- Traffic control
- Haulage routes
- Hours of work
- Material stockpiling
- Unloading of materials
- Cranage
- Construction waste management including opportunities for recycling of materials
- Ongoing operation of the centre (including loading and unloading facilities) during construction

It will essential that a detailed construction management plan, including a construction traffic management plan, to be provided prior to issue of the Construction Certificate to ensure all potential impacts are considered and assessed and identified mitigation controls are implemented.

7.6 The suitability of the site for the development

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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 an adverse impact upon the proposed development.

The proposed development is considered suitable in the context of the locality particularly in regard to height, bulk and scale, overshadowing, public domain improvements, traffic generation and movements, parking provision, site access, loading and unloading arrangements, waste management and the contribution the development will make to the streetscape and activity within the Ashfield Town Centre.

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

The proposal was notified to all adjoining and nearby affected property owners and occupants and Councillors from 19 June 2013 until 31 July 2013. The amended scheme was renotified from 10 February 2014 until 3 March 2014.

7.7.1 Summary of submissions

Fourteen submissions (**Attachment 3**) were received during the initial notification of the development application. One submission from Ausgrid was received in response to the renotification of the amended proposal.

Submissions	Issues Raised
G. Paciocco 57 Holden Street, Ashfield	<ul style="list-style-type: none"> • Adequacy of servicing • Adequacy of open space, schools and police resources • Availability of work for new residents • Environmental capacity
Peter Mackie 1/21 A'Beckett Avenue, Ashfield	<ul style="list-style-type: none"> • Over development of the site – slum of the future • Traffic congestion • Overshadowing • Loss of sunlight • Air pollution • Wind tunnels • Loss of on street parking • Applauds proposed child care centre
Kirill Reztsov 43 Orphington Street, Ashfield	<ul style="list-style-type: none"> • Increased noise • Increased congestion • Loss of sunlight • Offset impacts by providing additional public space and community facilities
Samantha Kent 3/34 Joseph Street, Ashfield	<ul style="list-style-type: none"> • Traffic congestion • Building height
Justine Simpkins 11A Alma Street, Ashfield	<ul style="list-style-type: none"> • Lack of parking • Traffic congestion
Dennis Lee 3/16 Holden Street, Ashfield	<ul style="list-style-type: none"> • Lack of parking • Traffic congestion • Delivery vehicles • Vehicular access • Adequacy of servicing – options for energy efficiency • Resident education regarding energy use and recycling

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<p>Scott Lockrey Lockrey Planning and Development Solutions On behalf of Gerry Markezinis 236-242 Liverpool Road, Ashfield</p>	<ul style="list-style-type: none"> • Overdevelopment • Maintenance of existing right of way • Traffic and parking impacts • Wind impacts • Excavation and need for a dilapidation assessment • Construction management • Potential for dust contamination during demolition • No assessment of acoustic impacts of mechanical plant
<p>Ashfield Baptist Childcare 19 Holden Street, Ashfield</p>	<ul style="list-style-type: none"> • Traffic • Parking • Solar access to centre • Need for another child care centre
<p>Linda De Rosa 7 Rose Street, Ashfield</p>	<ul style="list-style-type: none"> • Parking
<p>Christine Ngo 82 Norton Street, Ashfield</p>	<ul style="list-style-type: none"> • Traffic • Height – solar access
<p>Francis Le 50 Joseph Street, Ashfield</p>	<ul style="list-style-type: none"> • Environmental qualities/design elements of the development
<p>Robert and Stella Ius 46 Arthur Street, Ashfield</p>	<ul style="list-style-type: none"> • Scale • No loss of amenity should result • Height of buildings – non compliance with adopted controls • Traffic • Air and noise pollution • Impact on infrastructure • Precedence
<p>William Street Securities Pty Ltd Re: 270 Liverpool Road, Ashfield</p>	<ul style="list-style-type: none"> • Support the proposal • Overlooking concerns from Building A for any potential building on 270 Liverpool Road. Non compliance with RFDC building separation guidelines
<p>Narelle Brown 5/21 A'Beckett Avenue, Ashfield</p>	<ul style="list-style-type: none"> • Height – out of character • Height – overshadowing • Parking
<p>Diane Ekin PO Box 271 Ashfield Resident of Norton Street</p>	<ul style="list-style-type: none"> • Traffic congestion
<p>D Lee 177 Norton Street Ashfield</p>	<ul style="list-style-type: none"> • Traffic • Parking – cites other developments in the area.

7.7.2 Response to submissions

In the main, the issues raised in the public submissions have been addressed elsewhere in the report. Below are responses to specific issues.

Traffic congestion and its impacts

ARUP was commissioned by Ashfield Council to review the traffic aspects of the proposed development. Issues of traffic generation have been addressed in Section 7.5.2 of this report. In addition, conditions of consent to address specific issues associated with traffic management are proposed to be imposed should the application be approved.

Overdevelopment/Departure from adopted controls

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The subject site is located within the Ashfield Town Centre. Both the LEP and DCP envisage development of increased density and height within the town centre.

The density and height of the development has been discussed in Sections 7.1, 7.3 and 7.5.17 of this report. The density and height of the development can be accommodated without adverse streetscape or amenity impacts. There will be no increase in overshadowing of other properties. As discussed above, traffic impacts are manageable.

The development will result in new landmark buildings which by definition must be visible. Although this development will result in a change to the visual character of the Ashfield Town Centre that does not necessarily imply that such a change is inappropriate. It is considered that the proposal is appropriate having regard to the desired future character of the town centre.

Adequacy of Servicing

Servicing authorities have been consulted as part of the assessment of this DA. The responses of Ausgrid and Sydney Water are detailed in Section 7.5.4 of this report.

Appropriate conditions of consent will be imposed should the application be approved requiring the applicant to make appropriate arrangements with authorities in regard to the servicing of the development.

Adequacy of open space

The development makes provision for communal open space in conjunction with the proposed residential apartments. With the exception of entry mall from Liverpool Road, there is no open space currently provided on site therefore this development will result in a net increase in open space, albeit not all publicly accessible.

Council's Section 94 contributions plan was adopted on 9 November 2010. That plan took into account likely population growth in the LGA up to 2020 and considered the open space demands of the population up to that time.

Police Resources

As noted above, an increase in the population of Ashfield is envisaged. The state Government will be required to address issues of the allocation of police resources to respond to that population increase.

Issues of safety and security have been considered in the design of the development.

Overshadowing/solar access

The proposed development will not increase the overshadowing of any adjoining or nearby property.

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Construction management/Air pollution

A construction management plan (including a construction traffic management plan) will be required to be submitted for Council's approval prior to the commencement of any work on site (refer to proposed conditions of consent). Relevant conditions of consent will be included requiring the applicant/builder to comply with Council requirements in respect to demolition and construction works including the requirement for the preparation of a dilapidation assessment for adjoining properties.

The construction management plan will be required to address issues such as dust and particulate control particularly during the demolition and excavation phases of the project. Noise and vibration control will also need to be addressed and details regarding the mitigation of any impacts will be required to be considered.

Wind impacts

The DA included a pedestrian wind impact assessment which considered the likely impact of the proposed development on the local wind environment and in particular outdoor areas within and around the development. That assessment concluded that the pedestrian ground level areas will be shielded from the principal winds by the existing and proposed buildings. The report makes a number of recommendations to mitigate wind impacts within the development. These can be included as conditions of consent should the application be approved.

Energy efficiency

A BASIX and Section J report were submitted with the DA.

The BASIX assessment confirms that the residential apartments will meet or exceed the required targets for water, thermal comfort and energy efficiency.

The Section J assessment assumes the development will achieve compliance through the deemed to satisfy measures as noted in the BCA. The Construction Certificate documentation will address aspects such as building fabric, glazing, air conditioning and lighting.

Easements

There are a number of easements and right of carriageway (ROW) which affect the subject site. Many of these provide for access to properties with frontage to Liverpool Road, including the Civic Centre. As part of this development all easements and rights of way will be required to be maintained. The properties that comprise the subject site will be required to be consolidated and resubdivided by stratum subdivision to reflect the nature of the proposed development. Any resubdivision will need to replicate and/or modify as appropriate all easements for access and services with a provision that these restrictions cannot be altered or removed without the approval of Council.

Need for the child care centre

The application includes a 100 place child care centre. As noted above, the population of Ashfield is projected to increase. The centre will provide a community benefit.

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Impact on 270 Liverpool Road

Setbacks between Building A and adjoining properties, including 270 Liverpool Road vary from 6.215m to 9.519m to the closest northern boundary and approximately 6m to the closest western boundary.

The RFDC recommends a separation of 12m between habitable rooms or balconies of buildings up to 4 storeys in height. For buildings between 5 – 8 storeys a separation of 18m between habitable rooms and balconies is recommended and for buildings 9+ storeys the separation increases to 24m.

Building A is effectively an 8 storey building and therefore a separation of 18m to other residential accommodation is recommended.

Building A will comprise serviced apartments and is therefore not subject to the provisions of SEPP 65 and the RFDC. Notwithstanding, there is the potential for residential flat buildings to be developed on land adjoining the subject site to the north and west. Because the separation between Building A and its adjoining boundaries to the north and west is less than 9m, in order to satisfy the 18m separation, any building on the adjoining land would be required to be setback further. It is considered that development on adjoining sites should not be penalised in terms of having to provide increased building separations as a result of this development.

Therefore, should this application be approved, a condition of consent requiring the applicant to address the reduced building separation and potential privacy impacts on future adjoining development where a setback to the adjoining boundary is less than 9m will be imposed. This could be achieved by provided fixed lourved privacy screens to all north facing balconies and westerly windows of Building A.

Building C observes a 9m setback to its northern boundary.

Acoustic considerations

The installation of any mechanical plant associated with the proposed development will be required to satisfy the relevant noise and vibration criteria.

Deliveries to the site will also be restricted to ensure noise impacts for adjoining residents and businesses are minimised.

7.8 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 appropriate in the context of the locality and therefore warrants support.

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8.0 Referrals

Internal Council Referrals	
Officer	Comments
Heritage Adviser	<p>Council's heritage adviser has reviewed the proposal and is of the opinion that the proposed works do not involve impact on the heritage significance of heritage items in the vicinity of the site.</p> <p>The heritage adviser observes that the new development will be influential in the development character of the Ashfield town centre and that a robust urban design assessment is warranted.</p> <p>Such an assessment has been undertaken and it is considered that the development as now proposed will be appropriate.</p>
Waste Management	The issues raised in response to the original referral have been appropriately addressed in the amended proposal. The imposition of conditions of consent should the application be approved will assist in ensuring that this aspect of the development is managed appropriately.
Environmental Health	No objection to the acoustic assessment. Recommends imposition of certain conditions in relation to the child care centre.
Community Services	Some comments regarding the internal layout of the child care centre. The application is for the centre only and no approval will be issued for its use. The internal layout is indicative only. A separate DA for the fit out and occupation of the centre will be required.
Traffic	Recommends referral to RMS. Recommends that the applicant's traffic report be peer reviewed. This has been undertaken by ARUP. Conditions requiring an upgrade of roadworks in the vicinity of the site will be imposed should the application be approved.
Drainage	Additional details with respect to drainage are required to be submitted. A condition to this effect can be imposed should the application be approved.
Urban Design Review	Objects to height and density as the development does not comply with Council's standards. Refer to assessment of these provisions elsewhere in the report.
Landscaping	Additional information requested regarding trees. No street trees will be affected.
Council's Solicitor	Council's solicitor has investigated the effect the proposed development may have on the easements for access and services which currently affect the subject site and other properties and is of the opinion that the proposed development will not have any adverse impacts. Notwithstanding, all easements will need to be reviewed in light of this development and the proposed stratum subdivision.
Building – BCA issues and accessibility	A detailed BCA Assessment will be required to be submitted with the Construction Certificate.
External Agency Referrals	
Authority	Comments
RMS	<ul style="list-style-type: none"> No road widening requirements affect the site <p>No objection subject to the following:</p> <ul style="list-style-type: none"> Off street parking to be provided in accordance with AS2890.1-2009 and AS2890.2-2002. Stormwater discharge must not exceed pre-development discharge. Design to reflect RMS's Environmental Noise Management Manual in relation to noise mitigation measures for development likely to be affected by road noise from Liverpool Road. Swept paths for the longest vehicle entering and exiting

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Internal Council Referrals	
Officer	Comments
	<p>the site to be in accordance with AUSTROADS.</p> <ul style="list-style-type: none"> • Submission of a construction management plan detailing construction vehicle routes, truck numbers, hours of operation/construction, access arrangement and traffic control prior to issue of a CC. • All construction and demolition vehicles to be contained wholly on site. • No cost to RMS.
Ausgrid	Ausgrid has advised that the site is currently serviced by substations which are operating close to full capacity. Therefore, augmentation of supply may be required and the applicant will be required to consult with Ausgrid prior to construction commencing. Ausgrid has raised concern that the development proposed for the Mall forecourt may impact on electricity easements in the vicinity. Appropriate conditions can be imposed in the event the application is approved.
Sydney Water	Sydney Water advise that the site is currently serviced in terms of water and sewer, however, the applicant will be required to make application for a Section 73 Certificate at which time Sydney Water will specify any works required and whether amplification and/or changes to the system are applicable.
Ashfield Local Area Command	No objections. Recommends implementation of various measures to address identified risks should the application be approved.

9.0 Building Code of Australia (BCA)

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

A detailed BCA assessment will also be required to be submitted.

Financial Implications

Section 94 Contribution Plan

A contribution under Council's Contributions Plan (Section 94) will be payable in accordance with the Plan.

The development will generate demand for open space, community facilities, and upgrading of roads and other transport infrastructure. To this end a condition requiring the payment of a contribution towards the provision and embellishment (in the case of open space) of this community infrastructure will be imposed. The total contribution towards this infrastructure is calculated to be \$2,671,221.27 (as of December 2013).

In addition and as noted in Section 7.5.2 of this report, it is also proposed to impose a levy for the proportion of retail car parking that is not able to be provided on site. The contribution for the shortfall in retail car parking has been calculated to be \$7,359,813.08 (as of December 2013).

Other Staff Comments

See Section 8.1 of this report.

Public Consultation

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See Section 7.7 of 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 proposal is generally acceptable and is recommended for conditional approval.

Attachments

- Attachment 1 – Plans of the Proposal
- Attachment 2 – Locality Map
- Attachment 3 – Submissions

Recommendation

- A** That the objection to Clause 17B of the Ashfield Local Environmental Plan 1985 (as amended), 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. 2013.114.1 for demolition of existing structures on 244-256 Liverpool Road and a mixed use development comprising alterations and additions to the existing Ashfield Mall shopping centre, 101 residential apartments in 2 buildings, 67 serviced apartments in 1 building and associated site and landscape works on Lot 1 DP736779 (260A Liverpool Road), Lot A DP405790 (244 Liverpool Road), Lots A & B DP404055 (252-254 Liverpool Road) and Lot 100 DP734467 (256 Liverpool Road) subject to the attached conditions.