

Subject	Development Application: 10.2014.9.1 270 Liverpool Road ASHFIELD
File No	10.2014.9.1
JRPP REF:	2014SYE030
Prepared by	Philip North, Specialist Planner
Prepared for:	Sydney East Joint Regional Planning Panel
Date	4 June 2014

Overview of Report

1.0 Description of Proposal

Demolition of existing structures and the construction of an 8 storey mixed use building above a 5 level basement car park comprising a ground floor retail tenancy and bank, and 61 dwellings (incl. 4 in-fill affordable housing dwellings & 6 adaptable dwellings) and associated works.

Background

2.0 Summary Recommendation

Although the proposal is generally consistent with Council's strategic planning vision for the town centre, it fails to address a number of important functional issues. These relate particularly to waste collection and create a situation where the building is provided with inadequate waste storage and is unable to be serviced by Council's waste collection vehicles.

In addition to this, there are several other issues relating to a small deficiency in parking spaces and various aesthetic issues which could be resolved either by way of minor amendments or simple conditions of consent. The primary issues, however, have implications for the overall design of the proposal and may require amendments which are too substantial to be addressed by way of standard conditions of consent. Notwithstanding this, they are issues which are capable of resolution by way of detailed design modifications which could be undertaken by way of a deferred commencement consent process.

Given this, the proposal is recommended for deferred commencement consent.

3.0 Application Details

Applicant	: William Street Securities Pty Ltd
Owner	: Fromat Pty Ltd
Value of work	: \$20,964,614
Lot/DP	: Lot 1, DP 167680, Lot B, DP 309173 & Lots 1 & 2, DP 983976
Date lodged	: 22/01/2014
Date of last amendment	: 30.04.2014
Building classification	: 2 & 6
Application Type	: Local
Construction Certificate	: No

4.0 Site and Surrounding Development

The subject site is located on the South side of Liverpool Road, bounded by Knox Street to the West. The site area is approximately 1518.9 square metres. An existing shop is located on the site. Surrounding development comprises mixed use development including shops, restaurants, commercial premises, Ashfield Mall, Council's offices and residential flat buildings. Refer to **Attachment 1** for a locality map.

The site consists of the following individual lots:

Street Address	Lot No.	Deposited Plan	Title System	Site Area
270 Liverpool Road	1	983976	Torrens	623.2m ² (by title)
270 Liverpool Road	2	983976	Torrens	30.33m ² (by title)
270 Liverpool Road	1	167680	Torrens	784.1m ² (by title)
270 Liverpool Road	B	309173	Torrens	69.6m ² (by title)
TOTAL AREA				1,518.9m ² (by survey)

5.0 Development Application History

Previous building and development applications submitted to Council for the subject site include:

No.	Determination Date	Proposal	Determination
06.1937.8029	18.12.1937	Not specified	Approved
06.1974.9345	01.10.1974	Commercial Building	Approved
06.1977.429	06.12.1977	Supermarket	Approved
06.1978.45	13.02.1978	Hoarding	Approved
06.1989.91	18.04.1989	Alterations to fruit market	Approved
06.1994.29	17.05.1994	Alteration to shop	Approved
05.1998.20	21.06.1994	New butcher, seafood, juice area and cool rooms	Refused
10.2007.275	14.01.2008	Single storey addition to existing nursing home	Approved
10.2010.181	27.08.2010	Controlled use of car park	Approved

The following table shows the background to the current application:

Application Milestones		
Date	Event	File no
30.05.2013	Pre-lodgement meeting held	9.2013.17.1
07.08.2013	Pre-lodgement letter sent: <ul style="list-style-type: none"> The subject site is located in a 3(a) General business Zone under Ashfield Local Environmental Plan LEP 1985. The maximum allowable FSR under Ashfield LEP is 3:1. The proposed development seeks an FSR 3:1 therefore complies with the FSR control. The property is located in the Ashfield Town Centre. Part C3 of Ashfield DCP is applicable. Part C3 of ADCP allows a maximum height of 6 storeys with a bonus of 2 storeys where there is a community benefit. It is noted that the development is greater than 6 storeys therefore you will have to provide an appropriate community benefit. 	9.2013.17.1

	<ul style="list-style-type: none"> Part C11 of Ashfield DCP requires one car space per unit plus one visitor space for every 4 units. A car wash bay is required. One car space is required per 40m² of commercial space. Based on 52 units 52 car spaces are required. Based on 1,101m² of commercial floor area 28 car spaces are required. Based on 1 visitor space per 4 units 13 visitor spaces are required. One accessible car parking space is required for each accessible/adaptable residential unit. Refer to Part C1- Access Adaptability and Mobility. A total of 93 car spaces and a carwash area are required. The plans show only 53 car spaces. One bicycle space is required for every 10 units in an accessible communal area. One bicycle space is required for every 20 employees of a retail business and for every 250m² of a retail gross floor area. A traffic report will need to be submitted to Council to justify any variation of the parking provisions of Part C11, however, it is noted due to the large deficiency in parking the proposed development in its current form is unlikely to be supported by Council staff. Any proposal must demonstrate compliance with the Access and Mobility and Universal Accessible Design requirements of Part C1 of Ashfield DCP 2007/Access for disabled to comply with AS 1428.1. It is mandatory that 10% of the units be adaptable housing as required by Part C1 of ADCP. A stormwater drainage concept plan including on site detention and connection into any Council stormwater drainage pipes is required to be submitted with any development application. A stormwater pit in Knox Street is required to join to Norton Street. All vehicles associated with this complex must enter and exit the building in a forward direction. Ramp gradients, isle widths, and manoeuvring areas to be shown on the plans and must comply with AS 2890.1 The accessible car spaces should be designed in accordance to AS 2890.6:2009. Headroom clearance to car park should be made in accordance to AS2890.1:2004 Sect 5.3 and dimensioned on plan. Right of way/s and parties with the benefit and burden of the right of way/s to be detailed in the Statement of Environmental effects. A waste management plan is required to be submitted detailing 'Inter Alia' garbage collection area and access for garbage collection vehicles. It is noted that the proposed building extends up to the right of way at the rear of the property. This will cause problems with the safety of persons and vehicles leaving the site. The building should be setback from the right of way to allow safe egress from the building and to allow room for garbage trucks to enter and leave the site in a forward direction. All garbage and waste matter to be collected by vehicles on the site. Garbage bins will not be permitted to be left in Knox Street or the right of way for collection. The loading and unloading area should be designed to allow vehicles to move in and out of the site in a forward direction. Vehicles should not pass over the boundary onto other properties to enter or leave the site. The proposal shall not compromise the ability of adjoining sites to build to their full potential with regard to solar access. It is noted that there are no toilet facilities in the proposed development for customers, staff and the disabled. Toilet facilities to comply with the BCA. Mailbox location, clothes drying areas and television aerial location to be shown on the plans. Ausgrid should be contacted at an early stage regarding their requirements for power to the site and the location of any electrical substation if required. The proposal must comply with the requirements of the Building Code of Australia. A Basix certificate is required. 	
05.12.2013	Provisional Development Application submitted.	17.2013.358
14.01.2014	Provisional Development Application advice forwarded: <ul style="list-style-type: none"> FSR: The FSR for the site is 2:1 with an additional 1:1 if Clause 17(b) is satisfied. The submission fails to adequately address the requirements of this clause to warrant additional FSR. Please note that the bonus of FSR has no relation to the affordable housing or public benefit. The submitted SEE requires to be amended in this respect. 	17.2013.358

	<ul style="list-style-type: none"> • The proposed development has an overall FSR of 3.5:1 which even exceeds the maximum of 3.0:1 inclusive of the bonus and this variation will not be supported. • Height: The maximum height of 6 storeys is allowed under Clause 2.1 - Part C3 of Ashfield DCP 2007. A bonus of an additional two storeys is allowed under Clause 2.4 subject to provision of community facility/affordable housing. The terms are stipulated in Clause 2.4(a) and (b). A review of the documentation submitted seeking this bonus indicates that the requirements of this clause have not been satisfied and Council will not support the proposal in its current form. In addition, it appears that the rear portion of the proposal may be in excess of eight storeys (i.e. the bonus provision) due to the natural fall of the site and the protruding basement. • Part C11 of Ashfield DCP requires one car space per unit plus one visitor space for every 4 units. Based on 61 units, 61 car spaces are required. Based on 1 visitor space per 4 units 15 visitor spaces are required. The proposal provides for a total of 65 car spaces including 58 for dwellings and 7 for visitors. This does not comply with the minimum of 76 required and Council will not support this variation. • Part C11 of Ashfield DCP requires one car space per 40m² of commercial space. Based on 1,154m² of commercial floor area, 29 car spaces are required. The proposal provides for a total of 7 car parking spaces. It is noted that your submission claims a credit for the existing commercial floor space of 17 spaces. In order for Council to determine the credits admissible, it is requested that the following information be provided:- <ol style="list-style-type: none"> 1. The number of car parking spaces previously approved / required as a condition of any consent for the use of the site. 2. A site /car parking layout plan of the existing development. Please also be advised that credits apply only to the existing floor space and car parking must be provided for additional floor space in accordance with Notes to Section 4 of Part C11 of Ashfield DCP 2007. Should there be any shortfall in the required number of car parking spaces for commercial use, a monetary contribution under Council's Section 94 Development Contributions Plan is payable in lieu of parking. • Accessible car parking space is required for each accessible/adaptable residential unit. Refer to PartC1- Access Adaptability and Mobility. These should be marked on the plans. • One bicycle space is required for every 10 units in an accessible communal area. • One bicycle space is required for every 20 employees of a retail business and for every 250m² of a retail gross floor area. • A car wash bay is required. • All parking spaces to be clearly shown with numbers on the plans. • The proposal fails to comply with Section 7 of Part C3 of Ashfield Town Centre controls. Section 7.1 requires a minimum of 10% (i.e. a total of 6) of the total number of dwellings to be Studio Apartments no larger than 45sqm whereas only one dwelling meets this requirement. The proposal should be amended to comply. • Right of Way: Detailed cross sections should be provided of any regrading of the right of way and how it affects the rights of the beneficiaries. • Waste management: It is acknowledged that the waste will be collected by private contractor. Nevertheless, to cater for a situation in which Council is required to collect domestic waste, the basement access and presentation area should be designed to permit access by a truck of the size used by Council (as opposed to the small truck as shown on the plans). Please contact Council's Waste Services to determine suitable specifications. This may require some changes to both the layout and the floor to ceiling height within the basement area. • Relocated bus seats: Please provide details of proposed alternate location. Note that this may also necessitate relocation of the existing bus stop and would require consultation and approval from both Roads and Maritime Services, the State Transit Authority and may need to be considered by the Local Traffic Committee. • Details should be provided regarding the management of the easements during construction and impacts upon traffic flows, deliveries etc in the area. • Signage details should be provided for the proposed bank tenancy if approval is sought with this application. 	
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	<ul style="list-style-type: none"> • Calculations for the OSD are to be provided in accordance with Council's Stormwater Code. • The floor plans require more comprehensive dimensioning. • The plans do not clearly number car parking spaces or show which spaces are to be allocated for what function. Furthermore, there does not appear to be any parking space allocated for commercial loading and unloading. • SEPP 65 Comments: Preliminary comments received from Council's SEPP 65 advisor are attached at the end of this letter. 	
29.01.2014	Development Application lodged.	10.2014.9
02.05.2014	<p>Letter sent to applicant raising the following issues:</p> <ul style="list-style-type: none"> • Domestic Waste Management: The design must cater for the collection of domestic waste inside the property boundary. Given the site constraints and those of neighbouring properties, it is not acceptable for the residential garbage to be collected from in front of other properties on Knox Street. The following options are available: <ul style="list-style-type: none"> ○ Collection from the Right of Way by Council: This would require you to provide legal opinion that the placement of the bins in the right of way would not violate the terms of the right of way (or provide for them to be placed externally but not actually ON the right of way). It would also require suitable manoeuvring for Council's garbage truck to enable it to both collect the bins (which is done on the right hand side of the truck) and then exit the site in a forward direction without passing over the property boundary; to demonstrate this it would be necessary to provide a detailed turning circle diagram. Note that the presentation area and the layout of the required number of bins must be shown clearly on the plans. ○ Collection within the basement by a private contractor: In this event, you would need to provide some kind of legal mechanism (which could be tied to a condition of consent) to ensure that at no point in the future would Council be responsible for collecting garbage from this building (as it would not be possible using Council's collection equipment). This would require the provision of appropriate vehicular access widths and turning areas for Council's standard collection vehicle as well as suitable heights within the basement. ○ Council's garbage collection vehicle details are attached for your information. • The plans should include the outline and relevant form and use details of the current proposal for Ashfield Mall in plan, section and elevation (shown dashed) where it interfaces the site. • Parking: Council will not support any deficiency in residential parking. Although it will contemplate a reduction in commercial parking spaces, any deficiency would be subject to section 94 contributions as per Council's Section 94 Plan. • Bollards in Right of Way: As noted, these should be removed from the application. • Relocation of Bus Seats: The question of the relocation of the bus seats needs to be resolved. RMS has not offered an opinion and it may be necessary to obtain approval from another authority. The proposed new location for the bus seats should be shown on the plans. • Construction Management Plan: Council will require that the right of way remains continually accessible and unobstructed throughout construction and that the safety of users of other sites be maintained at all times. Please amend your Construction Management Plan accordingly. 	10.2014.9
09.05.2014	<p>Amended plans & additional information submitted including:</p> <ul style="list-style-type: none"> • An additional level of basement parking; • Amended waste management; • Various architectural amendments, in particular to the side boundary walls. <p>Applicant advised that no further amendments would be made.</p>	10.2014.9
09.05.2014	Applicant advised that no further amendments would be made.	10.2014.9

6.0 Zoning/Permissibility/Heritage

The site is zoned B4 - Mixed Use under the provisions of Ashfield LEP 2013.

The property is located within the vicinity of heritage items at 2 Knox Street and 262 and 281 Liverpool Road. The property is located within the Ashfield Town Centre and 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 Environmental Planning and Assessment Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 2013

Ashfield Local Environmental Plan 2013 (ALEP 2013) was gazetted on 23 December 2013 and applies to the proposal. The following table summarises the compliance of the application with ALEP 2013.

Ashfield Local Environmental Plan 2013 Summary Compliance Table				
Clause No.	Clause	Standard	Proposed	Complies
2.3	Zone objectives and land use table	Zone B4 Mixed Use	Residential Flat Building, Business Premises (bank) & Commercial Premises (unspecified use)	Yes
4.1	Minimum subdivision lot size	N/A	N/A	N/A
4.3(2)	Height of buildings	23m	29m	Yes (relies on cl. 4.3A)
4.3(2A)	Height of buildings	23m	29m	Yes (relies on cl. 4.3A)
4.3A	Exception to maximum height of buildings in Ashfield town centre	30m (27m to top of habitable floor) If 25% of additional floor space above height limit is allocated to affordable rental housing)	29m (27m to top of habitable floor) 4 units are allocated to affordable rental housing	Yes
4.3B	Ashfield town centre – maximum height for street frontages on certain land	12m (for the 12m of the site fronting Liverpool Road)	10.5m generally 13.2m (lift overrun and pergola set back into site)	No (see cl. 4.6)
4.4	Floor space ratio	3:1	3.5:1	No (see cl. 4.6)
4.6(3)	Exceptions to development standards	Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:	Written requests submitted for variations to cl. 4.3B & cl. 4.4.	Yes
4.6(3)(a)	“	That compliance with the development standard is	Demonstrated in both cases. • Cl. 4.3B (Street Wall	Yes

		unreasonable or unnecessary in the circumstances of the case, and	Height): The height non-compliance is from a minor element that does not impact on the appropriate perception of a street wall height of 12m and is consistent with the objectives of the standard. • Cl. 4.4 (FSR): The applicant's submission that the proposal is consistent with the objectives of the standard is supported (see applicant's justification).	
4.6(3)(b)	"	That there are sufficient environmental planning grounds to justify contravening the development standard.	Demonstrated in both cases. • Cl. 4.3B (Street Wall Height): The contravention results from elements that enable the roof of this part of the building to be useable as communal open space. This is a desirable planning outcome and is reasonable justification. • Cl. 4.4 (FSR): The contravention results from the adoption of the height bonus in cl. 4.3A to provide affordable housing and which cannot be implemented without a variation to the FSR standard. As such, there are solid planning grounds for the variation.	Yes
4.6(4)	"	Development consent must not be granted for development that contravenes a development standard unless:		
4.6(4)(a)	"	The consent authority is satisfied that:		
4.6(4)(a)(ii)	"	The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	Demonstrated.	Yes
4.6(4)(a)(iii)	"	The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	The proposed development is consistent with the objectives of the standard or of the zone.	Yes
4.6(4)(b)	"	The concurrence of the Director-General has been obtained.	Concurrence has been granted to Council by the Director-General.	Yes
5.10	Heritage Conservation	Located in the vicinity of heritage items: • 2 Knox Street; • 262 Liverpool Road; and • 281 Liverpool Road.		
5.10(4)	Effect of proposed development on heritage	The consent authority must, before granting consent under this clause in respect of a	The heritage impacts are assessed as satisfactory by Council's Heritage Adviser.	Yes

	significance	heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).		
5.10(5)	Heritage assessment	<p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	Heritage management document has not been submitted. Nevertheless, the heritage impacts are assessed as satisfactory by Council's Heritage Adviser.	Yes

As demonstrated in the above table above table, the proposed development satisfies all the provisions of ALEP 2013 except for:

- Clause 4.3B, Ashfield town centre – maximum height for street frontages on certain land; and
- Clause 4.4, Floor space ratio.

In both instances, however, a request to vary the development standard has been submitted which satisfactorily demonstrates that compliance would be unnecessary, that the proposal is consistent with the objectives of the standard and that there are sound environmental planning grounds for the variation.

7.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the 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 environmental, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 55 - Remediation of land

The site has a long and continuous history of commercial and general retail use which does not give rise to any suspicion of contamination. Remediation of the site is therefore not required prior to the carrying out of the proposed development.

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

The proposal has been assessed by Council's SEPP 65 review officer (see attachment) and the following issues have been identified:

- Principle 6: Landscape: More soft landscaping should be provided on rooftop areas.
- Principle 7: Amenity: Lack of dual aspect apartments.
- Principle 10: Aesthetics: Lack of a recess on the sides of the upper level, colour scheme needs to be confirmed, unsympathetic podium finishes facing 2 Knox Street, more detail regarding elevational treatments required.

State Environmental Planning Policy (Infrastructure) 2007

The application has been referred to the Roads and Maritime Services for comment under State Environmental Planning Policy (Infrastructure) 2007. No objection has been raised with the proposal and standard conditions have been recommended for inclusion with any development consent.

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.

No draft environmental planning instruments apply.

7.3 The provisions of any Development Control Plan.

The proposal is considered to meet the aims and objectives of Ashfield Interim Development Assessment Policy 2013. Specifically to the following Parts:

C1	ACCESS ADAPTABILITY AND MOBILITY	Complies. The proposal satisfactorily meets the requirements of the Universal Accessible Design provisions of this part.
C3	ASHFIELD TOWN CENTRE	<ul style="list-style-type: none"> • Cl. 7, C1: Does not comply Requires a minimum of 20% of the number of dwellings being studios or one bedroom: Only 1.6% of units are less than 45m². Nevertheless, 11 units are smaller one bedroom size of 56m² or less. It is considered that these meet the intent of this clause. • Cl. 8, C5, Waste Storage: Does not comply Circulation and storage areas are under sized and not workable. • Cl. 8, C7, Design of Service Areas: Does not comply Circulation and storage areas are under sized and not workable. • Cl. 9, C8, Waste and recycling, amount of bins, truck sizes: Does not comply <ul style="list-style-type: none"> ○ 61 bins are required but the garbage room would accommodate no more than 39; ○ The proposed presentation area in the right of way has not been documented on the plans; ○ The proposed presentation area in the right of way could not accommodate the required number of bins without completely blocking the vehicular entry to the basement as well as several fire exit doors. ○ There is inadequate manoeuvring area for a Council collection vehicle to enter and exit the site in a forward direction. ○ The garbage bins would obstruct the right of way when put out for collection.
C10	HERITAGE CONSERVATION	<p>Located in the vicinity of heritage items:</p> <ul style="list-style-type: none"> • 2 Knox Street; • 262 Liverpool Road; and • 281 Liverpool Road. <p>The proposal has been reviewed by Council's heritage adviser and is considered acceptable in respect of its impacts upon these.</p>
C11	PARKING	<p>Does not comply. Required:</p> <ul style="list-style-type: none"> • Resident spaces: 57 (incl. 6 accessible) • In-fill affordable housing spaces: 2 • Visitor spaces: 14 • Carwash: 1 • Retail spaces (969m²): 24 <p>Note that the current development has a total of 21 approved car parking spaces (DA 10.2007.215.1) – slightly in excess of what would ordinarily be required for its floor space under Council's Parking DCP. As a result, no credit is applicable to the site in respect of any existing parking deficiency.</p> <p>Provided:</p> <ul style="list-style-type: none"> • Resident spaces (including in-fill affordable housing spaces): 56 (including 4 non-compliant accessible) • Visitor spaces: 14 • Carwash: 1 • Retail spaces (969m²): 24 <p>Deficiency:</p>

		<ul style="list-style-type: none"> • Resident spaces (including in-fill affordable housing spaces): 3 spaces • Accessible spaces: 4 spaces do not comply with the current AS 2890.1 size standards <p>If approved, the application will be conditioned as follows:</p> <ul style="list-style-type: none"> • 3 of the retail spaces transferred to residential use; • The deficiency of 3 retail spaces will be addressed by way of a section 94 contribution for each deficient parking space of \$30,000 CPI adjusted. • The undersized accessible spaces must be sized according to AS 2890.1 2009. This may result in the loss of two additional retail car parking spaces and, as above, the total deficiency of 5 spaces would be addressed by way of the s. 94 contribution.
C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	Complies. The proposal was notified in accordance with this part.
D1	PLANNING FOR LESS WASTE	<p>Does not comply.</p> <p>Bin Numbers: Required: Residential (61 dwellings):</p> <ul style="list-style-type: none"> • 1 x 240L garbage bin/2 dwellings=30.5 bins • 1 x 240L recycling bin/2 dwellings=30.5bins • TOTAL: 61 bins <p>Commercial (969m²): 1 x 240L garbage bin/69m²=14 bins</p> <ul style="list-style-type: none"> • 1 x 240L recycling bin/69m²=14 bins • TOTAL: 28 bins <p>Provided: Residential (61 dwellings):</p> <ul style="list-style-type: none"> • TOTAL: 32 bins <p>Commercial (969m²):</p> <ul style="list-style-type: none"> • TOTAL: 15 bins <p>There is a deficiency of 42 bins.</p> <p>Garbage Truck Access/Bin Presentation:</p> <ul style="list-style-type: none"> • It is proposed to line the residential bins up in the right of way. This would require a linear space of at least 36.6m which would occupy the entire length of the right of way and block the driveway. • There is inadequate manoeuvring area for a Council truck to enter and exit the right of way in a forward direction. • The application does not demonstrate that there is adequate space in the right of way for a Council truck to collect bins using its left arm arrangement. • The presentation of bins in the right of way may violate the terms of the right of way by limiting access.

The application does not comply with the parts as indicated and ultimately does not achieve the aims and objectives of the AIDAP 2013, particularly in respect of:

- Car parking;
- Unit mix; and
- Waste management.

It is therefore recommended that these matters be addressed by way of deferred commencement consent conditions.

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

N/A

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. It is considered that the proposed development is generally acceptable but the proposed waste collection arrangement is unsatisfactory and will result in unacceptable environmental impacts upon the locality.

7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development except for the right of way at the rear of the site. The proposed development does not respond adequately to this constraint and would rely upon access across its boundary into adjacent sites to function adequately.

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 24 January 2014 until 21 February 2014. It was renotified from 6 February to 27 February 2014 due to omission of its status as a Joint Regional Planning Panel matter on the original notification. Notification was checked during site inspection and was acceptable.

7.7.1 Summary of submissions

2 submissions were received from the following:

Submission
G. Michael, Principal, GMD Architects on behalf of J. Soulos, owner of 2 Knox Street. Suite 1, 1 Burwood Road, Burwood, NSW 2131
A. Poulos 5/34 Fairfax Road, Bellvue Hill, NSW 2130

Submission Issue	Assessing Officer's Comment
Construction and excavation may damage adjacent property and result in loss of rental income.	Conditions would be placed on any consent to ensure protection of adjoining properties – dilapidation reports, etc.
8 storey development may set a precedent and result in overdevelopment of the area.	The 8 storeys proposed are permissible under Council's LEP development standards and is the scale of development envisaged in Council's strategic planning vision for the town centre.
Additional vehicle movements may result in unacceptable congestion on Knox Street.	The proposal has been referred to both the RMS and Council's traffic engineer. Neither raised any issue with the traffic generation or the ability of the local road network to comfortably absorb it.

Submission Issue	Assessing Officer's Comment
272 Liverpool Road may be overshadowed.	Given that 272 Liverpool Road is located to the west of the proposal and built to the side boundary, it will not be overshadowed except in the morning. The building has no windows which are orientated to receive solar access at that time of day.
272 Liverpool Road may be overlooked and lose privacy.	The proposal has a blank side wall and its units are generally orientated towards either the front and the rear where there will be negligible or no overlooking of properties to the side.
The east facing windows of the residential flat building at 2 Knox Street will be overshadowed, significantly impacting 6 of the 9 units in that building.	Council's applicable planning controls provide protection of solar access to north facing windows of living areas of adjacent residential properties. In this instance, the windows for which a concern is expressed face south east. Council's controls do not impose a solar access requirement on east or west facing windows.
The rear courtyard of 2 Knox Street will lose all direct solar access. It is essential for the wellbeing of residents for the purposes of smoking, lounging, eating and the like.	The applicable planning controls do not provide for preservation of solar access for this kind of space in a town centre (CBD) environment.
Loss of privacy to 2 Knox Street.	The applicant has amended to the design to address privacy impacts in respect of 2 Knox Street.
Excess FSR.	It is considered that the applicant has adequately justified the increase in FSR and its association with the additional height bonus.
Excess FSR results in overshadowing and loss of privacy to 2 Knox Street.	Overshadowing to 2 Knox Street would occur regardless of whether the FSR were compliant or not.
Insufficient parking.	The application has been amended to almost comply with Council's Parking DCP requirements. The proposal, however, remains deficient by a few spaces. Should the application be approved, a s94 contribution will be levied for each deficient space as allowed by Council's s94 plan.
Insufficient studio apartments.	This deficiency is noted. Although it is not ideal it does not warrant refusal of the application.
Bulk and scale of the tower excessive in relation to 2 Knox Street.	The tower is of a scale which is consistent with Council's strategic planning vision for the town centre. It is noted that a similar scale relationship exists between the 'street wall' portion of the proposal itself as would result between the proposal and 2 Knox Street.

7.8 The public interest

Matters of the public interest have been taken into consideration in the assessment of the application. The proposal requires some design changes to address key functional and aesthetic issues and is therefore recommended for deferred commencement consent.

8.0 Referrals

8.1 Internal

Internal Referrals		
Officer	Comments	Support

Building Surveyor	Supported subject to conditions.	Yes
Traffic Engineer	Raised issue with the non-compliant width of the accessible car parking spaces with the current Australian Standard. Supported only subject to deferred commencement conditions.	Yes
Drainage Engineer	Supported subject to deferred commencement conditions.	Yes
Heritage Advisor	No objection.	Yes
Environmental Health Officer	Supported subject to conditions.	Yes
Tree Officer	No objection.	Yes
SEPP 65 Advisor	Supported only subject to deferred commencement conditions.	Yes
Waste Management	Supported only subject to deferred commencement conditions.	Yes

8.2 External

Roads and Maritime Services

The application was referred to Roads and Maritime Services for comment under clause 59 of the Environmental Planning and Assessment Regulation 2000 and section 104 of State Environmental Planning Policy (Infrastructure) 2007. No objections were raised subject to the application of standard conditions of consent.

9.0 Other Relevant Matters

Building Code of Australia (BCA)

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

Financial Implications

Should the application be approved, it will be subject to the following section 94 contributions:

<u>Community Infrastructure Type</u>	<u>Contribution</u>
Local Roads	\$5,303.50
Local Public Transport Facilities	\$33,784.08
Local Car Parking Facilities	\$98,691.59
Local Open Space and Recreation Facilities	\$594,112.11
Local Community Facilities	\$36,699.31
Plan Preparation and Administration	\$26,993.75
TOTAL	\$784,977.34

Note: These calculations assume the apartment size and mix currently proposed by the applicant as well as a deficiency of three commercial car parking spaces – should the deferred commencement conditions be applied, these figures would be updated).

Public Consultation

See section 7.7 of the report.

Conclusion

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 as amended with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

The proposal is generally consistent with Council's strategic planning vision for the town centre, but fails to address some easily corrected design issues and a number of important functional issues. Although unacceptable as proposed, these issues are capable of resolution by way of detailed design modifications which can undertaken by way of deferred commencement conditions of consent.

Given this, the proposal is recommended for deferred commencement consent.

Attachments

Attachment 1 – Plans of the Proposal
Attachment 2 – Locality Map
Attachment 3 – Heritage Comments
Attachment 4 – SEPP 65 Comments
Attachment 5 – Submissions

Recommendation

- A** That the objections pursuant to clause 4.3B of Ashfield Local Environmental Plan 2013 regarding maximum height of street frontages in Ashfield Town Centre and clause 4.4 of Ashfield Local Environmental Plan 2013 regarding floor space ratio be supported.
- B** That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) grant deferred commencement consent to Development Application No. 10.2014.9.1 for demolition of existing structures and the construction of an 8 storey mixed use building above a 5 level basement car park comprising a ground floor retail tenancy and bank, 7 levels of dwellings and associated works on Lots 1 & 2, DP: 983976, Lot 1, DP 167680 & Lot B, DP 309173, known as 270 Liverpool Road, Ashfield, subject to the following conditions: