

Subject: Determination of Development Application

Address: 168 Liverpool Road, Ashfield

DA No: 2014.242.1

JRPP ref: 2014SYE123

Prepared by Atalay Bas – Manager Development Services

Prepared for: Sydney East Joint Regional Planning Panel

Reason: Capital Investment Value greater than \$20 million

Date: 30 March 2015

1.0 Description of Proposal

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

- Retention of existing structure;
- Alterations and additions to the existing structure;
- Conversion of existing commercial building (6,460m²) into a mixed use building comprising:
 - 3 retail tenancies fronting Liverpool Road with an area of 205m²; and
 - 79 residential apartments which includes 8 adaptable apartments dispersed throughout the building;
 - 50 x 1 bedroom units and 29 x 2 bedroom units.
- Retention of existing access from Queen Street and car parking arrangements;
- Provision 131 parking spaces for residential, visitor and retail/commercial uses;
- Provision of communal facilities for future residential occupants; and
- Landscape works.

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

2.0 Executive Summary

The site is located at 168 Liverpool Road, Ashfield. The site is bounded by Liverpool Road to the north with a frontage of approximately 30m. The site has two street frontages; Liverpool Road to the north (main frontage) and Queen Street to the east (secondary frontage).

Surrounding area is characterised by a mix of commercial, retail, residential, educational uses and places of worship. The scale of development surrounding the site is varied, ranging from one (1) to up to nine (9) storeys.

The site area is approximately 2,421m² and irregular in shape. The site comprises an existing 7 storey building previously used for commercial office purposes, which is

currently vacant and undergoing remedial works/structural upgrades to make it suitable for the proposed use.

The proposed development involves the change of use of an existing commercial building to a mixed use building. The existing seven (7) level building is proposed to be reused and refurbished to provide residential apartments with an addition of one (1) level thus resulting in an eight (8) level building. The proposal will also provide a 'street wall' building along Liverpool Road of 3 levels in height.

The proposed scheme will provide a total of 79 residential apartments comprising of 8 adaptable apartments distributed throughout the building. The proposal will also provide communal rooms such as a theatrette, music room, lounge and roof top terrace for residential use only.

Along the Liverpool Road frontage four (4) retail tenancies are proposed which will provide street activation and improve the streetscape and pedestrian amenity by the provision of a street awning.

The vehicular access to and from the car park of the existing building is provided via a right of way from Queen Street. The proposed vehicular access for the mixed use development will remain the same as the existing. It is proposed to provide a total of 131 car parking spaces. The breakdown of car parking spaces is 126 spaces for the residential component (106 resident parking & 20 resident visitor parking) and 5 spaces for the retail component.

SEPP 65 sets out design quality principles as a guide to assess a residential flat development. No objection is raised to the proposal on the basis that conditions of consent are applied requiring amendments to the design reflecting the recommendation.

The proposal generally complies with Council controls and requirements with the exception of the following:-

- The location of proposed accessible car parking is not acceptable in that it is located in a separate car park some distance away from lifts and access to the apartment building block. A condition of consent has been recommended requiring these spaces to be relocated to the level 1 car park under the apartments in closer proximity to the lifts;
- The proposed development complies with the 12m 'street wall' building height, however, it fails to comply with the 12m depth (setback) requirement from Liverpool Road. A setback of 6.0m is provided and as such a Clause 4.6 variation request has been submitted with the application, which is supported;
- The proposal fails to comply with ground floor internal height requirement in that the ground floor has a height of 3.450m between the floor to the underside of ceiling rather than 4.0m. The non compliance in this instance is acceptable given that the proposed street wall building needs to integrate with the existing structure;
- The applicant has not been able to provide adequate waste management to satisfy Council concerns and as such an alternative option would be to have the site serviced by private waste collection contractors via a more frequent arrangement. A condition of consent has been recommended requiring the site to be serviced through a private waste collection arrangement; and
- Concern is raised in respect to the proposal potentially compromising development opportunities for adjoining properties and solar access impacts.

However, it is acknowledged that the proposal involves the reuse of an existing building and the ability to increase boundary setbacks and separation between the existing building and adjoining sites would be difficult to achieve. In addition, both adjoining properties are heritage listed sites so their redevelopment potential will be impacted by their current heritage status.

3.0 Summary Recommendation

The development is recommended for approval, subject to conditions.

Background

4.0 Application Details

Applicant	Stateland Group Pty Ltd
Owner	Stateland Group Pty Ltd
Value of work	\$21,125,000
Lot/DP	LOT: 2 DP: 1160869
Date lodged	22/08/2014
Date of last amendment	17/03/15 (reduced building height)
Application Type	Local
Construction Certificate	Not submitted as part of the DA
Section 94 Levy	Applies (\$1,007,962.56)

5.0 Previous Discussions/Pre-lodgement

Several discussions and pre-lodgement meetings were held prior to the formal lodgement of the application. Advice was given to the applicant, which includes, but is not limited to, the following during the pre-lodgement meeting:-

- Compliance with car parking requirements;
- Compliance with maximum 30m building height requirement;
- Details of proposed loading bay;
- Resolve issues with the design of ground floor layout, particularly in respect to waste management, safety, pedestrian and vehicular access;
- Not to exceed the maximum allowable floor space ratio;
- Clarify the extent of the existing right of way/vehicular access;
- SEPP 65 compliance;
- Compliance with universal accessible design and accessible parking requirements; and
- Heritage matters.

The amended scheme has not addressed all of the issues adequately, however, appropriate conditions have been recommended which will result in the scheme achieving adequate compliance with the following:

- waste management;
- building design; and
- car parking.

6.0 Site and Surrounding Development

The site is bounded by Liverpool Road to the north with a frontage of approximately 30 metres and a secondary frontage to Queen Street (principally used for vehicular access).

The surrounding area is characterised by a mix of commercial, retail, residential and educational uses and a place of worship. The scale of development surrounding the site is varied, ranging from one to nine storeys.

To the north of the site (on the opposite side of Liverpool Road) is Ashfield Public School and Ashfield Boys High School. Directly to the east of the site is the two storey School of Arts building and a shop-top dwelling on the corner of Liverpool Road and Queen Street. Further to the east on the opposite side of Queen Street is a 3 storey mixed use development. Directly to the south of the site is an 8-9 storey residential flat building (referred to as Norton Street Terraces), along with the rear yards of single storey brick dwellings; To the west of the site are two storey shop-top housing developments fronting Liverpool Road and a church and hall.

The site area is approximately 2,421m² and irregular in shape. The site comprises an existing 7 storey commercial office building, which is currently vacant and undergoing remedial works/structural upgrades to make it suitable for the proposed use. The development application for these structural and remedial works was approved by Council on 14 October 2014.

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

7.0 Development History

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

NO.	DATE	PROPOSAL	DECISION
10.2014.163.1	12/06/2014	Partial demolition and structural remediation works on existing commercial office building.	Approved 14/10/2014
10.2011.61.1	09/03/2011	Stratum subdivision.	Approved 19/04/2011
10.2008.133.3	17/11/10	Section 96 modification to:- stormwater, screen mechanical plant, change to the type of balustrade to the roof top terrace area, modify the ground floor parking level to provide accessible car parking spaces, modification of the eastern & western setbacks as a result of the incorrect location of the existing car park on the approved plans.	Approved 04/02/2011
10.2008.133.2	21/05/2010	Section 96 modification to reorganise the internal layout of the residential apartments on levels 2, 3, 4, 5 & 6 with the associated external reconfiguration of openings; Provision of air conditioning units	Approved 20/07/10

		for all apartments integrated into the design of balconies; and Adjustment to the mix of residential apartments so that the residential apartments comprising 1 × 1Br apartment, 18× 2Br apartments and 9× 3Br apartments.	
10.2008.133.1	03/06/2008	Construction of 28 units over existing car park	Approved by LEC 15/06/09
10.2003.171.1	03/06/2003	Alterations and additions to an existing commercial building to create an 8 storey mixed use development, containing 400sqm of retail/commercial floor space at ground level and 70 residential apartments (Block A); demolition of existing 2 storey car park on the Norton Street frontage of the site; construction of a new 8 storey building on the Norton Street frontage containing 55 residential apartments (Block B); on site parking for 175 vehicles contained within 3 basement levels; and external open space and recreation facilities for residents, including a swimming pool and associated landscaping.	Approved by LEC 13/12/04

A Development Application (DA 10.2003.171.1) was lodged in 2003 for the conversion and alteration/addition of the existing commercial building at 168 Liverpool Road to create an 8 storey mixed use development (ground level retail/commercial and residential dwellings at ground level and above). The application also proposed the erection of an 8 storey residential flat building fronting Norton Street.

The application was refused consent by Council and an appeal was lodged with the Land and Environment Court (LEC). The appeal was subsequently upheld with a judgement made on 13 December 2004.

The parameters of the court approval for the conversion and alterations/additions of the existing commercial building included the following: -

- A street wall height of 2 – 3 stories along Liverpool Road;
- The retained and converted tower building to be set back 5m from Liverpool Road;
- A separation distance of 12m should be achieved between the retained and converted commercial building and the residential flat building to the south fronting Norton Street; and
- Two hours of solar access is an appropriate measure and guideline to achieve in regards to the Residential Flat Design Code.

This consent was never activated and a separate development application was lodged (10.2008.133.1) and subsequently approved in 2009 through the LEC for just the Norton Street residential flat building.

ASSESSMENT

8.0 Zoning/Permissibility/Heritage

The site is zoned B4 Mixed Use under the provisions of Ashfield LEP 2013. The site is also situated within the Ashfield Town Centre.

The proposed works are permissible with consent.

9.0 Compliance Table

Planning Control	Requirement	Proposed	Compliance Yes/No
Height Ashfield LEP Clause 4.3)	Podium level height 12m with a minimum 12m setback for tower component	12 m podium height provided, however, 6.0m tower setback provided instead of the required 12.0m.	Part compliance. Clause 4.6 variation provided.
	Maximum 23m with additional 7m for affordable housing. Max 27m.	27m	Yes
	Additional 7m bonus height limit is permitted for a proposal if at least 25% of the additional floor space area resulting from part of the building that exceeds the maximum height will be used for the purpose of affordable housing. Maximum 30m with affordable housing.	Proposal provides 25% of the additional residential floor space arising from the height exception for affordable housing.	Yes
	Building located in Zone B4 Mixed Use, any part of the building that is within 3m of the height limit must not include any areas that form part of the gross floor area of the building.	Top 3m of building not gross floor area.	Yes
FSR (Ashfield LEP Clause 4.4)	Max 3.0:1	Proposal 2.4:1	Yes
Heritage Conservation (Ashfield LEP Clause 5.10)	Conserve significance of heritage items and heritage conservation areas.	The subject site is not listed as a heritage item or within a heritage conservation area. However, there are three (3) heritage items to the west and east of the site being 193, 194 and 195 Liverpool Road.	Yes
Adaptable Housing (AIDAP 2013 – Part C1 Access	Minimum of 10% of adaptable apartments Total of 79 apartments proposed therefore 10% will equal the provision of 8	Proposal provides 8 adaptable apartments being G.05, 1.09, 2.08, 3.08, 4.09, 5.08 & 6.08	Yes

& Mobility)	adaptable apartments		
	Access from street to Dwelling Entry (Universal Accessible Design principle)	A continuous path of travel has been provided from the street to the lift lobby. An intercom, and appropriately sized lifts to accommodate a wheelchair will be provided.	Yes
	Dwelling Interior Design (UAD principle)	There will be continuous path of travel from the entrance of the apartments to the kitchen, laundry, bathroom and master bedroom, and all doorways will have an 850mm clear passage width.	Yes
	Access to Car Park (UAD principle)	Ten (10) accessible car parking spaces are provided.	Yes
	Access to Communal Space (UAD principle)	Access to the primary communal open space at the lift lobby is provided. Access is also available to communal facilities on the site.	Yes
	Access to Ground Level commercial areas and circulation within commercial levels (UAD principle)	All commercial areas are to be provided at the street level to Liverpool Road.	Yes
Context (AIDAP 2013 – Part C3 Ashfield Town Centre)	Acknowledging State Environmental Planning Policy no 65, Principle 1- Context, Principle 10 – Aesthetics	An assessment of the proposal's architectural outcomes is provided in the design verification statement.	Yes
Building height (AIDAP 2013 – Part C3 Ashfield Town Centre)	ALEP 2013 provides height and street frontage height standards. Max 12.0m building height with 12.0m setback	The proposal complies with maximum street wall height of 12m but does not achieve a minimum 12m street setback. A setback of 6.0m is provided.	No
Landscape (AIDAP 2013 – Part C3 Ashfield Town Centre)	In accordance with the RFDC, 25% of the site area should be provided as communal open space.	The proposal provides roof top terrace. A condition will be imposed requiring 30% landscaping.	Yes
Pedestrian Safety & Amenity (AIDAP 2013 – Part C3 Ashfield Town Centre)	Pedestrian safety, active street frontage and awning for pedestrian comfort are required for the site.	A pedestrian awning and an active street frontage have been provided to Liverpool Road, as is required. All car parking for the retail use is to be provided behind this street frontage, at the rear of the tower.	Yes
Commercial Development	Provision of commercial (non residential) areas at	The proposed development achieves the intentions	Yes

(AIDAP 2013 – Part C3 Ashfield Town Centre)	ground level in order to provide for employment, create lively streets and public spaces, encourage a variety of mixed-use developments, a diversity and range of shopping for workers, residents and visitors.	of this clause through the provision of four retail/ commercial spaces at the northern boundary to Liverpool Road, as it provides for the activation of the street frontage.	
Social Considerations of Residential Development	7 studio apartments, to be no larger than 45 m ² in size.	Whilst studio apartments are not provided the proposal provides apartments with areas of approximately 45 m ² .	Part compliance
(AIDAP 2013 – Part C3 Ashfield Town Centre)	16 one bedroom apartments, to be no larger than 60 m ² in size	Total 50 one bedroom apartments around 60 m ² in size.	Yes
Development Servicing (AIDAP 2013 – Part C3 Ashfield Town Centre)	<p>Site services and facilities to be adequate for the nature and quantum of development.</p> <p>Driveways which provide access to development for car parking, deliveries for loading and unloading and waste collection, shall be provided from lanes and secondary streets</p> <p>An area shall be provided on site to accommodate bins for garbage collection and recycling of waste, with waste storage and collection areas</p>	<p>The driveway access and servicing will be provided through the existing access handle to Queen Street, which meets the requirements of this control.</p> <p>Loading & unloading including waste collection can occur from Queen Street. A condition will be imposed in respect to waste management as appropriate details have not been provided.</p>	Yes
Environmental Management (AIDAP 2013 – Part C3 Ashfield Town Centre)	Proposal required to comply with BASIX and the Building Code of Australia energy efficiency provisions.	The proposed development meets the requirements of BASIX as well as BCA compliance.	Yes
Heritage (AIDAP 2013 – Part C10 Ashfield Town Centre)	To keep the qualities and fabric which contribute to the heritage significance and identity of the Ashfield local government area and allow necessary change, but only where it will not remove or detract from those special qualities.	The site is not heritage listed, and is not within a Heritage Conservation Area. However, adjacent buildings to the east and west of the site are heritage listed. Council's Heritage Adviser has not raised issues subject to the tower component complying with the height requirement.	Yes
Parking	Resident min required 79 spaces.	106	Yes
(AIDAP 2013 – Part C11)	Visitor space min required 20 spaces.	20	Yes

Ashfield Town Centre)	Car wash bay min required 1space.	0	No (Condition imposed to comply)
	Commercial/retail min 5.	5	Yes
	Loading bay min required 1 space.	0	No (Condition imposed to comply)
	Bicycle parking min required 18 lockable spaces.	17	No (Condition imposed to comply)
	Motor cycle parking min 5.	5	Yes
Waste Management (AIDAP 2013 – Part D1 Planning for less waste)	Submission of a waste management plan that demonstrates details of the volume and type of waste to be generated from proposed development, how the waste will be stored and treated on site, the disposal method and ongoing management of waste.	Waste management plan submitted, however, does not adequately address issues. A condition will be imposed requiring private waste management servicing.	Yes (condition required)
Building Design & Sustainability (AIDAP 2013 – Part D2 Planning for less waste)	Part D2 is an advisory section on Ecologically Sustainable Development (ESD) and Building Design.	A BASIX certificate has been prepared as well as compliance with SEPP No 65 in respect to Principle 5: Resource, energy and water efficiency.	Yes

COMMENT & DISCUSSION

10.0 Building Height

Clause 4.3 of ALEP 2013 the maximum building height for the subject site is 23m, however, pursuant to Clause 4.3A of the ALEP 2013 an additional 7m building height is permitted if at least 25% of the additional floor space area resulting from the part of the building that exceeds the maximum height will be used for the purposes of affordable rental housing. The proposal complies with this requirement in that a building height of 27m is provided as well as affordable renting housing. A condition of consent is recommended requiring the applicant to provide further details in respect to the proposed affordable rental housing.

Clause 4.3 of ALEP 2013 also stipulates that for buildings located on land zoned B4 Mixed Use any part of the building that is within 3 metres of the height limit must not include any areas that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area. The proposal complies with this requirement in that a maximum building height of 30m applies, thus minus 3m which results in a maximum building height of 27m to be used as gross floor area.

Clause 4.3B of ALEP 2013 also requires a maximum street building height along the Liverpool Road frontage of 12m for a depth of 12m from Liverpool Road.

The proposed development complies with the 12m street building height, however, fails to comply with the 12m depth (setback) from Liverpool Road. A setback of 6.0m is provided and as such a Clause 4.6 variation request has been submitted with the application and is included at **Attachment 3**.

The justification is based on the grounds that strict compliance with the development standard is unreasonable and unnecessary as the proposed development involves the adaptive reuse of a currently vacant office building.

The variation to the tower setback is considered to be acceptable and supported for the following reasons:-

- (i) The tower component is part of the existing structure;
- (ii) The new building work adjacent to Liverpool Road provides street activation and a much improved streetscape presentation;
- (iii) The new presentation to Liverpool Road is more sympathetic to and compatible with adjacent heritage items; and
- (iv) The proposed development will reinstate the street wall element of Liverpool Road including an awning and thus improve pedestrian amenity.

AIDAP 2013 – Part C10 Ashfield Town Centre requires that for mixed use developments:-

- Ground floor storeys are to have a minimum height of 4 metres between the floor to the underside of ceiling, with space set aside above that for a ductwork zone, structural beams, floor slab; and
- Storeys above ground floor level are to have a maximum of 3.2 metres floor to floor height, with a minimum of 2.7 metre zone between the floor to the underside of ceiling with a space set aside above that for any ceiling thickness and framing, structural beams, any ductwork, and the floor slab.

Whilst the proposal complies with the minimum 2.7m internal height requirement above ground floor level, it fails to comply with the ground floor internal height requirement in that the ground floor has a height of 3.450m between the floors to the underside of ceiling. The non compliance in this instance is acceptable given that the proposed street wall building needs to integrate with the existing building.

11.0 Heritage

Council's Heritage Adviser has reviewed the proposal and is of the view that the most useful component of the development is the podium level frontage to Liverpool Road which picks up the scale of surviving older buildings and eliminates the uncomfortable hollow undercroft space of the existing building, which is out of character with its neighbours. However, he was not supportive of the proposed increase in height as it will result in negative impacts on the adjacent heritage items.

Note: The applicant has since revised the proposal to comply with the maximum height limit.

Please refer to **Attachment 4** for the complete Heritage Adviser's report.

12.0 Waste Management

Council's Sustainability officer has raised issues in respect to waste collection services. The issues relate to:-

- Inadequate area provided for domestic and commercial waste storage in that bins are stacked and cannot be individually accessed;
- Garbage chute servicing each floor level not provided; and
- Interim storage area for recyclables on each floor not provided.

The applicant has not been able to provide a garbage chute and an adequate area for domestic and commercial waste storage. In addition, there is no indication as to where the bins will be placed during garbage collection day. Given the number of bins required for the development it is considered inappropriate to store the bins along the public road frontages of Liverpool Road or Queen Street.

Council's residential waste services requires 1 x 240L garbage bin per two units serviced weekly and 1 x 240L recycling bin per two units serviced fortnightly. Therefore, for the proposed development the required bin storage area would need to be capable of storing a total of 80 bins (40 x 240L garbage bins and 40 x 240L recycle bins). The proposed bin storage area is inadequate in size in that it does not provide for satisfactory manoeuvrability of bins within the storage area.

An alternative option would be to have the site serviced by private waste collection contractors. It may also be possible to install a compaction system in the waste storage area which would reduce the number of bins required for storage and waste collection. A consent condition has been included which requires the site to be serviced through a private waste collection arrangement.

13.0 Car Parking/Basement Design

The vehicular access to and from the car park of the existing building is provided via a right of way from Queen Street. The proposed vehicular access for the proposed development will remain the same as the existing.

The site currently provides 146 existing car parking spaces for the previously used commercial building. It is proposed to provide a total of 131 car parking spaces. The breakdown is as follows:-

- 126 spaces for the residential component (106 resident parking & 20 resident visitor parking); and
- 5 space for the retail component.

The car parking is proposed to be provided at the following locations:-

- Ground floor level car park – 32 residential tenant spaces;
- Upper ground floor level along the right of way – 12 spaces (5 retail and 7 residential visitor space);
- Upper ground level car park – 42 spaces (29 residential tenant and 13 residential visitor spaces); and
- Level 1 car park – 45 residential spaces.

Council's traffic engineer has reviewed the proposal and not raised any major concerns with this distribution.

However, a concern was raised regarding the location of proposed accessible car parking which is in a separate car park some distance away from lifts and access to the apartment building block. People with disabilities would therefore be required to cross the internal access driveway dividing the apartment building and separate car park. A condition of consent has been recommended requiring these spaces to be relocated to the level 1 car park under the apartments in closer proximity to the lifts.

14.0 SEPP No. 65

SEPP 65 sets out design quality principles as a guide to assess a residential flat development. The 'Residential Flat Design Code' (The Code) is referred to as an accepted guide as to how the principles are to be achieved.

No objection is raised to the proposal on the basis that conditions of consent are applied requiring amendments to the design to achieve further improvements.

Refer to **Attachment 5** for the full SEPP 65 report.

15.0 Development potential of adjoining sites

AIDAP 2013 – Part C10 Ashfield Town Centre requires that future development does not compromise development potential of adjoining properties and/or unreasonably reduce solar access for adjoining properties.

As the proposal involves the reuse of an existing building it would be difficult achieve greater site boundary setbacks (particularly to the side) without major demolition work. There are also significant sustainable development benefits achieved through the adaptive re-use of the existing building. Therefore, the application of planning controls that would typically apply for a new residential flat building, such as greater side boundary setbacks, need to be considered in this context. The adjoining properties, where some concern is raised in relation to future development potential, are listed under Ashfield LEP as heritage items, being:-

- Item 193: Shop and dwelling, 160 Liverpool Road, Ashfield
- Item 194: School of Arts, 162 Liverpool Road, Ashfield
- Item 195: Church & hall, 180 Liverpool Road, Ashfield

Therefore, the development potential of these sites is already impacted by their heritage status as well as their size, access arrangements and other economic factors. Given that the existing building is largely remaining unaltered, in terms of its bulk and scale, the proposal is not likely to significantly alter the current situation in relation to the development potential of adjoining sites.

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.

16.0 The provisions of any Environmental Planning Instrument

16.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

The proposal is permissible with consent and the assessment reveals that the proposal generally complies with the aims and objectives of Ashfield Local Environmental Plan 2013.

16.2 Sydney 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.

16.3 State Environmental Planning Policies

State Environmental Planning Policy No. 55 – Remediation of land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. The proposal will involve limited ground disturbance and hence remediation of the site is not required.

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

Assessment reveals that the proposal (subject to conditions of consent) complies and satisfies all of the ten design quality principles of SEPP No. 65 – Design Qualities of Residential Flat Development. Council's SEPP 65 Advisor has recommended conditions that will require amendments to the proposal to provide improved elevation treatments (refer to conditions).

Refer to **Attachment 5** for the complete report.

17.0 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.

Draft SEPP No.65 has been considered as part of the assessment. The proposal is not at variance with the Draft SEPP.

17.0 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield Interim Development Assessment Policy (AIDAP) 2013 (refer to comments in compliance table in Section 9.0 of this report). The application generally complies with the parts as indicated and ultimately achieves the aims and objectives of the Ashfield AIDAP 2013.

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

These matters have been considered in the assessment of this application.

Clause 7 of the Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. Conditions of consent are imposed in this regard.

Clause 92 of the Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider relevant Australian Standards relating to the demolition of structures. Appropriate conditions of consent are imposed in this regard.

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

These matters have been considered as part of the assessment of the development application. It is considered that the amended scheme will not have any significant adverse environmental, social or economic impacts upon the locality.

20.0 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. The proposed development is considered suitable in the context of the locality.

21.0 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 29 August 2014 to 26 September 2014.

21.1 Summary of submissions

Three (3) letters of objection were received, one during the notification period and two subsequent to it.

Submissions were also received from Roads & Maritime Services and the Ashfield Local Area Command providing comments and recommended conditions of consent. Conditions have been included in the recommendation to reference these submissions.

Please refer to **Attachment 6** for a copy of the submissions.

The matters raised in the objections are summarised below.

Submissions	Issues raised	Response
Dibbs Barker GPO Box 983 Sydney NSW 2001	There is a shortage of commercial floor space in the CBD of Ashfield close to the train station.	Ashfield is identified as a town centre in both regional planning and local planning documents. Ashfield is not a specialised or major centre where employment is specifically targeted. The Ashfield town centre for the most part is zoned B4 Mixed Use. This zoning and other provisions within the LEP permit residential and mixed use development. There is no planning policy in place that seeks to protect or preserve existing commercial floor space.

	The proposal will result in the permanent loss of commercial floor space.	See above.
	The conversion of the building to residential or its inability to be used for commercial uses is inconsistent with one of the objectives of the B4 Mixed Use Zoning.	The proposal achieves the objectives of the B4 Mixed Use Zone. The future redevelopment of the site for mixed use is compatible with surrounding land uses, which comprise residential, retail, educational establishment, and a place of worship. The subject site is also highly accessible by public transport.
Fiona Gainsford 2 Pyrmont Street Ashfield NSW 2131	Concern with the proposed 10 storey building height.	The applicant has provided revised plans which utilise the existing 7 level building plus the addition of 1 level. The overall height complies with the ALEP 2013 requirement of 27m.
	Not notified of the proposal and plans were not available.	The objector's property was outside the catchment notification area (over 200 metres from the subject site). The objector was invited to view the amended application.
	Any height increase will affect our visual amenity.	See comments above regarding amended plans.
	Substantial communication infrastructure is located on the roof top any if the telecommunication infrastructure is reinstated on top of the proposed extension will further add to visual impact.	The existing telecommunication infrastructure will be removed and there is no proposal to reinstate any additional telecommunication infrastructure as part of this application.
Pasquale Colosimo 6 Pyrmont Street Ashfield NSW 2131	Concern with the proposed 10 storey building height above the height limit of 23m.	The applicant has provided revised plans which utilises the existing 7 level building plus the addition of 1 level. The overall height complies with the ALEP 2013 requirement of 27m.
	Not notified of the proposal	The objector's property was outside the catchment notification area (over 200 metres from the subject site).
	Substantial communication infrastructure is located on the roof top any if the telecommunication infrastructure is reinstated on top of the proposed extension will further add to visual impact.	The existing telecommunication infrastructure will be removed and there is no proposal to reinstate any additional telecommunication infrastructure as part of this application.

22.0 The public interest

Matters of the public interest have been taken into consideration in the assessment of the application. The proposal is acceptable subject to design changes which are recommended in the consent conditions.

23.0 Referrals

Comments received are summarised below.

Department	Comments
Council SEPP 65 Advisor	No objection is raised to the proposal on the basis that conditions of consent are applied requiring amendments to the design. Refer to Attachment 4 .
Council Heritage Adviser	No objection is raised to the proposal, subject to proposal not exceeding height requirement of ALEP 2013. Refer to Attachment 3 .
Council Building Surveyor	No objection is raised to the proposal subject to conditions.
Council Engineer	No objection is raised to the proposal subject to conditions.
Council Sustainability Officer	Concerns raised with waste management. Appropriate conditions addressing concerns imposed.
Council Stormwater Engineer	No objection is raised to the proposal subject to conditions

Financial Implications

A Section 94 contribution is payable in accordance with the Council's Section 94 Plan, should the application be supported. This amounts to a total of \$1,007,962.56. An appropriate condition has been imposed requiring the payment of the Section 94 contribution prior to release of the construction certificate.

Conclusion

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act have been taken into consideration in the assessment of the application.

The proposed development is generally acceptable subject to design changes to address residential amenity and compliance with SEPP 65. The proposal represents an acceptable adaptive reuse of a commercial building and the addition of a new podium structure adjacent to Liverpool Road will significantly enhance the streetscape in this locality.

The proposal is therefore recommended for conditional approval.

RECOMMENDATION

- A That the Clause 4.6 exceptions to development standards relating to Clause 4.3B – Ashfield Town Centre – maximum height for street frontages on certain land is considered to be well-founded and it is recommended that the variation be supported; and**

- B That Council as the consent authority pursuant to Clause 80(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No 10.2014.242.1 on Lot 2 in DP 1160869, known as 168 Liverpool Road, Ashfield, subject to the following conditions:**