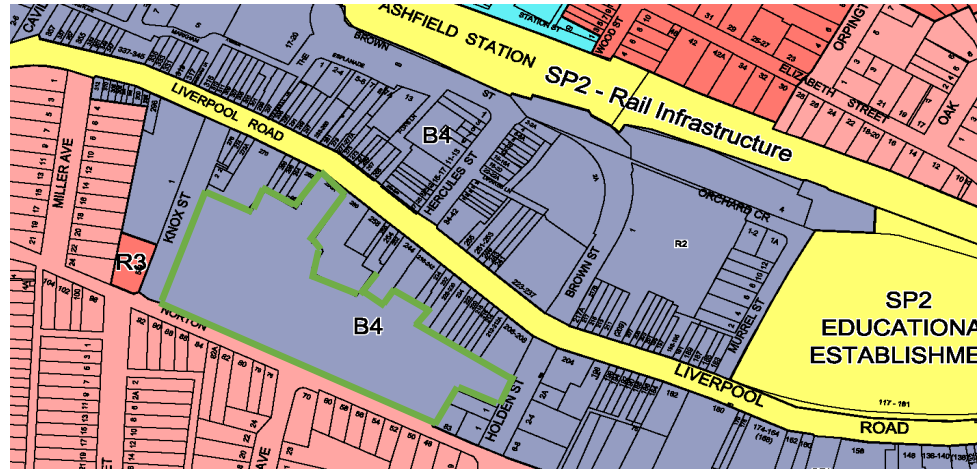





INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	10.2013.114.7
Address	244, 252, 254, 256 & 260A Liverpool Road, Ashfield
Proposal	<p>Section 4.55(2) Application to modify Development Consent No. 10.2013.114.1, which was approved by the Regional Planning Panel on 25 September 2014 for:-</p> <p><i>“Alterations and additions to Ashfield Mall including 6,783.9m² of retail area, 67 serviced apartments, 101 dwellings, 100 place childcare centre and car parking”.</i></p> <p>The proposed modifications seek to amend the retail, child care and serviced apartment components and stage their construction to allow the retail and childcare centre to be constructed and occupied prior to the construction of the serviced apartments. No modifications are proposed to the residential component or the existing retail within the forecourt area fronting Liverpool Road.</p>
Date of Lodgement	21 December 2017
Applicant	Abacus Ashfield Mall Property Trust
Owner	Abacus Ashfield Mall Property Trust
Number of Submissions	Nil
Main Issues	<ul style="list-style-type: none">• Pedestrian safety and access• On site car parking• Relocation of child care centre
Recommendation	<p>It is recommended that the Sydney Eastern City Planning Panel resolve, pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Development Consent No. 10.2013.114.1 at 244, 252, 254, 256 & 260A Liverpool Road, Ashfield to modify the retail, child care and serviced apartment components of the development and stage their construction to allow the retail and childcare centre to be constructed and occupied prior to the construction of the serviced apartments.</p>

Location Plan	Legend
	Site 
	Objections Nil

1.0 Executive Summary

The subject site known as Ashfield Mall, has an area of 23,430m² and 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.

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.

On 25 September 2014 the Joint Regional Planning Panel approved development application No. 10.2013.114.1 which sought consent for alterations additions to Ashfield Mall including 6783.9sqm of retail area, 67 serviced apartments, 101 dwellings, 100 place childcare centre and car parking.

On 21 December 2017, the applicant lodged the subject Section 4.55(2) application seeking approval to amend the retail, child care and serviced apartment components and stage their construction to allow the retail and child care centre to be constructed and occupied prior to the construction of the serviced apartments. No modifications are proposed to the residential component (which is near completion) or the existing retail within the forecourt area fronting Liverpool Road.

The application was placed on public exhibition and was advertised from 8 January 2018 until 31 January 2018. The proposal did not generate any submissions.

Key points that are discussed in greater detail in the report below relate to availability of onsite car parking, relocation child care centre, pedestrian safety and access.

The application does not significantly alter the approved building. The modification is considered to be substantially the same development as approved, and is not considered to create any likely impacts to the surrounding development.

The proposal is generally consistent with the aims, objectives and design parameters contained in Inner West Development Control Plan 2016 (IWDCP 2016) and Ashfield Local Environmental plan 2013 (ALEP 2013). The proposed modification is considered to satisfy the requirements of both IWDCP 2016 and ALEP 2013.

State Environmental Planning policy (Educational Establishments and Child Care Facilities) 2017 standardises planning controls for educational establishments and child care centres across NSW. Under the SEPP, a consent authority must take into consideration the Child Care Planning Guideline when assessing a DA for a centre based child care facility. An assessment of the proposed child care centre under Part 3 has been undertaken and the proposal complies with the SEPP Educational and Child Care.

The Section 4.55(2) application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

2.0 Proposed Modifications

The development, as proposed to be modified, seeks consent for:-

- 101 new residential dwelling units and 39 serviced apartments in three new buildings (described as Buildings A, C & D) with:
 - Building A comprising 39 serviced apartments on Levels 7-9, with lobby on Level 4.
 - Building C comprising 70 dwellings within Levels 6-12 with two levels of car parking elevated above loading/manoeuvring area below the residential apartments.
 - Building D comprising two storeys of car parking (at Levels 3 and 3.5) and 31 dwelling dwellings.
- Fit-out and use of the 100 place child care centre on Levels 5 & 6.
- Parking for 1,136 cars comprising:
 - 644 retail spaces.
 - 88 residential spaces + 20 visitor spaces.
 - 10 spaces for serviced apartments.
 - 24 spaces for the child care centre (accessible for use as retail car parking after hours and 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.
- Improvements to the entry mall area from Liverpool Road.

The proposal also seeks consent for the fit-out and use of the 100 place child care centre

3.0 Detailed Description of Proposed Modifications

Original Approved Scheme	Proposed Modifications	Changes
An additional 6,784m ² of retail gross floor area (as defined in Ashfield LEP 1985). The additional retail floorspace includes new retail premises on the forecourt area and on the Liverpool Road frontage of 244-256 Liverpool Road.	An additional 3,327.5m ² of retail gross floor area (as defined in Ashfield LEP 1985). The additional retail floorspace includes new retail premises on the forecourt area and on the Liverpool Road frontage of 244-256 Liverpool Road.	Reduction in the quantum of approved retail floor space by 3,456.5 m ²
101 new residential dwelling units	101 new residential dwelling units	Reduction in the number of

<p>and 67 serviced apartments in three new buildings (described as Buildings A, C & D) with:</p> <ul style="list-style-type: none"> • Building A comprising 67 serviced apartments over 7 storeys (Level 4 – 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). 	<p>and 39 serviced apartments in three new buildings (described as Buildings A, C & D) with:</p> <ul style="list-style-type: none"> • Building A comprising 39 serviced apartments on Levels 7-9, with lobby on Level 4. • 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 Levels 3 and 3.5) and 31 dwelling dwellings. 	<p>serviced apartments by 28 apartments. Proposal also involves deletion of dining area and reception area for the serviced apartments hence changes to certain levels.</p> <p>Residential apartments remains unchanged. No modifications are proposed to Buildings C and D.</p>
100 place child care centre (at car parking level 5 – roof top)	Fit-out and use of the 100 place child care centre on Levels 5 & 6. Level 5 car parking and level 6 child care centre.	Number of placement unchanged, however there is modification to the location of child care centre from level 5 to level 6 with car parking at level 5.
<p>Parking for 1,258 vehicles:</p> <ul style="list-style-type: none"> • 752 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. 	<p>Parking for 1,136 cars comprising:</p> <ul style="list-style-type: none"> • 644 retail spaces. • 88 residential spaces + 20 visitor spaces. • 10 spaces for serviced apartments. • 24 spaces for the child care centre (accessible for use as retail car parking after hours and 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. 	<p>Total number of parking spaces reduced due to the reduction in retail floor area and serviced apartments.</p> <ul style="list-style-type: none"> • Car parking for retail reduced by 108 spaces • Car parking for serviced apartments reduced by 14 spaces. • Car parking for child care centre, public parking and Council parking remain unchanged.
Improvements to the entry mall area from Liverpool Road.	Improvements to the entry mall area from Liverpool Road.	No change
Associated works along the Norton Street elevation.	Associated works along the Norton Street elevation.	No change
<p>The work will be undertaken in four (4) stages. The four stages, in no specific order are:</p> <ul style="list-style-type: none"> • Forecourt: 260A Liverpool Road existing Mall entry refurbishment consisting of tree removal, new hard and soft landscaping. The retail space / building is subject to a separate development application. 	<p>The work will be undertaken in four (4) stages. The four stages, in no specific order are:</p> <ul style="list-style-type: none"> • Forecourt: 260A Liverpool Road existing Mall entry refurbishment consisting of tree removal, new hard and soft landscaping. The retail space / building is subject to a separate development application. 	<p>Level 6 and level 2.5 car parking has been deleted due to reduction in retail floor area and number of serviced apartments.</p> <p>Stage 1 relating to removal of trees, hard and soft landscaping located at the forecourt fronting Liverpool Road has been completed.</p> <p>Stage 2 relating to residential</p>

<ul style="list-style-type: none"> Residential: Buildings C & D apartments and associated car parking, 244 – 256 Liverpool Road retail and forecourt, child care centre and associated parking. Retail: L6 car parking, L2 mezzanine car parking, L2 retail and associated facilities such as garbage rooms and lift, Norton Street façade upgrade. Service Apartments: Building A and associated parking. 	<ul style="list-style-type: none"> Residential: Buildings C & D apartments and associated car parking, 244 – 256 Liverpool Road retail and forecourt, child care centre and associated parking. Retail: L6 car parking, L2 mezzanine car parking, L2 retail and associated facilities such as garbage rooms and lift, Norton Street façade upgrade. Service Apartments: Building A and associated parking. 	<p>apartments and ground floor retail as well has forecourt fronting Liverpool Road has been constructed.</p> <p>Stage 3 relating to construction of child care centre on levels 5 & 6 is subject of this amendment.</p> <p>Stage 3 relating to construction of level 2 retail and reconfiguration of existing car parking is subject of this amendment.</p> <p>Stage 4 relating to construction of serviced apartment lobby on level 4 and construction of building A comprising the serviced apartments on levels 7 – 9 is subject of this amendment.</p>
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Please refer to Attachment A for comparison between the originally approved scheme to that of proposed amended scheme.

Level 1

- Reconfiguration of car parking spaces, including bicycle and motorcycle spaces.
- Propose new trolley bays.
- Deletion of an existing lift adjacent to the travelators.
- Improvement to existing travelator.

Applicant's justification

"Reconfiguration to accommodate additional escalators to levels 2 and 3.

There are no additional adverse environmental impacts associated with this modification. The modifications are internal, and the development continues to provide bicycle and motorcycle car parking spaces."

Planner's comments

Agreed that the modifications are internal and no planning impacts arise as a result of the amendments. The proposed modifications improve the usability of the existing travelators and provide improved bicycle and motorcycle spaces.

Level 2

- Reduction in the quantum of approved retail floor space, resulting a total of 3,610.9m² retail floor space on level 2.
- Reconfiguration of the approved retail area, and consequential reconfiguration of the existing car parking layout, including bicycle and motorcycle parking spaces.
- Propose new escalators connecting Level 2 to Level 3.
- Upgrade of the existing pedestrian entry on Norton Street.
- Propose new trolley bays.
- Deletion of an existing lift adjacent to the travelators.

- Construction of new fire stair “39”.

Applicant’s justification

“Further design changes as a result of recent independent market research into the optimal amount of retail for this site. Better access to levels 2 and 3 and improved pedestrian access from Norton Street.

Whilst there is a quantitative decrease in amount of the approved retail floor space, in qualitative terms the essence of the approved development will remain unchanged. Therefore, on balance, the development as modified can be considered substantially the same as approved.

The reduction and reconfiguration in retail floor space and other minor changes to level 2 will have similar or lesser adverse environmental impacts than was previously considered by Council.”

Planner’s comments

Agreed that the modifications are internal and no planning impacts arise as a result of the amendments. The location of the proposed retail area was to replace the existing car parking spaces on this level. As the proposed retail space is now deleted the existing car parking spaces will remain. A total of 108 car parking spaces have been deleted for the reason that approximately 3,456.5 m² of retail space is no longer proposed.

Level 2.5

- Deletion of mezzanine car park level which proposed a total of 88 retail car parking spaces.

Applicant’s justification

“Reduction in the quantum of approved retail floor space and number of serviced apartments, has consequentially resulted in the reconfiguration of the existing car parking layout and the reduction in the required number of car parking spaces to service the development.

The proposal retains the retail car parking ratio as the approved.

The outcomes of the traffic related impacts associated with the proposed modification is similar to the approved development. The modification will result in a reduction in traffic generation and a very minor increase in car parking demand.

The public and Council staff parking will be retained and consolidated on one level (Level 5)”

Planner’s comments

Agreed that the modifications relating to the reduced number of car parking will not result in traffic implications for the reason that there will be less vehicle trips. As mentioned previously the proposed amendment now provides a reduction in retail floor area of approximately 3,456.5 m² and the serviced apartment component now has a reduction in floor area by 2,651.6 m².

The original application was approved with a car parking ratio of 1 space/48.7m² of retail GFA. The proposed modified scheme (with reduced retail floor area) provides a car parking ratio of 1 space per 48.7 m² GFA. Detailed assessment is provided in this report under traffic and parking consideration.

Level 3

- Deletion of dining area related to the serviced apartment in Building A.
- Service apartment reception area to be located on level 3.
- Reconfigured retail towards Liverpool Road.
- Reconfiguration and addition of new escalators from Level 3 to Level 4.
- Addition of two retail kiosks (internal).
- Deletion of the lift adjacent to existing travelators.
- Construction of new fire stair "39".

Applicant's justification

"Better internalised access to levels 2 and 3 in order to provide a more functional and better internal retail layout.

Orientate retail to Liverpool Road entrance. Provision of infill retail in place of central passenger lift to the existing mall.

Internal reconfiguration with no adverse environmental impacts."

Planner's comments

Agreed that the modifications are internal and no planning impacts arise as a result of the amendments.

Level 3.5

Deletion of 4 serviced apartment units in Building A

Applicant's justification

"Further design changes as a result of the recent independent market research on the serviced apartment market. The reduced number of serviced apartments is the optimal number of serviced apartments for the site.

No adverse environmental impacts.

Whilst the number of serviced apartments has been reduced, the modified proposal retains the approved uses."

Planner's comments

Agreed that the modifications are internal and no planning impacts arise as a result of the amendments. The reduction in number of serviced apartments is response to market forces and not a planning consideration. Adequate parking has been provided for the serviced apartments.

Level 4

- Deletion of lounge area and 4 service apartment units in Building A.
- Reconfigured retail towards Liverpool Road.
- Propose a new retail tenancy at Level 4.
- Addition of two retail kiosks (internal).
- Construction of new fire stair "39".

Applicant's justification

"Further design changes as a result of the recent independent market research on the serviced apartment market. The reduced number of serviced apartments is the optimal number of serviced apartments for the site.

To provide a more functional and better internal retail layout, and to orientate retail to the Liverpool Street entrance.

Internal reconfiguration with no adverse environmental impacts."

Planner's comments

Agreed that the modifications are internal and no planning impacts arise as a result of the amendments.

Level 5

- Deletion of 8 serviced apartments units in Building A.
- Relocation of child care centre from level 5 to level 6. Retain the childcare lobby on level 5.
- Relocation of car parking spaces to the previously approved child care centre location.
- Reconfiguration of car parking spaces, including bicycles and motorbike parking spaces.
- Serviced apartment lift extension and construction of new fire stair 38 and 39.
- Reconfiguration of trolley bays.

Applicant's justification

"Deletion of serviced apartments to accommodate the Child Care Centre within the footprint of building A. Reconfiguration of child care, retail and public car parking, including a pick up and drop off area for the child care centre.

Approved number of residential, public and Council staff car parking spaces will be provided on level 5, in place of the relocated childcare centre.

No adverse environmental impacts.

The proposal retains the retail car parking ratio as the approved."

Planner's comments

The modifications does not result in adverse planning impacts. In essence the number of residential, childcare, public and Council staff car parking spaces are retained. The reconfiguration does not significantly change the external appearance or height of the original scheme.

Level 6

- Deletion of approved car parking space on level 6.
- Provision of child care centre in general location of the approved serviced apartments.
- Serviced apartment lift extension and construction of new fire stair "38 and 39"

Applicant's justification

"Deletion of the approved car parking as a result of reduction in retail floor area and the relocation of the childcare centre. The proposal retains the retail car parking ratio as the

approved. The proposal retains the 100 place child care centre for the relocated child care centre at level 6.

No adverse environmental impacts. The new child care centre location results in a superior design outcome. It is free from distraction of the car park and vehicle movements, it is north orientated towards Liverpool Road and provides safer and more secure entry to the child care centre “

Planner's comments

Agreed that the modifications does not result in adverse planning impacts. Car parking provided for the child care centre is designed in a manner that provides pedestrian safety and good sight lines.

Level 7 - 9

- Reconfiguration of service apartment units in Building A, resulting a total of 13 units on each of the levels 7 to 9.
- Construction of new fire stair “38 and 39” for the service apartments in Building A.

Applicant's justification

“Safer and better access for building A.

No adverse environmental impacts “

Planner's comments

Agreed that the modifications does not result in planning impacts and is required as a result of modifications to serviced apartment and child care centre layout.

Level 10

Deletion of 10 service apartment units in Building A.

Applicant's justification

“Further design changes as a result of the recent independent market research on the serviced apartment market. The reduced number of serviced apartments is the optimal number of serviced apartments for the site.

No adverse environmental impacts.”

Planner's comments

Agreed that the modifications does not result in planning impacts and required as a result of modifications to serviced apartment.

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.

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.



5.0 Development History

5.1 Previous Court Approval

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 appeal was upheld by the Land & Environment Court.

This previous approval was 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.”*

5.2 Current Approvals

The originally approved works for the entire Ashfield Mall development site were the subject of 2 separate development applications; DA10.2013.114 and DA10.2014.019. This report deals with those modifications sought by the applicant to allow for the proposed modifications to DA10.2013.114.

A brief description of each development application is as follows:

- **DA10.2013.114.1:** This application proposed significant alterations and additions to Ashfield Mall involving; 6,464m² of retail floor space, 67 serviced apartments, 101 dwellings, a 100 place child care and car parking.

This application was approved by the Joint Regional Planning Panel on 25 September 2014.

The Pavilion structure on the forecourt fronting Liverpool Road was approved as part of DA10.2013.114 but various proposed works to the east of the Pavilion (i.e. from the eastern wall of the Pavilion to the property boundary) were excluded from the development consent as they were on land that was at that time zoned 5(a) *Civic Purposes* under the 1985 LEP and was prohibited.

- **DA10.2013.114.2** – An application pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, sought approval to the modification of the development consent to modify the design of approved buildings C and D and various conditions of consent as follows:
 - Modify Condition A(1) - Approved Plans Stamped by Council
 - Modify Condition B(1) - Section 94 Development Contributions
 - Modify Condition B(25) - No External Service Ducts
 - Delete Condition B(29) - Waste Compactor System

This application was approved by the Joint Regional Planning Panel on 25 January 2016.

- **DA10.2013.114.3** – An application pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979, sought Council's approval to amend the approved works to be carried out on the forecourt of Ashfield Mall.

The previously approved works for the forecourt are the subject of 2 separate development consents; 10.2013.114 and 10.2014.019 and separate Section 96 applications were submitted to Council to modify both consents.

Both applications were approved by Council concurrently on 8 March 2016.

- **DA10.2013.114.4** – An application pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979, sought Council's approval for minor design modifications to the previously approved Buildings C & D, which result in a small increase in the commercial GFA by 29m².

This application was approved under delegated authority on 29/08/2016.

- **DA102013.114.5** – An application pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979, sought Council's approval to:-
 - Removal of the planters to the western side of the approved pavilion structure;
 - Relocate the external stair from outside the preparation kitchen located within the pavilion structure to within inside the kitchen;
 - Amend the planter design to the northern outdoor seating area through the removal of the freestanding pots and their replacement with a built-in planter;
 - The addition of balustrading to the northern outdoor seating area;
 - Replacement of the glazing on the panel lift door with composite aluminium cladding; and
 - Modification to the western ramp to a combined stair and accessible ramp.

This application was approved under delegated authority on 25/08/2016.

- **DA102013.114.6** – An application pursuant to Section 96 (1A) of the *Environmental Planning and Assessment Act 1979*, as amended, which sought to amend 10.2013.114.1 Amendments include modifications to the design on the ground level and first level of Building D (identified as Level 3 & Level 3.5 on the plans) include:-
 - Relocation of the island kiosk to the north and reconfiguration of the two retail tenancies;
 - Relocation of the alfresco dining area;
 - Provision of a dedicated residential entry, clearly visible from Liverpool Road;
 - Relocation of selected storage cages from Level 3.5 to Level 3; and
 - Provision of a new services room on Level 3.5.

Essentially the proposed modifications retained the approved building envelope and the number of retail tenancies and sought to amend the configuration of the forecourt area beneath Building D at the ground level that fronts Liverpool Road.

This application was approved under delegated authority on 11/04/2017.

- **DA10.2014.019.1** - Upon the gazettal of ALEP 2013, the zoning of the whole of the Ashfield Mall site changed in December 2013, to B4 *Mixed Use* and the previously prohibited works in the forecourt were then permissible with development consent. This application applied only to that part of the forecourt of 260A Liverpool Road that was previously zoned 5(a) *Civic Purposes* and only dealt with the works that were excluded from the consent to DA10.2013.114.1

Council granted consent to DA10.2014.019.1 on 25 November 2014, for;

“Construction of a new Mall entrance canopy structure, new canopy structure over the approved Pavilion and signage including a new illuminated pylon sign at the entrance to the forecourt of the Ashfield Mall shopping centre.”

- **DA10.2014.019.2** – An application pursuant to Section 96 of the Environmental Planning and Assessment Act 1979, sought Council's approval to amend the approved works to be carried out on the forecourt of Ashfield Mall.

The previously approved works for the forecourt are the subject of 2 separate development consents; 10.2013.114 and 10.2014.019 and separate Section 96 applications were submitted to Council to modify both consents.

Both applications were determined by Council concurrently on 8 March 2016.

- **DA10.2014.019.3** – An application pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979, sought Council's approval for minor design modifications to the previously approved Buildings C & D, which result in a small increase in the commercial GFA by 29m².

This application was approved under delegated authority on 25/08/2016.

Assessment

6.0 Zoning/Permissibility/Heritage

The site is within the B4 *Mixed Use* zone under the provisions of Ashfield LEP 2013. The proposed development is permissible with consent.

The property is not located within a Heritage Conservation Area and is not a heritage item.

The property is located within the vicinity of several heritage items including Ashfield Baptist Church and Hall (on the corner of Holden Street and Norton Street) and the Ashfield Presbyterian Church on Knox Street. Council's previous assessment of any heritage impacts is not altered by the amendments proposed by this current application.

A heritage impact statement prepared by Urbis was submitted with the original application. That statement was 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.

The property is located within the Ashfield Town Centre.

The property is affected by a number of easements and rights of carriageway. The proposed modifications will not impact on these easements or rights of way and, appropriate conditions of consent were imposed with the original determination to safe guard the easements.

7.0 Section 4.55(2) Assessment

Section 4.55(2) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

S4.55(2)	Provision	Performance	Compliance
(a)	it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The proposed amendments would not alter the substance of the approved development in that:</p> <ul style="list-style-type: none"> • The use would be unchanged. • The intensity of use would be unchanged with the exception of commercial FSR being reduced. • The number of residential units and unit mix remain unchanged with the exception 	Yes

		<p>of the serviced apartments being reduced from 67 to 39.</p> <ul style="list-style-type: none"> • The building footprint would be unchanged; • The height would remain unchanged; • The general external massing would be unchanged; and • No new elements would be added. <p>It is considered that the proposed amendments are suitable in the context of the site and the locality. The proposed scheme as modified will not have any material impacts on the development approved by the former JRPP.</p>	
(b)	it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	The concurrence of any other public authority is not required.	N/A
(c)	it has notified the application in accordance with: (i). the regulations, if the regulations so require, or (ii). development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	The proposal has been notified as required between 8 January 2018 and 31 January 2018.	Yes
(d)	it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions have been received.	N/A

8.0 Section 4.15(1) Considerations

The relevant matters for consideration pursuant to Section 4.15(1) are addressed as follows:

8.1 The provisions of any Environmental Planning Instrument

8.1.1 State Environmental Planning Policies

- **State Environmental Planning Policy (Educational Establishment and Child Care Facilities) 2017**

State Environmental Planning policy (Educational Establishments and Child Care Facilities) 2017 (SEPP Education and Child Care) was gazetted on 1 September 2017 after the determination of the original application. SEPP Education and Child Care standardises planning controls for educational establishments and child care centres across NSW. It incorporates planning provisions relating to child care centres, schools, universities and TAFEs.

Child Care Planning Guideline

Under SEPP Education and Child Care, a consent authority must take into consideration the Child Care Planning Guideline when assessing a DA for a centre based child care facility.

As determined under SEPP Education and Child Care, the Guideline will take precedence over a Development Control Plan where there are inconsistencies in relation to controls for child care facilities (with the exception of building height, rear and side setbacks and car parking rates). In this instance there is no inconsistencies between Council's DCP and the Guide Line.

Part 3 of the Guideline includes matters which must be considered by the consent authority when assessing a DA for a child care facility. An assessment of the proposed child care centre under Part 3 has been undertaken and no issues arise.

Part 4 of the Guidelines provides the requirements for internal and external areas of Childcare facilities as per the National Quality Framework (NQF). The National Quality Framework Assessment Checklist has been completed by the applicant for the proposal to address the National Regulations. The submitted checklist is considered to be adequate and no issues arise.

A Plan of Management, detailing the parameters of the operation of the child care centre has been prepared by the applicant and considered to be adequate.

The proposal complies with the SEPP Educational and Child Care.

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

The subject site has been used for many decades for the purposes of shopping centre. Given the history of the site, remediation is not considered necessary prior to the carrying out of the proposed development.

- **State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

Not applicable.

- **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX certificate was submitted with the original application and with the proposed amended development.

- **State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development)**

The residential component of the development is near completion and hence the proposed

amendments will not impact or modify the residential component.

- **State Environmental Planning Policy (Affordable Rental Housing) 2009**

Not applicable.

8.1.2 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.

8.1.3 Ashfield Local Environmental Plan 2013

The proposed modifications do not alter compliance with the LEP 2013

8.2 The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved),

Not applicable.

8.3 The provisions of any Development Control Plan.

- **Inner West Council Comprehensive Development Control Plan 2016**

The proposed modifications do not give rise to any additional matters to be considered except for those listed below:

Parking and traffic

With the original development application the applicant submitted an assessment of the traffic and parking impacts of the proposed. That assessment was independently reviewed by ARUP on behalf of Council and it was found that traffic generation rates and the assessment of additional traffic generation in terms of the impacts on the traffic network were acceptable.

As part of their assessment, ARUP considered the car parking provision rate for town centres in other LGA's. For example, the rate of car parking provisions in Burwood town centre is 1 space/50m² of retail GFA and in Marrickville town centre, the rate is 1 space/45m² of retail GFA. ARUP considered the parking provision for Ashfield Mall at 1 space/48.7m² of retail GFA to be appropriate notwithstanding that it is less than Council's DCP car parking requirement of 1 space/40m² of retail GFA due to the town centre location of the site, the rate required in other LGAs and proximity of the site to public transport.

The proposed modification, subject of this report, maintain car parking rate of 1 space/48.7m² of retail GFA.

Child Care Centres

Clause	Requirement	Proposal	Complies
DS1.1	Child care centres are located within 400m distance of a train station or bus stop	There are bus stops within 400m of the proposed child care centre.	Yes
DS 1.4	Child Care Centres are not located on heavily trafficked roads unless they are sited and designed to be protected from air pollution, noise and other impacts from the road	The child care centre is located in the general location as the original approved child care centre.	Yes
DS2.1	The proposal is to comply with the Education and Care Services National Law and the Education and Care Services National Regulation	A Child Care Design Statement has been prepared by Fotoulla Lazaridis Architect and is included. This confirms that the centre-based child care centre complies with the Child Care Planning Guidelines.	Yes
DS4.4	A temporary pick-up and drop-off area incorporating a passing bay is provided on site so that vehicles can enter or leave the site moving in a forward direction without conflicting with other traffic/parking movements	Adequate pick-up/drop-off area is provided. Vehicles can enter and exit in a forward direction.	Yes
D4.5	The centre, pedestrian access and children's play areas are to be separated by safety fencing and minimum 2 self-locking gates/barriers from the road and from parking and vehicle access areas	The child care areas are secured.	Yes
D4.6	Short and long stay staff parking is provided in a convenient location, allowing safe movement of children to and from the centre	Staff car parking is provided on Level 5, in close proximity to the child care centre entry.	Yes
DS4.8	Separate pedestrian paths having a minimum width of 1.2 metres separated from vehicle aisle movement areas or car parking spaces are provided, identified and located to allow safe movement of children with parent/carers to and from vehicles within the short stay visitor parking areas. These pedestrian paths should not form part of any vehicle aisle movement areas or car parking spaces	A separate pedestrian path is provided.	Yes
DS4.9	Ramps and lifts are provided where necessary along pedestrian paths and in any basement car parks where required to allow access to the centre by mothers with prams and for people with disabilities	Car spaces are located at the same level as the child car entrance.	NA
DS4.10	Parking spaces for people with disabilities are provided near the entrance to the Centre	1 disabled space is provided.	Yes
DS5.1	Acoustic privacy	The submitted Acoustic Report demonstrates that the relevant noise criteria will be met.	Yes
DS8.1	Centre Plan of Management is to be submitted with each development application for a Child Care Centre	A Centre Plan of Management is included.	Yes

	(including new and existing Child Care Centres) to ensure that the proposed premises will operate in a manner that maintains a high level of amenity.		
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8.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Not applicable.

8.5 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.

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

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have minimal significant adverse social or economic impacts upon the locality.

8.7 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. The proposed development is generally considered suitable in the context of the local built environment.

8.8 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 from 8 January 2018 until 31 January 2018. The proposal has not generated any submissions.

8.9 The public interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The development is generally consistent with the aims, and design parameters contained in Ashfield Local Environmental Plan 2013 and the Inner West Council Comprehensive Development Control Plan 2016 and other relevant Environmental Planning Instruments. As discussed throughout this report, the development will not result in any significant impacts on the amenity of adjoining premises and the streetscape and thus the development is considered to be in the public interest.

9.0 Referrals

9.1 Internal

The Section 4.55 application was referred to Council's traffic engineer as it involves changes to parking layout and access. Council's Traffic Engineer raised no objections subject to

conditions.

9.2 External

N/A

10.0 Other Relevant Matters

- Building Code of Australia (BCA)

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

- Financial Implications

Section 7.11 contributions are payable for the proposal. To date the applicant has paid in full contributions payable for stage 1 and 2 construction works which was for 101 residential apartments, 220m² retail floor area located within the forecourt area and 240m² retail floor area within ground floor of the residential building fronting Liverpool Road.

The original application approved an additional retail floor area of 6,783.9m². The applicant (subject of this modification application) seeks to reduce the approved retail floor area by 3,456.5 m² thus the proposed additional retail floor area will be 3,327.4m². To date the applicant has already constructed 460m² of retail floor area leaving a total of 2,867.4m² of retail floor area to be constructed. The amended section 7.11 contribution is based on 3,327.4m² of retail floor area and 39 serviced apartments.

The tables below illustrates the amended Section 7.11 contribution.

Land use	Rate	Amount
Serviced apartment	\$796.79 per apartment X 39	\$31,074.83
Retail floor area	\$209.26 per m ² X 2,867.4m ²	\$600,024.11
Total		631,098.94

Community Infrastructure Type	Contribution
Local Roads	\$59,284.26
Local Public transport facilities	\$28,053.16
Local Car Parking Facilities	\$0.00
Local Open Space and Recreational Facilities	\$508,703.17
Local community facilities	\$0.00
Plan preparation and Administration	\$35,058.36
Total	\$631,098.94

11.0 Conclusion

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act 1979, with all matters specified under Section 4.15(1) Clauses (a) to (e) having been taken into consideration.

The proposal generally complies with the aims, objectives and design parameters contained in Ashfield Local Environmental Plan 2013. The proposal is generally consistent with the Inner West Council Comprehensive Development Control Plan 2016. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape.

The application is considered suitable for the issue of a modified consent subject to the imposition of appropriate terms and conditions.

Recommendation

That the application under section 4.55(2) of the Environmental Planning & Assessment Act to modify consent No. 10.2013.114.1 be approved and modified determination be issued with the conditions modified in the following manner:

A General Conditions

A (1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications date stamped by Council as detailed in the following table and any supporting documentation received with the application, except as amended by the conditions specified hereunder or in red on the stamped plans.

Job No	DWG No	Issue	Title
Architectural Plans			
12059	S96 1001 S96 1001 S96 1001	A 3 4	Site Plan Site plan Site Plan
12059	DA1101 S96 1101 S96 1101	B 3 4	Access Diagrams Access Diagrams Access Diagrams
12059	DA1102 S96 1102 S96 1102	B 3 4	Through Site Link Through Site Link Through Site Link
12059	DA1103	B	Building C & D Pedestrian Access
12059	DA1301 S961301 S961301	A 3 4	Demolition Plan – Level 1 Demolition Plan – Level 1 Demolition Plan – Level 1
12059	DA1302 S961302 S961302	A 3 4	Demolition Plan – Level 2 Demolition Plan – Level 2 Demolition Plan – Level 2
12059	DA1303 S961303 S961303	A 3 4	Demolition Plan – Level 3 Demolition Plan – Level 3 Demolition Plan – Level 3
12059	DA1304 S961304 S961304	A 3 4	Demolition Plan – Level 4 Demolition Plan – Level 4 Demolition Plan – Level 4
12059	DA1305 S961305 S961305	A 3 4	Demolition Plan – Level 5 Demolition Plan – Level 5 Demolition Plan – Level 5
12059	DA2001 S962001 S962001	D 3 4	Level 1 Floor Plan Level 1 Floor Plan Level 1 Floor Plan
12059	DA2002 S962002 S962002	C 3 4	Level 2 Floor Plan Level 2 Floor Plan Level 2 Floor Plan
12059	S96 2001 S962003 S962003	B 3 4	Level 3 Floor Plan Level 3 Floor Plan Level 3 Floor Plan
12059	S96 2002 S962004 S962004	B 3 4	Level 3.5 Floor Plan Level 3.5 Floor Plan Level 3.5 Floor Plan
12059	S96 2003 S962005 S962005	A 3 4	Level 4 Floor Plan Level 4 Floor Plan Level 4 Floor Plan
12059	S96 2004 S962006 S962006	A 3 4	Level 4.5 Floor Plan Level 4.5 Floor Plan Level 4.5 Floor Plan
12059	S96 2007 S962009	A 3	Level 7 Floor Plan Level 7 Floor Plan

	S962009	4	Level 7 Floor Plan
12059	S96 2008	A	Level 8 Floor Plan
	S962010	3	Level 8 Floor Plan
	S962010	4	Level 8 Floor Plan
12059	S96 2009	A	Level 9 Floor Plan
	S962011	3	Level 9 Floor Plan
	S962011	4	Level 9 Floor Plan
12059	S96 2010	A	Level 10 Floor Plan
	S962012	3	Level 10 Floor Plan
	S962012	4	Level 10 Floor Plan
12059	S96 2011	A	Level 11 Floor Plan
12059	S96 2012	A	Level 12 Floor Plan
12059	S96 2013	A	Level 13 Roof Floor Plan
12059	DA2101	B	Sections 1
	S962201	3	Sections 1
	S962201	4	Sections 1
12059	S96 2201	B	Section 2
	S962202	3	Section 2
	S962202	4	Section 2
12059	S96 2202	A	Section 3
	S962203	3	Section 3
	S962203	4	Section 3
12059	S96 2210	B	North and South Elevation
	S962210	3	North and South Elevation
	S962210	4	North and South Elevation
12059	S962211	A	East and West Elevations
	S96 2211	3	East and West Elevations
	S96 2211	4	East and West Elevations
12059	DA2300	B	Building A Child Care
12059	DA2301	B	Building A
	S962121	3	Building A – Level 2 & 3
	S962121	4	Building A – Level 2 & 3
	S962122	3	Building A – Level 4 & 4.5
	S962122	4	Building A – Level 4 & 4.5
	S962123	3	Building A – Level 5 & 6
	S962123	4	Building A – Level 5 & 6
	S962124	4	Building A – Level 7, 8 & 9
12059	DA2302	B	Building A Elevations
	S962231	3	Building A Elevations
	S962231	4	Building A Elevations
12059	DA2303	B	Building C
	S96 2104	A	Level 4.5 Floor Plan
	S96 2105	A	Level 5 Floor Plan
	S96 2106	A	Level 6 Floor Plan
	S96 2107	A	Level 7 Floor Plan
	S96 2108	A	Level 8 Floor Plan
	S96 2109	A	Level 9 Floor Plan
	S96 2110	A	Level 10 Floor Plan
	S96 2111	A	Level 11 Floor Plan
	S96 2112	A	Level 12 Floor Plan
	S96 2113	A	Level 13 Floor Plan
12059	S96 2220	A	Building C – North Elevation
	S96 2221	A	Building C – South Elevation
12059	S96 2101	B	Level 3 Floor Plan
	S96 2102	B	Level 3.5 Floor Plan
	S96 2103	A	Level 4 Floor Plan
	S96 2104	A	Level 4.5 Floor Plan
	S96 2105	A	Level 5 Floor Plan
	S96 2106	A	Level 6 Floor Plan
	S96 2107	A	Level 7 Floor Plan
	S96 2108	A	Level 8 Floor Plan
	S96 2109	A	Level 9 Floor Plan
2015074	S96 2305	C	Coverpage
2015074	S96 2306	C	Building D (North Elevation – 1 & 2)
2015074	S96 2307	C	Forecourt Plans
2015074	S96 2308	C	Forecourt Plan
2015074	S96 2309	C	Forecourt – North Elevation
2015074	S96 2310	C	Forecourt – East Elevation

2015074	S96 2311	C	Forecourt – South and West Elevation
2015074	S96 2312	C	Forecourt Easements
2015074	S96 2313	C	Forecourt – Proposed Section 2 & 3
2015074	S96 2314	C	Forecourt – Proposed External Finishes
2015074	S96 2315	C	Forecourt – Lighting
2015074	S96 2316	A	Forecourt Section Detail (Additional Information)
12059	DA2401	B	Building A Unit Plans
12059	S96 2301	A	Apartment F,G Plan
	S96 2302	A	Apartment H, H1, H2, J Plan
	S96 2303	A	Apartment K, K1, K adapted Plan
12059	S96 2401	A	Apartment A, A1 Plan
	S96 2402	A	Apartment A2, A3 Plan
	S96 2403	A	Apartment B1, B2, B3, B4 Plan
	S96 2404	A	Apartment C, C1 Plan
	S96 2405	A	Apartment D, D adapted, Q Plan
	S96 2406	A	Apartment E, E adapted, R Plan
12059	S96 3002	A	Landscape and Communal Space Areas
12059	DA4003	D	Car Park Drawings
	S968002	3	Car Park Drawings
	S968002	4	Car Park Drawings
12059	S96 3101	A	External Finishes
12059	DA8102	A	Building A – Detailed South Elevation
	S968102	3	Building A – Detailed South Elevation
	S968102	4	Building A – Detailed South Elevation
12059	DA8103	A	Building A – Detailed North Elevation
	S968103	3	Building A – Detailed North Elevation
	S968103	4	Building A – Detailed North Elevation
	S962203	B	Section Retail
12059	S96 2221	A	Building C – South Elevation
12059	S96 2220	A	Building C – North Elevation
12059	S96 2222	A	Building C – West Elevation
12059	S96 2223	A	Building C – East Elevation
12059	S96 2226	A	Building D – South Elevation
12059	S96 2224	B	Building D – North Elevation
12059	S96 2225	A	Building D – North Elevation 2
12059	S96 2227	B	Building D – West Elevation
12059	S96 2228	A	Building D – East Elevation
12059	S96 2302	A	Apartment Type H, H1, H2, J Plan
12059	S96 2005	A	Level 5 Parking Plan
	S962007	3	Level 5 Parking Plan
	S962007	4	Level 5 Parking Plan
12059	S96 2206	A	Level 6 Floor Plan
	S962008	3	Level 6 Floor Plan
	S962008	4	Level 6 Floor Plan
Landscape Plans			
SS15-3071	101	C	Landscape Plan Liverpool Street Civic Space
SS15-3071	102	C	Landscape Plan Holden Street
SS15-3071	103	C	Building C & D Landscape Plan Level 4 Communal Gardens
SS15-3071	104	C	Building C Landscape Plan – Level 6 Private Gardens
SS15-3071	105	C	Building C Landscape Plan – Level 9 Communal Gardens
SS15-3071	106	C	Building C Landscape Plan – Level 13 Roof Top Communal Garden
SS15-3071	107	C	Landscape Plan – Carpark Level 5 & 6
SS13-2625	108	B	Landscape Plan Holden Street
SS13-2625	109	A	Landscape Plan Knox Street
SS13-2625	110	B	Landscape Plan Link Laneway to Knox Street
SS15-3071	501	C	Landscape Details Communal Garden
SS15-3071	502	C	Landscape Details Communal Garden
Holden Street Access Arrangements			
	13S1441200-06-01-P1	Sheet 1 of 1	Holden Street Access Concept Layout (as amended in red)

Reason for modification

To reflect amended plans and documents

A (2) Child care centre

The Child Care Centre kitchen will be required to comply with Ashfield Council's "Guidelines for Food Premises" and Australian Standard 4674-2004 "Design, Construction and Fit out of food premises". ~~Details are to be provided with the development application for the fit out and operation of the Child Care Centre.~~

Reason for modification

Development consent for the fit-out and use of the child care centre is sought as part of this application. A separate DA is not required. This application is supported by a Plan of Management and compliance assessment against the Child Care Planning Guideline. The fit out is capable of compliance with the "Guideline for Food Premises" and AS4674-2004.

A (3) Acoustic

The development shall comply with the report prepared by Acoustic Logic consultant for noise impact assessment dated 29 May 2013 **and the subsequent report prepared by Acoustic Logic dated 24 August 2017**. All the necessary recommended acoustic work and treatments will be required meet the requirements of relevant statutory/regulatory authorities including Ashfield Council and the Environmental Protection Authority.

Reason for modification

Condition A (3) is proposed to be modified to reference the updated Acoustic Assessment that has been prepared to support this application. Reference to the Acoustic Assessment prepared by Acoustic Logic will ensure that the recommendations are incorporated into the construction drawings.

A (8) Access to parking on Public and Council Staff Parking on Levels 5 and 6

Access to public car parking and Council staff car parking on Levels 5 ~~and 6~~ shall not be controlled.

Reason for modification

It is proposed to remove reference to Level 6 as this car parking will not be constructed. The public and Council staff parking will be provided on Level 5.

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

B (1) Section 94 Development Contributions

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following total monetary contributions shall be paid to Ashfield Council. Prior to issue of Construction Certificate for each relevant stage of development, the proportion of the following contributions generated by that stage of development is to be paid to cater for the increased demand for community infrastructure resulting from the development:-

Community Infrastructure Type	Contribution	
Local Roads	\$145,365.75	\$59,284.26
Local Public Transport Facilities	\$121,197.92	\$28,053.16
Local Open Space and Recreation Facilities	\$2,236,665.59	
	\$508,703.17	
Local Community Facilities	\$68,607.75	\$0.00
Plan Preparation and Administration	\$124,824.46	\$35,058.36
Total	\$2,696,661.47	
	\$631,098.94	

(as at 30 December 2017)

If the contributions are not paid within the financial quarter that this modification is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Section 94 Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$CC} = \frac{\text{\$CP}}{\text{CPIp}} \times \text{CPIc}$$

Where:

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

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

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

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

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

Council's Development Contributions Plan may be viewed at www.ashfield.nsw.gov.au or a copy may be inspected at Council's Administration Centre.

Reason for modification

Condition B (1) amended to reflect the modified proposal which involves reduced retail floor area and reduction in the number of serviced apartments.

~~B (24) Exhaust fumes from car park~~

~~Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and the Building Code of Australia, and is to have particular regard to the child care centre, high volume pedestrian movements and residential blocks. Details demonstrating compliance are to be provided with each relevant Construction Certificate.~~

Reason for modification

This condition is no longer relevant as the mezzanine carpark on Level 2 will not be constructed. A car park exhaust structure on Level 2 has been addressed separately under DA 10.2017.036.1 (13 June 2017).

B (32) Car parking provision/layout

Details of the allocation of spaces are to be provided with the Construction Certificate.

Off-street parking and service vehicle areas including spaces for the accessible/adaptable units shall be provided and allocated for the new and reconfigured parts of the site in accordance with the provisions of AS2890 and enable ready and safe compliance with the Australian Road Rules.

Details to be shown on the application with the residential Construction Certificate, including details showing that minimum ceiling heights for cars, service vehicles and people with disabilities will be achieved.

Design of car parking shall be in accordance with Australian Standards AS 2890.1 2004 "Off Street Car Parking."

Directional arrows as shown in red on Drawing No. ~~DA8501/B (Level 5 Parking Plan)~~ **S96 2007/4 (Level 5 Parking Plan)** are to be provided.

Note: Minimum basement ceiling height above any residential parking spaces provided for people with disabilities is to be 2.5 metres in accordance with AS2890.

Reason for modification

Condition B (32) is amended to reference the modified Level 5 drawing submitted for approval under this application.

B (39) Acoustic Treatments

Details demonstrating compliance with the recommendations of the Acoustic Logic Noise Impact Assessment dated 29/5/2013 **and the subsequent report dated 24 August 2017** are to be submitted for approval by Council or the accredited certifier with the relevant Construction Certificate.

Reason for modification

This condition is proposed to be modified to reference the updated Acoustic Report that has been prepared to support this application.

B (44) Bicycle parking

Bicycle parking racks for a minimum of ~~483~~ **171** bicycles are to be provided. Details to be shown on plans submitted with the relevant Construction Certificate. Bicycle parking areas incorporated into the public car parking area shall be provided without the loss of any public car parking spaces.

Bicycle parking for retail customers (a minimum of 50 spaces) shall be relocated the Level 1 basement car park to ensure compliance with the provisions of AS2890.3 – Parking Facilities. Part 3 – Bicycle Parking Facilities.

Reason for modification

Condition B (44) is proposed to be amended to reflect the minimum number of car spaces required, based on the revised floor areas. A minimum of 169 bicycle spaces are required for the overall development.

B (46)Accessibility Compliance

Details of compliance with the report by Accessible Building Solutions titled Statement of Compliance Access for People with a Disability Report and dated 27/05/2013 **and the subsequent report prepared by ABE Consulting dated 29 November 2017** where ~~that the~~ reports indicates that compliance is to be verified at each relevant Construction Certificate Stage.

Reason for modification

This condition is proposed to be modified to reference the updated Access Report that has been prepared to support this application.

B (47)Traffic Management

The plans submitted with the Construction Certificate for the relevant stages shall incorporate the mitigation measures noted at point (xii) of Section 8 of the report by GTA consultants titled 260A Liverpool Road Ashfield, Ashfield Mall Redevelopment, Transport Impact Assessment and dated 29/05/2013. **As identified in the Car Parking and Traffic Assessment, prepared by GTA and dated 28 November 2017, the 'signage and/or electronic guidance system to promote alternative exits' is not required.**

Reason for modification

The additional car parking spaces at Levels 2.5 and 6 are not proposed to be provided. The modified car parking layout will generate a minor increase of queuing and the duration to exit onto Holden Street would remain similar to the current scenario. The internal signage and electronic messaging/wayfinding to inform faster exit routes is no longer required.

B (49)BASIX Compliance

Details of compliance with the commitments as noted in the BASIX Certificates prepared by SLR Consulting Pty Ltd in Certificate No. ~~484168M~~ **484168M_02** issued ~~29 May 2013~~ **1 September 2015** shall be submitted prior to issue of the construction certificate for the relevant stage of the development.

Reason for modification

Reference the most recent BASIX Certificate that was prepared by SLR Consulting.

B (50)Structural Standards of Construction

The development shall be designed to be generally in accordance with the structural design requirements as specified in the Ashfield Mall Redevelopment Structure Report dated 27 May 2013 by Brown, **as amended by the Ashfield Mall Section 96 Structural Report dated 28 November 2017 by TTW**. Details to be submitted prior to issue of the Construction Certificate for the relevant stages of development.

Reason for modification

Reference the Ashfield Mall Section 96 Structural Report prepared by TTW. This has been prepared for the retail component of the development only. This structural review supersedes the structural review conducted by Brown Consulting (NSW) Pty Ltd on 27 May 2013 for the retail development component. However, this review does not supersede the residential development component of the Brown Consulting (NSW) Pty Ltd report.

The extent of development works has been significantly reduced and will not require the existing building structure to be upgraded to the current standards. As identified in the Structural Report prepared by TTW, the BCA Consultant has confirmed that the development, as proposed to be modified, does not significantly alter the existing structure. As such, the existing structure will not require analysis and strengthening works to be undertaken for current wind and earthquake actions.

The Structural Report identifies that for the Third Construction Stage there will be a requirement to strengthen several columns and the existing Level 2 slab will require strengthening on the top and soffit of the slab. The Fourth Construction Stage will require a greater number of columns to be strengthened.

C Conditions that must be complied with before work commences

C (14) Waste management plan approval

A Waste Management Plan shall be submitted to Ashfield Council's Environmental Health Unit prior to demolition or construction of the relevant stages commencing. The Waste Management Plans shall be in accordance with the provisions of Ashfield Development control Plan 13 - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

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

The waste management plan shall also incorporate the recommendations noted in the Waste Management Plan prepared by Leigh Designs and dated 30 October 2013, *as amended by the Waste Management Plan prepared by Leigh Design and dated 27 November 2017.*

Reason for modification

Reference the Waste Management Plan that has been prepared for the retail, serviced apartment and child care components the subject of this application.

C (23) Deed and Easement – Car Parking Spaces

A new deed and easement shall be entered into between the property owner of the subject site and the Council which addresses the following matters:

- a) Ongoing public access to not less than 330 car parking spaces and 20 Council staff car parking spaces within the subject site.
- b) The location of the 330 publically available car parking spaces and 20 Council staff car parking spaces within the subject site.
- c) Access arrangements to and from the subject site to the 330 publically available car parking spaces and 20 Council staff car parking spaces within the subject site.

Plans identifying the location of the car parking spaces subject to the easement shall be submitted for Council's approval.

~~The general terms of the deed and easement shall be agreed and finalised between the General Manager and the property owner prior to issue of the construction certificate for works involving the alteration or construction of levels 5 and 6 of the car park on the existing Ashfield Mall shopping centre.~~

~~The new deed and easement shall be registered on the property title of the subject site within two months of the completion of any relevant works which establish the 330 publically available car parking spaces and 20 Council staff car parking spaces within the subject site.~~

~~All costs incurred in the preparation and registration of the new deed and easement shall be at the cost of the property owner of the subject site.~~

The general terms of a deed varying/replacing the Ashfield Mall Parking Deed dated 3 May 2016, to address the deletion of the level 6 carpark and relocation of the childcare centre, shall be agreed and finalised between the General Manager and the property owner prior to issue of the construction certificate relevant to the construction of the childcare centre or works involving significant alteration of level 5 of the car park on the existing Ashfield Mall shopping centre.

The new deed and easement provided for in the Ashfield Mall Parking Deed (as varied or replaced) shall be registered on the property title of the subject site within two months of the completion of any relevant works which establish the 330 publicly available car parking spaces and 20 Council staff car parking spaces within the subject site.

All costs incurred in the preparation and registration of the new deed and easement shall be at the cost of the property owner of the subject site.

Reason for modification

It is proposed to remove reference to Level 6 as this car parking level will not be constructed. The public and Council staff parking will be provided on Level 5.

D Conditions that must be complied with during construction or demolition

D (5) Fire resistance – BCA upgrade

Under the provisions of Clause 93 and 94 of the Environmental and assessment Regulations 2000, the existing retail commercial building shall be fully upgraded so that all to comply with the category 1 fire safety measures are brought into compliance so to satisfy the matters identified in the BCA audit report prepared by Steven Watson & Partners dated the 29 May

2013. November 2017 and/or the Alternative Solutions Report prepared by Defire dated 30 August 2017.

The upgrades are to be undertaken progressively to the common mall and retail tenancies with the works completed as soon as practicable, upon a tenancy becoming vacant and/or when any 'building changes' are proposed.

Building changes' include:

- Base building alterations and additions (Inc common mall areas or tenancies)
- Tenancy alterations, additions and/or refurbishments
- Amalgamation or division of tenancies
- Changes to fire safety systems (Inc. common mall areas)
- Change in use

Reason for modification

A fire safety upgrade to the existing retail building is required to be undertaken prior to the application for a final Occupation Certificate. It is proposed that these upgrade works be staged to minimise the disruption to the operation of the centre and existing tenants. Upgrading the entirety of the building concurrently would result in significant long term impacts on operations at Ashfield Mall.

The modified wording of Condition D (5) requires that the retail building be progressively upgraded in accordance with the definition of 'building changes', as described above.

F *Conditions that must be complied with prior to issue of an Occupation Certificate*

(1) Approval to use/occupy building

The new buildings comprising the residential apartments and serviced apartments ~~and the new parking level to be added to the existing Ashfield Mall shopping centre car park, or any part thereof~~ must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

Reason for modification

It is proposed to remove reference to Level 6 as this car parking level will not be constructed.

(16) Wayfinding Signage

Wayfinding signage throughout the development shall be provided to Council prior to the issue of the relevant Occupation Certificate. Signage to be provided includes signage as recommended in the Urbis Social Impact Assessment dated May 2013 and the following signage:

- Alternative locations for bicycle parking;
- ~~Details of any automated indicator for vehicles exiting Levels 5 and 6 advising of delays and alternative exit locations.~~
- Location of the taxi rank on Level 5 at various locations within the shopping centre.

~~NOTE: The alternative exits from Levels 5 and 6 shall have a 15 minutes free grace period to ensure motorists using the route are not charged for parking.~~

Reason for modification

It is proposed to remove reference to Level 6 as this car parking level will not be constructed. The automated indicator for vehicles exiting Levels 5 and 6 is no longer applicable.

Attachment A – Comparison between originally approved & proposed scheme

Attachment B – Plans of proposed amendments

Attachment C – Current Conditions of consent