

ITEM 4. DEVELOPMENT APPLICATION: UNIT 35-35B/1A COULSON STREET ERSKINEVILLE**FILE NO: D/2012/1823****DEVELOPMENT APPLICATION NO: D/2012/1823****SUMMARY**

Date of Submission: 27 November 2012
(Amended drawings received 17 July 2013, 1 November 2013 and 31 January 2014)

Applicant: Erskin FCP Pty Ltd

Architect: DKO Architecture

Owner: Mr Gregory Michael Keating, Mr Andrew James Brooks and Warwick J Williams Pty Ltd

Developer Erskin FCP Pty Ltd

Proposal Summary: The proposal is for a Stage 1 concept Development Application within the Ashmore urban renewal precinct, comprising site layout, street network and building envelopes for 3 residential apartment buildings ranging between 3 to 6 storeys with a maximum building height of 22m, a residential gross floor area of approximately 13,982m² and 2 levels of basement carparking with vehicular access from the future Zenith Street.

The proposal also includes demolition of all structures on site, site remediation and subdivision.

During the assessment of the development application, a revised scheme was submitted which introduced an alternative massing and building form for the site so that it would be consistent with the newly adopted Sydney Development Control Plan (SDCP) 2012 amendments for the Ashmore urban renewal precinct.

The notification of the amended scheme resulted in 7 submissions being received, raising concerns related to height, building separation, vehicular access, solar access impacts, no provision of east-west pedestrian link, traffic and parking, lack of existing infrastructure capacity, overlooking, and impact to street trees.

**Proposal Summary
(continued):**

The land owner has entered into a voluntary planning agreement (VPA) to dedicate roads as outlined in the SDCP 2012. A deferred commencement condition is recommended that a VPA be entered into and registered on title prior to a Stage 2 development application for the detailed design of the development.

The amended proposal is integrated development under the Water Management Act 2000. General terms of approval have been issued by the NSW Office of Water.

Summary Recommendation:

Development Application D/2012/1823 is recommended for deferred commencement approval, subject to conditions of consent.

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) South Sydney Development Control Plan 1997 – Part G Special Precinct No.7 – Ashmore Precinct
- (iii) Sydney Development Control Plan 2012 (Ashmore Neighbourhood)
- (iv) City of Sydney Notification of Planning and Development Applications Development Control Plan 2005
- (v) Development Control Plan No. 11 – Transport Guidelines for Development 1996 (Adopted 8 May 1996)
- (vi) City of Sydney Contaminated Land Development Control Plan 2004

Attachments:

A - Selected Drawings

RECOMMENDATION

It is resolved that:

- (A) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2012/1823, subject to the following:

PART A**CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING**

The consent is not to operate until the following condition is satisfied, within 24 months from the date of this determination:

(1) VOLUNTARY PLANNING AGREEMENT

- (a) The Voluntary Planning Agreement, as detailed in the letter of offer submitted by the Applicant, shall be prepared by Council and placed on public exhibition and shall be executed and submitted to Council prior to the submission of any Stage 2 Development Application for the detailed design for the site;
 - (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement; and
 - (c) The Voluntary Planning Agreement, as executed, must be registered on the Title of the Land.
- (B) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions (1)(a), (b) and (c), must be submitted to Council within 24 months of the date of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to Section 95(6) of the Environmental Planning and Assessment Act 1979;
- (C) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions (1)(a), (b) and (c), have been satisfied; and
- (D) upon Council giving written notification to the Applicant that the deferred commencement conditions (1)(a), (b) and (c) have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions:

PART B**CONDITIONS OF CONSENT
(ONCE THE CONSENT IS IN OPERATION)****SCHEDULE 1A****Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2012/1823 dated 27 November 2012 and the following drawings prepared by DKO Architecture:

Drawing Number	Drawing Name	Date
SK200	Stage 1 DA Envelope Plan	11 February 2014
SK 200a	Stage 1 DA Envelope Sections	11 February 2014

and as amended by the conditions of this consent:

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) NO SUBDIVISION

No subdivision of land has been granted with this development consent.

(3) DETAILS TO BE PROVIDED WITH FUTURE DEVELOPMENT APPLICATION

The future Stage 2 Development Applications must address compliance with:

- (a) Stage 1 building envelopes;
- (b) SEPP 65 - Design Quality of Residential Flat Development, and the provisions of the Residential Flat Design Code; and
- (c) Subdivision of land.

(4) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN

All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan prepared by Acoustic Logic Ref 20130150.1 dated 11 June 2013.

(5) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

A Construction Traffic Management Plan must be submitted to and approved by the Director, City Planning Development and Transport prior to any works commencing.

(6) USE OF INTRUSIVE APPLIANCES - TIME RESTRICTION.

(a) The operation of high noise intrusive plant and machinery such as pile-drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-2010 "Guide to Noise Control on Construction, Maintenance and Demolition Sites" is restricted to the hours of:

- 8:00am -12:00pm and 1:00 pm - 4:30pm Mondays to Friday
- 9am - 1pm on Saturdays
- No work is permitted on Sundays or Public Holidays

(b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

(c) All reasonable and feasible steps must be taken to ensure that noise levels from activities conducted on site are kept to a minimum including the adoption of less noise intrusive plant and equipment or technologies.

(7) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

(8) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for the construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway and kerb reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

Note: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

(9) DEWATERING

As dewatering of the site is required, approval will be required from the Department of Planning and Infrastructure under the provisions of Part V of the Water Act, 1912 for a bore licence which may be subject to conditions.

Note: The Department's instructions to Council are that they will not endorse the extraction of groundwater in perpetuity i.e. Permanent dewatering around a development site, because it considers such development to be unsustainable. For this reason, any proposed basement or other area that requires dewatering on an on-going basis will be fully tanked.

SCHEDULE 1B**Prior to Construction Certification/Commencement of Work/Health and Building**

Note: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

(10) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with WorkCover NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, WorkCover must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the Work Health and Safety Regulation 2011 and the NSW Government and WorkCover document entitled How to Safely Remove Asbestos, Code of Practice and the City of Sydney Asbestos Policy.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.

- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Part 6 of the City of Sydney's Asbestos Policy.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

- (i) contact person for the site;
- (ii) telephone and facsimile numbers and email address; and
- (iii) site activities and time frames.

(11) CONTAMINATION

- (a) The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Department of Environment Climate Change and Water (DECC) *Environmental Guidelines Assessment, Classification and Management of Non-Liquid Wastes*.
- (b) Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority.

(12) REMEDIATION

- (a) The site is to be remediated and validated in accordance with the report prepared by Environmental Investigations Ref N E1795.1 AB dated 2 October 2013 and the letter of Interim Advice ref EN04234 prepared by Dr Ian C Swane dated 4 October 2013.

- (b) Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation) a **Site Audit Statement** is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.
- (c) Any variations to the proposed remediation Action Plan shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.

(13) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the 'Environment Operations Act 1997 and the NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (April 2008)'. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

(14) COMMUNITY CONSULTATION

- (a) The applicant must ensure that before any works are commenced, an appropriate level of community consultation has been carried out with surrounding noise sensitive receivers. This should include the submission of a suitable and readily contactable site contact should any complaints or other issues arise during construction hours. Complaint logs shall be kept outlining the details of any complaint received together with the investigative and corrective actions taken in response to that complaint. The logs must be made available to the City on request.
- (b) The applicant must provide a contact telephone number to the Managers of the City Rangers and the Manager of Health & Building for the Site Manager or other suitable person who will be readily contactable onsite at all times whilst any works are carried out, and whom may be contacted should any complaints concerning offensive noise and vibration be received.

(15) DUST MANAGEMENT

All reasonable and feasible steps must be taken to ensure that dust from activities conducted on site is kept to a minimum. This includes the covering and wetting down of disturbed soils.

(16) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the basis of 103.5 lineal metres of the Asphalt site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to issue of a Construction Certificate.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

(17) FLOOD LEVELS

- (a) The design of the ground floor levels is to be equal to or above the 1 in 100 year flood level + 500mm freeboard.
- (b) The minimum habitable floor levels must be 9.3m AHD in the north-west of the site to 9.2m AHD in the south-east (1 in 100 flood event + 500mm freeboard); and
- (c) The design of ground floor levels must also take account of any entry/s to the basement car park level (including driveway ramps, lift shaft openings, services risers, stairwells, and any other openings etc.). The levels required in these instances must satisfy the Probable Maximum Flood (PMF) level/s and must be designed accordingly. The minimum level for such entry points must be 10.0m AHD in the north-west of the site to 9.8m AHD in the south-east (PMF level).

(18) ALIGNMENT LEVELS

- (a) Prior to a Construction Certificate being issued, footpath alignment levels for the building must be submitted to Council for approval. The submission must be prepared by a Registered Surveyor and must be in accordance with the City of Sydney's Public Domain Manual.
- (b) These alignment levels, as approved by Council, are then to be incorporated into the plans submitted with the application for a Construction Certificate, excluding a Construction Certificate for approved preparatory, demolition or shoring work.
- (c) If a Public Domain Plan condition applies to the development the Alignment Levels application must be made concurrently with the submission of a Public Domain Plan.

(19) PUBLIC DOMAIN PLAN

The Public Domain Plan accompanying this Development Application has not been approved by this consent.

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for any new building work (including internal refurbishments) excluding approved preparatory, demolition or shoring work.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must be made concurrently with the Alignment Levels application. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

Note: A Public Domain Works Guarantee deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Road Opening Permit for works on the public way being issued.

The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(20) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to a Construction Certificate being issued for a new building work, excluding approved preparatory, demolition and shoring work, a set of hold points for approved public domain and civil construction work is to be determined with and approved by the City's Public Domain section in accordance with the City's Public Domain Manual.
- (b) Completion and handover of the constructed public domain works is to be undertaken in accordance with the City's Public Domain Manual, including requirements for as-built documentation, certification and defects liability period.

(21) PRESERVATION OF SURVEY MARKS

All works in City streets must ensure the preservation of existing permanent survey marks (a brass bolt, or a lead plug holding a brass tack, covered by a cast iron box). At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Project Manager Survey / Design Services to arrange for the recovery of the mark.

Prior to the issue of a Construction Certificate, a survey plan, clearly showing the location of all permanent survey marks fronting the site and within 5 metres on each side of the frontages must be submitted to Council.

At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Senior Surveyor to arrange for the recovery of the mark.

A fee must be paid to the Council for the replacement of any permanent survey mark removed or damaged in accordance with the City's Schedule of Fees and Charges (Reinstatement of Survey Box).

(22) ROAD NETWORK AND GEOMETRIC ROAD DESIGN

- (a) Detailed design and construction documentation for the proposed public road system shall include all necessary liaison with public utility authorities, the RTA, Council, the Sydney Traffic Committee and its nominated consultants in order to achieve design approvals and construction compliance.
- (b) The design and construction of all road works shall be undertaken in accordance with Council's Sydney Streets Technical Specifications (version 2:22.3.2013). Detailed plans and construction specifications for the works shall be prepared and certified as complying with Council's specifications prior to the issue of a Construction Certificate. The detailed plans and supporting documentation shall include as a minimum the following information:
 - (i) General subdivision plan with contour details, clearly indicating the extent of work;
 - (ii) Typical road cross sections showing road and footway widths, pavement configuration, batter slopes, retaining walls (engineered) kerb and gutter types;
 - (iii) Plan and longitudinal section of the public road showing gutter invert, kerb and boundary alignments of the existing and proposed future public road network and all public utility services (existing and proposed);
 - (iv) Drainage plan and schedule of drainage elements with any special pit requirements;
 - (v) Drainage profiles and longitudinal sections with hydraulic grade lines for the design storm and other standard features such as flow rates, class, pipe grades, velocity;

- (vi) Standard engineering and structural details plan;
 - (vii) Road cross sections and longitudinal sections to include pedestrian kerb ramps;
 - (viii) Road pavement design structure, kerb and gutter, drainage works, traffic and pedestrian signage, and any necessary minor works and matching adjustments;
 - (ix) Footpaths, pedestrian and bicycle facilities, street lights and street trees and other associated verge works;
 - (x) Adjustments/upgrades to utility services as required;
 - (xi) Intersection layout details including line marking, pavement marking and signposting;
 - (xii) Erosion and sedimentation control plans;
- (c) Note: All design documentation shall be completed in accordance with the relevant standards and specifications as adopted by Council from time to time. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional Engineer.

(23) SYDNEY AIRPORT CORPORATION

- (a) The height of the development must not exceed 38.8m above Australian Height Datum (AHD), inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- (b) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24m) above the existing ground level (AEGH), a new approval must be sought in accordance with the Civil Aviation (Building Control) Regulations Statutory Rules 1988 No. 161.
- (c) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Any approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

Information required by the Sydney Airport Corporation prior to any approval is to include:

- (i) The location of any temporary structure or equipment, i.e., construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
- (ii) The swing circle of any temporary structure/equipment used during construction;
- (iii) The maximum height relative to Australian Height Datum (AHD), of any temporary structure or equipment, i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;

- (iv) The period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.

Any application for approval containing the above information should be submitted to the corporation at least 35 days prior to the commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293.

(24) BARRICADE PERMIT

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the Roads Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

(25) DEMOLITION/SITE RECTIFICATION (if cost is over \$50m)

The following conditions apply to the development:

- (a) Demolition and/or excavation must not commence until documentary evidence has been provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (b) Without limiting the generality of paragraph (a), the Deed must provide for:
 - (i) A bank guarantee to be provided in the sum of \$1,850,000 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$1,850,000 dollars; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
 - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the erection of the structure has commenced;

- (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
 - a. make the building safe and of an appearance acceptable to Council at ground level;
 - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenantable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (c) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (b) (iii) to take place on the site; and
 - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (d) The Deed may, if the Director City Planning, Development and Transport is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
 - (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
 - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
 - (iii) Stage 3 – Issue of the Final Occupation Certificate.

- (e) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
 - (i) Certification (from an accredited certifier) that the relevant stage is complete;
 - (ii) Detailed schedule of completed works carried out in the relevant stage;
- (f) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

(26) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

- (a) A separate application under Section 138 of the Roads Act 1993 is to be made to Council to erect a hoarding and/or scaffolding in a public place and such application is to include:
 - (i) Architectural, construction and structural details of the design in accordance with the *Policy for the Design and Construction of Hoarding* (September 1997) and the *Guidelines for Temporary Protective Structures* (April 2001).
 - (ii) Structural certification prepared and signed by an appropriately qualified practising structural engineer.

Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of demolition or construction works on site.

Assessment of the impacts of construction and final design upon the City of Sydney's street furniture such as bus shelters, phone booths, bollards and litter bins and JCDecaux street furniture including kiosks, bus shelters, phones, poster bollards, bench seats and litter bins. The applicant is responsible for the cost of removal, storage and reinstallation of any of the above as a result of the erection of the hoarding. In addition, the applicant is responsible for meeting any revenue loss experienced by Council as a result of the removal of street furniture. Costing details will be provided by Council. The applicant must also seek permission from the telecommunications carrier (e.g. Telstra) for the removal of any public telephone.

- (b) Should the hoarding obstruct the operation of Council's CCTV Cameras, the applicant must relocate or replace the CCTV camera within the hoarding or to an alternative position as determined by Council's Contracts and Asset Management Unit for the duration of the construction of the development. The cost of relocating or replacing the CCTV camera is to be borne by the applicant. Further information and a map of the CCTV cameras is available by contacting Council's CCTV Unit on 9265 9232.
- (c) The hoarding must comply with the Council's policies for hoardings and temporary structures on the public way. Graffiti must be removed from the hoarding within one working day.

(27) ROAD OPENING PERMIT

A separate **Road Opening Permit** under Section 138 of the Roads Act 1993 must be obtained from Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way, or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

(28) EROSION AND SEDIMENT CONTROL - MORE THAN 2,500SQM

Prior to the commencement of any works on site, including, but not limited to demolition, excavation or construction work, a Soil and Water Management Plan (SWMP) must be submitted to and be approved by the Principal Certifying Authority.

- (a) The SWMP must identify and respond to all items for Erosion and Sediment Control Plans listed in the condition above, as well as:
 - (i) existing site contours;
 - (ii) location and diagrammatic representation of all necessary erosion and sediment control systems or structures used to mitigate or prevent pollution to stormwater;
- (b) Location and engineering details with supporting design calculations for all necessary sediment basins, constructed wetlands, gross pollutant traps, trash racks or biofiltration swales (as relevant).

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(29) HOURS OF WORK AND NOISE – OUTSIDE CBD**

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

Note: The "City of Sydney Code of Practice for Construction Hours/Noise 1992" allows extended working hours subject to the approval of an application in accordance with the Code and under Section 96 of the Environmental Planning and Assessment Act 1979.

(30) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifying Authority including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.

(31) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

(32) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the Department of Environment and Conservation (DEC) and the NSW WorkCover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997.*
- (b) *Protection of the Environment Operations (Waste) Regulation 1996.*
- (c) *Waste Avoidance and Recovery Act 2001.*
- (d) *Work Health and Safety Act 2011.*
- (e) *New South Wales Construction Safety Act 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983).*

- (f) Work Health and Safety Regulation 2011.
- (g) *The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.*

(33) VEHICLE CLEANSING

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

(34) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(35) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(36) PROTECTION OF STREET TREES DURING CONSTRUCTION

All street trees adjacent to the site not approved for removal must be protected at all times during demolition and construction, in accordance with Council's Tree Preservation Order.

Details of the methods of protection must be submitted to and be approved by Council prior to the issue of the Construction Certificate and such approval should be forwarded to the Principal Certifying Authority. All approved protection measures must be maintained for the duration of construction and any tree on the footpath which is damaged or removed during construction must be replaced.

SCHEDULE 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

SCHEDULE 3**Terms of Approval****Other Integrated Development Approvals**

The Terms of Approval for Integrated Development as advised by the NSW Department of Primary Industries, Office of Water are as follows:

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
3. Construction methods and material used in and for construction shall not cause pollution of the groundwater.

Prior to excavation

4. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report.
6. A copy of a valid development consent for the project shall be provided to the NSW Office of Water.
7. Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.

8. The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
9. Contaminated groundwater shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

10. Piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
11. Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
12. Pumped groundwater (tailwater) shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater (tailwater) shall be complied with.
13. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
14. The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
15. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety precautions.

Following excavation

16. All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

BACKGROUND

The Site and Surrounding Development

1. The site is part of the Ashmore precinct urban renewal area which is bounded by Ashmore Street to the north, Mitchell Road to the east, Coulson Street to the south and the Illawarra railway embankment to the west.
2. The Ashmore Precinct in Erskineville is a large, predominantly light industrial precinct that is presently undergoing re-development into a mixed use, commercial and residential precinct. The precinct is bounded to the north, west and east by heritage conservation areas that house the established communities of Erskineville and Alexandria.
3. Figure 1 below shows the Ashmore precinct urban renewal area as defined by the *South Sydney DCP: Urban Design 1997 - Part G Special Precinct No.7 - Ashmore Precinct*.



Figure 1: Ashmore urban renewal precinct. Subject site highlighted in black and labelled "Williams Site"

4. The subject site is largely rectangular with an area of approximately 7,975m² with a street frontage to Macdonald Street to the south.

5. A site location plan is provided at figure 2 below.

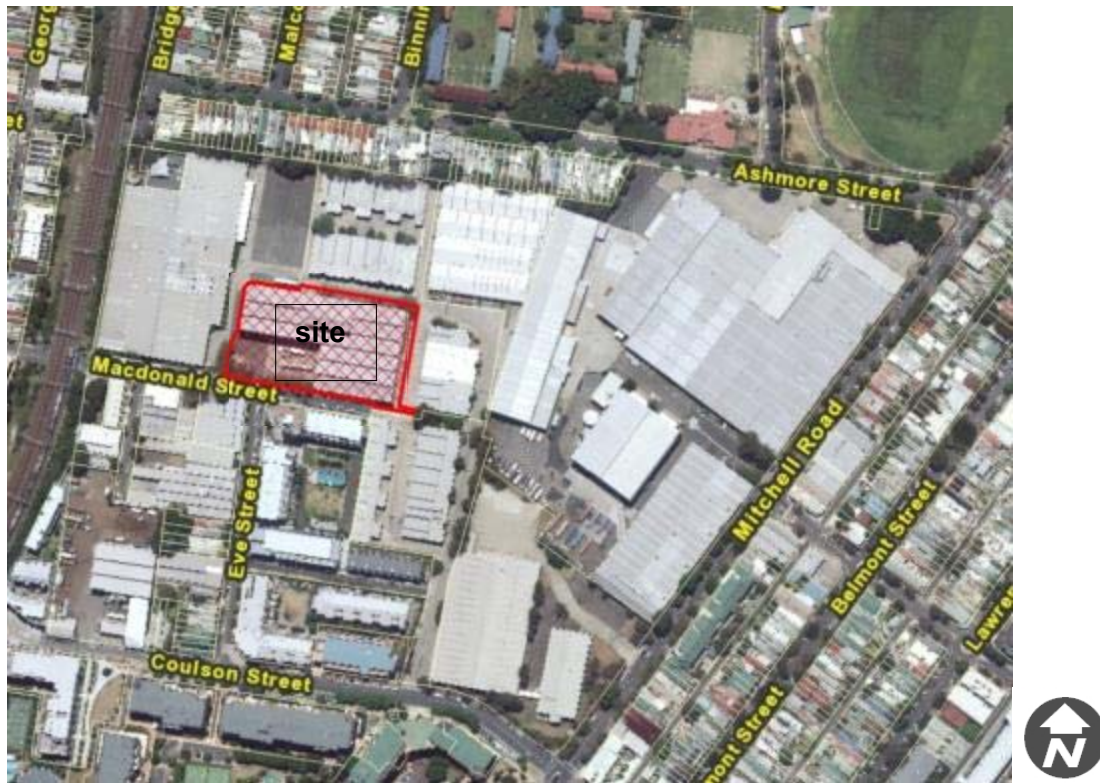


Figure 2: Aerial map showing the subject within the Ashmore precinct urban renewal area

6. The site is occupied by a large brick and metal shed with metal roof comprising 2 warehouses with associated offices. Existing occupants include Kelly Country and Chameleon Touring Systems. The shed occupies around two thirds of the site and the remainder in the south western corner is used as a parking/service area. The existing shed has a height of approximately 15m and is built to the Macdonald Street boundary. Vehicular access to the site is via Macdonald Street and a right of carriageway, which borders the eastern, northern and western boundaries of the site.
7. Immediately opposite the site to the west and north and immediately adjacent to the Illawarra Railway Line is:
- (a) a recently approved residential development comprising 3 residential apartment buildings (buildings A, B and C, ranging in height between 3 and 8 storeys) including new site layout, building envelopes, street network, and public open space) comprising 263 dwellings with basement and at grade car parking for 197 vehicles (D/2011/2152) and 16 x 2 storey townhouses (building E) (D/2013/428), refer figures 3, 4 and 5 below; and
 - (b) development application (D/2013/784) for the construction of a 7 storey residential flat building (building D) comprising 45 dwellings and 6 car parking spaces at ground level. The application was considered by Council on the 18 February 2014 and was recommended for approval subject to conditions of consent.

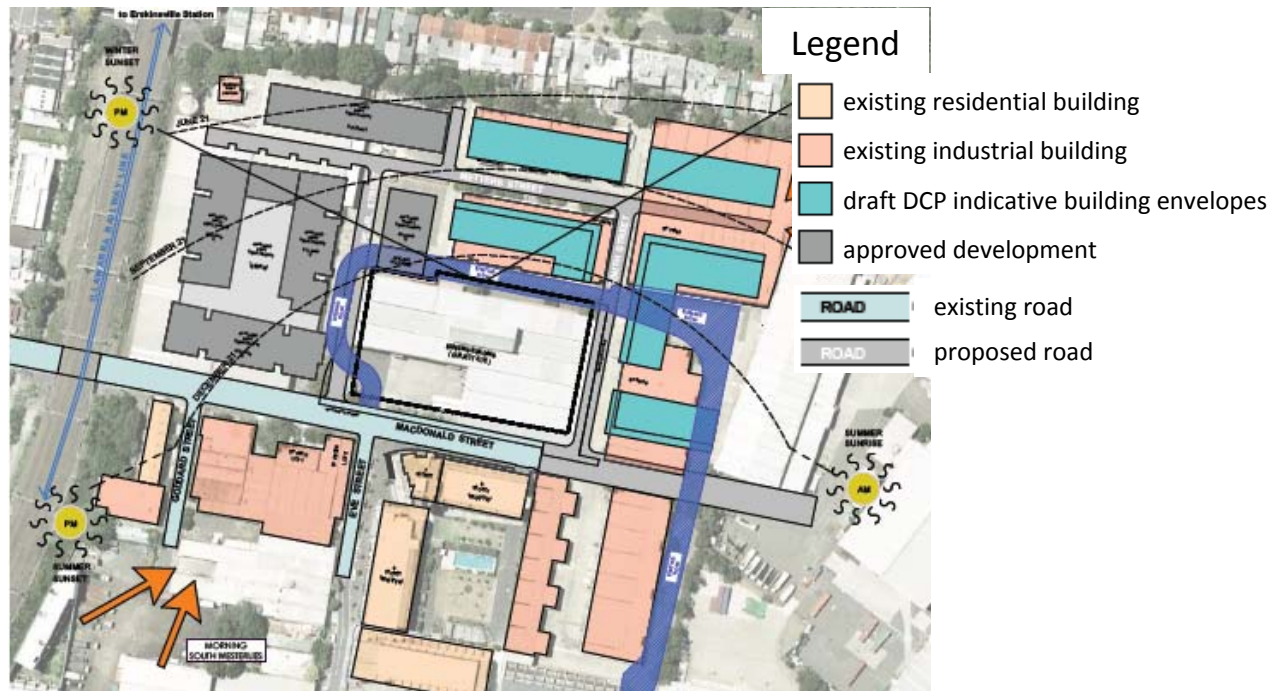


Figure 3: Site analysis plan showing the relationship of the subject site within its existing and planned context

8. To the immediate north and east of the site is the remainder of the existing Ashmore industrial estate which is characterised by large industrial warehouse buildings and strata suites used for general industrial and warehousing purposes.
9. Immediately opposite the site to the south along Macdonald Street is a 5 to 7 storey residential building (Motto Apartments), and a 3 storey residential development located further west.
10. The site is not a heritage item and is not in a conservation area.
11. The site is currently used as the Kelly Country clothing showroom and for the manufacture, storage and delivery of lighting.
12. Photographs of the site are provided below.



Figure 4: View west along the northern boundary towards the Illawarra railway line. Subject site to left of picture with adjacent warehouse/industrial suites to the right



Figure 5: View west along Macdonald Street which forms the southern boundary of the subject site.



Figure 6: Eastern site boundary looking north. Subject site to the left of picture



Figure 7: Eastern site boundary looking south. Subject site to the right of picture



Figure 8: Western site boundary looking north. Leighton development site to left of picture



Figure 9: Western site boundary looking south. Leighton development to right of picture



Figure 10: South western corner of subject site



Figure 11: South western corner of subject site with "Motto" residential development behind

History of Development Applications Relevant to this Site

- 13. There is a number of development applications associated with the current uses of the site. However, these have no direct relevance to the current proposal.
- 14. The scheme as originally proposed sought building envelopes for residential apartment buildings ranging between 3 and 7 storeys with 2 levels of above ground car parking.
- 15. Key differences between the original and amended schemes centre on the building footprint and massing of the development across the site with the inclusion of 2 levels of basement car parking.
- 16. The following diagrams illustrate the changes between the two schemes:

Original Scheme

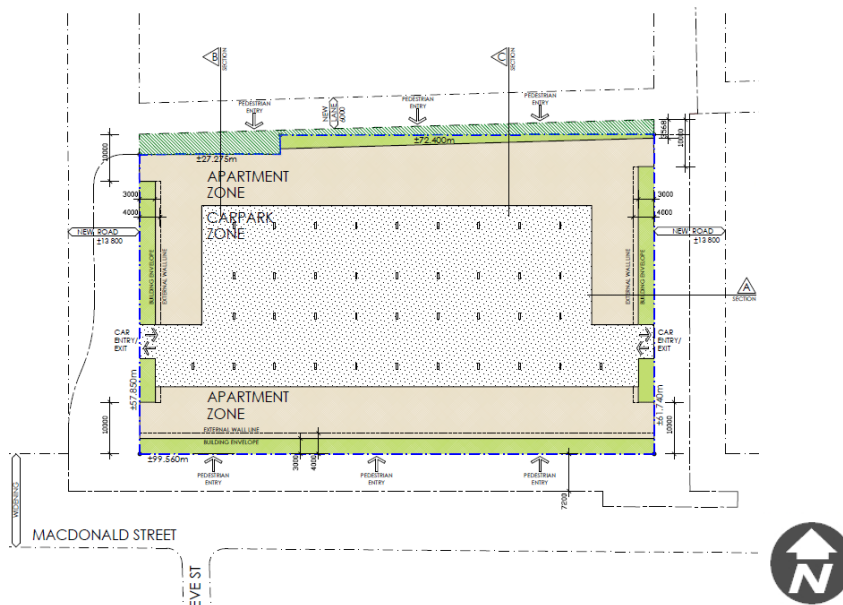


Figure 12: Originally submitted scheme – level 1 (ground) and Level 2

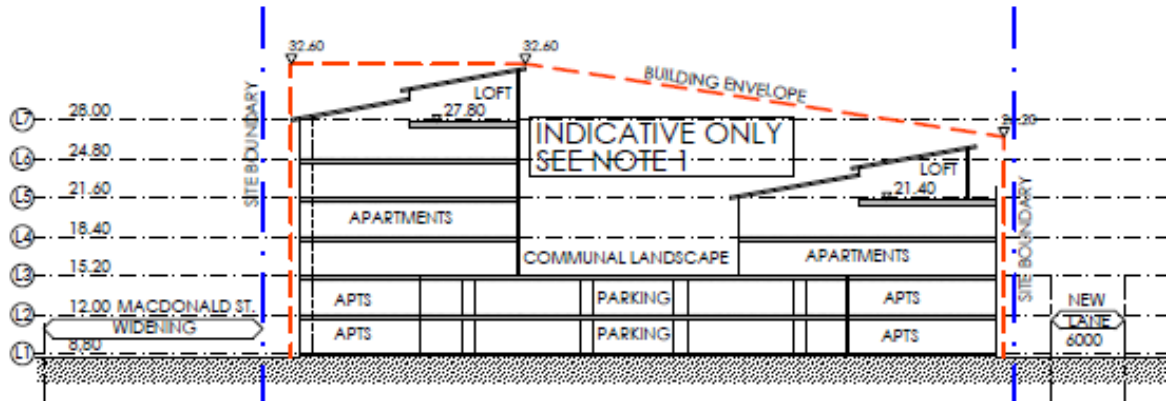


Figure 13: Originally submitted scheme – cross section (Macdonald Street to the south)

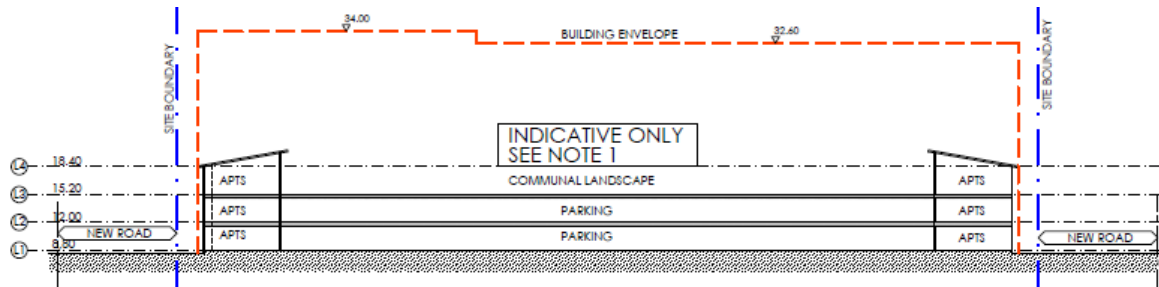


Figure 14: Originally submitted scheme – cross section east to west

Amended Scheme



Figure 15: Amended scheme

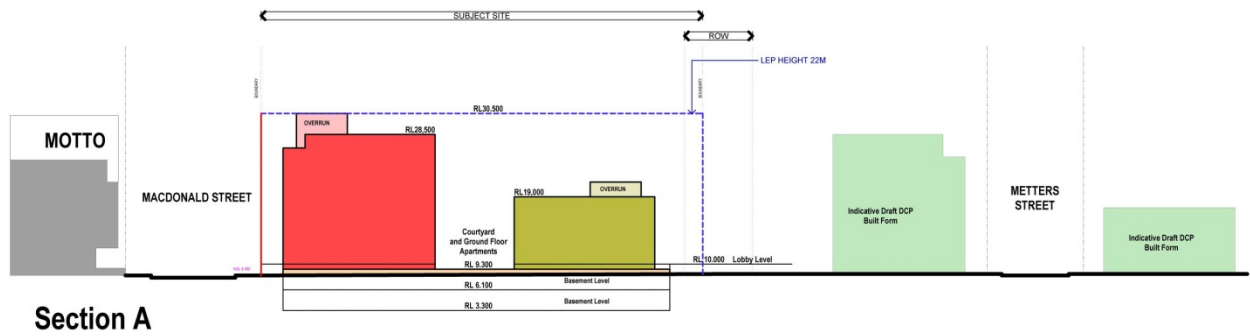


Figure 16: Amended scheme – cross section

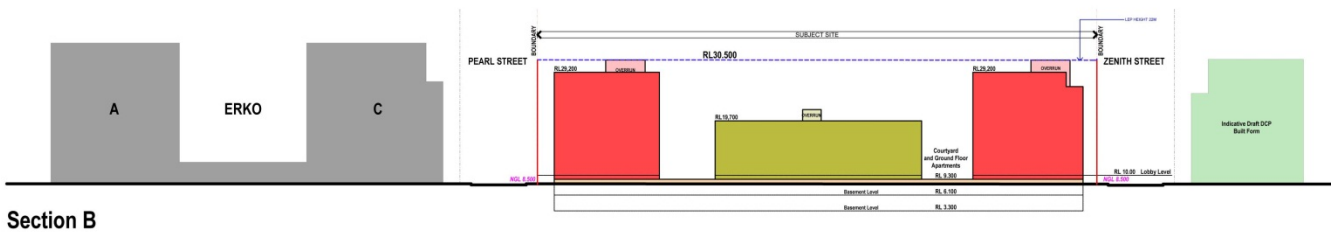


Figure 17: Amended scheme – cross section east to west

PROPOSAL

17. The Stage 1 DA seeks consent for the following:

- (a) a building envelope comprising 3 residential flat buildings which facilitates a potential floor space of 1.75:1 and potential gross floor area of 13,982m²;
- (b) a maximum building envelope of 22m;
- (c) 2 levels of basement car parking accessed from the future Zenith Street to the east of the site; and
- (d) Subdivision of the site for the provision of the street network/road dedications comprising the widening of Macdonald Street along the southern boundary of the site, formation of part of the proposed Pearl Street along the western site boundary and part of the proposed Zenith Street along the eastern site boundary.

18. The DA also seeks consent for the following works:

- (a) demolition of existing warehouse building;
- (b) site remediation.

19. The applicant has indicated that they intend to participate in a competitive design process for uplift in FSR of up to 10% which will be applied for at Stage 2 in accordance with the requirements of Clause 6.21(7) of the SLEP 2012. The applicant is currently in discussions with Council to finalise the competitive design brief.

20. A site context diagram and photos of the model are provided below with selected drawings of the proposal provided below:

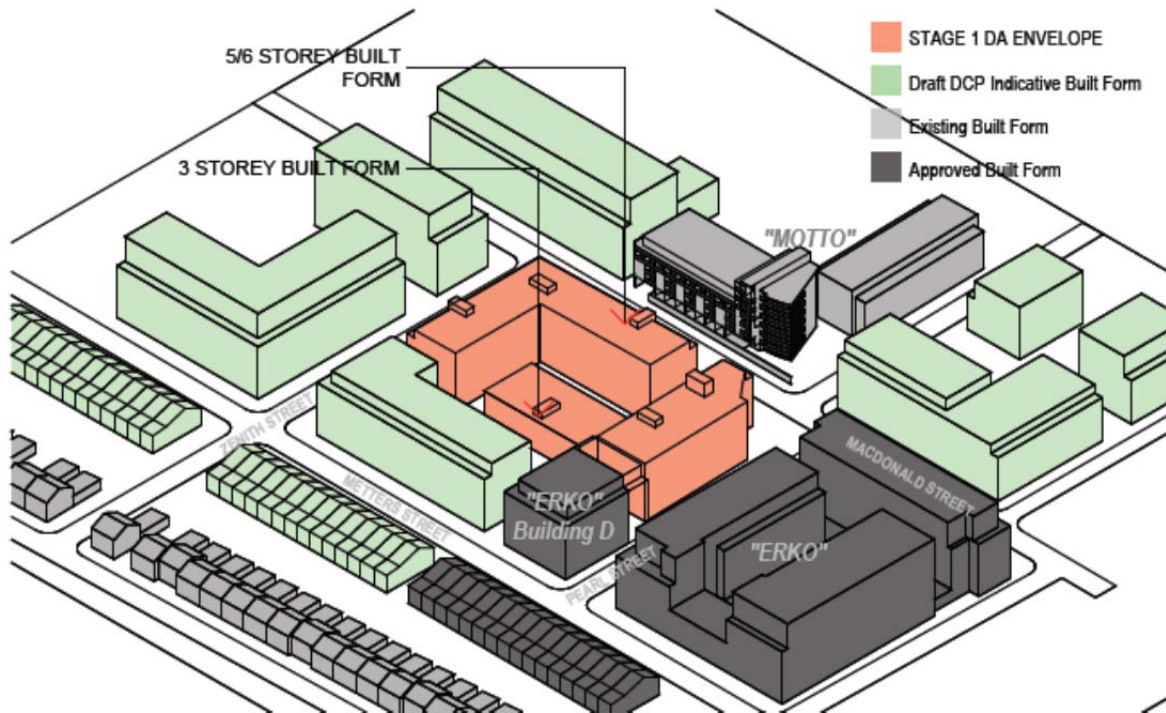


Figure 18: Proposed Stage 1 DA envelope with context

21. An offer has been made by the land owner/s to enter into a Voluntary Planning Agreement (VPA) for the dedication of land within the subject site for public roads, including associated works and embellishments. The land dedication and associated works is consistent with the formal offer and the Sydney Development Control Plan 2012 (Ashmore Neighbourhood).
22. Once finalised, the VPA is to be exhibited and executed in accordance with section 25D and section 25E of the Environmental Planning and Assessment Regulation 2005. Accordingly, a deferred commencement consent condition is recommended that the VPA be exhibited and executed prior to the consent becoming operational.
23. Plans and sections of the development are provided in **Attachment A**.

IMPLICATIONS OF THE PROPOSAL

Section 79C Evaluation

24. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:

Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

25. The following State Environmental Planning Policy/Policies are relevant to the proposed development:

SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)

26. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing which is close to employment, leisure and retail opportunities.
27. The proposed development is consistent with the aims and objectives of SEPP 34 and the State Government's urban consolidation initiatives. The site is urban land that has the potential for multi-unit housing. It is strategically located in proximity to the Sydney CBD and is generally serviced by existing public infrastructure, transport and community facilities.

SEPP 55 – Remediation of Land

28. SEPP 55 provides that a consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
29. The provisions of SEPP 55 are effectively replicated in the City of Sydney Contaminated Land DCP 2004.
30. A letter of interim advice prepared by accredited site auditor, Ian Swane dated 4 October 2013, advising that the site is capable of being made suitable for the proposed development on condition that it is remediated and validated in accordance with the remediation action plan prepared by Environmental Investigations dated 2 October 2013.
31. Council's Health officers are satisfied with the proposal and compliance with SEPP 55. A condition has been recommended that prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation), a site audit statement is to be submitted to Council clearly indicating that the site is suitable for the proposed use, with conditions on the site audit statement to form part of the consent.

SEPP 65 - Design Quality of Residential Flat Development

32. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority shall take into consideration a number of matters relating to design quality, including 10 design quality principles.
33. Due to the conceptual nature of a Stage 1 application, a detailed assessment against SEPP 65 and the Residential Flat Design Code can only be made when the future Stage 2 DA is submitted. Notwithstanding, a limited assessment is provided below where it is concluded that the proposed building envelope is acceptable when considered against the design quality principles. These principles are replicated in a large part within Council's controls.

(a) **Principle 1, 2 and 3:** Context, Scale and Built Form

The proposed building envelope is consistent with the maximum height and FSR controls in Sydney LEP 2012. The proposed setbacks and street frontage height controls are generally consistent with the Sydney Development Control Plan 2012 (Ashmore Neighbourhood) and are considered to be contextually appropriate and provide an acceptable built form within this locality.

(b) **Principle 4:** Density

The proposed building envelope is able to comply with the core development standards (height and FSR). Principles relating density and the provision of a diverse housing mix will be assessed during the detailed Stage 2 DA

(c) **Principle 5:** Resource, energy and water efficiency

Principles relating to energy efficiency will be assessed during the detailed Stage 2 DA which will also be subject to the BASIX targets.

(d) **Principle 6:** Landscape

The proposed central communal courtyard, pedestrian link to the north of the site and landscaped front setbacks are considered to be acceptable. The majority of deep soil planting will be provided within the area of land along the MacDonald Street frontage which will form part of a bio-swale to assist in the management of stormwater.

(e) **Principle 7:** Amenity

The development is to provide 2 levels of basement car parking to avoid an excessively raised podium level relative to the streets that surround the site. This will ensure that there is an appropriate relationship between the building interface at street level with appropriate views and accessibility at grade through the site.

The applicant has stated that they will be able to achieve 73% of apartments receiving at least 2 hours solar access in mid-winter with high levels of natural ventilation. A review of the concept layout of the apartments by Council Officers, confirms that this is achievable.

Landscaped communal open space is to be provided via a central courtyard at ground level in addition to communal open space at roof level. Details are to be fully considered as part of the future Stage 2 DA.

(f) **Principle 8:** Safety and Security

Separate and secure entrances are able to be provided to each of the 3 buildings. Details will need to be fully considered as part of the future Stage 2 DA.

(g) **Principle 9:** Social Dimensions

Issues regarding social dimensions and appropriate apartment mix will be considered as part of the future Stage 2 DA.

(h) **Principle 10: Aesthetics**

A competitive design process is to be undertaken prior to the future Stage 2 DA.

34. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

SEPP (Building Sustainability Index: BASIX) 2004

35. The application indicates that the proposed development is intended to comply with the BASIX requirements. Compliance will be required to be addressed at part of the future Stage 2 DA.

LEPs AND DCPs

36. The following Local Environmental Plans are relevant to the proposal:

South Sydney Local Environmental Plan 1998

37. As the Development Application was lodged prior to the gazettal of Sydney Local Environmental Plan 2012 (gazetted 14 December 2012), South Sydney Local Environmental Plan 1998 is a matter for consideration. Compliance of the proposal with the South Sydney LEP 1998 controls is summarised below:

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Planning Principles (Part 2)	Development is to be considered having regard to the goals and objectives within the Strategy for a Sustainable City of South Sydney.	The proposed development application satisfies the Strategy.
Zoning Controls (Part 3)	Mixed Uses 10	The development is permissible.
Urban Design Principles and Master plans (CI 28)	Development is to satisfy urban design requirements. Before granting consent to development in Zone 5 or on a site greater than 5,000m ² Council must consider any master plan for the land that is available.	The development satisfies these provisions.
Flood Liable Land (CI 38)	Council is to consider the likely impacts of flooding in determining an application for the erection of a building or the carrying out of works on land.	The development satisfies these provisions. Refer to issues section of the report.

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Contaminated Land (CI 39)	Council is to consider the issue of contamination in determining an application for a residential, child care centre or commercial use on land previously occupied by an industrial use.	The development satisfies these provisions subject to recommended conditions of consent.

Sydney LEP 2012

38. The site is located within the B4 Mixed Use zone. The proposed use is defined as residential accommodation and is permissible.
39. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	Maximum heights of 22m and 25m are permitted. A height of 22m is proposed.
4.4 Floor Space Ratio	Yes	A maximum FSR of 1.75:1 is permitted. A FSR of 1.75:1 is proposed.
5.10 Heritage conservation	Yes	The site is not recorded as a heritage item and is not located within a heritage conservation area.
Part 6 Local provisions - height and floor space		
Division 4 Design excellence	Yes	The development application is for Stage 1 building envelopes. Design detail is to be considered at the Stage 2 detailed design application. The applicant has opted to participate in an Architectural Design Competition prior to the future Stage 2 DA, and is currently in discussions with Council to finalise the competitive design brief. Design excellence is a mandatory component of the brief.

Compliance Table		
Development Control	Compliance	Comment
Part 7 Local provisions—general		
7.14 Acid sulphate soils	Yes	The site is identified as containing class 3 Acid Sulphate Soil. Details will need to be fully considered as part of the future Stage 2 DA.
7.15 Flood planning	Yes	The site is identified by Council as being flood prone. Refer to Issues section of the report.
7.19 Demolition must not result in long term adverse visual impact	Yes	It is proposed to demolish the existing warehouse building in anticipation of a future Stage 2 development application. A condition is recommended that the applicant enter into a Deed that provides Council with contractual rights that will allow the site to be landscaped to an appearance acceptable to Council from any public vantage point, where there has been a suspension in activity for at least 6 months and results in a building site which has an appearance not acceptable to Council.
7.20 Development requiring preparation of a development control plan	Yes	A development control plan is required to be prepared where sites have an area greater than 5,000m ² or the development will result in a building with a height greater than 25m. The site has an area of approximately 7,975m ² . A development control plan is not required to be prepared given the recently adopted SDCP 2012 (Ashmore Neighbourhood), adopted by Council on 9 December 2013. Also, a Stage 1 DA has the same effect as a DCP under the Environmental Planning and Assessment Act, 1979.

Compliance Table		
Development Control	Compliance	Comment
7.20 Development requiring preparation of a development control plan (continued)		The SDCP 2012 (Ashmore Neighbourhood) establishes the development framework, objectives, urban design principles and controls for the orderly development of the Ashmore urban renewal precinct.

Sydney Development Control Plan 2012 (Ashmore Neighbourhood)

40. The SDCP 2012 (Ashmore Neighbourhood) was exhibited between 24 July 2013 and 23 August 2013 and adopted by Council on 9 December 2013 and is now in force.

Matter to be Considered	Compliance	Comment
Local Infrastructure and Public Domain		
Street network Section 5.5.3.1	✓	<p>Complies</p> <p>The development proposes to provide for:</p> <ul style="list-style-type: none"> • a portion of the planned pedestrian link along the sites northern boundary; • the widening of Macdonald Street to the south; • part Pearl Street to the west; and • part Zenith Street to the east. <p>This will facilitate legibility, connectivity and permeability through the site and the wider Ashmore precinct. The proposed street widths satisfy the street width requirements of the SDCP 2012 (Ashmore Neighbourhood).</p>

Matter to be Considered	Compliance	Comment
<p>Movement and connectivity Section 5.5.3.2</p>	✘	<p>Does not comply The SDCP 2012 (Ashmore Neighbourhood) requires car parking access to be from Pearl Street to the west of the site.</p> <p>The development proposes vehicular access from Zenith Street to the east of the site.</p> <p>The variation is supported given:</p> <ul style="list-style-type: none"> • the Pearl Street location is indicative only; and • there will be no impact to the strategic direction to the future development of the Ashmore precinct.
<p>Landscaped setbacks Section 5.5.4.2</p>	✓	<p>Complies Building setbacks of 3m is proposed to all principal street frontages, capable of accommodating quality landscaping.</p> <p>Details to be submitted with the future Stage 2 DA.</p>
<p>Stormwater management Section 5.5.4.3</p>	✓	<p>Able to comply Bio-swales are to be introduced along the Macdonald Street frontage.</p> <p>Future details are to be submitted with the future Stage 2 DA.</p>
<p>Staging Section 5.5.5</p>	✓	<p>The application comprises a stage 1 and stage 2 development. Stage 1 seeks approval for building envelope and street network. Stage 2 of this application comprises the demolition of all structures on site.</p> <p>The applicant has lodged a competitive design strategy with the DA application. The applicant is currently in discussions with Council and has prepared a draft Competitive Design Brief regarding participation in a competitive design competition, prior to the lodgement of a Stage 2 detailed design development application for the site.</p>

Matter to be Considered	Compliance	Comment
Land Use Mix Section 5.5.7	✓	Complies Residential use is proposed. The site is capable of accommodating the proposed use.
Building Layout, Form and Design		
Height of buildings Section 5.5.8.1 6 storeys – Pearl Street 6 storeys with 5 storey street wall height – Macdonald Street and Zenith Street 3 storeys – along northern site boundary with upper storey setback of 4.0m	✓	Complies The development complies with the height in storeys permitted for the site.
Views Section 5.5.8.2	✓	Complies Important views from the eastern knoll in Sydney Park towards the King Street ridgeline and CBD skyline are retained.
Dwelling type and location Section 5.5.8.3	✓	Complies The proposed built form layout is consistent with the indicative building typology contained in the Draft Amendment to Sydney Development Control Plan 2012 (Ashmore Neighbourhood).

Matter to be Considered	Compliance	Comment
Building form and design Section 5.5.8.4	✓	Able to comply <u>Building design</u> Detailed design of the buildings is to be submitted with the future Stage 2 DA to demonstrate compliance. <u>On-site carparking</u> 2 Levels of basement car parking is proposed. Its design and interface with the public domain is to be submitted with the future Stage 2 DA. <u>Upper level setbacks</u> All levels above street frontage height are required to be setback a minimum of 4m from the primary building line. A 3m upper level setback is proposed, consistent with the recently approved Leighton development to the west of the site.
Typical ground floor conditions Section 5.5.8.5	✓	Able to comply Details to be submitted with the future Stage 2 DA.

ISSUES

41. The issues identified in the above instruments/policies as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below.

Building setbacks and the right of way - northern site boundary.

42. The existing right of way (RoW) which runs along and partly within the sites northern site boundary varies in width between 10.5m and 9m, refer figure 19 below.
43. The RoW is to form the planned east-west pedestrian link (draft amendment to the SDCP 2012 - Ashmore Neighbourhood). Land to be acquired by Council for future dedication will be required from both the subject and adjacent site to the north to facilitate its provision. The RoW situated with the subject site boundary has been identified on the proposed plan of subdivision to be eventually dedicated to Council and will form part of the Voluntary Planning Agreement (VPA).
44. The proposed building setbacks along the northern site boundary and RoW is proposed to be between 0m and 6.5m, described in the following table and illustrated in figure 31 below;

<i>Building Setback</i>	<i>Northern site boundary</i>	<i>RoW</i>
6 storey building (north western site corner)	0m setback	zero setback
3 storey building	6.5m setback	4.5m setback
6 storey building (north eastern site corner)	4m setback	Between 0.9m and 1.8m

45. The Leighton site to the north west (building 'D') is to encroach 2m into the right of way at the upper levels. At this location the right of way has a width of approximately 10.5m which will allow for a minimum building separation of 8.5m.
46. Due to the width of the RoW and the planned pedestrian link at this location, the proposed building setbacks at the northern site boundary have been taken from the centreline of the RoW (ordinarily from site boundaries) to facilitate the orderly development of the subject site and the Ashmore precinct.
47. The variation to building setbacks from site boundaries is appropriate in this instance for the following reasons:
- (a) to ensure a continuous east-west pedestrian link of uniform width from Pearl Street to the west to Zenith Street to the east;
 - (b) the proposed setbacks will not impede development on the adjoining site to the north when assessed against the indicative built forms illustrated in the draft amendment to the SDCP 2012 (Ashmore Neighbourhood); and
 - (c) building separation between the proposed development and any future development to the northern neighbouring site is capable of being achieved.



Figure 19: Proposed building setback at interface with the ROW (north of site)

Flood Planning

48. The site is flood affected (low to intermediate hazard) based on the draft Alexandra Canal Flood Study prepared by Cardno with the water table at RL6.5.
49. Confirmation has been received by Cardno Flood Engineers, to the satisfaction of Council's Technical Services Section, that there will be no adverse impact to flood levels on properties beyond the site in 100 year Average Recurrence Interval event.
50. The site is also subject to a Probable Maximum Flood Level (PMF). This is the likely highest level flood waters could reach in a specific location. Where the PMF level is higher than the ground floor level of a building, as is the case within the subject site, the building is flood prone. The subject site has a PMF level of up to 800mm higher than the ground floor level.
51. The PMF level is used to mitigate risk to life in high risk areas of the building, namely the underground car park.
52. To ensure that any future Stage 2 detailed design DA has accounted for flooding impacts, as well as an appropriate connectivity to and urban design relationship with the public domain and the private open space, the following conditions have been recommended:
 - (a) the design of the ground floor levels is to be equal to or above the 1 in 100 year flood level + 500mm freeboard.
 - (b) the minimum habitable floor levels must be 9.3m AHD in the north-west of the site to 9.2m AHD in the south-east (1 in 100 flood event + 500mm freeboard); and

- (c) the design of ground floor levels must also take account of any entry/s to the basement car park level (including driveway ramps, lift shaft openings, services risers, stair wells, and any other openings etc.). The levels required in these instances must satisfy the Probable Maximum Flood (PMF) level/s and must be designed accordingly. The minimum level for such entry points must be 10.0m AHD in the north-west of the site to 9.8m AHD in the south-east (PMF level).
53. These requirements have also been included in the competitive design brief and are to be reflected in any Stage 2 detailed design DA.
54. Notwithstanding the recommended conditions and requirements within the design brief, Council Officers have ensured that the applicant has submitted plans which show that the central courtyard podium and the level of the ground floor apartments are at RL 9.3 (1 in 100 year flood level) and that each lobby (each with a lift shaft penetrating down into the basement carpark) are at a level of RL 10.00 (PMF).
55. Such an arrangement will result in the ground floor level apartments at a lower level than the common entry lobby. This will require the ground floor apartments to have the following section profile or similar.

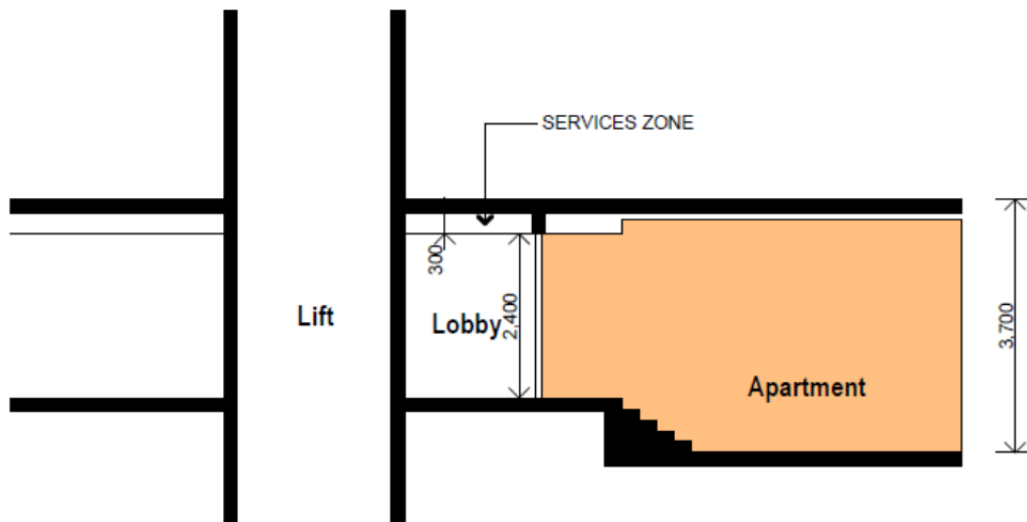


Figure 20: Cross section (concept only) for ground floor apartments to ensure that ground floor apartments are not at the level to achieve PMF flood levels (RL10) but rather at the 1 in 100 year level (RL 9.3) to ensure an acceptable interface with the public domain from an urban design perspective.

56. Such an arrangement would result in the floor to ceilings of the ground floor apartments to be 3.5 metres, well in excess of the minimum of 2.7 meters. The arrangement would also result in no adaptable units on the ground floor as they will be split level. However, there is no provision under the BCA for any adaptable units to be provided on the ground floor and as such would not contravene the requirement for adaptable apartments.

Subdivision

57. Council's Specialist Surveyor has reviewed the subdivision component of the development application and has recommended that the subdivision not be approved at this stage and be deferred for inclusion in any future Stage 2 detailed design development application for the substantive building, for the following reasons:
- (a) the Stage 1 development application is to be approved by way of Deferred Commencement, subject to the execution and registration on Title of a Voluntary Planning Agreement (VPA). The provisions of Section 109J(2) of the Act prohibits subdivision that is inconsistent with the relevant Planning Agreement. Accordingly, conditions of consent for a subdivision approval issued prior to its execution, may compromise the VPA;
 - (b) whilst in accordance with the Sydney DCP 2012 (Ashmore Neighbourhood) the subdivision work for the road network will require conditions for their design and construction as Subdivision Work under the Act. Section 109J(2) of the Act provides for the bonding of outstanding Subdivision Works to enable the issue of the Subdivision Certificate; and
 - (c) in order to ensure completion of the physical subdivision works it is necessary to include conditions of consent requiring completion of those works prior to the issuing of an Occupation Certificate. This can more effectively be done as part of a Stage 2 detailed design development consent.
58. It is recommended that subdivision not comprise part of the subject Stage 1 consent in this instance.

Voluntary Planning Agreement

59. The land owner/s has agreed to enter into a voluntary planning agreement (VPA) for the provision of the new roads and part pedestrian link to the north of the site. The preparation of the VPA is currently being finalised and is to be exhibited and executed in due course. The preparation, exhibition, execution and registration on title of the VPA has been made a deferred commencement condition.

Section 79C(1)(b) Other Impacts of the Development

60. The proposed development will not result in any significant additional impacts other than those already identified and discussed above.

BCA Matters

61. The BCA Classification of the building is Class 2.
62. The development is capable of satisfying the requirements of the BCA without significant modification.

Section 79C (1) (c) Suitability of the site for the development

63. The site is suitable for the proposed development. Site suitability has already been discussed in the Table/Issues section above.

Section 79C (1) (e) Public Interest

64. The proposed development is generally consistent with the relevant controls. In this regard it is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed on any consent.

POLICY IMPLICATIONS

65. Not applicable to this report.

FINANCIAL IMPLICATIONS - SECTION 94 CONTRIBUTIONS**Section 94 Contributions**

66. The development is not subject to a Section 94 Contribution. The Stage 2 DA for the detailed design and use will be subject to Section 94 Contributions.

PUBLIC CONSULTATION**Section 79C(1)(d)****Advertising and notification**

67. Adjoining and nearby owners and occupiers of buildings were notified of the proposal and invited to comment. In addition, notices were placed on the site and the proposal was advertised in the daily press in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005.
68. Two amendments have been submitted since the application was lodged on 27 November 2012. The first (original) and second of the three schemes were notified and advertised. The submissions relate to the second of the three schemes.
69. The third scheme, the subject of this application, was not notified or advertised as it was considered to have fewer impacts due to the reduction in height of the proposed building envelope and a massing over the site generally in accordance with the Draft Amendment to the SDCP 2012 (Ashmore Neighbourhood).

A total of seven (7) submissions were received. The grounds for objection are summarised as follows:-

- (a) **The Stage 1 DA does not accommodate any part of the proposed pedestrian link.**

Comment: The City's planning staff have undertaken a thorough urban design review for the entire Ashmore neighbourhood. This review has, in part, identified key public domain elements including new roads and laneways, parks, landscaped setbacks and through site links. These elements have been incorporated into the planning controls for Ashmore and identifies a pedestrian link along the northern boundary of the site.

It is anticipated that the site to the north of the subject site, once developed, will contribute to the provision of this pedestrian link. This pedestrian link is currently located within the right of way which sits within and between the subject site and the sites to the north. Therefore, the full extent (and width) of the through site link will be delivered once the site to the north develops. A small portion of the RoW which is situated within the subject site is to be dedicated through a voluntary planning agreement with the subdivision to be part of any future Stage 2 detailed design development application.

- (b) **Consideration has not been given to the proposed shadow impacts on the approved “Erko” development to the west of the site.**

Comment: A shadow analysis has been submitted with the current scheme demonstrating that there will be minimal overshadowing impacts from the proposed building envelope. Surrounding development (“Erko”, building B to the west, and the “Motto” residential apartment building to the south) are capable of receiving the minimum 2 hours solar access at the winter solstice between 9.00am and 3.00pm at the winter solstice.

- (c) **The proposed vehicular access to the development site is located via the future Zenith Street which is inconsistent with the Pearl Street location outlined in the Draft DCP and legal permissibility of residents traversing the right of way.**

Comment: The driveway access to the basement level car parking is proposed to be from Zenith Street at the east of the site. The location is indicative only and may change when a Stage 2 DA is submitted. The development is to dedicate land for road widening at Macdonald Street and for half the future road to the east of the site (Zenith Street). Zenith Street will be accessed via Macdonald Street with the proposed width of Zenith Street able to accommodate both pedestrian and vehicular movements in the interim until such time that the full road width is provided.

- (d) **The impact of the future construction works and development of the wider Ashmore Neighbourhood on the practical ability to maintain ongoing access to the development via the Right of Carriageway.**

Comment: Conditions of consent are recommended governing construction management and noise.

- (e) **The traffic impact of the residential development on the ongoing operations of the Ashmore Industrial Estate**

Comment: The site will have vehicular access via Zenith Street to the east of the site which is accessed from Macdonald Street along the southern site boundary.

- (f) **Impact of the full redevelopment of the Ashmore precinct on current infrastructure capacity such as traffic, transport, drainage and services. Council should not approve any further development applications – including Ashmore Stage 2, until such time as all the surrounding infrastructure and attendant issues have been attended to.**

Comment: A complex landownership pattern, which includes strata industrial Lots means that development across the wider Ashmore precinct is likely to take up to 15 years to be fully realised.

The City continues to take on an advocacy role with the relevant state agencies such as Transport and Education and Communities so that they are aware of proposed developments and can plan the provision of their services in the local area.

The City commissioned AECOM to undertake a Traffic and Parking study to understand the impacts of traffic on adjacent streets. This study has made recommendations for traffic management measures which could mitigate traffic impacts in the area as development occurs. It also takes into account likely staging of development across the precinct, and suggests when these should be implemented.

Details regarding the basement level on-site car parking is to be provided at the Stage 2 Detailed Design development application and is to be in accordance with the rates permitted by the SLEP 2012. These rates reflect the City's strategic direction on parking which is to discourage car dependence.

Further, the City has prepared an audit of planned infrastructure provision. This audit has highlighted where provision of infrastructure is required and the government agency responsible for its delivery. This audit has informed the preparation of an Infrastructure Plan for the entire Ashmore precinct, and was noted by Council and the Central Sydney Planning Committee in December 2013. This plan will also be reviewed every six months to update the plan. This review will also consider the impacts of any further development applications to allow the City to assess what infrastructure is required and how best to integrate its delivery.

- (g) **Height - Impact to the local community and surrounding buildings. Just because a height is allowable within a planning control or has been approved in previous development applications does not mean it should be approved again if this development is inconsistent with the local area or not supported by suitable infrastructure.**

Comment: It is recognised that the predominant light industrial uses is different to the existing Erskineville village. The Ashmore Precinct DCP 2006 and the Draft Amendment to the SDCP 2012 (Ashmore Neighbourhood) aims to encourage the development of a precinct with its own character and sense of place that also respects and contributes to the village character of Erskineville.

Building heights and FSRs are the result of extensive urban design analysis and has resulted in a transition in scale from the lower heights and densities surrounding the precinct. This is to ensure that new development is integrated within the existing urban character of surrounding development.

A range of dwelling types are to be provided across the wider Ashmore precinct, and include a range of dwelling types including terraces, apartments, duplex apartments that will attract a mixed demographic. Other sites in the precinct will also provide retail and some commercial uses to provide diversity and activity within the precinct throughout the day.

- (h) **Parking – Impact upon on-street parking which is already in high demand.**

Comment: The proposal will provide 2 levels of basement car parking for the exclusive use of the residents. Furthermore, the formation of new streets will assist in the provision of increased on-street parking around the site for visitors (as no parking permits will be issued for the residents of the residential complex).

- (i) **Privacy impact - The proposal which is to incorporate a roof top communal area which will cause overlooking impacts into existing surrounding residential development.**

Comment: The development is to be surrounded by future buildings of similar height and storeys which will minimise the impact of visual privacy into surrounding sites as development within the Ashmore Neighbourhood progresses. Details regarding the roof top terrace is to be provided at the Stage 2 Detailed Design development application.

- (j) **Density - The area is already overcrowded. There is simply no room for extra residents in this suburb that this development will bring in.**

Comment: The Ashmore Neighbourhood has been identified as a significant urban renewal area within the City of Sydney. The precinct is capable of accommodating residential development subject to future development applications.

- (k) **Impact to the site to the immediate north – The proposed development provides a virtually nil setback from the southern boundary of the neighbouring site.**

Comment: The nil setback is provided at part of the northern site boundary which is adjacent to and provides for a portion of the existing right of carriageway (RoW). The RoW has a variable width of between 9m and 10.5m and is to be the location of the future planned pedestrian link identified in the draft Amendment to the SDCP 2012 (Ashmore Neighbourhood). Given the number of beneficiaries to the ROW it is not anticipated that the RoW will be extinguished.

In order to plan for the orderly development of the Ashmore Neighbourhood, it is anticipated that the whole of the existing ROW be dedicated for the purposes of the pedestrian link. This will provide for a generous pedestrian link width which only requires a width of 6.1m.

When assessed against the indicative building typology and layout illustrated in the draft Amendment to the SDCP 2012 (Ashmore Neighbourhood), the existing width of the ROW and the minimum width required for the pedestrian link, the setbacks are considered satisfactory; and will not impede the development potential of the site to the north with the a building separation between any future planned development of the site to the north capable of being achieved.

- (l) **The proposed redevelopment of the “Williams” site has failed to provide building envelopes in accordance with Draft Amendment to the Sydney DCP 2012 – Ashmore Estate.**

Comment: The development has been amended to provide a building envelope and massing generally in accordance with the Draft Amendment to the Draft Amendment to the Sydney DCP 2012 – Ashmore Neighbourhood.

- (m) **The building separation of the north eastern building with the indicative building envelope to the site to the immediate north is 9m and does not accord with the guidelines of the Residential Flat Design Code (RFDC).**

The RFDC requires a minimum separation distance of 18 metres between habitable rooms and balconies for buildings between 5 to 8 storeys in height.

Comment: The Residential Flat Design Code recommends a 9m building separation between non habitable rooms. A detailed assessment of unit configuration will be assessed at the time a Stage 2 detailed design development application has been submitted.

- (n) **Protection of street trees along Macdonald Street**

Comment: The protection of street trees along Macdonald Street is to be addressed at the Stage 2 detailed design development application stage.

EXTERNAL REFERRALS

Sydney Airport

70. The development was required to be referred to Sydney Airport in accordance with section 181 of the Airport Act 1996 and the Civil Aviation (Buildings Control) Regulations 1988. Sydney Airport has advised that they raise no objection to the Stage 1 development application subject to a maximum height of 35.8m above Australian height Datum (AHD).

Sydney Water

71. Sydney Water was notified of the proposed development. Sydney Water has advised that they raise no objection to the proposed Stage 1 development application..

Integrated Development

72. The amended proposal is Integrated Development and was referred to the NSW Office of Water as required by clause 66 of the Environmental Planning and Assessment Regulation 2000.
73. The Terms of Approval has been received within the statutory time and are included in the Recommendation.

INTERNAL REFERRALS

74. The application was referred to Council's:

- (a) Specialist Surveyor;
- (b) Building Services;
- (c) Specialist Health Surveyor;
- (d) Urban Designer;
- (e) Building Services Unit;
- (f) Health Unit;
- (g) Public Domain Unit;
- (h) Technical Services Unit;
- (i) Strategic Planning Unit; and
- (j) Transport Management Unit.

75. No objection to the proposed development was raised, subject to the imposition of appropriate conditions. Appropriate conditions have been included in the Recommendation of this report.

RELEVANT LEGISLATION

76. The Environmental Planning and Assessment Act 1979.

CONCLUSION

77. The proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls including the South Sydney LEP 1998, the Sydney LEP 2012 and the Sydney DCP 2012 (Ashmore Neighbourhood).
78. The development is the second site to be developed within the Ashmore urban renewal precinct. The building envelopes have been amended to ensure they are consistent with Council's development standards and controls, which establish the desired future character of the Ashmore urban renewal precinct.
79. Conditions have been recommended setting the ground floor and the "probable maximum flood" event levels to ensure that these levels are taken into account at the detailed design stage of the development.
80. The development application is recommended for approval as a deferred commencement consent requiring the preparation, exhibition, execution and registration on title of the VPA prior to the issuing of an operational consent.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Mark Solomon, Specialist Planner)