





 DEVELOPMENT ASSESSMENT REPORT	
Application No.	MOD/2023/0341
Address	31 Cameron Street BIRCHGROVE
Proposal	Section 4.56 Modification of Development Consent to D/2016/391 which approved partial demolition and alterations and additions an existing hotel, including construction of two residential dwellings, conversion of the upper floor of the hotel into a residential dwelling and associated works. Modifications include: reinstatement works; reconfiguration and extension of basement; and various other internal and external modifications including changes to levels and modifications to approved dwellings
Date of Lodgement	06 October 2023
Applicant	Mr Darren Shields
Owner	Capitalist Property Investments Pty Ltd
Number of Submissions	Initial: 1 letter of Support
Value of works	\$3,531,000.00
Reason for determination at Planning Panel	<ul style="list-style-type: none"> Heritage item Variation of FSR greater than 10%
Main Issues	<ul style="list-style-type: none"> Impact to heritage item Non-compliance with FSR development standard
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Court approval of the original development application
Attachment D	Statement of Heritage Significance
	
LOCALITY MAP	
Subject Site	  
Notified Area	 
	Objectors
	Supporters

1. Executive Summary

This report is an assessment of the application submitted to Council modify Determination No D/2016/391 which approved partial demolition and alterations and additions to an existing hotel, including construction of two residential dwellings, conversion of the upper floor of the hotel into a residential dwelling and associated works. This modification seeks the reconfiguration and extension of basement and various other internal and external modifications including reinstatement works, changes to levels and modifications to approved dwellings under Section 4.56 of *Environmental Planning and Assessment Act 1979 (EP and A Act 1979)* at 31 Cameron Street Birchgrove.

The application was notified to surrounding properties and no objections were received and one letter of support was received in response to the initial notification.

The main issues that have arisen from the application include:

- Impact to Heritage Item from unauthorised works; and
- Non-compliance with Floor Space Ratio development standard.

The non-compliances are acceptable subject to the imposition of conditions and the application is recommended for approval.

2. Proposal

The proposed modifications include reinstatement of a number of elements that were demolished without prior approval and proposed new works to extend the basement level of the pub and additional basement levels to the residential component amongst other internal and external modifications.

Unauthorised works

Various unauthorised works had been carried out without approval which includes:

Basement Floor Level

At the Basement Floor Level, the unauthorised works that have been carried out include:

- Removal of a portion of the party wall between the hotel and the dwelling house; and
- Additional amount of excavation under the pub and where the proposed basement of the proposed dwellings are located was conducted without prior approval.

Ground Floor Level

At the Ground Floor Level, the unauthorised works that have been carried out include:

- Demolition of entire ground floor structure, existing bar.
- Removal of internal wall adjacent to the bar at the ground floor level of the hotel; and
- Removal of a portion of the party wall between the hotel and the dwelling house.

First Floor Level

At the First Floor Level, the unauthorised works that have been carried out include:

- Removal of internal walls for bedrooms 1 and 2, kitchen and bathroom of the hotel; and
- Removal of a portion of the party wall between the hotel and the dwelling house and the rear wall of bedroom 3.

External balcony

- The external balcony has been demolished without prior approval.

The details of the proposed modifications are as follows:

Proposed works*Basement Level*

At the Basement Floor Level, the proposed modifications include:

- Revised Finished Floor Level (FFL) is at RL 17.850 AHD;
- Extension of the approved basement area to remove the existing keg storage area to provide sanitary facilities and provision of an OSD;
- Extension of the basement under the approved townhouses (TH-01 and TH-02) to provide added bicycle parking, rainwater tank, OSD, sewer pump, storage and laundry facilities;
- Reconstruction of a portion of the party wall between the hotel and the dwelling house
- Overland flow path to be converted to reticulated; and
- Relocation of stairs and lift core.

Ground Floor Level

At the Ground Floor Level, the proposed modifications include:

- Amendments to the approved Ground Floor Hotel including a relocated commercial kitchen and lift core design;
- Redesigned entry to the residential unit above the pub (U-01) including dedicated space for laundry and bin storage in ground floor accommodation;
- Revised FFL for Townhouse (TH-01) to RL 20.930 and 20.70 AHD;
- The FFL has been raised pursuant to Condition 26a which required a 170mm height difference between the garage floor or driveway and the road gutter level; • Revised FFL for Townhouse (TH-02) to RL 21.15 and 20.70 AHD;
- Reconfiguration of Townhouse (TH-02) to include bin store, bathroom, home office, redesigned stairs and an entry foyer; and
- Reconfiguration of Townhouse (TH-01) to relocate the bathroom and include a new bin storage room; and
- Increase in size of the garage pursuant to Condition 26(d).
- The timber floor is proposed to be reinstated of the ground floor level.
- Reconstruction of internal wall adjacent to the bar at the ground floor level of the hotel; and

- Reconstruction of a portion of the party wall between the hotel and the dwelling house.

First Floor Level

At the First Floor Level, the proposed modifications include:

- Redesigned floor plan of U-01 to amend the open kitchen, living and dining area, and bathrooms at First Floor Level;
- Extend First Floor Level over a portion of the external terraces to accommodate reconfigured staircase in TH-01 and TH-02;
- Voids incorporated to terraces to provide for improved light and airflow in the terraces; and
- Removal of the metal awning proposed for TH-01 and TH-02 and replace with louvres on windows.
- Reconstruction of internal walls for bedrooms 1 and 2, kitchen and bathroom of the hotel; and
- Reconstruction of a portion of the party wall between the hotel and the dwelling house and the rear wall of bedroom 3.

West Elevation

- On the West Elevation, the proposal includes the removal of the overland flow path door.

North Elevation

On the North Elevation, the proposed modifications include:

- Adjusted dormer windows;
- Original openings to be retained; and
- Adjusted the party wall between the two proposed town houses to be consistent with the change in roof form.

South Elevation

- On the South Elevation, the proposed modifications include the reconfiguration of the sliding doors to be updated from a two-door system to a three-panel sliding window of the Townhouses (TH-01 and TH-02). Privacy screens have also been extended to ground level.

External balcony

- The external balcony is proposed to be reinstated.

The application also seeks to amend condition 1 to update the approved drawings/documents and seeks to amend condition 23, a stormwater management related condition.

3. Site Description

The subject site is located on the eastern side of Cameron Street, at its intersection with Short Street and is known as No. 31 Cameron Street, Birchgrove and is legally described as Lot 1 in DP75122.

The site is an irregular parcel of land, with a northern boundary of 27.56 metres, an eastern boundary of 9.905 metres, a combined southern boundary of 27.604 metres, and a western boundary of 12.115 metres, providing a total site area of 328.7sqm.

The subject site currently contains a Victorian building known as Sir William Wallace Hotel. The building is a two-storey brick building when viewed from Short Street and presents as three-storey when viewed from Cameron Street. The subject site has a corrugated iron roof. The building was also characterised by a wrap around balcony at first floor which has been demolished (and proposed to be reinstated under this application). A basement level exists which forms the pub cellar housing the kegs and other supplies.

The surrounding context and streetscape character includes a range of architectural styles. Short Street is comprised of a mix of colonial style terraces, modern style terraces and a federation style dwelling. Cameron Street exhibits a mix of colonial style terraces, row of terraces and single dwellings.

To the north is No. 106 Short Street which contains a single storey dwelling. No. 106a and 108 Short Street are a pair of modern rendered semi-detached dwellings. To the east is No. 101 Short Street is a two storey end of row terrace. To the south is No. 29 Cameron Street is a two storey terrace. To the west is No. 36 Cameron Street which contains a single storey federation style dwelling with a modern extension to the rear



4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
D/2016/391	Demolition of the single storey rear extension of the Sir William Wallace Hotel and construction of 2 residential dwellings and conversion of the upper floor of the hotel to residential dwelling. Part excavation to the basement level and insertion of whisky bar and internal alterations.	07/12/2017 Approved - Land and Environment Court of NSW
CCP/2020/0353	Construction Certificate – D/2016/391	Approved 10/07/2020

Surrounding Properties

106A - 108 Short Street

Application	Proposal	Decision & Date
BA 94/430	Erection of dual occupancy and two offices	30/06/1994 - Approved
BC/2016/72	Building Certificate for Sale: Exempt works carried out including replacement of tiles in laundry, new kitchen, replacement of existing rear door replace & existing glass roof and decking.	21/09/2016 - Approved

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
20/11/2023	Request for additional information sent raising the following issues: <ul style="list-style-type: none"> • Accurate depiction and description of the proposed works • The Statement of Environmental Effects needs to be amended • The Heritage Impact Statement needs to be amended • Conservation Management Plan (CMP) needs to be provided • Engineering reports
18/12/2023	Applicant provided additional information which consists of: <ul style="list-style-type: none"> • Amended plans/drawings which details and distinguishes the unauthorised works, the restoration works and the proposed new works. • Updated Heritage Impact Statement • Addendum to the Heritage Impact Statement • Conservation Management Plan • Reclaimed Material Register • Schedule of Conservation Works • Structural Engineering Report • Update Statement of Environmental Effects

07/02/2024	<p>A full set of architectural drawings, including the elevations were provided by the applicant (no further design changes to additional information submitted on 18 December 2023).</p> <p>The amended design involves the restoration/rectification of unauthorised works and renotification was not required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report.</p>
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5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

5(a) Section 4.56

Section 4.56 of the *EPA Act 1979* allows a consent authority to modify a development consent granted by it, if:

“(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

The applicant has provided the following justifications in relation to the substantially the same development test:

“An application can be considered a modification under Section 4.56 if it is ‘substantially the same’ ‘qualitatively’, ‘quantitatively’ and ‘essentially’. This is in accordance with relevant case law, including:

- *Moto Projects (No. 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280; and
- *Chidiac v Canterbury City Council* [2012] NSWLEC 1335

In **quantitative terms**, the proposed modifications will continue to provide a mixed-use development including a whiskey bar, existing hotel, two townhouses (TH-01 and TH-02) and a residential unit above the pub (U-01). The proposal retains the same number of dwellings (TH-01, TH-02 and U-01), building heights, and storeys. The proposal largely remains within the footprint of the approved scheme.

The proposed modifications will not materially alter the bulk and scale of the approved development to the streetscape and in quantitative terms are considered substantially the same development.

In **qualitative terms**, the proposed modifications primarily comprise changes at basement level and an internal reconfiguration. The modifications will not materially increase the bulk and scale as viewed from the street and do not seek to alter the proposed uses on the subject site. As such, the proposal is not considered to give rise to any additional amenity impacts such as increased overshadowing, privacy and/or noise as a result of the modifications. The external changes that are proposed would not materially change the approved development and do not impact the heritage significance of the subject site. For the reasons above, the proposal is considered substantially the same development when contemplating the qualitative changes.

The unauthorised works that have been undertaken on the subject site relate to internal and external walls that have been either been constructed or removed to be reconstructed. The external walls that will be reconstructed are located at the rear of the site will not be visible from the streetscape and as they will be reconstructed, they will not materially change the approved development.

These works have also been detailed in the Schedule of Conservation Works, prepared by Weir Phillips, separately submitted. In relation to the Council Request for Information (RFI) dated 20 November 2023, it should also be noted that any restorative or rectification works will only serve to reinstate the heritage fabric. These elements will not be discernible from the original heritage fabric and will therefore ensure the amended proposal is substantially the same.

Accordingly, the proposal will also remain the same 'essentially' or 'materially', being a mixed-use development including a whiskey bar, existing hotel, two townhouses (TH-01 and TH-02) and the residential unit above the pub (U-01)."

On the proviso that the unauthorised works are remedied as per the restorative and rectification works outlined in the provided Schedule of Conservation Works, prepared by Weir Phillips, the proposed modifications will result in a development that is substantially the same as the development originally approved.

- (b) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, and*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be."*

In considering the above:

- The application does not require concurrence or General Terms of Agreement from any approval body.
- The application was notified to persons who made a submission against the original application sought to be modified.
- No objections have been received; one letter of supported was received.

5(b) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

5(b)(i) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority 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.”*

In considering the above, there is no evidence of contamination on the site. There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

5(b)(ii) State Environmental Planning Policy (Sustainable Buildings) 2022

An amended BASIX Certificate was submitted as part of application in accordance with the provisions of the SEPP and will be referenced in any modified consent granted to the subject application. The proposal raises no issues that are contrary to the provisions of the *EP&A Regulation 2021*.

5(b)(iii) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *IWLEP 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.5 - Additional Permitted Uses for Land
- Section 2.7 – Demolition Requires Development Consent
- Section 4.3C – Landscaped Areas for Residential Accommodation in Zone R1
- Section 4.4 – Floor Space Ratio
- Section 4.5 – Calculation of Floor Space Ratio and Site Area
- Section 4.6 – Exceptions to Development Standards
- Section 5.4 – Controls Relating to Miscellaneous Permissible Uses
- Section 5.10 – Heritage Conservation
- Section 6.1 – Acid Sulfate Soils
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater Management
- Section 6.11 – Use of Existing Non-residential Buildings in Residential Zones

Section 2.3 Land Use Table and Zone Objectives

The site is zoned LR1 under the *Inner West LEP 2022*. The approved development was for a mixed-use development consisting of a pub (which is a type of food and drink premises) and two townhouses. 31 Cameron Street had historically been used as a pub that predates the current planning controls and the proposed modifications do not seek a change to the approved uses and will remain as a development consisting of a pub and two townhouses.

The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

The proposed modifications will continue to provide for a variety of housing types and for the housing needs of the community within a low-density residential environment. Subject to recommended conditions, the proposal will be compatible with the character, style and pattern of surrounding buildings, will result in acceptable on-site amenity outcomes, and will not result in any undue adverse amenity impacts on adjoining properties or the locality in general.

Given the above, the proposal, as conditioned, is considered to be consistent with the zone objectives.

Section 4 Principal Development Standards

The following table provides an assessment of the application against the development standards:

Standard	Proposal	Non compliance	Complies
Landscape Area <i>Minimum permissible: 20% or 55.7 sqm</i>	25.8m ² (8.5%)	-37.9 sqm or 57.8%	No
Site Coverage <i>Maximum permissible: 60% or 167 sqm</i>	273 sqm (83%)	75.8 sqm or 38.4%	No
Floor Space Ratio * <i>Maximum permissible: 0.8:1 or 263 sqm</i>	1.87:1 or 614 sqm	323 sqm or 123%	No

- **The proposal seeks to increase the GFA by approximately 45m² (approved 569m² to 614 m²) which results in a FSR increases from 1.73:1 to 1.87:1.**

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standards:

- Section 4.3C(a) – Landscaped areas
- Section 4.3C(b) – Site Coverage
- Section 4.4 – Floor Space Ratio

It is noted that caselaw demonstrates that for a Section 4.55 or in this case, a Section 4.56 application, a Clause 4.6 Exception to Development Standards is not required.

A Section 4.55/Section 4.56 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application".

As such, a Clause 4.6 variation has no application to Section 4.55/Section 4.56 modifications. However, the applicant has provided justifications for these breaches which is discussed in more detail below.

Landscaped Area/Site Coverage

The modification does not seek any further variation to the Landscaped Area and Site Coverage development standards under Section 4.3C – Landscaped areas for residential accommodation in Zone R1 under Inner West LEP 2022 from that already approved in the original development consent.

Floor Space Ratio

The proposed modification seeks to increase the overall maximum FSR to 1.87:1, resulting in an additional 45 sqm of gross floor area (GFA) and increases the proposed FSR from 1.73:1 to 1.87:1. The additional GFA is a result of result of the additional basement which includes new laundry/corridor areas to the town houses and expansion of the basement of the pub to provide amenities, bin storage and whisky bar.

The applicant has provided the following justification for the proposed breach which is summarised below:

- *The proposal maintains the same uses as previously approved including a whiskey bar, hotel, townhouses and residential unit above the pub. The proposal does not seek to increase the patronage of these uses or introduce additional residential accommodation. The previous application found the density was appropriate for the subject site and the increase of is not considered to materially affect the density.*
- *Given that the increase in GFA is predominately located at basement level, the additional GFA would not have a discernible impact on the transition of different densities.*
- *The increase in GFA is primarily located at basement level and the proposal does not seek to alter the building above ground level. As such, the proposal is not considered to give rise to any additional undue amenity impacts as a result of the increased GFA.*
- *No changes to the landscaped area is proposed as part of this modification application.*

The proposed breach of the Floor Space Ratio development standard can be supported for the following reasons:

- The additional gross floor area is predominately located within the basement level and will not result in any additional adverse amenity impacts in relation to overshadowing, bulk and scale impact or loss of privacy.
- As the additional gross floor area is predominately located within the basement level, the additional gross floor area will not result in any adverse impacts to the streetscape to the heritage item and the Heritage Conversation Area.

Section 5.10 – Heritage Conservation

Heritage Listing:

The subject property at 31 Cameron Street Balmain is located within the Town of Waterview Heritage Conservation Area (C31 in Schedule 5 of the *IWLEP 2022*).

The Sir William Wallace hotel is a local heritage item.

The Statement of Significance for the Hotel is as follows:

No. 31 Cameron Street, the Sir William Wallace Hotel, is of local historic, aesthetic and social significance as a representative example of a Victorian Filigree corner Hotel that has continued to serve local workers and residents since 1879. Despite some alterations and additions to the rear and sides, the building significantly retains its overall scale, form, character and details as it presents to the corner, including the brick facades, splayed corner, sandstone basement along the Cameron Street façade, roof form, posted balcony and pattern of openings. The building occupies an elevated and prominent corner site and overall makes a positive contribution to the Cameron and Short Street streetscapes and intersection.

As outlined in earlier sections of the report, there have been a number of unauthorised works carried out which includes the removal of the entire ground floor (containing the previously existing bar area), the external first floor balcony, as well as removal of various walls and excavation. As requested by Council, the applicant has provided an updated Heritage Impact Statement, a Schedule of Conversation Works and Reclaimed Material Schedule. These documents will be included as stamped documents in the conditions of consent and the proposed modifications will also include the rectification/restoration of the elements that were removed without prior approval (and proposed to be retained) using as much salvaged material as possible.

While the proposed modification works and the rectification/restoration (reinstatement) works are considered to be acceptable, the following issues were observed.

1. Basement

It should be noted that the construction of a new wall immediately adjacent to the existing sandstone walling means that the rear of the sandstone blocks will not be accessible for maintenance. The SOHI has not assessed the impact that the new construction may have on the existing masonry walls and the construction materials of the new work are not described. This new construction may lead to moisture problems and the deterioration of the sandstone blockwork. The court approved plans largely retained the existing walling.

There are no photographs of the unapproved works in the SOHI. Photographs should have been included as a record of the extent of work undertaken.

No information is shown on the basement plans regarding the adjacent buildings. The increase in the scale of the new terrace houses, ie the construction of basements, should be carefully designed so as to not impact on the adjacent housing stock.

2. Ground Floor

The architectural drawings do not show the degree to which existing features such as wall tiles and pressed metal ceilings are to be retained. Additional information should be provided regarding the retention of internal finishes within the hotel building.

The reworked design retains the existing openings to the street. The architectural drawings should indicate where the existing joinery is being retained and repaired (or provide a cross reference to a Schedule of Works).

3. First Floor

As with the ground floor, the first floor architectural drawings do not indicate the extent to which the existing architectural detailing is being retained, in particular the pressed metal ceilings and existing joinery.

The installation of a new window to the first floor is acceptable. This window should match the existing rear window at first floor level.

4. External Configuration

The reinstatement of the verandah detailing is supported and will improve the external appearance of the building. The placement of a condenser unit on the verandah roof is not supported. A more appropriate location for this element should be sought.

The architectural drawings should indicate where existing fabric such as timber windows are being retained and repaired and where later finishes such as horizontal boarding are to be removed (eg on the West Elevation). The scale of the windows on the Western Elevation does not match the photographs in Streetview.

The window opening to Short Street proposed to be infilled should be infilled with brickwork and detailed to show that there was originally a window opening in this location.

5. External Walling (Rear Walls)

The external walling that has been removed should be reinstated using the bricks that have been removed from the site and placed in storage. As noted above, no photographs have been provided to show the extent of work undertaken without approval.

6. New Terrace Houses

The changes to the pattern of fenestration of the terrace houses is acceptable and will not have a more detrimental impact on the streetscape than what has already been approved.

To Address the matters raised above, the following conditions will be recommended:

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The historic architectural finishes to the ground floor bar room are to be conserved and reinstated to their original detail, colour and profile, including pressed metal ceilings and cornices, interwar ceramic wall tiles, fireplace, hardwood timber flooring, and joinery including skirtings and architraves.*
- b. Retention of the pressed metal ceilings at first floor level.*
- c. The condenser unit is to be relocated away from the roof of the reinstated verandah to a location where it is not visible from the public domain.*
- d. The external walling that has been removed should be reinstated using the original bricks (currently in storage).*

And:

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with

A comprehensive As-Built record including annotated architectural plans and photographs showing all interior and exterior areas prior to and post any unauthorised works.

Given the above, the development, as proposed and as conditioned, will be of a form, size, scale, finishes and materials, and design and appearance, that will be compatible with, and / or that will not detract from the heritage item on the site, adjoining buildings, the streetscape and Heritage Conservation Area, and will satisfy the streetscape / heritage provisions and objectives and Section 5.10 of the *IWLEP 2022* and those contained in the Leichhardt Development Control Plan 2013 (LDGP 2013).

Section 6.2 – Earthworks

The original Development Application included a Geotechnical assessment report, prepared by JK Geotechnics dated 10.11.2016 and 09.11.2017. As mentioned earlier in the report and confirmed via a site inspection, the majority of the additional excavation proposed as part of this application has been carried out without prior approval (refer to photo taken by Council staff during a site inspection of the property below):



Photo of current site conditions



Photo of current site conditions inside the pub area

A structural engineering report, prepared by Structural Engineering Services Pty Ltd has been provided as additional information and will be referenced in the conditions of consent. However, a geotechnical report addressing the excavation that was requested in the request for additional information letter was not provided.

All the conditions relating to excavation, structural engineering reports and dilapidation reports that were imposed in the original development application approval will be retained. While noting that a large portion of the excavation has been carried out without prior approval, Condition 27 is recommended to be amended in the following way to ensure that any further excavations will be carried out in a way that does not adversely impact the surrounding properties:

27. ~~A structural engineering report and plans that address the proposed works in the vicinity of the street boundary, prepared by a qualified practicing Structural Engineer, must be provided prior to the issue of a Construction Certificate. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s).~~ The report and plans must be prepared/ amended to make provision for the following:

- a) All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary.
- b) Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of 50 years.
- c) Provide relevant geotechnical/ subsurface conditions of the site, as determined by full geotechnical investigation.
- d) No adverse impact on surrounding properties including Council's footpath and road;**

e) Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

The proposal, as conditioned, will satisfy the provisions and objectives of this part of the LEP.

5(c) Draft Environmental Planning Instruments

There are no draft environment planning instruments that is applicable.

5(d) Development Control Plans

5(d)(i) Leichhardt Development Control Plan 2013 (LDCP 2013)

The application has been assessed and the following provides a summary of the relevant provisions of LDCP 2013.

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes – see discussion
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes – see discussion
C1.3 Alterations and additions	Yes – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	Yes – see discussion
C1.5 Corner Sites	Yes – see discussion
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	N/A
C1.12 Landscaping	Yes, no changes to approved development
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	Yes
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Yes – see discussion
C1.17 Minor Architectural Details	Yes

C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.2.5 Mort Bay Distinctive Neighbourhood, Birchgrove	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – See discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes, no changes to approved development
C3.9 Solar Access	Yes, no changes to approved development
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes – see discussion
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	Yes – see discussion
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	Yes – see discussion
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	

D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	N/A
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes – see discussion
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes – see discussion
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	N/A
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	
	N/A
Part G: Site Specific Controls	
	N/A

The following provides discussion of the relevant issues:

C1.2 Demolition, C1.3 Alterations and additions, C1.4 Heritage Conservation Areas and Heritage Items, C1.5 Corner Sites and C1.6 Structures in or over the Public Domain: Balconies, Verandahs and Awnings, C2.2.2.5 Mort Bay Distinctive Neighbourhood, Birchgrove
Issues relating to the impact of the proposed works to the heritage item have been discussed in more detail in earlier section of the report. In summary, the proposed modifications and the rectification/restoration works are considered to be acceptable subject to the following condition:

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. *The historic architectural finishes to the ground floor bar room are to be conserved and reinstated to their original detail, colour and profile, including pressed metal ceilings and cornices, interwar ceramic wall tiles, fireplace, hardwood timber flooring, and joinery including skirtings and architraves.*
- b. *Retention of the pressed metal ceilings at first floor level.*
- c. *The condenser unit is to be relocated away from the roof of the reinstated verandah to a location where it is not visible from the public domain.*

- d. *The external walling that has been removed should be reinstated using the original bricks (currently in storage).*

And:

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with

A comprehensive As-Built record including annotated architectural plans and photographs showing all interior and exterior areas prior to and post any unauthorised works.

It should also be noted that while the reinstatement of the external balcony is supported, approval for the construction of the verandah or balcony in the air space over the public road is to be subject to:

- the owner entering a 99 - year Lease with Council in accordance with section 149 of the Roads Act, 1993;
- the consent of the Director of the Department of Infrastructure Planning & Natural Resources as required under s.149(2) of the Roads Act, 1993.
- The owner/Lessee is to pay all costs in connection with the Lease including legal, survey, valuation and registration fees and stamp duty.
- The rent for the total 99 years of the Lease is to be paid prior to release of the Construction Certificate for construction of the structure.

C3.2 Site Layout and Building Design

Building Location Zone (BLZ):

The Statement of Environmental Effects that accompanied this Modification Application does not make mention of any proposed changes to the rear alignment of the town houses from the two (2) metre setback from the southern boundary that was approved in the original development application. As the current proposed drawings do not include dimensions in relation to the rear setback, a condition has been included in the recommendation requiring the drawings to be amended to clearly show a two (2) metre setback to the southern boundary to avoid any ambiguity with regard to the rear alignment of the town houses.

The redesign of the basement level will mean that the proposed additions will no longer extend fully from north to south, but the basement level will extend further towards the east as there are no basement levels to the town houses in the original approval. As the adjoining property at 31 Cameron Street does not have a basement level, a new basement level BLZ is being established on the site.

In accordance with Control C6 of this part of the LDCP 2013, to gain support for the establishment of a new basement BLZ, various requirements need to be demonstrated to be met. An assessment of the proposal against these tests is carried out below:

- A. *The proposed building is consistent with the pattern of development in the immediate locality.*

Comment: As the additional breach is occurring at basement level, the resultant development will still be of a form that is consistent with previous approval and is consistent with the pattern of development in the immediate locality.

- B. *Amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls is achieved.*

Comment: As the additional breach is occurring at basement level, there are no additional amenity impacts to the adjoining properties in relation to sunlight, privacy and views.

- C. *The proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development.*

Comment: As the additional breach is occurring at basement level, the resultant development will still be of a form that is consistent with the previous approval and is consistent with the existing streetscape, desired future character and scale of surrounding development.

- D. *The proposal is compatible in terms of size, dimensions privacy and solar access of private open space, outdoor recreation and landscaping.*

Comment: As the additional breach is occurring at basement level and does not impact on the private open spaces, which is consistent with the originally approved development.

- E. *Retention of existing significant vegetation and opportunities for new significant vegetation is maximised.*

Comment: No vegetation was retained in the original approved development and the amount of landscaped area proposed will be consistent with the originally approved scheme.

- F. *The height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.*

Comment: As the additional breach is occurring at basement level, the resultant development will remain of a bulk and scale that is consistent with the previous approval.

Given the above, the proposal is considered to satisfy the above tests, and as such, the proposed BLZ is supported in this instance.

Side Setback and Building Envelope:

The maximum wall height on the southern elevation will remain as RL 28.50, and the maximum ridge height is at RL29.90 which is consistent with the originally approved development and therefore there are no further breaches to the side setback controls. Despite a change in the proposed dormers to the town houses, the maximum height of the dormer remains at RL28.60 and the setback to the northern boundary has increased from approximately 2.9 metres to 3.5 metres and therefore there are also no further breaches to the Building Envelope control.

C1.11 Parking, B3.1 Social Impact Assessment , C4.5 Interface Amenity, C4.11 Licensed Premises and Small Bars, C4.15 Mixed Use

While the increase in the basement area of the licensed premise is from 79 sqm to 107 sqm, the additional area is predominately used to provide amenities at the basement level. The actual increased area of the whiskey bar area is only 5 sqm (from 34 sqm to 39 sqm), and therefore, the increase in Gross Floor Area as part of this application is unlikely to result in any adverse noise and social impacts to the immediate locality. Thus, the proposed modifications are considered to be satisfactory.

While the bar area is increased by 5sqm, this additional area is nominal and unlikely to increase patronage to an extent that would have any measurable increased impact as a result of the proposed change.

The conditions previously imposed in relation to Plan of Management (i.e. conditions 14 and 75) will be retained.

The original approval did not include any provisions of car parking or bicycle parking. As the proposed modifications will not result in an increase in patron numbers, no additional

bedrooms are proposed to the town houses and the proposed basement will allow bicycle storage for the townhouses, the proposed modifications will not result in any adverse impacts with regard to car parking.

Notwithstanding this, to ensure that the development will not result in any amenity impacts to the surrounding properties, condition 12 (as reproduced below), will be retained:

12. *The LA10* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any existing affected residence.*

The LA10 noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any existing affected residence.*

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

**For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises or restaurant.*

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate. Such measures must be in accordance with the approved acoustic report and plans.

Conditions imposed in relation to noise, waste management, plant equipment, hours of operation and requirements of plan of management previously imposed will all be retained. As the design/configuration of the pub component has changed, including the location of the grease traps, the following conditions are recommended to be included as conditions of consent:

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that emission control equipment has been provided in the mechanical exhaust system that effectively minimises the emission of odours, vapours and oils.

And:

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended scale plans confirming the position of all sinks and hand wash basins within the food premises in accordance with Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.

The following advisory note is also recommended to be added:

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids.

E1.1.1 Water Management Statement and E1.1.3 Stormwater Drainage Concept Plan

As the proposed modifications include the creation of a basement level where the rear landscaped area will be located, an overflow path can no longer be provided and the applicant has sought amendments to Condition 23 in this regard.

There are two (2) stormwater conditions approved by the Court which are both relevant and need to be complied with, being Conditions 9 and 23. There are no objection to changes to Condition 23 c) and d) as proposed subject to a change to Condition 23 a) as outlined below to link it to condition 9:

Condition 23

23. A stormwater drainage design, incorporating on site stormwater detention facilities (OSD), prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be amended to make provision for the following:

- a) The design must be generally in accordance *the requirements of condition 9 and* with the stormwater drainage concept plan on:
- ~~Drawing No. HDA03/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016.~~
 - ~~Drawing No. HDA04/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~
 - ~~Drawing No. HDA05/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~
 - ~~Drawing No. HDA06/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~
 - ~~Drawing No. HDA07/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~

- ~~□ Drawing No. HDA03/P1 prepared by AJ Whipps Consulting Group and dated 29 June 2016~~
- *Drawing No. 101 Issue d prepared by C & S Engineering Services and dated 13 September 2023.*
 - *Drawing No. 102 Issue B prepared by C & S Engineering Services and dated 27 July 2023.*
 - *Drawing No. 102.1 Issue A prepared by C & S Engineering Services and dated 13 July 2023.*
 - *Drawing No. 103 Issue D prepared by C & S Engineering Services and dated 13 September 2023.*
 - *Drawing No. 107 Issue D prepared by C & S Engineering Services and dated 13 September 2023.*
 - *Drawing No. 108 Issue B prepared by C & S Engineering Services and dated 13 September 2023.*
 - *Drawing No. 109 Issue A prepared by C & S Engineering Services and dated 13 July 2023.*
 - *Drawing No. 110 Issue A prepared by C & S Engineering Services and dated 13 July 2023.*
- b) ~~Charged or pump-out stormwater drainage systems are not permitted.~~
- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- d) ~~An overland flowpath must be provided beneath the existing bar between the rear landscaped areas and the Cameron Street frontage, generally in accordance with Drawing No DA02 Rev E and DA10 Rev E prepared by Connor & Solomon Architects and dated 10 November 2016. The rear yards must be graded so that bypass flows from the site drainage system are directed to the overland flowpath. A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.~~
- e) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2003 *Plumbing and Drainage – Stormwater Drainage*.
- f) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- g) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- h) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Condition 9:

In addition, Condition 9 shall be amended as set out below to be consistent with condition 23.

9. The stormwater drainage concept plans (~~SDCP) on Drawing No HDA01 – HDA08 /P1 & P2 prepared by AJ Whipps Consulting Group and dated 29 June 2016 and 03 November 2016~~) must be amended to address the following issues:

- a) The storage calculations have been prepared for the new dwellings at the rear of the property only. The storage volume must be increased such that the post-development flows for the whole site in the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013
- b) The invert level of the OSD tank and/or discharge control pit must be raised sufficiently to provide a free outlet that is not hydraulically controlled by the receiving drainage system.
- c) The on-site detention tank must be ~~relocated~~ **designed such that a surface-an overflow path** can be provided to the Cameron Street or Short Street frontage in the event of surcharge due to blockage or the capacity being exceeded.
- d) Stormwater runoff from all roof and paved areas must be drained by gravity to Council's piped drainage system in Cameron Street. In this regard, the existing piped system in Cameron Street will need to be extended to the property frontage where a kerb inlet pit would be installed. The pipeline must be designed to convey flows generated by the 20 year Average Recurrence Interval storm (minimum diameter 375mm). Charged or pump out drainage systems are not permitted.
- e) The plan must show all subsoil drainage associated with the proposed basement whisky bar. The subsoil drainage system must drain by gravity to the Council drainage system.

Subject to the above changes, the proposal satisfies the site drainage and stormwater controls of the IWLEP 2022 and these parts of the DCP.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(f) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. No objections were received and one letter of support was received in response to the initial notification.

5(h) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Health Compliance
- Heritage
- Development Engineer
- Building Certification

6(b) External

The application was not required to be referred to the any external bodies for concurrence, but the NSW Police were notified of the application as it involves a licensed premise. No objections have been received from the NSW Police.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$40,000 would be required for the development (capped at \$20,000 per dwelling as per condition 35 of the original development approval). Condition 35 of the original Development Application required such a contribution to be paid and will be retained.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

Subject to compliance with the recommended conditions, the development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.56 of the *Environmental Planning and Assessment Act 1979*, grant consent to Modification Application No. MOD/2023/0341 for the reconfiguration and extension of basement; and various other internal and external modifications including changes to levels and modifications to approved dwellings at 31 Cameron Street, BIRCHGROVE subject to the conditions listed in Attachment A below

Attachment A – Recommended amendments/additions to conditions of consent

A. Modify the following Condition/s to read as follows:

1. Development must be carried out in accordance with Development Application No. D/2016/391 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA01-DA10 (Revision E)	connor+solomon architects	10.11.2017
<i>A-000 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>A-100 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>A-101 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>A-102 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>A-103 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>A-104 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>A-200 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>A-201 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>A-202 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>A-300 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>A-301 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>A-601 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>A-602 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>A-603 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>A-710 Rev B</i>	<i>BKA Architecture</i>	<i>26.09.2023</i>
<i>SK-001 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-002 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-003 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-010 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-011 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-012 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-020 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-021 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-022 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
<i>SK-030 Rev B</i>	<i>BKA Architecture</i>	<i>18.12.2023</i>
Document Title	Prepared By	Dated
Waste Management Plan DA17 Revision E	connor+solomon architects	16.11.2017
Operational Waste Management Plan Report No. 5157	Elephants Foot	14.09.2023
Conservation Works Schedule Revision 3	dfp	10.11. 2017
BASIX Certificate: 729236M_02 1410335m	Green Rate	10.11.2017 12.09.2023
Nationwide House Energy	Celeb Young	10.11.2017

Rating Certificate: 8YMVOL9JQS, F84TMP9LSE, 6WTGG719XY 7BHV34M1AN, SKQWXJTUL2, XTWSXUVAB3	Scheme		09.08.2023
Geotechnical Report		JK Geotechnics	10.11.2016
Geotechnical Assessment Ref No.29303SBletRev1		JK Geotechnics	09.11.2017
DA Access Review		Morris Goding Aecessibility Consulting	04.05.2016
BCA Compliance Report BCA and Access Capability Report	Compliance	Squared BCA Consulting Code Consultancy Group	November 2016 12 September 2023
Noise Assessment	Impact	SLR Global Environmental Solutions	15.07.2016
Certificate of Structural Adequacy – existing party wall		D'Ambrosio Consulting	07.07.2016
Certificate of Structural Adequacy – proposed alts & adds		D'Ambrosio Consulting	07.07.2016
Plan of Management		connor+solomon architects	-
Preliminary Investigation	Site	EBG Environmental Geoscience	May 2016
BCA Compliance for internal stairs		Squared BCA Consulting	02.11.2016
Proposed Plans	Subdivision	CMS Surveyors Pty Ltd	24.04.2016
Hazardous Materials Survey Report		Geotesta Pty Ltd	25.10.2017

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

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

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

(Amended – 12 March 2024 – MOD/2023/0341)

6. Amended plans are to be submitted incorporating the following amendments:
- a) The privacy screens/louvres facing adjoining properties are to be angled upwards at not less than 10 degrees to ensure no overlooking into or onto adjoining windows or outdoor spaces.
 - b) **The southern wall of the town houses are to be provided with a setback of at least two (2) metres to the southern boundary.**
 - c) **The historic architectural finishes to the ground floor bar room are to be conserved and reinstated to their original detail, colour and profile, including pressed metal ceilings and cornices, interwar ceramic wall tiles, fireplace, hardwood timber flooring, and joinery including skirtings and architraves.**
 - d) **Retention of the pressed metal ceilings at first floor level.**
 - e) **The condenser unit is to be relocated away from the roof of the reinstated verandah to a location where it is not visible from the public domain.**
 - f) **The external walling that has been removed should be reinstated using the original bricks (currently in storage).**

Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

(Amended – 12 March 2024 – MOD/2023/0341)

9. The stormwater drainage concept plans (~~SDCP~~) on ~~Drawing No HDA01 – HDA08 /P1 & P2 prepared by AJ Whipps Consulting Group and dated 29 June 2016 and 03 November 2016~~ must be amended to address the following issues:

- a) The storage calculations have been prepared for the new dwellings at the rear of the property only. The storage volume must be increased such that the post-development flows for the whole site in the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013
- b) The invert level of the OSD tank and/or discharge control pit must be raised sufficiently to provide a free outlet that is not hydraulically controlled by the receiving drainage system.
- c) The on-site detention tank must be ~~relocated~~ **designed such that a surface-an overflow** path can be provided to the Cameron Street or Short Street frontage in the event of surcharge due to blockage or the capacity being exceeded.
- d) Stormwater runoff from all roof and paved areas must be drained by gravity to Council's piped drainage system in Cameron Street. In this regard, the existing piped system in Cameron Street will need to be extended to the property frontage where a kerb inlet pit would be installed. The pipeline must be designed to convey flows generated by the 20 year Average Recurrence Interval storm (minimum diameter 375mm). Charged or pump out drainage systems are not permitted.
- e) The plan must show all subsoil drainage associated with the proposed basement whisky bar. The subsoil drainage system must drain by gravity to the Council drainage system.

(Amended – 12 March 2024 – MOD/2023/0341)

23. A stormwater drainage design, incorporating on site stormwater detention facilities (OSD), prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be amended to make provision for the following:

- a) The design must be generally in accordance **the requirements of condition 9 and** with the stormwater drainage concept plan on:

- ~~□ Drawing No. HDA03/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016.~~
- ~~□ Drawing No. HDA04/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~
- ~~□ Drawing No. HDA05/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~
- ~~□ Drawing No. HDA06/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~
- ~~□ Drawing No. HDA07/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016~~
- ~~□ Drawing No. HDA03/P1 prepared by AJ Whipps Consulting Group and dated 29 June 2016~~
- ~~- Drawing No. 101 Issue d prepared by C & S Engineering Services and dated 13 September 2023.~~
- ~~- Drawing No. 102 Issue B prepared by C & S Engineering Services and dated 27 July 2023.~~
- ~~- Drawing No. 102.1 Issue A prepared by C & S Engineering Services and dated 13 July 2023.~~
- ~~- Drawing No. 103 Issue D prepared by C & S Engineering Services and dated 13 September 2023.~~
- ~~- Drawing No. 107 Issue D prepared by C & S Engineering Services and dated 13 September 2023.~~
- ~~- Drawing No. 108 Issue B prepared by C & S Engineering Services and dated 13 September 2023.~~
- ~~- Drawing No. 109 Issue A prepared by C & S Engineering Services and dated 13 July 2023.~~
- ~~- Drawing No. 110 Issue A prepared by C & S Engineering Services and dated 13 July 2023.~~
- ~~b) **Charged or pump-out stormwater drainage systems are not permitted.**~~
- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- ~~d) **An overland flowpath must be provided beneath the existing bar between the rear landscaped areas and the Cameron Street frontage, generally in accordance with Drawing No DA02 Rev E and DA10 Rev E prepared by Connor & Solomon Architects and dated 10 November 2016. The rear yards must be graded so that bypass flows from the site drainage system are directed to the overland flowpath. A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.**~~
- e) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2003 *Plumbing and Drainage – Stormwater Drainage*.
- f) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- g) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- h) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.

The design must be certified as compliant with the terms of this condition by a

suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

(Amended – 12 March 2024 – MOD/2023/0341)

27. ~~A structural engineering report and plans that address the proposed works in the vicinity of the street boundary, prepared by a qualified practicing Structural Engineer, must be provided prior to the issue of a Construction Certificate. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).~~ The report and plans must be prepared/ amended to make provision for the following:

- a) All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary.
- b) Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of 50 years.
- c) Provide relevant geotechnical/ subsurface conditions of the site, as determined by full geotechnical investigation.
- d) **No adverse impact on surrounding properties including Council's footpath and road;**
- e) **Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property.**
- f) **Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure;**
- g) **The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;**
- h) **A subsoil drainage system must be designed and constructed for the widened basement area.**

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

(Amended – 12 March 2024 – MOD/2023/0341)

B. Add the following Condition/s to read as follows:

6A. *Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended scale plans confirming the position of all sinks and hand wash basins within the food premises in accordance with Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.*

(Added - 12 March 2024 – MOD/2023/0341)

6B. *Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that emission control equipment has been provided in the mechanical exhaust system that effectively minimises the emission of odours, vapours and oils.*

(Added - 12 March 2024 – MOD/2023/0341)

6C. *The approval for the construction of a verandah or balcony in the air space over a public road is subject to:*

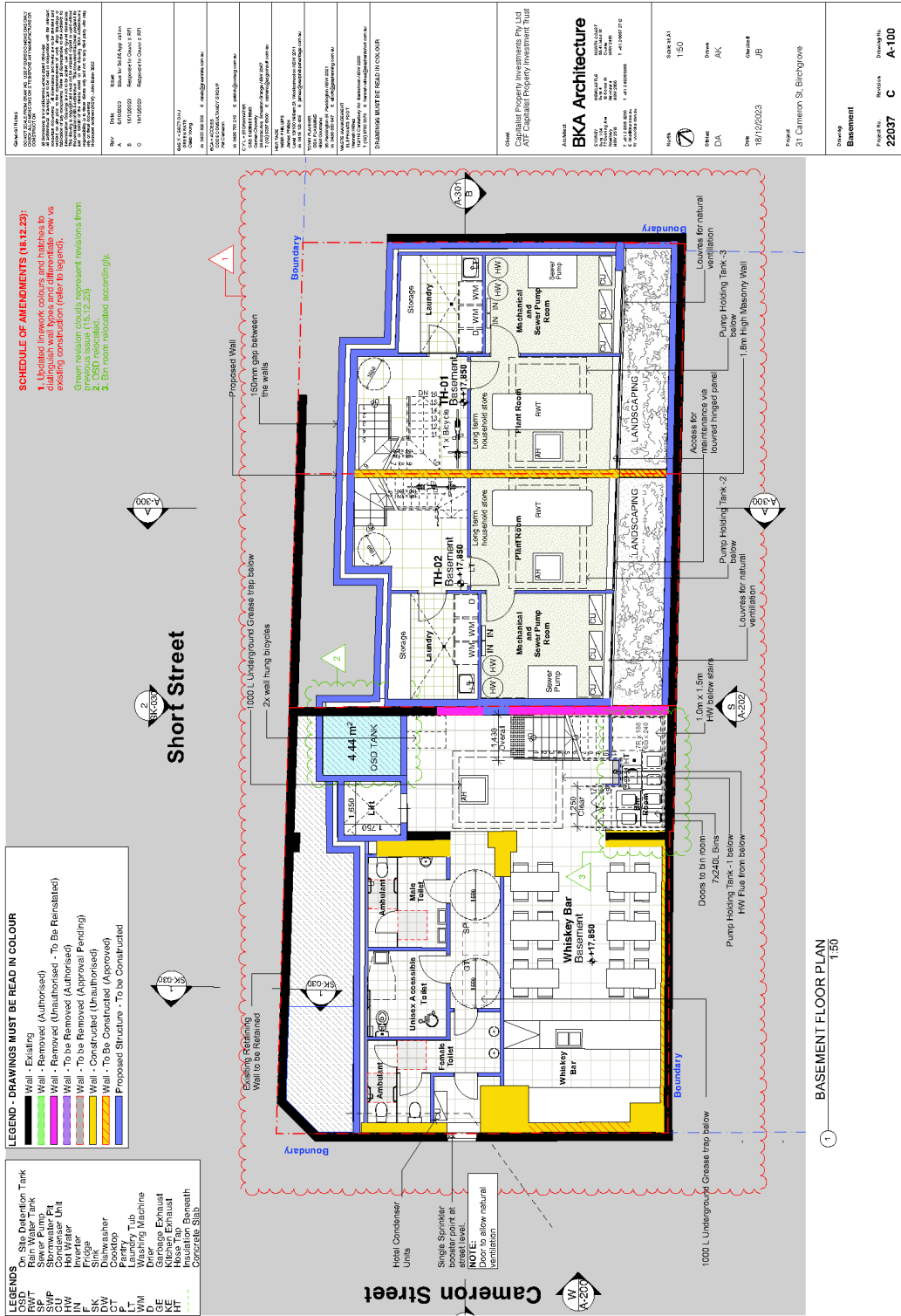
- The owner entering into a 99 year Lease with Council in accordance with Section 149 of the Roads Act, 1993; and***
 - The consent of the Director of the Department of Infrastructure Planning & Natural Resources as required under s.149(2) of the Roads Act, 1993.***
- a. The owner/Lessee is to pay all costs in connection with the Lease including legal, survey, evaluation and registration fees and stamp duty.***
 - b. The rent for the total 99 years of the Lease is to be paid prior to release of the Construction Certificate for construction of the structure.***
 - c. Except as set out in point (d) below, the rent is to be at market value, determined having regard to the increase in value of the subject property.***
 - d. Where the structure is a restoration of a balcony or verandah that existed prior to 1900 (or where a verandah or balcony exists on a building built after 1900 which is of heritage significance) and where the restoration is in strict accordance with a conservation plan endorsed by Council, no rent is payable.***
 - e. Where any existing' development consent approved the erection of a balcony or verandah over a footpath subject to the execution of a 5-year commercial or 10-year residential air space License, the relevant property owner be given the option of entering into a 99 year Lease in accordance with the above provisions.***

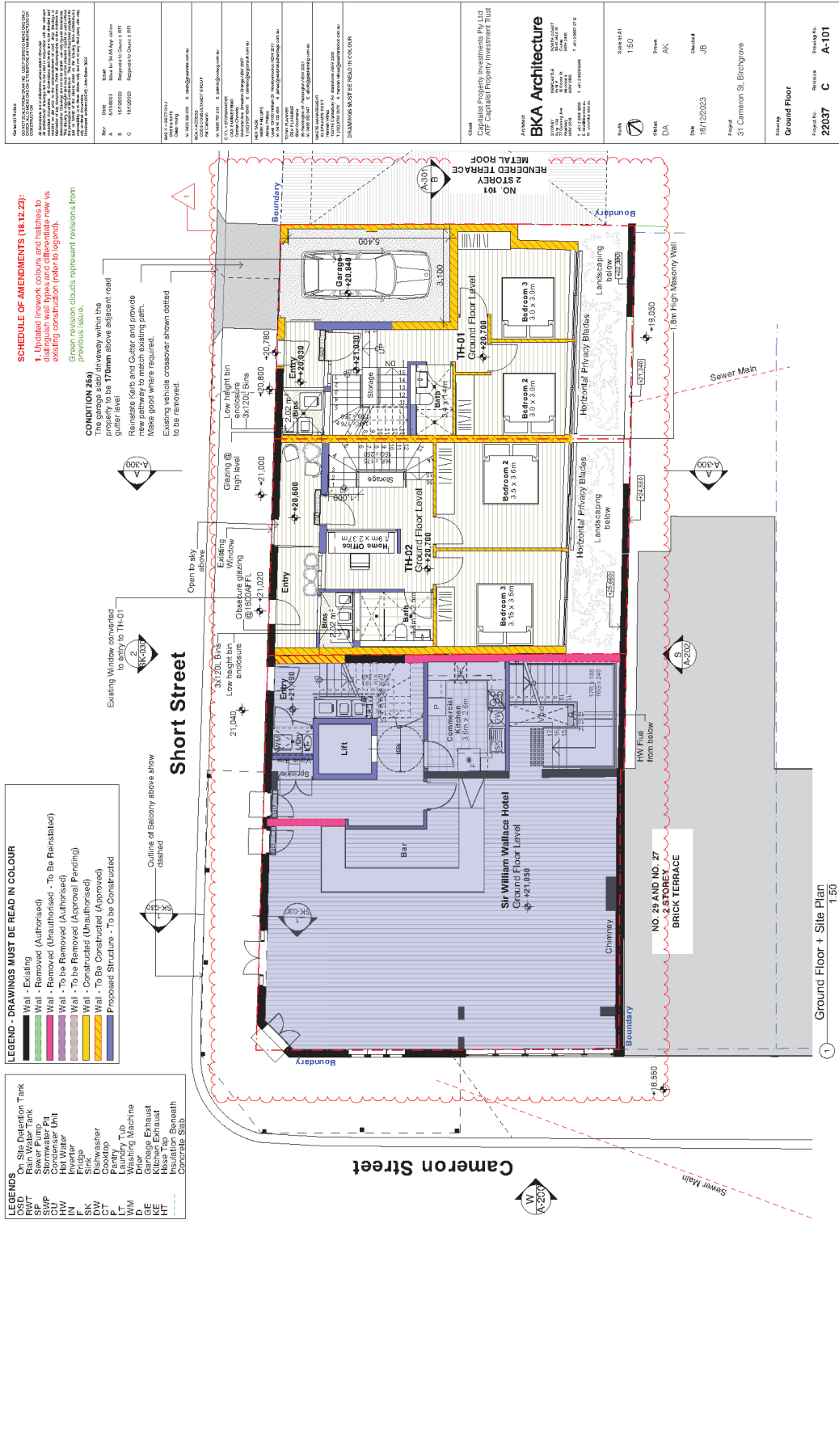
(Added - 12 March 2024 – MOD/2023/0341)

C. Add the following Advisory Note:***Storage of Goods***

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids.

(Added - 12 March 2024 – MOD/2023/0341)





<p>Drawn By: [Name]</p> <p>Checked By: [Name]</p> <p>Scale: 1:50</p> <p>Date: 18/12/2023</p> <p>Project: 31 Cameron St, Bidegrove</p>		<p>Client: Carabell Property Investments Pty Ltd</p> <p>Architect: BKA Architecture</p> <p>Address: 31 Cameron St, Bidegrove</p> <p>Phone: 02 9555 1111</p> <p>Email: info@bka.com.au</p>																			
<p>Revisions:</p> <table border="1"> <tr> <th>No.</th> <th>Date</th> <th>Description</th> </tr> <tr> <td>A</td> <td>18/12/2023</td> <td>Revised to comply with P11</td> </tr> <tr> <td>B</td> <td>18/12/2023</td> <td>Revised to comply with P11</td> </tr> <tr> <td>C</td> <td>18/12/2023</td> <td>Revised to comply with P11</td> </tr> </table>		No.	Date	Description	A	18/12/2023	Revised to comply with P11	B	18/12/2023	Revised to comply with P11	C	18/12/2023	Revised to comply with P11	<p>Drawings:</p> <table border="1"> <tr> <th>Level</th> <th>Revision</th> <th>Drawing No.</th> </tr> <tr> <td>Level 01</td> <td>C</td> <td>A-102</td> </tr> </table>		Level	Revision	Drawing No.	Level 01	C	A-102
No.	Date	Description																			
A	18/12/2023	Revised to comply with P11																			
B	18/12/2023	Revised to comply with P11																			
C	18/12/2023	Revised to comply with P11																			
Level	Revision	Drawing No.																			
Level 01	C	A-102																			

SCHEDULE OF AMENDMENTS (18.12.23):

1. Updated linework colours and hatches to distinguish wall types and differentiate new vs existing construction (refer to legend).

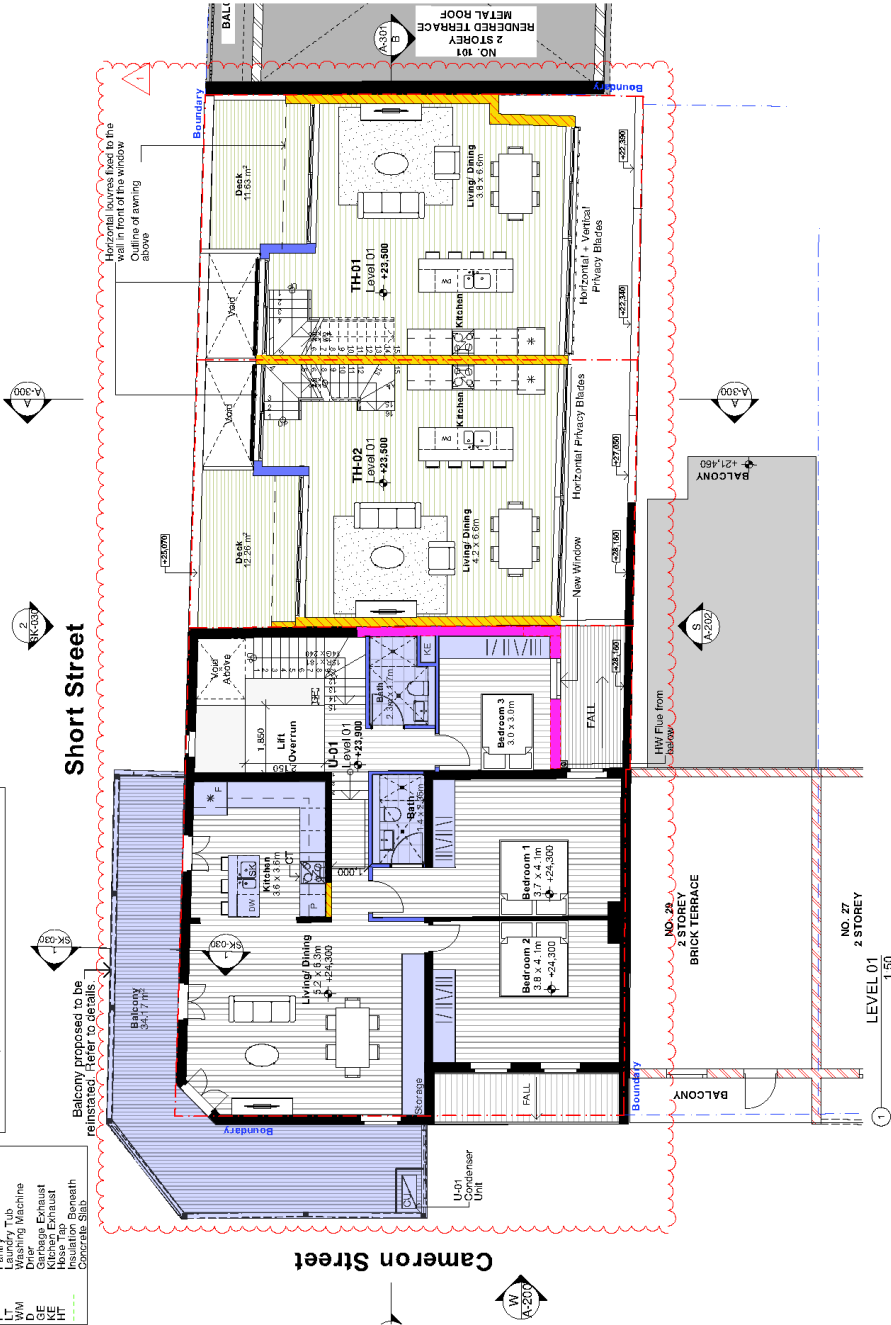
Green revision clouds represent revisions from previous issue.

LEGEND - DRAWINGS MUST BE READ IN COLOUR

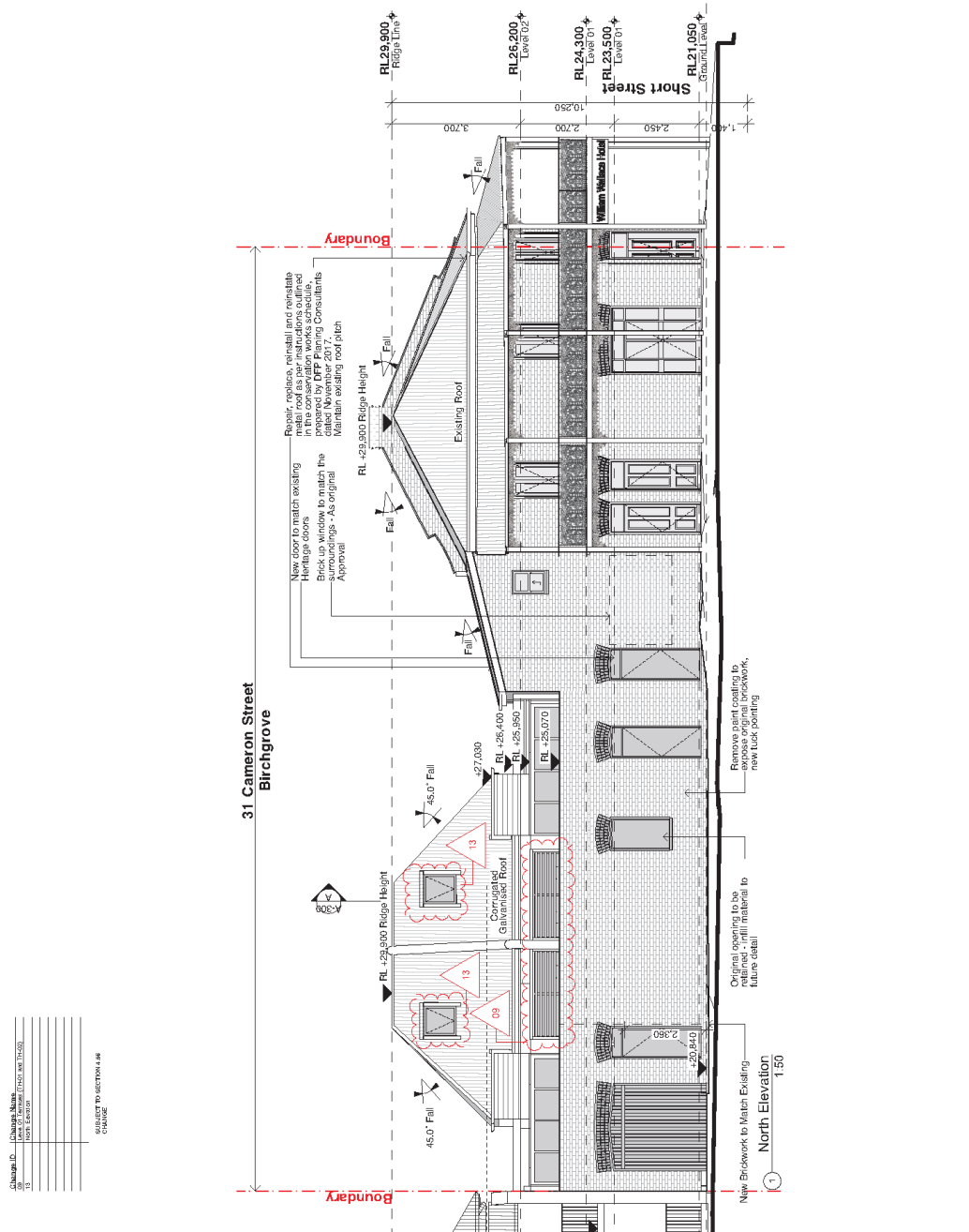
[Green Line]	Wall - Existing
[Red Line]	Wall - To Be Demolished (Authorised)
[Blue Line]	Wall - To Be Demolished (Unauthorised)
[Purple Line]	Wall - To Be Reinstated (Authorised)
[Yellow Line]	Wall - To Be Reinstated (Unauthorised)
[Orange Line]	Wall - To Be Reinstated (Approved Pending)
[Pink Line]	Wall - To Be Reinstated (Unauthorised)
[Light Blue Line]	Wall - To Be Constructed (Approved)
[Light Purple Line]	Wall - To Be Constructed (Unauthorised)
[Light Green Line]	Proposed Structure - To Be Constructed

LEGENDS

On-Site Detention Tank	OSD
Rain Water Tank	RWT
Stormwater Pit	SWP
Stormwater Unit	SWU
Hot Water Unit	HWU
Inverter	INV
Single	SK
Dishwasher	DW
Plinth	P
Laundry Tub	LT
Washing Machine	WM
Garbage Exhaust	GE
Hot Water Unit	HU
Insulation Beneath Concrete Slab	ICS

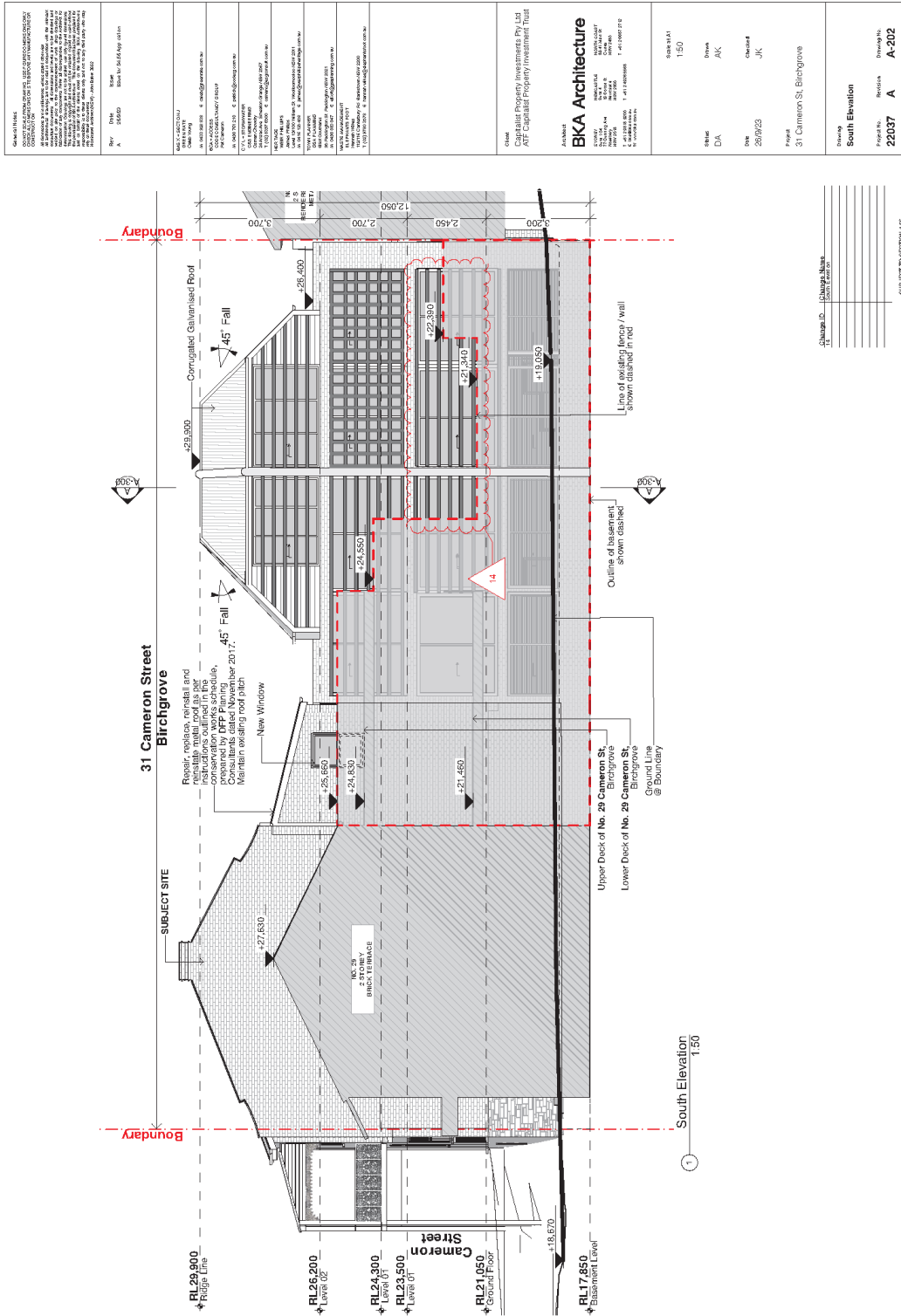


<p>Client: Capital Property Investments Pty Ltd 100 Capital Property Investments Trust</p> <p>Architect: BKA Architecture 10/110 Pitt Street, Sydney NSW 2000 Ph: (02) 9231 4444 Fax: (02) 9231 4444 Email: info@bka.com.au Website: www.bka.com.au</p>	
<p>Project No: 22037 Revision: A Drawing No: A-201</p>	<p>Project: 31 Cameron St, Birchgrove</p>
<p>Scale: 1:50</p>	<p>Drawn by: DVA Checked by: JJK Date: 25/09/23</p>



Change D.	Change Name

SUBJECT TO SECTION 4.6 CHANGE



<p>Project Name: 31 CAMERON STREET</p> <p>Client: Caprabill Property Investments Pty Ltd Air Capitalist Property Investment Fund</p> <p>Architect: BKA Architecture 10/100-102/104 Cameron Street Sydney NSW 2050 Australia T: +61 (0)2 9550 2100 F: +61 (0)2 9550 2101 E: info@bka.com.au</p>	
<p>Drawn By: DA</p> <p>Checked By: JJK</p> <p>Date: 18/12/2023</p> <p>Project: 31 Cameron St, Birchgrove</p>	<p>Scale: 1:50, 1:100</p> <p>Sheet: DA</p> <p>Drawn: DAK</p> <p>Checked: JJK</p> <p>Project: 31 Cameron St, Birchgrove</p>
<p>Section AA</p> <p>Project No: 22037 Revision: C Drawing No: A-300</p>	

SCHEDULE OF AMENDMENTS (15-12-23):

1. Updated wall hatches to distinguish wall types (refer to legend).

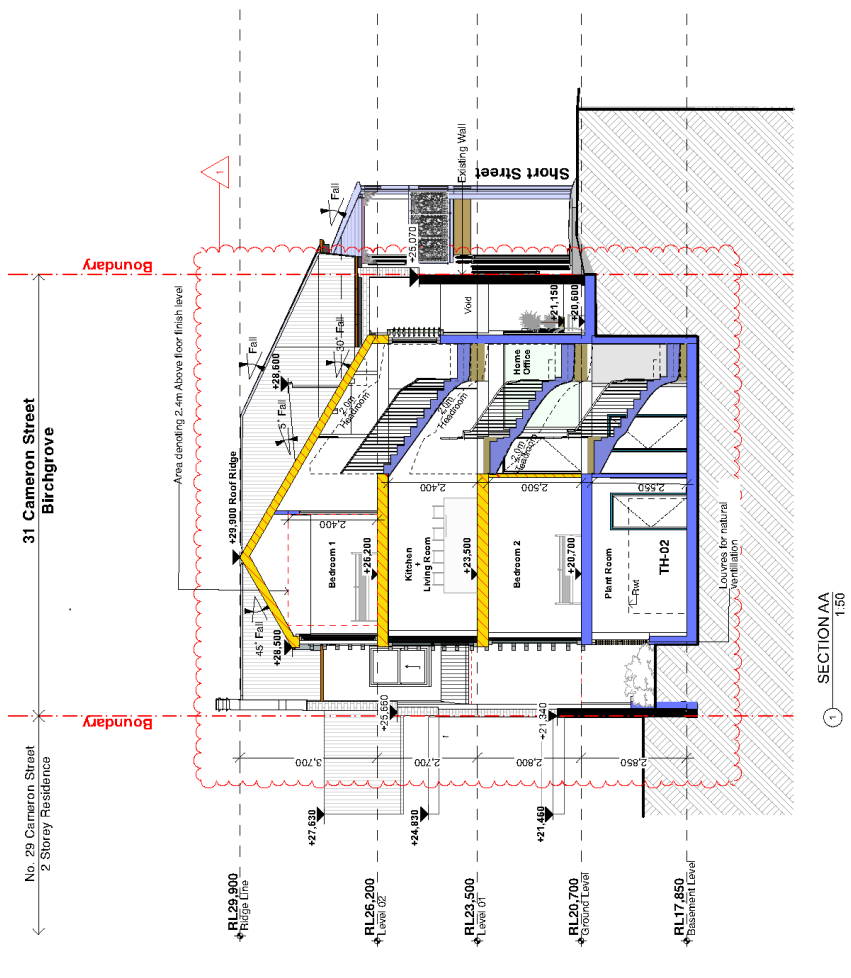
Green exterior clouds represent revisions from previous issue.

LEGEND - DRAWINGS MUST BE READ IN COLOUR

Black	Wall - Existing
Green	Wall - Renowned (Authorised)
Red	Wall - Renowned (Unauthorized) - To Be Renowned
Blue	Wall - To be Renowned (Authorised)
Yellow	Wall - To be Renowned (Unauthorized)
Orange	Wall - Constructed (Approved)
Purple	Wall - To Be Constructed (Approved)
Light Blue	Proposed Structure - To be Constructed

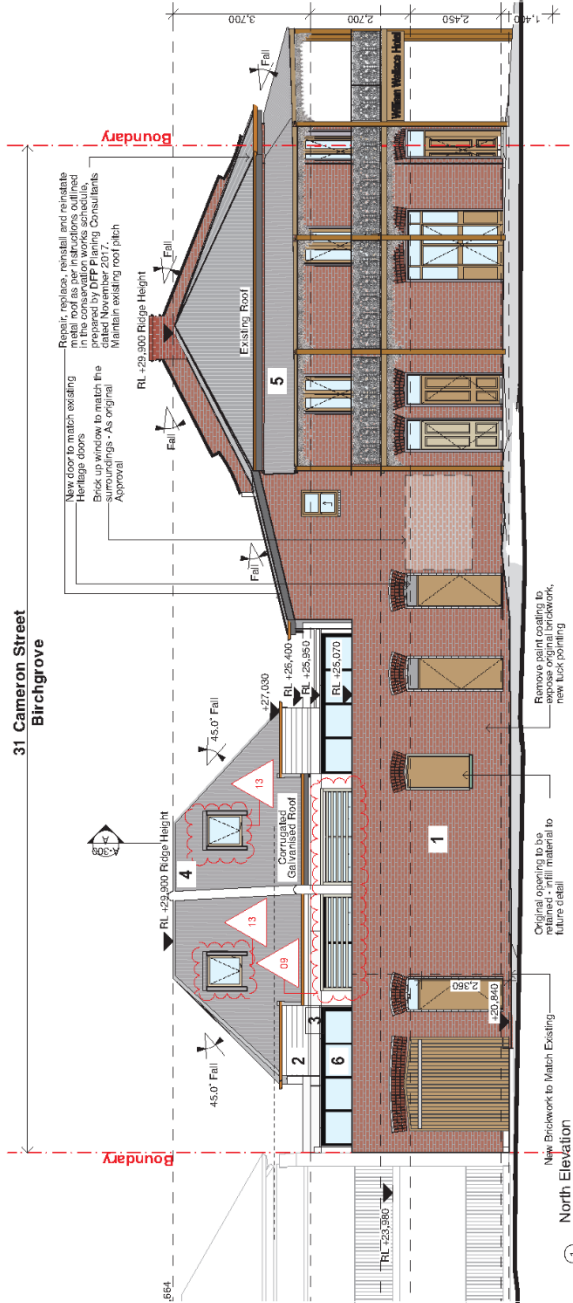
LEGENDS

On	Site Detention Tank
OSD	Storm Water Tank
SWT	Stormwater Pit
SWMP	Stormwater Pump
HW	Hot Water Unit
IN	Inverter
SK	Storage
DW	Dishwasher
CP	Cupboard
PT	Plant
LT	Laundry Tub
WM	Washing Machine
D	Dryer
GE	Garbage Exhaust
N	Nose Tap
HT	Insulation Beneath
---	Concrete Slab



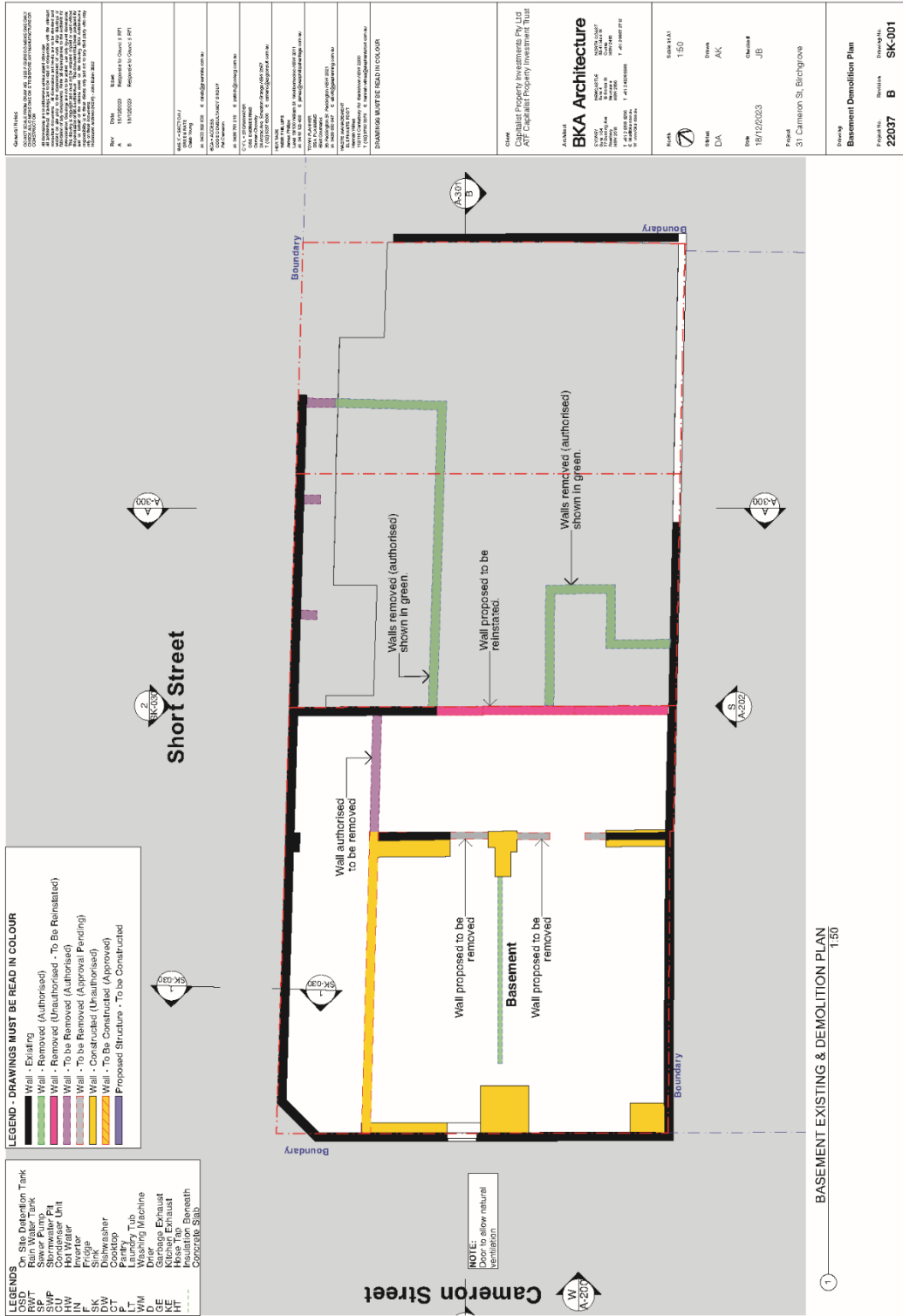
DATE PLOTTED: 16/02/2024
SCALE: 1:50 (SEE DRAWING)

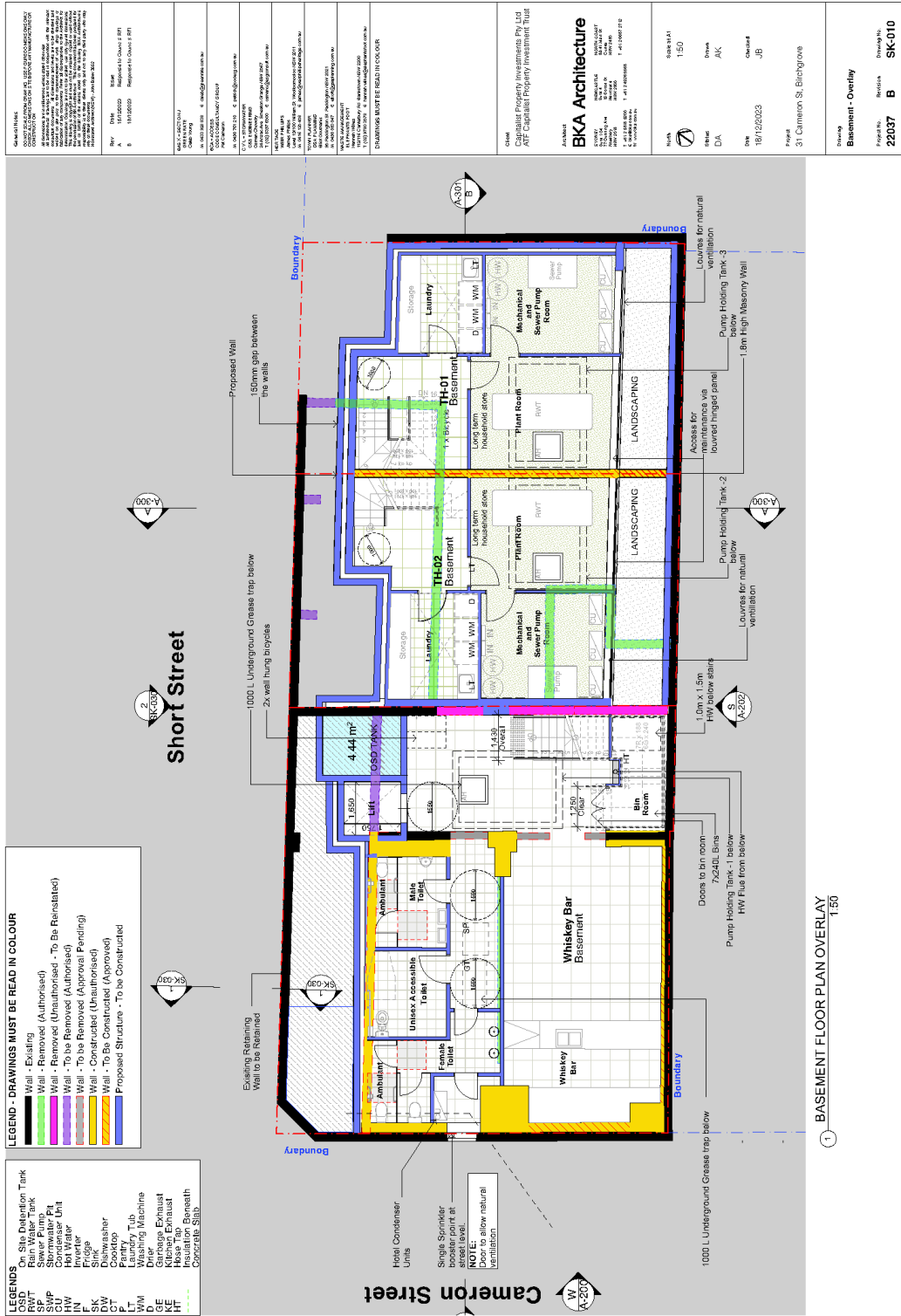
<p>Client: Carstairs Property Investments Pty Ltd 4/1 Campbell Property Investment Trust</p> <p>Architect: BKA Architecture 10/111 Pitt Street, Sydney NSW 2000 02 9239 1111 1/111 Pitt Street, Sydney NSW 2000 02 9239 1111</p>	
<p>Scale: 1:50</p> <p>North: DA</p> <p>Date: 25/09/23</p> <p>Project: 31 Cameron St, Birchgrove</p>	<p>Drawn: Material and Finishes Schedules</p> <p>Project No.: 22037</p> <p>Revision: A</p> <p>Drawn by: A-602</p>

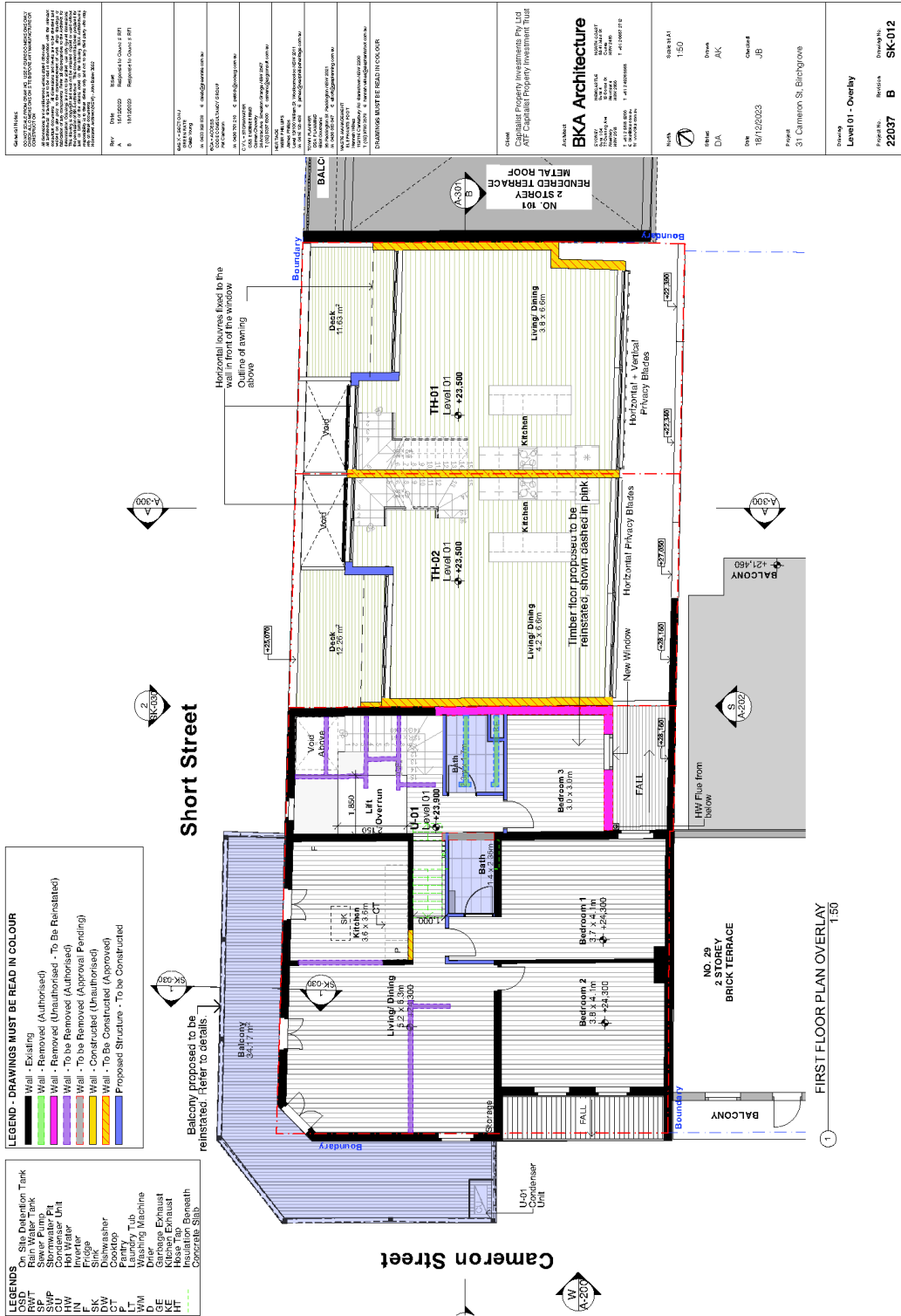


1. Existing Heritage Wall	2. Lightweight Wall	3. Paint	4. Corrugated Galvanised Roof	5. Existing Metal Roof (Heritage)	6. Aluminium Framed Doors and Windows	7. Existing Sandstone Wall

DRAWING ID: CHANGING MATERIALS (RCS) INT 10250
 DATE: 25/09/23
 DRAWN: A-602
 CHECKED: A-602
 SUBJECT TO SECTION 446 CHANGE









Attachment C- Court approval of the original development application



**Land and Environment
Court**
of New South Wales

Level 4 225 Macquarie Street SYDNEY NSW 2000
Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

Telephone: 02 9113 8200
Facsimile: 02 9113 8222
02 91138208

Email: lecourt@justice.nsw.gov.au
Website: <http://www.lec.justice.nsw.gov.au>

ABN: 52 659 114 436

JOE ANTHONY STRATI
joe.strati@innerwest.nsw.gov.au

Your Ref:



D0000XQM10

7 December 2017

NOTICE OF ORDERS MADE

Case number 2017/00153873
Case title Gary Cowan v Inner West Council

On 4 December 2017 the following orders (and/or directions) were made:

The final orders to give effect to the parties' agreement under s34(3) of the Land and Environment Court Act 1979 are:

1. The appeal is upheld.
2. The Applicant be given leave to rely upon the following amended material:
 - DA 01, Issue E, Proposed Site Plan, Connor & Solomon Architects, 10 November 2017
 - DA02, Issue E, Proposed Basement Floor Plan, Connor & Solomon Architects, 10 November 2017
 - DA03, Issue E, Proposed Ground Floor Plan, Connor & Solomon Architects, 10 November 2017
 - DA04, Issue E, Proposed First Floor Plan, Connor & Solomon Architects, 10 November 2017
 - DA05, Issue E, Proposed Second Floor Plan, Connor & Solomon Architects, 10 November 2017
 - DA06, Issue E, Proposed Cross Section AA, Connor & Solomon Architects, 10 November 2017
 - DA07, Issue E, Proposed Section BB, Connor & Solomon Architects, 10 November 2017
 - DA08, Issue E, Proposed Short Street Elevation, Connor & Solomon Architects, 10 November 2017
 - DA09, Issue E, Proposed South (Rear) Elevation, Connor & Solomon Architects, 10 November 2017

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Page 1 of 2

- DA10, Issue E, Proposed Cameron Street Elevation, Connor & Solomon Architects, 10 November 2017
 - DA17, Issue E, Waste Management Plan, Connor & Solomon Architects, 10 November 2017
 - 729236M_02, BASIX Certificate, Green Rate, November 2017
 - Not applicable, Conservation Works Schedule, Revision 3, DFP Planning consultants, 10 November 2017
 - 29303SBlet, Rev 1, Geotechnical Assessment, JK Geotechnics, 9 November 2017
 - NE219, Hazardous Materials Survey, Geotesta Pty Ltd, 25 October 2017
 - 8YMVOL9JQS, Nationwide Energy Rating Scheme Certificate, NatHERS, 10 November 2017
 - F84TMP9LSE, Nationwide Energy Rating Scheme Certificate, NatHERS, 10 November 2017
 - 6WTGG7I9XY, Nationwide Energy Rating Scheme Certificate, NatHERS, 10 November 2017
3. The Applicant's clause 4.6 written request to vary the landscaped areas for residential accommodation in zone R1 is upheld.
 4. The Applicant's clause 4.6 written request to vary the floor space ratio is upheld.
 5. The Applicant is to pay the Respondents costs under section 97B of the Environmental Planning and Assessment Act 1979 as agreed or assessed.
 6. Development consent is granted to D/2016/391 for the partial demolition of an existing hotel, construction of two residential dwellings, conversion of the upper floor of the hotel into a residential dwelling, strata subdivision, excavation to the basement level and insertion of a whisky bar and internal alterations on Lot 1 DP 75122 (known as 31 Cameron Street Birchgrove), subject to conditions in Annexure "A".

For the Registrar

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Page 2 of 2

Outcome Date: 04 Dec 2017

Appeal No: 2016/153873

Annexure 'A'**Conditions of Consent**

1. Development must be carried out in accordance with Development Application D/2016/391 and the following plans and supplementary documentation, except re amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA01-DA10 (Revision E)	connor+solomon architects	10.11.2017
Document Title	Prepared By	Dated
Waste Management Plan DA17 Revision E	connor+solomon architects	16.11.2017
Conservation Works Schedule Revision 3	dfp	10.11. 2017
BASIX Certificate: 729236M_02	Green Rate	10.11.2017
Nationwide House Energy Rating Scheme Certificate: 8YMVOL9JQS, F84TMP9LSE, 6WTGG719XY	Celeb Young	10.11.2017
Geotechnical Report	JK Geotechnics	10.11.2016
Geotechnical Assessment Ref No.29303SBletRev1	JK Geotechnics	09.11.2017
DA Access Review	Morris Goding Aecessibility Consulting	04.05.2016
BCA Compliance Report	Squared BCA Consulting	November 2016
Noise Impact Assessment	SLR Global Environmental Solutions	15.07.2016
Certificate of Structural Adequacy – existing party wall	D'Ambrosio Consulting	07.07.2016
Certificate of Structural Adequacy – proposed alts & adds	D'Ambrosio Consulting	06.07.2016
Plan of Management	connor+solomon architects	-
Preliminary Site Investigation	EBG Environmental Geoscience	May 2016
BCA Compliance for internal stairs	Squared BCA Consulting	02.11.2016
Proposed Subdivision Plans	CMS Surveyors Pty Ltd	24.04.2016
Hazardous Materials Survey Report	Geotesta Pty Ltd	25.10.2017

Appeal No: 2016/153873

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

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

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

2. Consent is granted for the demolition of the following currently existing on the property, subject to strict compliance with the following conditions:

Elements	Location
Those elements notated as "existing to be demolished" as identified by dashed lines on drawing DA01 dated 10 November 2017 Issue E and drawing DA02 dated 10 November 2017 also issue E	As shown on plans

Excluding the following elements which must be retained:

Elements to be retained	Location
All and any building components not clearly identified on the above as being demolished	All of site

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
 - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A *final* inspection when the demolition works have been completed.

Appeal No: 2016/153873

NOTE: If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be

Appeal No: 2016/153873

contacted prior to works commencing.

- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

- 3. An experienced suitably qualified & experienced Heritage Architect must be commissioned to assist and to provide advice on the following elements of the approved development, and to oversee the construction works for the duration of the project:

All proposed demolition work;
All repair works listed within the Conservation Works Schedule which forms part of this consent;
All works to the original/early portion of the Hotel including the treatment (materials and form of joinery) of the additional door openings on the Short Street Elevation of the premises and the basement level Whiskey Bar;

Details of the engagement of the experienced Heritage Architect in accordance with this condition are to be submitted to the Principal Certifying Authority prior to the

Appeal No: 2016/153873

issue of the Construction Certificate.

Prior to the issue of an Occupation Certificate the Heritage Architect is to certify that the works have been carried out in accordance with these requirements.

Details of the engagement of the experienced Heritage Architect & copy of the certification in accordance with this condition are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

4. A Heritage Interpretation strategy must be prepared by a suitably qualified heritage consultant in accordance with NSW Heritage Guide on Heritage Interpretation Policy (www.heritage.nsw.gov.au). The strategy must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting, art, details of the heritage design or the display of selected artefacts are some means that can be used. Only lighting and signage (300mm x 300mm – Max 2 signs) may be placed externally without obtaining approval for modifications to this consent under Section 96 of the Environmental Planning and Assessment Act 1979.

The interpretation strategy is to be completed by a suitably qualified consultant with experience in undertaking interpretation strategies. Two (2) copies of the strategy are to be submitted to Council and written confirmation obtained and provided to the Principal Certifying Authority that the strategy meets the prior to a Construction Certificate being issued.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

5. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the “Principal Certifying Authority.”
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

6. Amended plans are to be submitted incorporating the following amendments:

Appeal No: 2016/153873

a) The privacy screens/louvres facing adjoining properties are to be angled upwards at not less than 10 degrees to ensure no overlooking into or onto adjoining windows or outdoor spaces.

Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

7. Prior to the issue of a Construction Certificate, a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the structural integrity of the existing "Party Walls" are adequate to accept the additional loads imposed thereon by the proposal. A copy of the Certificate must be provided to the consent authority and all owners of the party wall/s.
8. Prior to the issue of a Construction Certificate, Architectural Plans accompanied by a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the architectural plans that are the subject of the Construction Certificate application do not rely on any Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to the consent authority and all owners of the party wall/s.
9. The stormwater drainage concept plan (SDCP) on Drawing No HDA01 – HDA08 / P1 & P2 prepared by AJ Whipps Consulting Group and dated 29 June 2016 and 03 November 2016 must be amended to address the following issues:
 - a) The storage calculations have been prepared for the new dwellings at the rear of the property only. The storage volume must be increased such that the post-development flows for the whole site in the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013
 - b) The invert level of the OSD tank and/or discharge control pit must be raised sufficiently to provide a free outlet that is not hydraulically controlled by the receiving drainage system.
 - c) The on-site detention tank must be relocated such that a surface flow path can be provided to the Cameron Street or Short Street frontage in the event of surcharge due to blockage or the capacity being exceeded.
 - d) Stormwater runoff from all roof and paved areas must be drained by gravity to Council's piped drainage system in Cameron Street. In this regard, the existing piped system in Cameron Street will need to be extended to the property frontage where a kerb inlet pit would be installed. The pipeline must be designed to convey flows generated by the 20 year Average Recurrence Interval storm (minimum diameter 375mm). Charged or pump out drainage systems are not permitted.

Appeal No: 2016/153873

- e) The plan must show all subsoil drainage associated with the proposed basement whisky bar. The subsoil drainage system must drain by gravity to the Council drainage system.

10. The proposed operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

An acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be provided to the satisfaction of the Principal Certifying Authority demonstrating that noise and vibration from the operation of the plant and equipment will satisfy the stipulated criteria above and relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. Recommendations must be consistent with the approved plans.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate.

11. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:

- i) 10:00pm to 7:00am on Monday to Saturday; and
- ii) 10:00pm to 8:00am on Sundays and Public Holidays.

- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy

Appeal No: 2016/153873

(Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

12. The LA10* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any existing affected residence.

The LA10* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any existing affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

*For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises or restaurant.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate. Such measures must be in accordance with the approved acoustic report and plans.

13. The premises are to be designed, constructed and operated in accordance with the:
- Food Act 2003
 - Food Regulation 2010
 - Australia and New Zealand Food Standards Code
 - Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises)
 - Australian Standard AS 1668 Part 1 – 1998
 - Australian Standard AS 1668 Part 2 – 2012; and
 - Building Code of Australia

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

14. A Plan of Management is to be provided to Council prior to the issue of a Construction Certificate. The Plan of Management is to cover (but is not limited to) the following issues:
- Ensure compliance with the relevant conditions of approval,

Appeal No: 2016/153873

- Minimise the potential impact of the operation of the premises on nearby residents,
- Effectively minimise and manage anti-social behaviour,
- Minimise noise emissions and associated nuisances,
- Effectively manage and respond to resident complaints,
- Ensure responsible service of alcohol and harm minimisation, and
- Patron conductivity and security.

Note: The hours of operation of the hotel are as per condition 74 below.

a) Security Management

The plan must specify security patrol, surveillance and other security and response methods and security management of the public and private domain within and surrounding the site.

No signage visible from the public domain is to be installed that advertises directly or indirectly, the gaming machines on site.

b) Patron Management

Patrons must be prevented from removing glass, opened cans, bottles or alcohol from the premises (except from any approved bottle shop).

Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving to do so quickly and quietly, having regard to the amenity of the area.

A sign detailing the maximum number of persons permitted in the premises, in letters not less than 25mm, must be displayed at the main front entrance of the premises within the building.

The management/licensee is responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.

No automatic teller machines are permitted to be installed in the same room in single level premises and on the same floor in multi level premises containing gaming machines.

c) Recycling and Waste Collection

The sorting and/or collection of waste and recycling must only occur between 8.00am and 9.00pm daily. Glass sorting/breaking should not occur after 6pm unless it can be done in a manner that does not have adverse acoustic impacts on surrounding properties or tenancies.

d) Public Entertainment

Details of how public entertainment will be managed to ensure minimal impacts on surrounding properties including acoustic impacts, parking and traffic. Details of sound limiters and/or acoustic provisions including

Appeal No: 2016/153873

management of patrons, closing of doors and windows etc. Such entertainment must be carried out in accordance with any approved acoustic reports & traffic reports identified within this consent.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

15. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

16. Prior to the commencement of demolition or any works or issue of a Construction Certificate (whichever occurs first), the Principal Certifying Authority shall be satisfied that an Archival Record has been completed and 3 copies have been submitted to Council for the following properties:

Address/Building

**William Wallace Hotel – No.31 Cameron Street,
Birchgrove.**

The report must be prepared by a suitably qualified and experienced heritage consultant, be consistent with the Heritage Office 'Photographic Recording Of Heritage Items Using Film Or Digital Capture' and must contain the following minimum requirements:

- a) Title page with subject, author, client, date, copyright etc.
- b) Statement of why the record was made
- c) Outline history of the item and associated sites, structures and people.
- d) Statement of heritage significance of the items in accordance with the Burra Charter and the Heritage Inventory.
- e) Inventory of archival documents related to the item and their location (eg company records, original drawings, photography), when available.
- f) Location plan showing relationship to surrounding geographical features, structures, roads etc. Include a north point.
- g) Floor plans/site plans cross-referenced to photographs and showing the order & orientation in which the photos were taken. Name the relevant features, structures and spaces. Show a north point.

Appeal No: 2016/153873

h) Photographic record, labelled and cross-referenced to floor / site plans and accompanied by informative catalogues and two copies of proof sheets. Images should include:

- View to and from the site (possible from four compass points)
- Views showing relationships to other relevant structures, landscape features and movable items.
- All external elevations.
- Views of all external and internal spaces (e.g. courtyards, rooms, roof spaces etc).
- External and internal detail (e.g. joinery, construction joints, decorative features, paving types etc).

Selected prints to give an overall picture of the item may be required. They should be mounted and labelled.

i) Colour slides/archival quality prints. One set of slides mounted in archival stable slide pockets or 10.5 x 14.8cm prints on archival quality paper and archivally stable inks, clearly labelled and cross-referenced to base plans. Images should include:

- Views to and from the site and/or the heritage item.
- Views and details of external and internal elements and colour schemes as appropriate.

Two (2) hard copies and one (1) electronic copy (including digital copies of images – not scanned copies) of the report must be submitted to Council; one of the hard copies shall contain negatives (if using film) or DVD with digital copies of photos (if using digital). A written acknowledgment from the Consent Authority (Leichhardt Council) must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or commencement of works (whichever occurs first).

17. An Archaeological Assessment survey must be conducted of the site prior to the issue of a Construction Certificate.

The Archaeological Assessment shall be carried out by a suitably qualified archaeologist and is to be prepared in accordance with the guidelines set out by the Heritage Office of the NSW Dept. of the Environment & Heritage. It is to identify the likelihood of remains and/or artefacts, of both European or Aboriginal heritage, being present on site. It is to assess the probable importance of any potential and existing archaeology and to provide specific recommendations for its management. Where the collection of artefacts are proposed (including samples of structures and deposits) the method of reporting, and the location of artefact

Page 11 of 36

Appeal No: 2016/153873

storage, are to be identified in the report.

This report is to be submitted to Council for approval prior to the issue of a Construction Certificate.

In the event that remnants or artefacts not anticipated in the archaeological assessment are found during the progression of works on site - all works on site are to cease and the archaeologist is to attend site and advise further action.

18. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

19. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used except where modified by this condition. Highly reflective wall or roofing materials and glazing must not be used. **In this regard, the roofing of the infill addition and any replacement roofing to the original front building shall comprise of heritage barrel rolled traditional corrugated galvanised steel which is a suitable modern equivalent of traditional roofing in the Birchgrove District;**

Any replacement rainwater goods to the original front building shall comprise of appropriately profiled gutters; external brackets and round down pipes to match the construction period of the building; and

The wall cladding to the rear infill addition shall be finished in a light to mid tone colour (not dark) to be recessive, having regard to the existing wall colour of the Hotel.

Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

20. The existing unpainted brick surfaces are not to be painted, bagged or rendered but to remain as original brick work. The Construction Certificate plans must clearly depict all original brickwork with a notation that they are to remain unpainted to the satisfaction of the Principal Certifying Authority.
21. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
- a) Must preserve and protect the adjoining building from damage

Appeal No: 2016/153873

- b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this condition, the allotment of land includes public property.

22. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:

- The building is to be provided with smoke alarm system that complies with *AS3786-1993: Smoke Alarms* and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

Amended plans and specifications demonstrating compliance with this condition must be submitted to the satisfaction of the Principal Certifying Authority with the application prior to the issuing of a for a Construction Certificate.

Note: Where an existing system complying with the above requirements is already installed in the building, evidence of this should be submitted with the application for a Construction Certificate.

23. A stormwater drainage design, incorporating on site stormwater detention facilities (OSD), prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be amended to make provision for the following:

- a) The design must be generally in accordance with the stormwater drainage concept plan on:
 - Drawing No. HDA03/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016.
 - Drawing No. HDA04/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016
 - Drawing No. HDA05/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016
 - Drawing No. HDA06/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016
 - Drawing No. HDA07/P2 prepared by AJ Whipps Consulting Group and dated 3 November 2016
 - Drawing No. HDA03/P1 prepared by AJ Whipps Consulting Group

Page 13 of 36

Appeal No: 2016/153873

and dated 29 June 2016

- b) Charged or pump-out stormwater drainage systems are not permitted.
- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- d) An overland flowpath must be provided beneath the existing bar between the rear landscaped areas and the Cameron Street frontage, generally in accordance with Drawing No DA02 Rev E and DA10 Rev E prepared by Connor & Solomon Architects and dated 10 November 2016. The rear yards must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.

A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.

- e) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS3500.3.2003 Plumbing and Drainage – Stormwater Drainage*.
- f) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- g) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- h) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

24. Details and location of the proposed waste and recycling room (s) are to be provided prior to the issue of a Construction Certificate. Rooms used for the storage of waste and recycling and rooms used for the washing and storage of waste and recycling receptacles are to be constructed of solid material, cement rendered and trowelled to a smooth even surface and subject to the following requirements:

- a) The garbage storage must be designed with separate and self-contained areas for the storage of waste and recycling for the commercial and

Appeal No: 2016/153873

residential components of the development. The residential waste storage must have a minimum floor area of 2.8m² to accommodate two 240 garbage bins and two 120L recycling bins shared between the three residential units.

- b) The floor must be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room.
- c) Waste/recycling rooms must be vented to the external air by natural or mechanical ventilation.
- d) Waste and recycling storage rooms/areas for all developments should be capable of accommodating Council's standard waste and recycling containers in accordance with Part D – Waste of Development Control Plan 2013

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

25. An application must be made to Council for the issue of a Levels Certificate. The certificate, issued by Council, must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The certificate specifies the surface levels in the road reserve adjacent to the property that must be used as the basis for the design of vehicle or pedestrian accesses, finished floor levels, fences, vents and any structures in the vicinity of the property boundary.

The architectural & engineering plans must be updated to reflect the information in the levels certificate and submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The overall height of the external form must not alter from that depicted within the approved plans and/specified by this consent.

The levels certificate may specify that levels in the adjacent road reserve are required to be changed.

26. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standards, including but not limited to AS/NZS 2890.1-2004 *Parking Facilities - Off-Street Car Parking* and AS 2890.3-1993 *Parking Facilities - Bicycle parking facilities*. The following specific issues must be addressed in the design:

- a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those obtained in the Levels Certificate issued by Council. The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.

Appeal No: 2016/153873

- b) The longitudinal profile of the access must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004* for a B99 design vehicle.
- c) Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, services, ducts, etc. The headroom at any door opening must be measured to the lowest point of the open door.
- d) The carport must have minimum clear internal dimensions of 5400mm (x 3000mm (length x width).
- e) Garage doors must not encroach into the driveway or the internal space of each garage.
- f) Bicycle parking facilities must be provided in accordance with the numerical and dimension requirements of Sections C1.11 Parking and C1.11.3 & C1.11.6 tables within DCP 2013.
- g) The external form & height of the approved structures must not be altered from that depicted on the approved plans to address this condition. If the applicant seeks a design that would require such, the approved plans must be modified in accordance with Section 96 of the Environmental Planning and Assessment Act 1979.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

27. A structural engineering report and plans that address the proposed works in the vicinity of the street boundary, prepared by a qualified practicing Structural Engineer, must be provided prior to the issue of a Construction Certificate. The report and plans must be prepared/ amended to make provision for the following:

- a) All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary.
- b) Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of 50 years.
- c) Provide relevant geotechnical/ subsurface conditions of the site, as determined by full geotechnical investigation.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Appeal No: 2016/153873

28. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

29. An engineering design of stormwater drainage and roadworks in Cameron Street and Short Street must be prepared by a qualified practicing Civil Engineer. The design must be prepared to make provision for the following:
- a) Council's piped stormwater drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, extending to the existing stormwater outlet at the intersection of Cameron Street and Short Street. The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event and the inlet pit must have a lintel with a minimum length of 2400mm.
 - b) Kerb inlet pits must be installed at the connection to the existing stormwater system in Short Street and over the outlet from the private internal drainage system.
 - d) The design must be accompanied by detailed engineering drawings including relevant long and cross sections, hydraulic grade line analysis and location of utility services.
 - e) Reconstruction of the concrete vehicle crossing at the Short Street frontage to align with the new access opening, including closure of the redundant portion of the existing vehicle crossing.
 - f) Reconstruction of the sandstone kerb and concrete gutter and asphalt footpath for the remainder of the Cameron Street and Short Street frontages of the site.
 - g) Relocation of parking/ traffic signs as required.
 - h) The plans must show existing and proposed on street parking.
 - i) The applicant must consult with Council's Road Access Manager in relation to the design of all works in the public road reserve.

Development Consent does NOT give approval to undertake any works on Council property. **An application must be made to Council and a Roadworks**

Page 17 of 36

Appeal No: 2016/153873

Permit issued under Section 138 of the Roads Act 1993 prior to the construction of these works.

The application must be accompanied by an engineering design of the above. The Roadworks Permit will only be issued when the design has been approved by Council. A copy of the Roadworks Permit must be obtained from Council prior to the issue of a Construction Certificate.

The design may need to be submitted to and approved by Council's Local Traffic Committee prior to Council issuing an approval.

The applicant must bear the cost of construction of all works, including the cost of any required adjustment or relocation of any public utility service. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

These works must be constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of an Occupation Certificate.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

30. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must be designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater—Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:
- a) Minimise the area of soils exposed at any one time.
 - b) Conservation of top soil.
 - c) Identify and protect proposed stockpile locations.
 - d) Preserve existing vegetation. Identify revegetation technique and materials.
 - e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
 - f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;

Page 18 of 36

Appeal No: 2016/153873

- iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences.
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

31. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. For Quick Check agent details please refer to the web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents/index.html>

The Principal Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

32. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):

- a) The stages of construction. Should the existing hotel continue to operate during construction, the Construction Management Plan must include details relating to safety measures that will be in place at all time when the hotel is in use, a plan which clearly shows which part of the hotel will be in operation at various stages of the development including loading arrangements for the delivery of goods.
- b) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing

Appeal No: 2016/153873

areas on and off the site.

- iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
 - c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
 - d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
 - e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

33. An Agreement for Lease of the airspace occupied by the street verandah, under s.149 of the *Roads Act 1993*, between the owner of the building and Council, must be executed.

A copy of the above documentation including correspondence from Council/Road authority that the provisions have been satisfied shall be submitted to the Principal Certifying Authority Prior to the release of a Construction Certificate for any element of the approved works.

34. A Waste Management Plan (WMP) is to be provided in accordance with **Part D –**

Appeal No: 2016/153873

Waste – Development Control Plan 2013. The Plan must address all issues identified in the DCP including but not limited to:

- a) Estimated volume (m3) or weight (t) of materials that are reused, recycled or removed from site.
- b) On site material storage areas during construction.
- c) Material and methods used during construction to minimise waste.
- d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
- e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.

PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)

- 35. A contribution pursuant to the provisions of Section 94 of the *Environmental Planning and Assessment Act 1979* for the services detailed in column A and for the amount detailed in column B must be made to Council prior to the issue of a Construction Certificate:

Contribution Plan	Contribution	Adjusted Contribution
Community Facilities	\$7,890.00	\$5,155.16
Open Space	\$51,622.00	\$33,728.73
Local Area Traffic Management	\$269.90	\$176.35
Access to Balmain Peninsula	\$1,387.61	\$906.64
Bicycle	\$50.71	\$33.13
Total	\$61,220.22	\$40,000.00

The total contribution is: \$40,000

Payment will only be accepted in the form of cash, bank cheque or EFTPOS / Credit Card (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for Section 94 Contributions. Contribution Plans may be inspected on Council's website www.leichhardt.nsw.gov.au or a copy purchased at the Citizen Service in Council's Administration Centre, 7-15 Wetherill Street, Leichhardt, during business hours.

- 36. Prior to the commencement of demolition works on the subject site or a

Appeal No: 2016/153873

Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works.

Security Deposit (FOOT)	\$ 10 000
Inspection fee (FOOTI)	\$225.00

Payment will be accepted in the form of cash, bank cheque or EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve & footpath prior to & on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

A request for release of the security may be made to the Council after all construction work has been completed and a Final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

- 37. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued (whichever occurs first), a security deposit as set out below must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.

Works	Security Deposit
Roadworks (ROADWB)	\$ 70,500
Total	\$ 70,500

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date. A request for release of the security may be made to the Council after all construction work has been completed. The amount nominated is only current for the financial year in which the consent was issued and is revised each financial

Appeal No: 2016/153873

year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Video inspection must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of the works.

A request for release of the security may be made to the Council after all construction work has been completed and a Final Occupation Certificate issued.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

- 38. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
101 Short St Birchgrove	All
29 Cameron Street Birchgrove	All

If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an

Appeal No: 2016/153873

applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

39. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)
- a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application
 - b) A concrete pump across the roadway/footpath. – A Standing Plant permit
 - c) Mobile crane or any standing plant – A Standing Plant Permit
 - d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application
 - e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application
 - f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application
 - g) Awning or street verandah over footpath. – Road works Application
 - h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

PRIOR TO THE COMMENCEMENT OF WORKS

40. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the property boundaries must be set out by or the location certified by a registered surveyor in accordance with the approved plans, prior to the commencement of works.

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the:

Appeal No: 2016/153873

- a) location of the building with respect to the boundaries of the site;
41. The site must be secured with temporary fencing prior to any works commencing.
- If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.
- Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.
- Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.
42. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.
- A copy of any WorkCover approval documents is to be included as part of the documentation.
- Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).
43. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
44. The *Home Building Act 1989* requires that insurance must be obtained from an insurance company approved by the Department of Fair Trading prior to the commencement of works approved by this Development Consent.
- A copy of the certificate of insurance must be submitted to the Certifying Authority prior to the works commencing.
- If the work is to be undertaken by an owner-builder, written notice of their name and owner-builder permit number must be submitted to the Certifying Authority.
- In all other cases, written notice must be given to the Certifying Authority of:

Appeal No: 2016/153873

- a) the name and licence number of the principal contractor; and
- b) reasons why a certificate of insurance is not required.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

- 45. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
- 46. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- 47. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
- 48. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
 - a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

DURING WORKS

- 49. Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.

Appeal No: 2016/153873

Construction materials and vehicles shall not block or impede public use of the footpath or roadway.

50. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a suitably qualified structural engineer.

If excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage.
- b) If necessary, underpin and support the building in an approved manner.
- c) Give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate within the proximity of the respective boundary.

Any proposed method of support to any excavation adjacent to adjoining properties or any underpinning is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil/structural works. Copies of the design plans must be provided to the relevant adjoining property owner/s prior to commencement of such works. Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

51. The site must be appropriately secured and fenced at all times during works.

52. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphate ores or soils.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority.

53. Excavation, demolition, construction or subdivision work shall only be permitted during the following hours:

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

Appeal No: 2016/153873

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

54. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
55. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
56. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
57. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the

Appeal No: 2016/153873

duration of the use/trading. Copies shall be made available to Council Officer's upon request.

58. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

The requirements of the Soil and Water Management Plan must be maintained at all times during the works and shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

59. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

60. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.

61. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:

- Compare the post construction report with the pre-construction report required by these conditions,
- Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate

Appeal No: 2016/153873

62. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
63. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.
- Proof of actual destination of demolition and construction waste shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
64. A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.
- Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.
65. The premise must be registered with Council's Environment Health Section in accordance with the following relevant legislation:
- Food Shop - *Food Act 2003*
- Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.
66. To ensure that adequate provision is made for the treatment of waste water from the premises, floor plans accompanying the Occupation Certificate application shall include provision for a Sydney Water approved grease trap.
- The grease trap installation shall service all commercial sections of the development and be designed, constructed and operated in accordance with:
- Australian Standard AS 3500; and
 - National Plumbing & Drainage Code
- Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.
67. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

Appeal No: 2016/153873

Works-as-executed plans of the stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principle Certifying Authority stamped Construction Certificate plans.

68. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on-site detention facilities. The Plan must set out the following at a minimum:
- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

69. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

70. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council Roadworks Permit.

Works-as-executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the works have been constructed in accordance with the approved design and relevant Australian Standards, must be provided to Council prior to the issue of an Occupation Certificate.

Video inspection must be carried out of completed stormwater drainage works that

Appeal No: 2016/153873

are to revert to Council and a copy provided to Council to support the certification of those works.

The works-as-executed plan(s) must show the as built details in comparison to those shown on the plans approved with the Roadworks Permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

Written notification from Council that the works approved under the Roadworks Permit have been completed to its satisfaction and in accordance with the conditions of the Permit, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

71. Prior to the issue of a Subdivision Certificate, a positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the on-site stormwater detention facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities ("OSD").
- b) The Proprietor shall have the OSD inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor or successor must bear all costs associated in the preparation of the subject 88E instrument. Proof of registration with NSW Land and Property Information must be submitted to and approved by the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Subdivision Certificate

72. Prior to the issue of an Occupation Certificate the Principal Certifying Authority must ensure that all the works (Works) as set out in the Conservation Works Schedule Revision 3, Parts 5 and 6, Tables 1 and 2 prepared by DFP Planning

Appeal No: 2016/153873

Consultants, dated 10 November 2017 (Schedule) have been completed to the satisfaction of a consulting heritage architect as required by condition 3 of this consent. The Works are to be undertaken in accordance with the methodology and requirements detailed in the Schedule.

- 72A. Prior to the issue of a Subdivision Certificate under Section 54 of the *Strata Schemes Development Act 2015* the Council must be satisfied that the Works required to be undertaken in condition 72 above have been completed to the Council's reasonable satisfaction.
73. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
- the approved plans;
 - BASIX certificate (where relevant),
 - approved documentation (as referenced in this consent); and
 - conditions of this consent.

ONGOING CONDITIONS OF CONSENT

74. The hours of operation for the hotel are 6am to 12 midnight (Monday to Saturday) and 10am to 10pm (Sunday).
75. The hotel (pub and whisky bar) is to comply with the approved Plan of Management required by this consent.
- Any amendments to the Management Plan are to be submitted to Council for consideration prior to any amendments.
- If the operator of the hotel (pub and whisky bar) alters from the operator nominated in the Plan of Management, a new Plan of Management is to be submitted unless it is confirmed in writing that the new operator will comply with the Plan of Management approved as part of this consent.
76. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
77. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
78. The L_{A10} noise level emitted from the premises, measured between the hours of **7am and 12 midnight**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when

Appeal No: 2016/153873

measured at the boundary of any existing adjoining residence.

The L_{A10} noise level emitted from the premises, measured between the hours of **midnight and 7am**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any existing adjoining residence.

79. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assess as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

80. There is to be no entertainment in the form of amplified music on any part of the outdoor area at any time.
81. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
82. To ensure minimal impacts on surrounding properties commercial waste and recyclable material generated by the premises must not be collected between the hours 10pm and 7am.
83. The premises shall not be used for any purpose other than that stated in the Development Application without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.
84. The Operation and Management Plan for the basement pump-out system, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
85. To ensure minimal impacts on surrounding properties commercial waste and recyclable material generated by the premises must not be collected between the hours 9pm and 8am.
86. All delivery operations associated with the hotel from vehicles larger than a small rigid vehicle (SRV) are to be carried out from the Cameron Street frontage.

Appeal No: 2016/153873

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
 - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

C. Home Building Act

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy

Appeal No: 2016/153873

issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

D. Site Sign

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Attachment D – Statement of Heritage Significance

No. 31 Cameron Street, the Sir William Wallace Hotel, is of local historic, aesthetic and social significance as a representative example of a Victorian Filigree corner Hotel that has continued to serve local workers and residents since 1879. Despite some alterations and additions to the rear and sides, the building significantly retains its overall scale, form, character and details as it presents to the corner, including the brick facades, splayed corner, sandstone basement along the Cameron Street façade, roof form, posted balcony and pattern of openings. The building occupies an elevated and prominent corner site and overall makes a positive contribution to the Cameron and Short Street streetscapes and intersection.