



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	M/2019/4
Address	Leichhardt Marketplace, 122-138 Flood Street, LEICHHARDT NSW 2040
Proposal	Modification of Development Consent D/2016/235 which approved alterations and additions to Marketplace shopping centre. Consent is sought for the modification of fire stairs at the premises.
Date of Receipt	16 January 2019
Applicant	Colliers International
Owner	Lif Pty Ltd Atf The Local Government Property
Number of Submissions	Nil
Building Classification	6 & 7a
Reason for determination at Planning Panel	FSR variation exceeds officer delegation
Main Issues	FSR
Recommendation	Approval
Attachment A	Recommended conditions
Attachment B	Original notice of determination (as previously amended)
Attachment C	Proposed plans



LOCALITY MAP

Subject Site



Objectors



Notified Area



Supporters



1. Executive Summary

This report is an assessment of the application submitted to Council for modifications to Development Consent No. 2016/235 which approved alterations and additions to Marketplace shopping centre entailing lifts, travelators, new centre management and community room at basement level & parking reconfiguration at 122-138 Flood Street, Leichhardt. The application was notified to surrounding properties and no submissions were received.

The main issue that has arisen from the assessment of the application involves:

- Floor Space Ratio

Notwithstanding the above non-compliance, the proposal is acceptable given the existing pattern of surrounding development and its acceptable amenity impacts, and therefore, the application is recommended for approval.

2. Proposal

This application seeks consent to modify Development Consent No. 2016/235 pursuant to the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 in the following way:

- Delete fire stairs to upper mall level facing Flood Street
- Minor net increase of gross floor area on upper mall level by 18sqm (from 22,025sqm to 22,043sqm in gross floor area) equating to an FSR of 1.2526:1 (increase of 0.001:1)

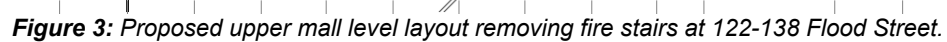
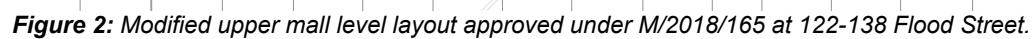
The purpose of the application is to infill a fire stairs passageway on the upper mall level adjacent to Tenancy No. 17 (Optus) that will not proceed in the reconfiguration approved under M/2018/165 due to structural implications. The application has been accompanied with a BCA Assessment Report and Fire Engineering Report confirming that the deletion of upper mall level fire stairs can be supported subject to a performance based solution to be detailed as a part of the construction certificate.

No changes to the existing external appearance and configuration of the building or internal gross floor area on the lower floor area are proposed under this application.

It is noted that the submitted plans also indicate the removal of tenancy K3 and reduction of internal circulation space on the upper mall level in order to increase the floor area of tenancies 72 and 57/60/75 (previously shown as tenancies 21A and 57/60 on the plans approved under M/2018/165). However, given these changes were not identified as a part of the documentation submitted with M/2018/165 or the subject application, a condition imposed under M/2018/165 requiring these elements to be deleted from the approved plans will be retained.

The original Development Application determined on 7 November 2016 gave approval for 'alterations and additions to Marketplace shopping centre entailing lifts, travelators, new centre management and community room at basement level & parking reconfiguration'.

Extracts of the originally approved, recently modified and proposed plans are shown in the figures below.



3. Site Description

The site accommodates the existing retail shopping centre known as Leichhardt Marketplace. The site is approximately 1.76 hectares in area.

Residential properties are located on the majority of sides bounding the premises. Business zonings are located to the north-west of the site at 194 Marion Street and to the north-east of the site at 123-149 Marion Street & 116-140 Marion Street. Businesses are also interspersed within the residential zoning. The Kegworth Public School is located to the south-west of the subject site.

The subject site is not a heritage item or located within a conservation area. However, it is located within the vicinity of a number of heritage items, namely:

- Kegworth Public School (60 Tebbutt Street);
- Dwellings at 6-12 Lords Road, Leichhardt, 59-71 and 77-79 Upward Street;
- Former house in Lambert Park, now a childcare centre (22 Foster Street).

The site is located within the distinctive neighbourhood of West Leichhardt. The site is identified as a flood control lot. The site is zoned *B2 Local Centre* pursuant to Local Environmental Plan 2013.

4. Background

4(a) Site history

The existing development was approved under DA/4264/1972 in approximately January 1972 and constructed shortly thereafter. Since then, the site has been the subject of numerous further applications for alterations and additions, extended hours of operation, changes of use and internal fit-outs of tenancies. These applications do not have any particular relevance to the proposed development and do not require detailed consideration.

4(b) Application history

Not applicable

5. Assessment

Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 requires the following matters to be assessed in respect of all applications which seek modifications to approvals.

The proposed modification is of minimal environmental impact.

The proposal seeks minor internal alterations to infill a redundant fire stairs passageway. While the proposal as modified increases overall floor space by 18sqm, the proposed modifications will not result in any adverse amenity, traffic or streetscape impacts and as such, this test is satisfied.

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).

The proposal as modified involves a minor reconfiguration of the fire stairs fronting Flood Street and internal alterations resulting in a minor net increase to gross floor area. Therefore, it is considered that this test is satisfied.

The application has been notified in accordance with the regulations, if the regulations so require, or a development control plan, if council's development control plan requires the notification or advertising of applications for modification of a development consent.

The application was notified in accordance with Council's Policy for a period of 14 days to surrounding properties.

Consideration of any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan.

No submissions were received by Council.

Section 4.55(3) of the Environmental Planning and Assessment Act, 1979 requires the following matters to be assessed in respect of all applications which seek modifications to approvals.

Consideration of any of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Refer to Section 4.15(1) discussion below. The proposed modifications do not alter the original reasons given for the grant of consent.

5(a) Environmental Planning Instruments

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

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

5(a)(i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is not within the Foreshores and Waterways Area.

5(a)(ii) Leichhardt Local Environment Plan 2013 (LLEP 2013)

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 6.3 – Flood Planning

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

Standard (maximum)	Proposal	% of non compliance	Compliance
Floor Space Ratio Permitted: [1:1] [GFA of 17,598sqm]	1.2526:1 22,043sqm	25.25%	No

Note: The existing building has a non-compliant FSR of 1.2516:1 (GFA of 22,025sqm) and the 18sqm net increase of GFA results in a negligible FSR increase of 0.001:1 and is wholly contained within the existing building envelope.

The proposal is not technically subject to the provisions of Clause 4.6 and does not require a formal request to vary the FSR development standard. Nevertheless, it is considered that the proposed 25.25% variation to the FSR development standard is acceptable in this instance given the proposal:

- results in a negligible FSR increase of 0.001:1,
- is wholly contained within the existing building envelope, and
- does not result in any changes to the existing configuration and appearance of the building or any adverse amenity, traffic or streetscape impacts.

Accordingly, it is considered that, notwithstanding strict non-compliance, the proposal still achieves the relevant objective of the FSR clause by ensuring that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale. In this regard, the FSR is considered to be compatible with the pre-existing FSR within the site as shown in the photo below. Further, the proposal remains consistent with the objectives of the B2 Local Centre zone by maintaining a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in, and visit the local area. Therefore, strict compliance is considered to be unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental grounds having regard to the existing context to justify the variation.



Figure 4: Aerial photo indicating existing scale of development at 122-138 Flood Street

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment)

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.3 Alterations and additions	Yes
C1.11 Parking	Yes – the proposal maintains 730 car spaces, well in excess of the required minimum of 440 car spaces
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.3.2 Industrial/Business sub-area, West Leichhardt Distinctive Neighbourhood, Leichhardt	Yes
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
C4.5 Interface Amenity	Yes
Part D: Energy	Yes
Part E: Water	Yes

5(d) 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(e) The suitability of the site for the development

The site is zoned B2 Local Centre. 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(f) Any submissions

The application was notified in accordance with Council's Policy for a period of 14 days to surrounding properties. No submissions were received.

5(g) 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:

- Building

Council's Building Section raised no objections to the proposal given the proposal is capable of BCA and fire safety compliance through a performance based solution to be detailed as a part of the construction certificate.

6(b) External

The application was not required to be referred externally.

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal given the infill of the existing fire stairs constitutes a net increase in overall gross floor area.

Accordingly, the carrying out of the development would result in an increased demand for public amenities and public services within the area. A financial contribution would be required for the development under Leichhardt Section 94 Contributions Plans as follows:

Column A	Column B
Open space and recreation	\$244.13
Community facilities and services	\$125.25
Local area traffic management	\$53.49
Leichhardt town centre improvements	\$911.35
TOTAL	\$1,334.21

A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

This application has been assessed under Section 4.55 of the Environmental Planning and Assessment Act, 1979 and is considered to be satisfactory. Therefore the application is recommended for approval subject to the amendments listed below.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55 of the Environmental Planning and Assessment Act 1979, grant consent to Modification Application No. 2019/4 to modify Development Consent No. 2016/235 at 122-138 Flood Street, Leichhardt, subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

A. AMEND THE FOLLOWING CONDITIONS TO READ:

Condition 5

5. Development must be carried out in accordance with Development Application No. D/2016/235 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
AD-DA024/D – Sections	Scott Carver	18/7/2016
AD-DA220/D – Sections		18/7/2016
AD-DA020/F – Plans	Scott Carver	18/7/2016
GA-001/A – Existing Lower Mall	Leffler Simes Architects	Sep 2018
GA-002/A – Existing Upper Mall	Leffler Simes Architects	Sep 2018
AD-DA023/F – Plans	Scott Carver	18/7/2016
AD-DA100/K – Plans	Scott Carver	8/9/2016
GA-003/A – Lower Mall Floor	Leffler Simes Architects	Sep 2018
GA-004/A – Upper Mall Floor	Leffler Simes Architects	Sep 2018
AD-DA103/I – Plans	Scott Carver	8/9/2016
AD-DA104/D – Plans	Scott Carver	18/7/2016
AD-DA303/D – Plans	Scott Carver	18/7/2016
AD-DA304/D – Plans	Scott Carver	18/7/2016
AD-DA331/D – Plans	Scott Carver	18/7/2016
AD-DA332/D – Plans	Scott Carver	18/7/2016
AD-DA333/D – Plans	Scott Carver	18/7/2016
AD-DA334/D – Plans	Scott Carver	18/7/2016
Document Title	Prepared By	Dated
Flood Emergency Response Plan – Issue 1	ACOR Consultants	2/9/2016
BCA Report	Steve Watson & Partners	4/10/2018
BCA Report – Proposed Egress Stair Removal	Steve Watson & Partners	18/12/2018
Fire Engineering Report – Proposed Egress Stair Removal	MCD Fire Engineering	14/12/2018

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.

(Condition modified under M/2019/4 on INSERT DATE)

Condition 5A

- 5A. No approval is granted or implied as a part of this consent to the deletion of tenancy K3 or any changes to the existing internal circulation areas and inter-tenancy wall between, or internal areas of, tenancies **72 (formerly 21A) and 57/60/75 (formerly 57/60)**.

References on the approved plans to new inter-tenancy walls between tenancies **72 (formerly 21A) and 57/60/75 (formerly 57/60)**, new northern shopfronts to tenancies **72 (formerly 21A) and 57/60/75 (formerly 57/60)**, and the removal of tenancy K3, existing inter-tenancy walls between tenancies **72 (formerly 21A) and 57/60/75 (formerly 57/60)**, existing northern and eastern shopfronts to tenancy **72 (formerly 21A)**, and existing northern shopfront to **57/60/75 (formerly 57/60)** are to be deleted.

(Condition modified under M/2019/4 on INSERT DATE)

B. ADD THE FOLLOWING CONDITIONS TO READ:

Condition 7A

- 7A. A contribution pursuant to the provisions of Section 7.11 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:

Column A	Column B
Open space and recreation	\$244.13
Community facilities and services	\$125.25
Local area traffic management	\$53.49
Leichhardt town centre improvements	\$911.35

The total contribution is: \$1,334.21

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 7.11 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.

A receipt 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.

(Condition added under M/2019/4 on INSERT DATE)

Attachment B – Original Notice of Determination (as amended)

**NOTICE OF DETERMINATION OF
DEVELOPMENT APPLICATION NO: D/2016/235
Issued under the Environmental Planning & Assessment Act 1979
(Section 81(1)(a))**

Modification No. M/2018/165 - Annotated Copy

Applicant Name: N Morgan

Applicant Address: 17 Chuter Ave
MCMAHONS POINT NSW 2060

Land to be Developed: **LOT 1 DP 864752 SUBJ TO ROW & EASEMENT
Leichhardt Marketplace, 122-138 Flood Street,
LEICHHARDT NSW 2040**

Proposed Development: Alterations and additions to Marketplace shopping centre entailing lifts, travelators, new centre management and community room at basement level & parking reconfiguration.

Determination: Operational Consent

Date of Determination: 7 November 2016

Consent to Operate From: **7 December 2016**

Consent to Lapse On: 7 November 2021

The following conditions have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment.

DEFERRED COMMENCEMENT CONDITIONS – Satisfied 7 December 2016

The following deferred commencement conditions have been complied with to the satisfaction of Council, prior to the issue of an operational Development Consent.

1. That evidence is to be submitted to Council that a Compliance Certificate has been issued by Sydney Water for the proposed works in the vicinity of Sydney Water assets/easements on the subject site, or alternatively, that written confirmation from Sydney Water is submitted to Council that no Compliance Certificate is required in the circumstances.
2. The applicant must provide a written copy of the requirements of Sydney Water in relation to the proposed works in the vicinity of their stormwater drainage infrastructure and associated easements.
3. The design of the basement and rooftop car parks as shown on Drawing No's 20150023/AD-DA100/K and 20150023/AD-DA103/I prepared by Scott Carver dated 8 September 2016 must be amended to address the following issues:
 - a) The design of the proposed north-south pedestrian access route within the basement carpark, extending between the Centre Management facilities and the Fan Room, must be amended to provide a continuous designated two metre

wide (minimum) at-grade pathway. The design must ensure that vehicular traffic is permanently physically blocked at the western end of the access aisle servicing Parking Spaces 20-28. The following amendments must also be incorporated into the design:

- i) Proposed Parking Space No 15 and the proposed raised pedestrian pathway, marked with kerb ramps at both ends, are to be deleted. The pathway must remain at grade through this area.
 - ii) A 1500mm wide at grade pathway is to be provided at the western end of the access aisle servicing Parking Spaces 20-28 to link to the north-south pathway.
 - ii) The remainder of the areas coloured green, extending southward from the structural column adjacent to proposed Parking Space No 20 to the three proposed bollards, is to be raised to 150mm above the surrounding pavement, defined by concrete kerbs.
- b) The proposed four (4) parking spaces adjacent to the proposed Travelators at the top of the Flood Street entry ramp to the rooftop carpark are to be widened to 2700mm wide and signposted as Rear to Kerb/Wall parking only. The adjacent row of fifteen (15) parking spaces, generally alongside the Pedestrian Walkway, is to be repositioned to abut the adjacent wall.
- c) The easternmost parking space at the end of the aisle servicing the fifteen (15) parking spaces referred to in (b) above, must be deleted to improve manoeuvring for left turning vehicles. In addition, this aisle must be narrowed towards the eastern end such that the parking spaces at the eastern end of this aisle, affected by the sloping floor slab, can be retained generally on the existing alignment of this aisle.
- d) The two (2) existing parking spaces opposite the two (2) proposed parking spaces immediately to the south of the Plant store on the rooftop carpark are to be deleted as parking spaces. Structures such as bollards, trolley bays or bicycle parking facilities must be installed in lieu of the parking spaces to provide a physical barrier to prevent cars parking in this location.
- e) Bollards must be provided adjacent to the proposed pedestrian path on the rooftop carpark, extending between the new lift lobby and accessible parking spaces adjacent to the Plant store.
- f) The proposed bank of accessible and standard parking spaces to the north west of the new lift lobby on the rooftop carpark are to be allocated entirely as standard parking spaces. In addition, a physical barrier such as a wall or row of bollards is to be provided in addition to or in place of wheel stops to limit access to these parking spaces from a single aisle.
- g) The bank of four (4) accessible parking spaces and associated shared areas to the west of the Plant store area on the rooftop carpark is to be reconfigured to position the shared areas adjacent to the pedestrian pathway, allocate the two (2) westernmost parking spaces as standard parking spaces and provide two (2) accessible parking spaces in between.
- h) The eight (8) proposed accessible parking spaces on the rooftop carpark are to be relocated as follows:
 - i) Two (2) spaces in accordance with (g) above.

- ii) Four (4) spaces opposite the new lift lobby.
 - iii) Two (2) spaces adjacent to the through aisle (eastern side) between the two east-west parking aisles, to the north east of the new lift lobby.
- i) The plans must accurately represent the layout of the basement and rooftop carparks, in relation to the dimensions of parking spaces and location of any structures which abut and/or constrain parking space dimensions, aisle widths and manoeuvring areas.

The plans must show all signage, linemarking, pedestrian travel routes, traffic management measures, wheels stops, bollards, motor bike parking, guard rails, walls, columns, fences, trolley bays, etc.

- j) The design must incorporate signposting and pavement marking, including pavement arrows for the whole of the basement and rooftop carparks, including those areas of the carparks that are not otherwise subject to works under this consent.

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

4. That the 2011 Plan of Management shall only be amended to alter section 5.1 *Car Park Management* to specify a change to the minimum required number of on-site parking spaces to be 730 spaces.

Details demonstrating compliance are to be submitted to the satisfaction of the Council.

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

If the applicant fails to satisfy Council as to the above matters within 5 years from the date of determination this consent will lapse.

CONDITIONS OF CONSENT

5. Development must be carried out in accordance with Development Application No. D/2016/235 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
AD-DA024/D – Sections	Scott Carver	18/7/2016
AD-DA220/D – Sections		18/7/2016
AD-DA020/F – Plans	Scott Carver	18/7/2016
DA021/PA – Plans	Leffler Simes	Jan 2018
DA022/PA – Plans	Architects Leffler	Jan 2018
AD-DA023/F – Plans	Simes Architects Scott	18/7/2016
AD-DA100/K – Plans	Carver	8/9/2016
DA101/PA – Lower Mall Floor	Scott Carver	27/9/2018
DA102/PA – Upper Mall Floor	Leffler Simes	27/9/2018
AD-DA103/I – Plans	Architects Leffler	8/9/2016
AD-DA104/D – Plans	Simes Architects Scott	18/7/2016
AD-DA303/D – Plans	Carver	18/7/2016
AD-DA304/D – Plans	Scott Carver	18/7/2016
AD-DA331/D – Plans	Scott Carver	18/7/2016
AD-DA332/D – Plans	Scott Carver	18/7/2016
AD-DA333/D – Plans	Scott Carver	18/7/2016
AD-DA334/D – Plans	Scott Carver	18/7/2016
	Scott Carver	
	Scott Carver	
Document Title	Prepared By	Dated
Flood Emergency Response Plan – Issue 1	ACOR Consultants	2/9/2016
BCA Report	Steve Watson & Partners	4/10/2018

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.

(Condition modified under M/2018/165 on 15 November 2018)

- 5A. No approval is granted or implied as a part of this consent to the deletion of tenancy K3 or

any changes to the existing internal circulation areas and inter-tenancy wall between, or internal areas of, tenancies 21A and 57/60.

References on the approved plans to new inter-tenancy walls between tenancies 21A and 57/60, new northern shopfronts to tenancies 21A and 57/60, and the removal of tenancy K3, existing inter-tenancy walls between tenancies 21A and 57/60, existing northern and eastern shopfronts to tenancy 21A, and existing northern shopfront to 57/60 are to be deleted.

(Condition added under M/2018/165 on 15 November 2018)

6. 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 structures identified on the approved plans to be demolished	Site

Excluding the following elements which must be retained:

Elements to be retained	Location
All Remaining parts of the building	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.

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 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.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

7. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided prepared / prior to the issue of a Construction Certificate. The Plan must be prepared / amended to make provision for the following:
- a) The report must be generally in accordance with the recommendations of the Flood Risk Management Report and the Flood Emergency Response Plan prepared by ACOR Consultants and dated 2 September 2016.
 - b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions shall include but not be limited to the following:
 - i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
 - iii) Flood warning signs/depth indicators for areas that may be inundated
 - iv) A flood evacuation strategy and nomination of a flood refuge point(s).
 - v) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
 - c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

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

8. The approved Architectural plans must be amended to address all relevant recommendations of the Flood Risk Management Plan prepared under Condition No.6.

The plans addressing the requirements of this condition must be provided prior to the issue of a Construction Certificate. The design must be prepared to make provision for the following:

- a) Specification of materials
- b) Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans shall occur except as identified by this condition. Any changes to such must be subject to separate approval in accordance with Section 96 of the Environmental Planning

and Assessment Act.

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

9. Engineering design plans prepared by a qualified practicing Structural Engineer must be prepared and incorporate the recommendations of the Flood Risk Management Plan prepared under Condition No.6. The design must be prepared to make provision for the following:
- a) Structural integrity of all structures from immersion and/or impact of velocity and debris.
 - b) Waterproofing works, where applicable.

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

10. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
- a) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the existing site drainage system.
 - b) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2003 *Plumbing and Drainage – Stormwater Drainage*
 - c) Plans must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.

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.

11. The design of the basement and rooftop car parks 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*, AS 2890.2-2002 *Parking Facilities - Off-Street commercial vehicles facilities*, AS/NZS 2890.6-2009 *Off-street parking for people with disabilities* and AS 2890.3-1993 *Parking Facilities - Bicycle parking facilities*. The design must be prepared/amended to make provision for the following:
- a) The design must be generally in accordance with the design approved under **Deferred Commencement Condition No.3.**
 - b) The design must incorporate signposting and pavement marking, including pavement arrows in accordance with the requirements of Section 4 of AS/NZS 2890.1-2004 for the whole of the basement and rooftop car parks, including those areas of the car parks that are not otherwise subject to works under this consent.
 - c) Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any dedicated accessible parking space(s) and adjacent Shared Area(s). 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.

Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.

- d) Where any parking space can accommodate a small car only, it must be clearly designated as a small car space, in accordance with Section 2.4.1(a)(iii) of AS/NZS 2890.1-2004.
- e) For any existing or proposed parking spaces where the drop adjacent to the end of the parking module(s) exceeds 600mm, structural barriers must be provided. Where the drop is between 150-600mm, wheel stops must be provided. These physical controls must be installed in accordance with the requirements of Section 2.4.5 of AS/NZS2890.1-2004.

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

12. A detailed design of the proposed Parking Management System must be prepared. The design must be generally in accordance with the system outlined in Appendix B of the Proposed Pedestrian / Access Improvements report prepared by Positive Traffic dated 8 September 2016.

The design must be certified by a suitably qualified Civil Engineer and be provided to the Principal Certifying Authority 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.

13. 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.

14. A Building Code of Australia audit is to be carried out. The audit must cover all clauses within Section C, D and E of the Building Code of Australia.

The results of the audit are to be incorporated into a report and strategy to overcome the non-compliant provision either by alternate solution or adherence to deemed-to-satisfy provision by satisfying the performance requirements of Sections C, D and E of the Building Code of Australia.

A schedule of existing and proposed essential fire safety measures, including their standard performance must be included in the strategy. The report, strategy and compliance certificate from a fire engineer must be provided prior to the issue of a Construction Certificate to the

satisfaction of the Certifying Authority.

15. Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard AS 1158.3:2005 *Pedestrian area (Category P) lighting – Performance and design requirements* and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.
16. 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 (Exempt & Complying Codes) 2008.

As required, 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.

17. 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.

18. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
- a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

19. 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.

20. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. 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.

21.	<p>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:</p> <ul style="list-style-type: none"> a) Must preserve and protect the adjoining building from damage 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. <p>In this condition, the allotment of land includes public property.</p>
22.	<p>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</p>

	<p>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.</p> <p>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.</p>
23.	<p>A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must 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:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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; 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. <p>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.</p>
24.	<p>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):</p>

	<p>a) A plan view of the entire site and frontage roadways indicating:</p> <ul style="list-style-type: none"> 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 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. <p>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.</p> <p>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.</p> <p>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.</p> <p>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"</p> <p>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.</p> <p>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.</p>
25.	<p>A Waste Management Plan (WMP) is to be provided in accordance with Part D – Waste – Development Control Plan 2013. The Plan must address all issues identified in the DCP including but not limited to:</p>

- 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)

26. Prior to the commencement of demolition works on the subject site or a 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	\$49,680.00
Inspection fee	\$219.00

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.
27.	<p>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)</p> <ul style="list-style-type: none"> 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 <p>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.</p>
	PRIOR TO THE COMMENCEMENT OF WORKS
28.	<p>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.</p> <p>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.</p>
29.	<p>The site must be secured with temporary fencing prior to any works commencing.</p> <p>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</p>

	<p>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.</p> <p>Separate approval is required under the <i>Roads Act 1993</i> 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.</p> <p>Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.</p>
30.	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.
31.	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.
32.	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.
33.	<p>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:</p> <ul style="list-style-type: none"> 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. <p>Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.</p> <p>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.</p>
	DURING WORKS
34.	Building materials and machinery are to be located wholly on site unless separate consent

	<p>(Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.</p> <p>Construction materials and vehicles shall not block or impede public use of the footpath or roadway.</p>
35.	<p>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.</p> <p>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:</p> <ol style="list-style-type: none"> Preserve and protect the building from damage. If necessary, underpin and support the building in an approved manner. 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. <p>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.</p>
36.	<p>The site must be appropriately secured and fenced at all times during works.</p>
37.	<p>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.</p> <p>Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority.</p>
38.	<p>Excavation, demolition, construction or subdivision work shall only be permitted during the following hours:</p> <ol style="list-style-type: none"> 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.

	<p>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.</p> <p>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.</p> <p>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.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:</p> <p style="padding-left: 40px;">8:00 am to 12:00 pm, Monday to Saturday; and 2:00 pm to 5:00 pm Monday to Friday.</p> <p>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.</p> <p>“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.</p> <p>Noise arising from the works must be controlled in accordance with the requirements of the <i>Protection of the Environment Operations Act 1997</i> and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.</p>
39.	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.
40.	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.
41.	<p>The development must be inspected at the following stages by the Principal Certifying Authority during construction:</p> <ul style="list-style-type: none"> a) after the commencement of the excavation for, and before the placement of, the first footing. b) prior to covering any stormwater drainage connections, and c) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

42.	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 duration of the use/trading. Copies shall be made available to Council Officer's upon request.
43.	<p>Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.</p> <p>Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily.</p> <p>If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.</p>
44.	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
45.	<p>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.</p> <p>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.</p>
	PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE
46.	<p>Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.</p> <p>Certification by a qualified practicing Civil Engineer this condition has been complied</p>

	with must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
47.	<p>A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.</p> <p>Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and plumbing section on the web site www.sydneywater.com.au then refer to "Plumbing, building & developing".</p> <p>Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.</p>
48.	<p>Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.</p> <p>A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.</p>
49.	<p>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 development consent and relevant Australian Standards and the following has been implemented within the property, where applicable:</p> <ul style="list-style-type: none"> a) The car park has been completed, line marked and all signage relating to car parking erected. b) The Parking Management System has been installed and is fully operational. <p>Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance with the above must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.</p>
50.	<p>Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that an Operation Management Plan has been prepared and implemented for the Parking Management System. The Plan must set out the following at a minimum:</p> <ul style="list-style-type: none"> 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, response plan in the event of mechanical failure, etc.

	The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
51.	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.
52.	<p>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.</p> <p>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.</p>
53.	<p>Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:</p> <ul style="list-style-type: none"> - the approved plans; - approved documentation (as referenced in this consent); and - conditions of this consent.
54.	Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be satisfied that a Fire Safety Certificate for all essential fire or other safety measures has been completed.
	ONGOING CONDITIONS OF CONSENT
55.	The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
56.	The Plan of Management required and approved under this consent must be complied with at all times. Any amendments to the Plan of Management must be subject to modifications to the plan must be subject to Council approval in accordance with Section 96 of the Environmental Planning and Assessment Act 1979. A copy of the Plan of Management must be displayed on site at all times and made available to all staff and or occupants.
57.	Driveways and parking spaces must not be used for manufacture, storage or display of goods, materials and equipment. The spaces must be available at all times, for all vehicles associated with the development.
58.	At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
59.	<p>The approved signs must be maintained in a presentable and satisfactory state of repair.</p> <p>The level of illumination and / or lighting intensity used to illuminate the sign/s is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises. Illumination shall cease outside centre operating hours.</p> <p>No consent is given or implied for any form of external illumination or floodlighting to any</p>

	sign. Only internal illumination is approved.
60.	The Operation and Management Plan for the Parking Management System, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
61.	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.
62.	Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: <i>Control of the Obtrusive Effects of Outdoor Lighting</i> 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.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A(3) 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 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 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.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated

development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.

3. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - e) Development Application for demolition if demolition is not approved by this consent.
 - f) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - g) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained

Architectural floor plan of the MarketPlace Leichhardt Flood St. Leichhardt NSW, showing the existing lower mall floor plan. The plan includes a grid system (A-M, 05-14) and various rooms such as the Plant Room, Loading Dock, Food Court, and various retail units. A north arrow and scale bar are also present.





