



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	M/2018/206
Address	233A Johnston Street, Annandale
Proposal	To modify development application D/2013/200 dated 21 May 2015 which approved a mixed use development. The modifications are to Unit 17 located on levels 3 and 4 of the building, including changes to openings and terrace.
Date of Lodgement	21 December 2018
Applicant	Mrs B Pitcher
Owner	Eloura Holdings Pty Ltd
Number of Submissions	Two (2) submissions
Reason for determination at Planning Panel	Modifications to development to which State Environmental Planning Policy No. 65 applies.
Main Issues	Heritage Conservation Area; Visual privacy.
Recommendation	Approval
Attachment A	Recommended modified conditions of consent
Attachment B	Plans of proposed development
Attachment C	Original notice of determination (as last amended)
Attachment D	Original approved plans (as last amended)



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council to modify development application D/2013/200 which approved a mixed use development at 233A Johnston Street, Annandale. The modifications are to Unit 17 located on levels 3 and 4 of the building, including changes to openings and terrace.

The application was notified to surrounding properties and two (2) submissions were received.

The main issues that have arisen from the application include:

- Heritage Conservation Area;
- Visual privacy from the terrace.

The proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies (SEPPs), Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013.

The application is therefore recommended for approval.

2. Proposal

D/2013/200, dated 21 May 2015, approved an application for a mixed use development incorporating demolition of some existing structures, site remediation, construction of 10 townhouses with basement parking, a new single dwelling in View Street, alterations and additions to an existing commercial building (for use as a local shop and 7 residential units) and 2 existing dwellings in Rose Street, strata subdivision and associated works.

This modification relates to the separate apartment building on the northern side of the site, which contains 7 residential units. The remainder of the site contains 10 townhouses.

This modification includes the following changes to unit 17:

- Modify the windows on the western (front) façade servicing Bedroom 2 to have an aluminium box frame with a louvre headbox. The location and size of the windows are unchanged;
- Modify the openings on the western (front) façade servicing the balcony by providing an aluminium box frame with a louvre headbox. The location and size of the opening are unchanged; and
- Provide a floating timber deck over the tiled terrace that surrounds the kitchen and living area on level 4 of the development. The floating deck is raised 150mm above the existing tiles.



Figure 1: Apartment building at 233A Johnston Street, viewed from Johnston Street.

3. Site Description

The subject site is located on the eastern side of Johnston Street, north of its intersection with Rose Street. The site is known as 233A Johnston Street, Annandale and is legally described as Lots 1-17 of Strata Plan 90315.

The site currently contains 10 townhouses with basement parking and a separate apartment building containing 7 residential units. Located to the north of the site is a row of single storey dwellings, with 235 Johnston Street immediately north of the site. Development to the west of the site is a mixed of detached and semi-detached one and two storey dwelling houses along View Street, including a new dwelling at 170 View Street which was approved as part of the original application. To the south, the site has a frontage to Rose Street.

The site is not listed as a heritage item in the Leichhardt LEP 2013. It is part of the Annandale Heritage Conservation Area (C1). It is located in close proximity to the following heritage items:

- 'Sandstone retaining wall and Winkworth steps' along Rose Street
- 'Street trees – Brush Box' along Johnston Street

The subject site is part of the Johnston Street Distinctive Neighbourhood of the Leichhardt LEP 2013.

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site.

Subject Site

Application	Proposal	Decision & Date
D/2013/200	Mixed use development incorporating demolition of some existing structures, site remediation, construction of 10 townhouses with basement parking, a new single dwelling in View Street, alterations and additions to an existing commercial building (for use as a local shop and 7 residential units) and 2 existing dwellings in Rose Street, strata subdivision and associated works. SEPP 1 objections for Floor Space Ratio, Landscaped Area, Minimum Lot Size and Diverse Housing.	Approved - 21 May 2015
M/2015/57	Modification to D/2013/200 which approved mixed use development. Modification involves consolidation of Units 5 and 7, change of shop to adaptable studio dwelling, internal unit layout amendments, minor design amendments and modified windows to commercial building.	Approved - 29 October 2015
M/2015/78	Modification to D/2013/200 to make the 'Deferred Commencement' Consent condition relating to Council's drainage easement a general condition of consent, to be satisfied prior to commencement of construction.	Approved - 21 May 2015
M/2016/3	Modification to D/2013/200 including the following: Amalgamate Lots 1 and 2; changes to internal dwelling layout; changes to parking layout and numbers including deletion of study rooms on parking level and providing increased parking and associated accessways for approved Rose and View Street residences; changes to openings; changes to courtyards and terraces; new timber pergola to apartment 5; and changes to external finish to part of the northern facade of the former commercial building.	Approved - 5 August 2016
M/2016/260	Modify D/2013/200 as follows: modify internal layout of apartment 7 and change external windows/doors.	Approved - 18 January 2017
M/2017/18	Modify D/2013/200 involving: part demolition and reconstruction of structurally compromised northern and eastern brick facades of former commercial building; the installation of a structural steel awning over the driveway between the commercial building and terraces to Johnston Street; and new mechanical exhaust ducting and provision.	Approved - 21 March 2017
M/2017/208	S96 modification to D/2013/200. Modification involves - demolition and reinstatement of western facade wall of the apartment building located at 233A Johnston St Annandale. Removal of privacy screen on Level 1, Bedroom 2 in apartment 1.	Approved - 24 November 2017

M/2017/211	Modification of Development Consent D/2013/200 involving amending Condition 90 allowing for the staging of the issuing of the Subdivision Certificate as follows: - Stage 1: 39 & 41 Rose Street; - Stage 2: Units 1-10/233A Johnston Street, Units 11-17/233A Johnston Street and 170 View Street.	Approved - 22 November 2017
M/2017/231	Modify condition 91 for a staged development. The development is proposed to be staged to allow the Stage 2 subdivision certificate to be issued with a modified Condition and requirements. Stage 2 - Units 1-17/233A Johnston St Annandale (10 Terraces) Stage 3 - 170 View St, Annandale (New House)	Approved - 22 December 2017
M/2018/41	Modification of Development Consent D/2013/200. Consent is sought to delete the privacy screening to the windows on the southern elevation of the former commercial (now apartment) building on Johnston Street.	Approved - 21 May 2018

5. Section 4.55 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 to modify the openings to the front façade and to provide a floating timber deck over the tiled terrace. These changes will have minimal environmental impacts to the surrounding area.

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 proposed works relate to changes to development detailing, resulting in substantially the same development as originally granted.

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 for 14 days from 24 January 2019 to 7 February 2019. Due to an error in the original notification to neighbouring properties, the application was notified again for 14 days from 19 February 2019 to 5 March 2019.

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

Two submissions were received during the notification periods. The issues raised in these submissions have been considered as part of this assessment.

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

5(a)(iv) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that the site is, or can be made, suitable for the proposed use, prior to granting consent.

As part of the assessment for D/2013/200, Council was satisfied that the site can be remediated and be made suitable for residential development subject to recommendations of the Remediation Action Plan (RAP) being implemented. This modification does not propose any changes to the previously approved remediation works. Therefore, it is considered that the proposed modification does not alter previous conclusions with respect to the remediation works in accordance with SEPP 65. On this basis, the site remains suitable for residential use.

5(a)(v) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

The development is subject to the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). SEPP 65 prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

Overall, the original application (D/2013/200) was assessed as being acceptable with regard to the principles and objectives of SEPP 65 subject to conditions of consent.

The proposed modifications, relating to the openings and the terrace, are not considered to be contrary to the principles contained in SEPP 65 with respect to what was originally approved. An assessment of the modification against the Design Quality Principles outlined in the SEPP is outlined below:

Principle 1: Context

The modified proposal is considered to be an acceptable response to its context as the proposal is for minor modifications to the approved scheme. The changes to the openings (ie. elements visible from the public domain) will appear contemporary and will be complementary to the reuse of the existing building.

Principle 2: Scale

The modification does not alter the scale of the approved development and is therefore acceptable.

Principle 3: Built Form

The previously approved development was considered to be acceptable having regard to form, size, height, scale, design, landscaping and detail. The proposed modifications are considered to be sympathetic to, and consistent with, the approved design and built form and are therefore acceptable.

Principle 4: Density

The proposed modifications would not alter the overall density of the previously approved development.

Principle 5: Resource, Energy and Water Efficiency

As outlined in Section 5(a)(iii) below, the modifications do not require an amended BASIX certificate. The proposed changes raise no concerns having regard to the resource, energy and water efficiency of the approved development.

Principle 6: Landscape

There are no proposed changes to the approved landscaping on the site.

Principle 7: Amenity

The proposed modifications would achieve acceptable levels of amenity for the new residences, whilst ensuring amenity impacts of neighbours are minimised. Refer to Section 5(c) of this report for a discussion regarding visual privacy impacts from the proposed floating deck.

Principle 8: Safety and Security

There are no proposed changes that would result in adverse impacts relating to safety and security.

Principle 9: Social Dimensions

The approved development was assessed previously as being accessible for all, and will provide adaptable housing in close proximity to existing services and local facilities. The proposed modifications do not alter the overall development in this regard.

5(a)(vi) [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#)

The original application provided a BASIX Certificate which forms part of the consent. The modifications are not considered to require an amended BASIX certificate.

5(a)(vii) State Environmental Planning Policy (Infrastructure) 2007

The original application was assessed with regard to the requirements of Clause 104 of State Environmental Planning Policy (Infrastructure) 2007, which included referral comments from Roads and Maritime Services (RMS). The requirements of RMS were addressed by condition and incorporated in the original consent. This modification does not include any changes to these requirements.

5(a)(viii) Leichhardt Local Environmental 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 5.10 – Heritage Conservation
- Clause 6.11 - Adaptive reuse of existing non-residential buildings in Zone R1

The modification application satisfies the provisions of the Leichhardt Local Environmental Plan 2013. With regard to certain specific clauses the following comments apply:

Clause 2.3 Zone objectives and Land Use Table

The site is zoned R1 – *General Residential* and the proposed modified development is permissible with consent in the zone. Further, the modified proposal remains consistent with the objectives of this zone.

The modification does not affect the principal development standards contained in the LLEP 2013.

Clause 5.10 – Heritage Conservation

The application was referred to Council's Heritage Advisor who advised as follows:

"The subject site is not listed as a heritage item on the Leichhardt LEP 2013. It is part of the Annandale heritage conservation area (C1).

I have reviewed drawings by Building Studio dated 23 November 2018 and ref. DA.S0 to DA.S41.

The proposal is for minor modifications to the approved scheme. The only element visible from the public domain will be the proposed frame around the openings and aluminium louvres which the documents state are from the previous approval.

Aluminium box frames around openings will appear very contemporary and are normally not supported in historic settings. However, it is noted that this building has been approved for considerable change and that overall, new box frames will be complementary to the approved contemporary reuse of this building.

In addition to this, main views towards this building will incorporate views towards the infill development adjacent to the subject site, which has a very contemporary character. As such, no heritage concern is raised."

Give the above comments, the application is supported from a heritage perspective and no conditions of consent are required.

5(b) Draft Environmental Planning Instruments

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

- Draft State Environmental Planning Policy (Environment)

The proposal raises no issues with regard to the draft State Environmental Planning Policy (Environment).

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
B2.1 Planning for Active Living	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Not applicable
C1.3 Alterations and additions	Yes – see below
C1.4 Heritage Conservation Areas and Heritage Items	Yes – see below
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
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	Not applicable
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Not applicable
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not applicable
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable

Part C: Place – Section 2 Urban Character	
C2.2.1.3 Johnston Street Distinctive Neighbourhood, Annandale.	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Not applicable
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Not applicable
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Not applicable
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes – See below
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
Part C: Place – Section 4 – Non-Residential Provisions	Not applicable
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
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	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Not applicable
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Not applicable
E1.3.1 Flood Risk Management	Not applicable
E1.3.2 Foreshore Risk Management	Not applicable
Part F: Food	Not applicable
Part G: Site Specific Controls	Not applicable

The following provides discussion of the relevant issues:

C1.3 Alterations and Additions and C1.4 Heritage Conservation Areas and Heritage Items

The proposed works to the openings on the western (front) façade will be visible from the public domain. These changes relate to the external finishes only and do not seek to alter the size or location of the windows. As discussed in further detail above, under the LLEP 2013 assessment within Clause 5.10 – Heritage Conservation, the proposed works are considered acceptable from a heritage perspective and no conditions of consent are required.

C3.11 Visual Privacy

A submission was received during the notification period which raised concerns about the new potential for overlooking from the rear deck towards the rear gardens of dwellings in View Street, particularly 182 View Street.

The submission requested that additional conditions of consent be imposed to allow no further increase to the height of the floor level of the deck and to require screen planting to the planter beds of the open space terrace including unit 17.

The proposed floating deck is proposed to the terrace on the 4th floor of the apartment building. This floating deck is located 150mm above the existing tiled floor of the terrace. It is not anticipated that a 150mm raise in the floor level would exacerbate any existing visual privacy impacts to dwellings along View Street, particularly given that the existing glass balustrade to the terrace has a height of 1 metre. Additionally, the architectural plans submitted with the modification indicate planter beds adjacent to the northern and southern (side) edges of the floating deck which will need to be provided with planting in accordance with Condition 6(d)(ii) which reads:

“ii) The screen planting to the planter beds of all open space terraces shall have a height of 1.6m above the finished terrace floor level.”

C1 in Part C3.11 in the LDCP 2013 requires sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling to be screened or obscured. The private open space of 182 View Street is located well in excess of 9m from the closest point of the terrace and is therefore outside the scope of consideration under C1.

As such, it is not considered necessary to include additional conditions of consent as the proposed changes would not exacerbate the existing visual privacy impacts or result in any additional unacceptable privacy impacts on neighbours (nor other residents within the development).

In addition to the above, it is noted that the original application involved a substantial assessment of the visual privacy impacts of the proposed development, including the proposed residences within the residential building. The assessment found that, subject to conditions of consent, the south and east facing open space terrace areas will not facilitate any undue adverse view lines down onto adjoining/ adjacent properties along View Street.

Given the minor scope of works proposed as part of this modification, the previous assessment is upheld and the modification is satisfactory having regard to visual privacy.

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 R1 - General Residential and the proposal is permissible development in the zone. 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 Leichhardt DCP 2013 for a period of 14 days from 24 January 2019 to 7 February 2019 to surrounding properties. Due to an error in the original notification to neighbouring properties, the application was notified again for 14 days from 19 February 2019 to 5 March 2019.

A total of two submissions were received.

The following issues raised in submissions have been discussed in this report:

- Privacy implications from the terrace – see Section 5(c).

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Materials and finishes to the north eastern wall.

Comment: The submission raised no objections to the highlighted amendments in red on the architectural plans submitted with the application. The submission raises concern about one of the notes on the North Eastern Elevation submitted on the plans. This note reads, *“Remove existing colorbond sheeting and substrate from external wall shown in grey. Allow to bag existing brickwork and paint. Refer to Finishes Schedule.”*

Condition 6(d)(iv) added by M/2016/3 states that the entire front portion of the northern wall of the building (up to the rear alignment of Level 04) is to be finished in bagged brickwork to ensure consistency with the other elevations of the building. The remainder of the wall shall be of facebrick construction.

The submitter requests no bagged to the rear of the property at 235 Johnston Street, leaving the brickwork in its original state.

This request is noted. As advised previously, any consent granted will be conditioned to comply with the above, as per Condition 6(d)(iv) added by M/2016/3. This modification does not seek to amend this condition.

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.

Approval of the proposed modification 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.

- Heritage Officer

6(b) External

The application was not required to be referred to any external bodies.

7. Section 7.11 Contributions

The proposed modifications do not require additional contributions to be paid than were levied for the original approval.

8. Conclusion

This application has been assessed under Section 4.55 (1A) of the Environmental Planning and Assessment Act, 1979 and is considered to be satisfactory. Therefore the application is recommended for approval subject to the imposition of appropriate conditions.

9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to Section 4.55 of the Environmental Planning and Assessment Act, 1970, modify development consent D/2013/200 at 233A Johnston Street, Annandale as last modified by M/2018/41 subject to the conditions listed in Attachment A below.

Attachment A – Recommended Conditions of Consent

Attachment A – Recommended Conditions of Consent

A. Condition 2a) v) to be added and is to be read as follows:

2. Development must be carried out in accordance with Development Application No. D/2013/200 and:

a) The following plans:

i) Approved under D/2013/200 as modified:

Plan Reference	Drawn By	Dated
Drawing # 0_0100 / B Site Analysis	Tzannes Associates	2/9/13
Drawing # 0_1000 / I Site Plan / Ground Level Plan	C A Group Architects	21/4/16
Drawing # 0_1001 / I Site Plan / Roof Level	C A Group Architects	21/4/16
Drawing # DA.S210 Revision B Commercial Building Plans	U + I Building Studio	29/11/16
Drawing # DA.S220 Revision B Commercial Building Plans	U + I Building Studio	29/11/16
Drawing # 1_1110 / J Studio Plan	Architects Nicholas + Associates (AN+A)	11/8/15
Drawing # DA.S310 Revision A Commercial Building Elevations	U + I Building Studio	21/11/16
Drawing # DA.S320 Revision A Commercial Building Elevations	U + I Building Studio	21/11/16
Drawing # DA.S330 Revision A Commercial Building Elevations	U + I Building Studio	21/11/16
Drawing # 1_3001 / I Commercial Building Sections	C A Group Architects	21/4/16
Drawing # 2_1101 / I Terraces 6-10 – Plans	C A Group Architects	21/4/16
Drawing # 2_1102 / F Terraces 6-10 – Plans	Architects Nicholas + Associates (AN+A)	11/8/15
Drawing # 2_2001 / J Terraces 6-10 Elevations	C A Group Architects	2/5/16
Drawing # 2_2002 / I Terraces 6-10 Elevations	C A Group Architects	21/4/16
Drawing # 2_3001 / I Terraces 6-10 Sections	C A Group Architects	21/4/16
Drawing # 3_1101 / B Terraces 1-5 Plans	Architects Nicholas + Associates (AN+A)	25/11/15
Drawing # 3_2001 / A Terraces 1-5 Elevations	Architects Nicholas + Associates (AN+A)	20/11/15
Drawing # 3_2002 / A Terraces 1-5 Elevations	Architects Nicholas + Associates (AN+A)	20/5/16
Drawing # 3_3001 / A Terraces 1-5 Sections	Architects Nicholas + Associates (AN+A)	4/4/15
Drawing # 4_1101 / I 41 Rose Street Plans	C A Group Architects	21/4/16
Drawing # 4_2001 / I 41 Rose Street Elevations	C A Group Architects	21/4/16

Drawing # 4_3001 / I 41 Rose Street Sections	C A Group Architects	21/4/16
Drawing # 5_1101 / I 39 Rose Street Plans	C A Group Architects	21/4/16
Drawing # 5_2001 / I 39 Rose Street Elevations	C A Group Architects	21/4/16
Drawing # 5_3001 / I 39 Rose Street Sections	C A Group Architects	21/4/16
Drawing # 6_1101 / I 170 View Street Plans	C A Group Architects	21/4/16
Drawing # 6_2001 / I 170 View Street Elevations	C A Group Architects	21/4/16
Drawing # 6_3001 / I 170 View Street Sections	C A Group Architects	21/4/16
Drawing #: 8_6900 / A Commercial Building Percentage Retention	Tzannes Associates	24/12/13
Drawing #: SK111 Commercial Building West Elevational Detailing	Tzannes Associates	27/8/13
Drawing #: SK112 Bin Enclosure Details	Tzannes Associates	28/7/13
Drawing #: S.ELH-0101-H001 / P5 Stormwater Drainage Layout Cover Sheet	Umow Lai Consulting Engineers	11/9/13
Drawing #: S.ELH-0101-H002 / P5 Stormwater Drainage Layout	Umow Lai Consulting Engineers	11/9/13
Drawing #: S.ELH-0101-H003 / P5 Stormwater Drainage Layout	Umow Lai Consulting Engineers	11/9/13
Drawing #: S.ELH-0101-H004 / P4 Stormwater Schematic	Umow Lai Consulting Engineers	9/9/13
Drawing #: S.ELH-0101-H010 / P4 Stormwater Drainage Layout	Umow Lai Consulting Engineers	11/9/13
Drawing #: C02 / P3 Site Plan	Taylor Thomson Whitting	12/11/13
Drawing #: C03 / P3 Site Works Plan – Rose Street	Taylor Thomson Whitting	12/11/13
Drawing #: C04 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C05 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C06 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C07 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing No. C08 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C09 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C10 / P2 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C11 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Surveyor's Ref: 77208 Proposed Subdivision	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 1 of 5	Surveyor: Gregory Jon	18/5/16

Draft Strata Plan	Firth	
Plan Ref: PP SP90315 2 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 3 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 4 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 5 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Materials, Finishes and Colours Schedule / Board Drawings 9_6904 /C	Architects Nicholas + Associates (AN+A)	26/3/15
Materials, Finishes and Colours Schedule / Board Drawings 9_6905 / D	Architects Nicholas + Associates (AN+A)	11/8/15

ii) Except where otherwise indicated on the plans approved under M/2017/18:

Plan Reference	Drawn By	Dated
Drawing # 0_1000 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 0_1001 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 1_1101 / K Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_1102 / K Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_2001 / K Commercial Building Elevations	C A Group Architects	13/2/17
Drawing # 1_2002 / J Commercial Building Elevations	C A Group Architects	24/1/16
Drawing # 1_3001 / K Commercial Building Sections	C A Group Architects	13/2/17

iii) Except where otherwise indicated (bubbled in orange) on the plans approved under M/2017/208:

Plan Reference	Drawn By	Dated
Drawing # 0_1000 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 0_1001 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 1_1101 / L Commercial Building Plans	C A Group Architects	16/10/17
Drawing # 1_1102 / L Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_2001 / L Commercial Building Elevations	C A Group Architects	16/10/17
Drawing # 1_2002 / J Commercial Building Elevations	C A Group Architects	24/1/16
Drawing # 1_3001 / L Commercial Building Sections	C A Group Architects	16/10/17

(Condition 2 amended by M/2017/208 on 24 November 2017)

- iv) Except where otherwise indicated (bubbled in orange) on the plans approved under M/2018/41:

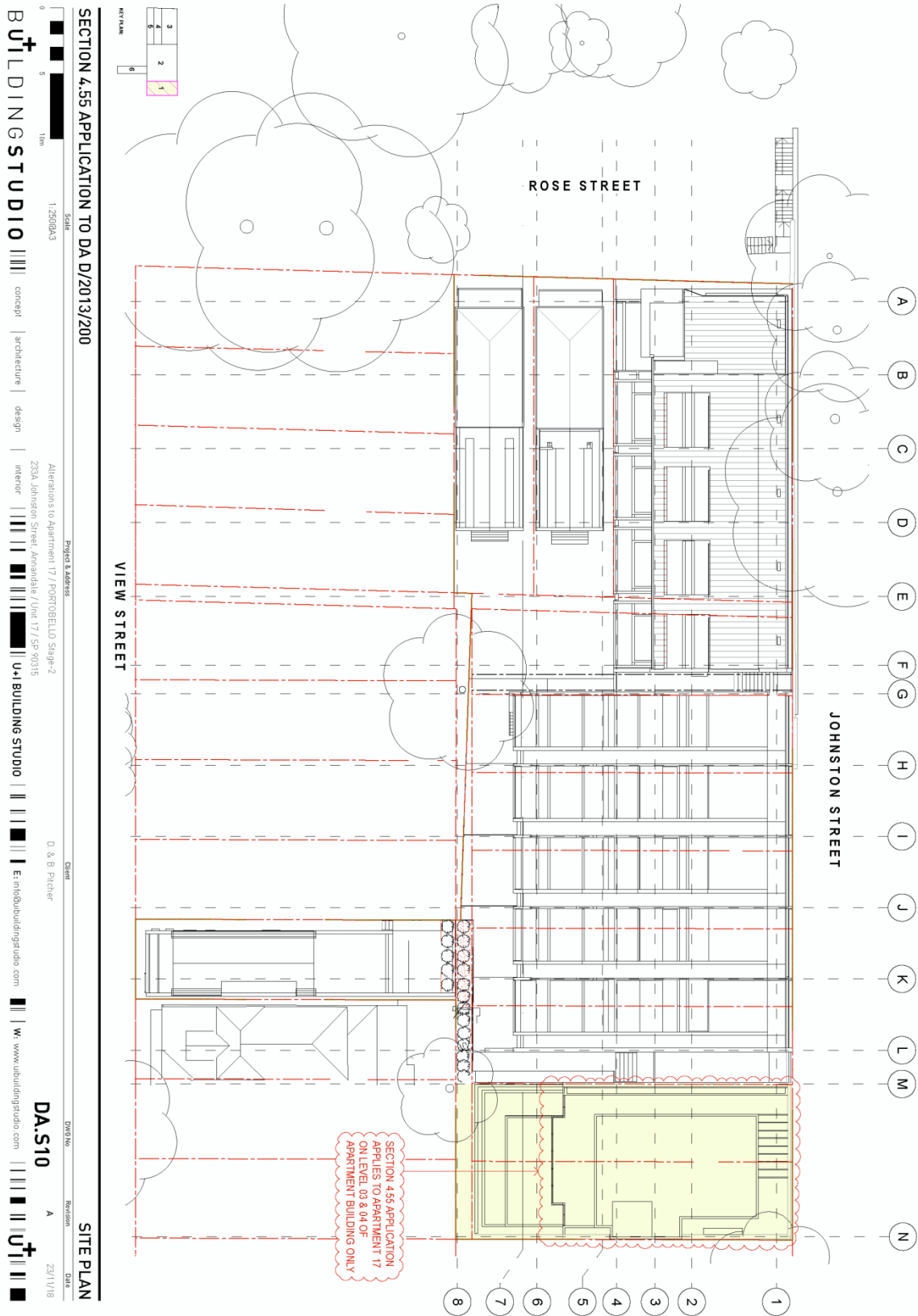
Plan Reference	Drawn By	Dated
Drawing # 0_1000 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 0_1001 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 1_1101 / L Commercial Building Plans	C A Group Architects	16/10/17
Drawing # 1_1102 / L Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_2001 / M Commercial Building Elevations	C A Group Architects	26/2/18
Drawing # 1_2002 / J Commercial Building Elevations	C A Group Architects	24/1/16
Drawing # 1_3001 / M Commercial Building Sections	C A Group Architects	26/2/18

(Condition 2a)iv) added under M/2018/41 - Dated 21 May 2018)

- v) Except where otherwise indicated (bubbled in red) on the plans approved under M/2018/206:

Plan Reference	Drawn By	Dated
DA.S40, Rev A – Johnston Street Elevation	U+I Building Studio	23/11/18
DA.S41, Rev A – North-East Elevation	U+I Building Studio	23/11/18
DA.S30, Rev A – Section	U+I Building Studio	23/11/18
DA.S20, Rev A – Level 03 Floor Plan	U+I Building Studio	23/11/18
DA.S21, Rev A – Level 04 Floor Plan	U+I Building Studio	23/11/18

(Condition 2a)v) added under M/2018/206 - XXXX)



Attachment C - Original Notice of Determination (as last amended)



Contact: Gabriel Kim
Phone: 9392 5067

22 May 2018

Winworth Investments Pty Ltd
SUITE 51, 26-32 Pirrama Rd
PYRMONT NSW 2009

**NOTICE OF DETERMINATION OF A MODIFICATION OF
DEVELOPMENT CONSENT**
Issued under the Environmental Planning & Assessment Act 1979
Section 4.55(1a)

Modification No. M/2018/41

Applicant Name:	Winworth Investments Pty Ltd
Applicant Address:	SUITE 51, 26-32 Pirrama Rd, PYRMONT NSW 2009
Land to be Developed:	Lots 71-78 Sec F DP 4844, Lot 67 DP 4844, Lot 68 DP 4844, Lot 69 DP 4844, Cnr Lot 70 DP 4844, Lot 58 DP 4844 233A Johnston Street, 39-45 Rose Street and 170 View Street, ANNANDALE
Development Consent No.:	M/2017/18
Approved Development:	Modification of Development Consent D/2013/200. Consent is sought to delete the privacy screening to the windows on the southern elevation of the former commercial (now apartment) building on Johnston Street.
Modification:	M/2018/41
Determination:	Approved
Date of Determination:	21 May 2018

It is advised that Council has approved your application to modify Development Consent No. D/2013/200.

A revised copy of the Development Consent is attached.

Customer Service Centres

Petersham | P (02) 9335 2222 | E council@marrickville.nsw.gov.au | 2-14 Fisher Street, Petersham NSW 2049

Leichhardt | P (02) 9367 9222 | E leichhardt@lmc.nsw.gov.au | 7-15 Wetherill Street Leichhardt NSW 2040

Ashfield | P (02) 9716 1800 | E info@ashfield.nsw.gov.au | 260 Liverpool Road Ashfield NSW 2131

Have you made a political donation?

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at www.leichhardt.nsw.gov.au/Political-Donations.html. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.



Eric Wong
Senior Planner

Right of Appeal

If you are dissatisfied with this decision, Section 8.9 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environmental Court within 6 months after the date of this Notice of Determination.

Right of Review

Alternatively, you may request a review of this determination under Section 8.2 of the Act. 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.



Contact: Gabriel Kim
Phone: 9392 5067

22 May 2018

Winworth Investments Pty Ltd
SUITE 51, 26-32 Pirrama Rd
PYRMONT NSW 2009

**NOTICE OF DETERMINATION OF A MODIFICATION OF
DEVELOPMENT CONSENT
Issued under the Environmental Planning & Assessment Act 1979
Section 96(1a)**

Modification No. M/2017/18

Applicant Name:	Winworth Investments Pty Ltd
Applicant Address:	C/- Sjb Planning Michael Baker, Level 2, 490 Crown St, SURRY HILLS NSW 2010
Land to be Developed:	Lots 71-78 Sec F DP 4844, Lot 67 DP 4844, Lot 68 DP 4844, Lot 69 DP 4844, Cnr Lot 70 DP 4844, Lot 58 DP 4844 233A Johnston Street, ANNANDALE NSW 2038
Development Consent No.:	D/2013/200
Approved Development:	Mixed use development incorporating demolition of some existing structures, site remediation, construction of 10 townhouses with basement parking, a new single dwelling in View Street, alterations and additions to an existing commercial building (for use as a local shop and 7 residential units) and 2 existing dwellings in Rose Street, strata subdivision and associated works.
Modification:	Modify D/2013/200 involving: part demolition and reconstruction of structurally compromised northern and eastern brick facades of former commercial building; the installation of a structural steel awning over the driveway between the commercial building and terraces to Johnston Street; and new mechanical exhaust ducting and provision.
Determination:	Approved

Customer Service Centres

Petersham | P (02) 9335 2222 | E council@marrickville.nsw.gov.au | 2-14 Fisher Street, Petersham NSW 2049

Leichhardt | P (02) 9367 9222 | E leichhardt@lmc.nsw.gov.au | 7-15 Wetherill Street Leichhardt NSW 2040

Ashfield | P (02) 9716 1800 | E info@ashfield.nsw.gov.au | 260 Liverpool Road Ashfield NSW 2131



Date of Determination: 21 March 2017

It is advised that Council has approved your application to modify Development Consent No. D/2013/200.

A revised copy of the Development Consent is attached.

Have you made a political donation?

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at www.leichhardt.nsw.gov.au/Political-Donations.html. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.

Eric Wong
Senior Planner

Right of Appeal

If you are dissatisfied with this decision, Section 96(6) of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environmental Court within 6 months after the date of this Notice of Determination.

Right of Review

Alternatively, you may request a review under Section 96AB of the Act within 28 days of the date of this Notice. This does not apply to Crown, Designated or Integrated Development.

Customer Service Centres

Petersham | P (02) 9335 2222 | E council@marrickville.nsw.gov.au | 2-14 Fisher Street, Petersham NSW 2049

Leichhardt | P (02) 9367 9222 | E leichhardt@lmc.nsw.gov.au | 7-15 Wetherill Street Leichhardt NSW 2040

Ashfield | P (02) 9716 1800 | E info@ashfield.nsw.gov.au | 260 Liverpool Road Ashfield NSW 2131



Contact: Gabriel Kim
Phone: 9392 5067

22 May 2018

Winworth Investments Pty Ltd
SUITE 51, 26-32 Pirrama Rd
PYRMONT NSW 2009

**NOTICE OF DETERMINATION OF
DEVELOPMENT APPLICATION NO: D/2013/200
Issued under the Environmental Planning & Assessment Act 1979
(Section 81(1)(a))**

***Annotated Copy Modification No. M/2018/41
Annotated Copy – Modification No. M/2017/18
Annotated Copy – Modification No. M/2016/260***

Applicant Name: Winworth Investments Pty Ltd

Applicant Address: C/- Sjb Planning Michael Baker, Level 2, 490 Crown St,
SURREY HILLS NSW 2010

Land to be Developed: **Lots 71-78 Sec F DP 4844, Lot 67 DP 4844, Lot 68 DP
4844, Lot 69 DP 4844, Cnr Lot 70 DP 4844, Lot 58 DP 4844
233A Johnston Street, 39-45 Rose Street and 170 View
Street, ANNANDALE**

Proposed Development: Mixed use development incorporating demolition of some
existing structures, site remediation, construction of 10
townhouses with basement parking, a new single dwelling in
View Street, alterations and additions to an existing
commercial building (for use as a local shop and 7 residential
units) and 2 existing dwellings in Rose Street, strata
subdivision and associated works.

Determination: Approved Operational Consent

Date of Determination: 11 February 2014

Consent to Operate From: 21 May 2015

Consent to Lapse On: 11 February 2019

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.

Customer Service Centres

Petersham | P (02) 9335 2222 | E council@marrickville.nsw.gov.au | 2-14 Fisher Street, Petersham NSW 2049

Leichhardt | P (02) 9367 9222 | E leichhardt@lmc.nsw.gov.au | 7-15 Wetherill Street Leichhardt NSW 2040

Ashfield | P (02) 9716 1800 | E info@ashfield.nsw.gov.au | 260 Liverpool Road Ashfield NSW 2131

DEFERRED COMMENCEMENT – Deleted under M/2015/78 - 21 May 2015

The following deferred commencement condition No. 1 have been deleted as of 21 May 2015

- ~~1. Prior to the consent becoming operational, the following condition must be satisfied and a letter provided by Council's Manager Property and Commercial Services certifying that the condition has been satisfied.~~

~~Eloura Holdings Pty Ltd must:~~

- ~~a) Exercise the option to purchase part of the drainage reserve in DP 4844 being part of the land in certificate of title 1/1179883 granted by the Deed Granting Option to Purchase Real Estate dated 19 September 2012 between Eloura Holdings Pty Ltd ACN 117 032 103 as the Purchaser, Glo Depot Pty Limited ACN 125 653 992 as the Related Company and Leichhardt Council ABN 92 379 942 845 as the Vendor (Option Deed), and~~
- ~~b) Complete the Contract created by the exercise of the option in accordance with the Option Deed including payment of the purchase price and other amounts specified and creation of the Easement to Drain Water and Rights of Access in favour of Council as authority benefitted; and~~
- ~~c) Either provide evidence that the easement sites will not be built over by the proposed development or, in accordance with the terms of the easements attached to the contract attached to the Option Deed, request that the easement sites be relocated and have this appropriately documented (either by registration of a plan or agreement for this to be included in the subsequent plan of re subdivision) to the reasonable satisfaction of Council. (Condition Deleted under M/2015/78 – 21 May 2015)~~

CONDITIONS OF CONSENT

2. Development must be carried out in accordance with Development Application No. D/2013/200 and:

- a) The following plans:

i) Approved under D/2013/200 as modified:

Plan Reference	Drawn By	Dated
Drawing #: O_0100 / B Site Analysis	Tzannes Associates	2/9/13
Drawing # O_1000 / I Site Plan / Ground Level Plan	C A Group Architects	21/4/16
Drawing # O_1001 / I Site Plan / Roof Level	C A Group Architects	21/4/16
Drawing # DA.S210 Revision B Commercial Building Plans	U + I Building Studio	29/11/16
Drawing # DA.S220 Revision B Commercial Building Plans	U + I Building Studio	29/11/16

Drawing # 1_1110 / J Studio Plan	Architects Nicholas + Associates (AN+A)	11/8/15
Drawing # DA.S310 Revision A Commercial Building Elevations	U + I Building Studio	21/11/16
Drawing # DA.S320 Revision A Commercial Building Elevations	U + I Building Studio	21/11/16
Drawing # DA.S330 Revision A Commercial Building Elevations	U + I Building Studio	21/11/16
Drawing # 1_3001 / I Commercial Building Sections	C A Group Architects	21/4/16
Drawing # 2_1101 / I Terraces 6-10 – Plans	C A Group Architects	21/4/16
Drawing # 2_1102 / F Terraces 6-10 – Plans	Architects Nicholas + Associates (AN+A)	11/8/15
Drawing # 2_2001 / J Terraces 6-10 Elevations	C A Group Architects	2/5/16
Drawing # 2_2002 / I Terraces 6-10 Elevations	C A Group Architects	21/4/16
Drawing # 2_3001 / I Terraces 6-10 Sections	C A Group Architects	21/4/16
Drawing # 3_1101 / B Terraces 1-5 Plans	Architects Nicholas + Associates (AN+A)	25/11/15
Drawing # 3_2001 / A Terraces 1-5 Elevations	Architects Nicholas + Associates (AN+A)	20/11/15
Drawing # 3_2002 / A Terraces 1-5 Elevations	Architects Nicholas + Associates (AN+A)	20/5/16
Drawing # 3_3001 / A Terraces 1-5 Sections	Architects Nicholas + Associates (AN+A)	4/4/15
Drawing # 4_1101 / I 41 Rose Street Plans	C A Group Architects	21/4/16
Drawing # 4_2001 / I 41 Rose Street Elevations	C A Group Architects	21/4/16
Drawing # 4_3001 / I 41 Rose Street Sections	C A Group Architects	21/4/16
Drawing # 5_1101 / I 39 Rose Street Plans	C A Group Architects	21/4/16
Drawing # 5_2001 / I 39 Rose Street Elevations	C A Group Architects	21/4/16
Drawing # 5_3001 / I 39 Rose Street Sections	C A Group Architects	21/4/16
Drawing # 6_1101 / I 170 View Street Plans	C A Group Architects	21/4/16
Drawing # 6_2001 / I 170 View Street Elevations	C A Group Architects	21/4/16

Drawing # 6_3001 / I 170 View Street Sections	C A Group Architects	21/4/16
Drawing #: 8_6900 / A Commercial Building Percentage Retention	Tzannes Associates	24/12/13
Drawing #: SK111 Commercial Building West Elevational Detailing	Tzannes Associates	27/8/13
Drawing #: SK112 Bin Enclosure Details	Tzannes Associates	28/7/13
Drawing #: S.ELH-0101-H001 / P5 Stormwater Drainage Layout Cover Sheet	Umow Lai Consulting Engineers	11/9/13
Drawing #: S.ELH-0101-H002 / P5 Stormwater Drainage Layout	Umow Lai Consulting Engineers	11/9/13
Drawing #: S.ELH-0101-H003 / P5 Stormwater Drainage Layout	Umow Lai Consulting Engineers	11/9/13
Drawing #: S.ELH-0101-H004 / P4 Stormwater Schematic	Umow Lai Consulting Engineers	9/9/13
Drawing #: S.ELH-0101-H010 / P4 Stormwater Drainage Layout	Umow Lai Consulting Engineers	11/9/13
Drawing #: C02 / P3 Site Plan	Taylor Thomson Whitting	12/11/13
Drawing #: C03 / P3 Site Works Plan – Rose Street	Taylor Thomson Whitting	12/11/13
Drawing #: C04 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C05 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C06 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C07 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing No. C08 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C09 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C10 / P2 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Drawing #: C11 / P3 Longitudinal Sections	Taylor Thomson Whitting	12/11/13
Surveyor's Ref: 77208 Proposed Subdivision	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 1 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 2 of 5	Surveyor: Gregory	18/5/16

Draft Strata Plan	Jon Firth	
Plan Ref: PP SP90315 3 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 4 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Plan Ref: PP SP90315 5 of 5 Draft Strata Plan	Surveyor: Gregory Jon Firth	18/5/16
Materials, Finishes and Colours Schedule / Board Drawings 9_6904 /C	Architects Nicholas + Associates (AN+A)	26/3/15
Materials, Finishes and Colours Schedule / Board Drawings 9_6905 / D	Architects Nicholas + Associates (AN+A)	11/8/15

- ii) Except where otherwise indicated on the plans approved under M/2017/18:

Plan Reference	Drawn By	Dated
Drawing # 0_1000 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 0_1001 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 1_1101 / K Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_1102 / K Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_2001 / K Commercial Building Elevations	C A Group Architects	13/2/17
Drawing # 1_2002 / J Commercial Building Elevations	C A Group Architects	24/1/16
Drawing # 1_3001 / K Commercial Building Sections	C A Group Architects	13/2/17

- iii) Except where otherwise indicated (bubbled in orange) on the plans approved under M/2017/208:

Plan Reference	Drawn By	Dated
Drawing # 0_1000 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 0_1001 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 1_1101 / L Commercial Building Plans	C A Group Architects	16/10/17
Drawing # 1_1102 / L Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_2001 / L Commercial Building Elevations	C A Group Architects	16/10/17
Drawing # 1_2002 / J	C A Group	24/1/16

Commercial Building Elevations	Architects	
Drawing # 1_3001 / L Commercial Building Sections	C A Group Architects	16/10/17

(Condition 2 amended by M/2017/208 on 24 November 20178)

- iv) Except where otherwise indicated (bubbled in orange) on the plans approved under M/2018/41:

Plan Reference	Drawn By	Dated
Drawing # 0_1000 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 0_1001 / K Site Plan / Roof Level	C A Group Architects	13/2/17
Drawing # 1_1101 / L Commercial Building Plans	C A Group Architects	16/10/17
Drawing # 1_1102 / L Commercial Building Plans	C A Group Architects	13/2/17
Drawing # 1_2001 / M Commercial Building Elevations	C A Group Architects	26/2/18
Drawing # 1_2002 / J Commercial Building Elevations	C A Group Architects	24/1/16
Drawing # 1_3001 / M Commercial Building Sections	C A Group Architects	26/2/18

(Condition 2a)iv) added under M/2018/41 - Dated 21 May 2018)

- b) The following landscape plans:

- i) Approved under D/2013/200:

Plan Reference	Drawn By	Dated
Drawing #: LA-001 / A Landscape Plan	Formed Gardens	3/5/16
Drawing #: LA-02 / G Landscape Plan	Aspect Studios	September 2013
Drawing #: LA-03 / G Landscape Plan	Aspect Studios	September 2013
Drawing #: LA-04 / G Landscape Plan	Aspect Studios	September 2013
Drawing #: LA-05 / G Landscape Plan	Aspect Studios	September 2013

- ii) Except where otherwise amended by the following landscape plans approved under M/2016/3:

Plan Reference	Drawn By	Dated
Drawing #: LA-001 / A Landscape Plan	Formed Gardens	3/5/16
Drawing #: LA-002 / A Landscape Plan	Formed Gardens	3/5/16
Drawing #: LA-003 / A	Formed Gardens	3/5/16

Landscape Plan		
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c) The following supplementary documentary information:

Plan Reference	Drawn By	Dated
BASIX Certificate Certificate #: 475246M_03	Department of Planning and Infrastructure	10/8/15
BASIX Certificate Certificate #: A159316	Department of Planning and Infrastructure	27/3/13
BASIX Certificate Certificate #: A159334	Department of Planning and Infrastructure	27/3/13
BASIX Certificate Certificate #: 475251S_02	Department of Planning and Infrastructure	2/4/13
Waste Management Plan	Infinity Constructions Group P/L	24/7/13
SEPP 65 Design Verification Statement	Mladen Prnjatovic	Document Date: 16/5/13
Arborist Report	Redgum Horticultural	Final: 3/9/13
Landscape Management Plan	Aspect Studio and Redgum Horticultural	11/12/13
National Construction Code Assessment	Vic Lilli & Partners Consulting	28/3/13
Access Report	Accessibility Solutions P/L	15/4/13
Timber Inspection Report – Commercial Building	Forests NSW	12/3/12
Structural Report	Taylor Thomson Whitting	8/2/13
Structural Report and Construction Methodology	Taylor Thomson Whitting	6/8/13
Structural Report	Midson Construction	16/2/17
Lift Noise Assessment	Acoustic Logic	18/2/13
Heritage Impact Statement	Urbis	May 2013
Stone Wall Heritage Assessment	Urbis	July 2012
Heritage Wall Investigation	Pells Sullivan Meynink	29/1/13
Geotechnical Report	Douglas Partners	October 2012
Stage 2 Environmental Site Assessment	Consulting Earth Scientists	1/4/10
Remediation Action Plan Revision 2	DLA Environmental	February 2013
Integrated Water and Cycle Plan	Umow Lai Consulting	30/10/13

	Engineers		
Water Management Statement	Umow Consulting Engineers	Lai	8/4/13
Flood Risk Management Report	Taylor Whitting	Thomson	12/11/13
Structural Report	Midson Construction		17/10/17

(Condition 2 amended by M/2017/208 on 24 November 2017)

except where amended by the conditions of this consent.

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

(Condition 2 amended by M/2017/208 on 24 November 2017)

3. 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 "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, the Building Code of Australia and the relevant Australian Standards.

4. Approval is given for the following works to be undertaken to trees on the site:

Schedule	
Tree	Approved works
Tree 13 – <i>Celtis occidentalis</i> (Nettle Tree)	Removal

5. Removal of the following street trees shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$10,000,000.

Schedule
Tree 4 – <i>Melaleuca quinquenervia</i> (Broadleaved Paperbark), Tree 10 – <i>Robinia pseudoacacia</i> var 'Frisia' (Golden Robinia) and Tree 11 – <i>Sapium sebiferum</i> (Chinese Tallowood)

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

- a) Front fencing, gates and balustrading to the Johnston Street frontage and the dwellings to this frontage are to be identical to future fencing / balustrading proposed to the Winkworth Steps to be carried out by Leichhardt Council.

Written approval from Council that the fencing / balustrading is consistent with future fencing balustrading to Winworth Steps by Council is to be provided prior to issue of the Construction Certificate.

- b) The development must be supported independently to the existing sandstone retaining wall to Johnston Street. In this regard, all structures, including entries and accessways, bin stores and fencing adjacent to the Johnston Street boundary, must be cantilevered where necessary and be fully supported by the proposed development.

~~c) Regarding the non-commercial component of the development within the mixed commercial / residential building on Johnston Street:~~

- ~~i) All reference to use of this area as a café shall be deleted. This area is to be nominated for use as a local shop.~~
- ~~ii) The proposed "café" bike parking on Johnston Street shall be deleted.~~

[Condition 6 (c) deleted by M/2015/57 on 29 October 2015]

d) The ~~mixed commercial /~~ residential building on Johnston Street (known as the "Commercial Building") comprising Units 01 to 07) shall meet the following design criteria:

- i) A step or hob must be provided between all external open space terrace areas and the adjacent internal areas such that the sill of all openings are a minimum of 150mm above the finished surface level of the terraces. The lowering of the floor levels of the open space terraces can be undertaken if desired in response to this condition;
- ii) The screen planting to the planter beds of all open space terraces shall have a height of 1.6m above the finished terrace floor level; and
- iii) *To ensure reasonable privacy for the adjoining property, the following windows must be treated with one of the following privacy treatments:*

Windows	Room	Elevation
W4.02	Bedroom	Southern Elevation
W5.02	Dinning	Southern Elevation
W5.03	Bedroom	Southern Elevation
W6.03	Bedroom	Southern Elevation
W7.03	Dinning	Southern Elevation

- *have a minimum sill height of 1.6m above finished floor level. or*
- *be permanently fixed (that is windows are not to swing or lift open) with obscure glazing (not frosted film on clear glazing) to a height of 1.6 metres above finished floor level; or*

- *provided with fixed external louvers with a density of 75% and have no individual opening more than 30mm wide, and have a total area of all openings that is less than 30 per cent of the surface area of the screen and be made of durable materials. Where fixed louvered screens are used, the screen structure must be securely fixed. The louvers may tilt open from a closed position to an angle of 45 degrees in either a downward or upward position, depending on the sightlines that are to be restricted.*

*The privacy measures must be maintained for the life of the building.
(Condition amended under M/2018/41 – Date 21 May 2018)*

- iv) The entire front portion of the northern wall of the building (up to the rear alignment of Level 04) is to be finished in bagged brickwork to ensure consistency with the other elevations of the building. The remainder of the wall shall be of facebrick construction.
(Condition 6(d)(iv) added by M/2016/3 on 5 August 2016)
- e) The new dwellings fronting Johnston Street shall meet the following design parameters:
 - i) The Site Plans listed in **Condition 2** are to be amended to show the rear courtyard of Terrace 6 similarly to the rear courtyards of Terraces 7-10 in order to demonstrate that:
 - a. Any stair access connecting Terrace 6 and its rear courtyard is internalised (similar to Terraces 7-10);
 - b. There are no built structures proposed extending beyond the projecting fin walls and planter beds (shown on the Landscape Plans) to the rear of the garage of Terrace 6; and
 - c. That the area rearward / eastward of the projecting fin walls and planter bed to the rear of the garage of Terrace 6 is a deep soil zone;
[Condition 6(e)(i) amended by M/2016/3 on 5 August 2016]
 - ii) The east facing windows associated with the ground level garages of Terraces 6-10 shall have sill heights of 1.6m above the garage floor levels;
[Condition 6(e)(ii) amended by M/2016/3 on 5 August 2016]
 - iii) The ground levels of the Ground Floor rear courtyards of Dwellings 6-10 shall be 1.6m below the proposed rear fence line (RL10.7AHD). Any stair access connecting the internal areas of Terraces 6-10 inclusive and their (lowered) rear courtyards shall be clearly shown as internalised;
[Condition 6(e)(iii) amended by M/2016/3 on 5 August 2016]
 - iv) A step or hob must be provided between all external open space terrace areas and the adjacent internal areas such that the sill of all openings are a minimum of 150mm above the finished surface level of the terraces. The lowering of the floor levels of the open space terraces can be undertaken if desired in response to this condition;

- v) The Level 2 living / dining room open space terraces of Dwellings 2-5 shall have a depth of 2m. In order to comply with this design change, the east facing glazing to the living / dining room shall be relocated approximately 300mm westward of their proposed location (i.e. the eastern edge of the terraces shall not move closer to the boundary shared with No. 41 Rose Street);
 - vi) Planter beds with a minimum depth of 500mm shall be provided to the eastern edge of the Level 3 east facing open space terraces to Dwellings 2-10. This will result in the Level 3 open space terraces of Dwellings 2-10 being reduced in size to accommodate the planter beds;
 - vii) The screen planting to the planters of all terraces shall have a height of 1.6m above the finished terrace floor level. The screen planting shall be at this height (i.e. 1.6m) at the time of planting; and
 - viii) The maximum ridge height of Dwellings 2-5 shall not exceed RL24.34AHD, and this height shall be nominated on the plans.
- f) The additions to the rear of the existing dwellings at No. 39 and 41 Rose Street shall be amended to comply with the following design parameters:
- i) *The "Repair and Make Good" works to the original portion of the dwellings at Nos. 39 and 41 Rose Street, as shown on the submitted plans, shall not involve removal of original historic fabric;*
 - ii) The rear portion of the rear yard of No. 39 Rose Street shall be lowered by approximately 160mm so as to ensure that the rear courtyards are 1.6m below the proposed rear fence line (RL10.7AHD);
 - iii) No first floor terraces are approved, and no aspect of the first floors of the dwellings shall extend beyond the existing rear building lines of the existing dwellings.
[Condition 6(f)(iii) amended by M/2016/3 on 5 August 2016]
 - iv) As a result of the design change required by **Condition 6(f)(iii)**, the first floor bedrooms shall be provided with windows, and these windows shall be provided with either obscured glazing to a height of at least 1.6m above the floor level at first floor OR provided with a fixed aluminium privacy screen to a height of at least 1.6m above the floor level at first floor that comprises louvres fixed upwards at 45 degrees to horizontal and with a density of 75%;
 - v) No aspect of the ground floors of both dwellings, with the exception of rear decking adjacent to the main living space, shall extend beyond the rear building alignments of the existing dwelling. This includes any projecting fin walls adjacent to ground floor decking areas; and
 - vi) A minimum 150mm step up shall be provided between the finished surface level of the ground level rear open space terraces and the adjacent internal surface level.
- g) The new dwelling at No. 170 View Street shall be amended to comply with the following design parameters:
- i) A sandstone / sandstone coloured finish shall be provided to the base walls of the dwelling;

- ii) Vertical timber or metal pickets shall be provided to the balustrades to the first floor front balcony;
 - iii) The ground floor rear alignment of the dwelling shall ~~be setback by approximately 1.2m to ensure that it does not extend beyond the main ground floor rear alignment of the dwelling at No. 172 View Street;~~
[Condition 6(g)(iii) amended by M/2016/3 on 5 August 2016]
 - iv) The rear eave line of the dwelling at ground floor shall not extend beyond the rear eave line of the dwelling at No. 172 View Street;
 - v) A minimum 150mm step up shall be provided between the finished surface level of the rear yard and the adjacent internal surface level of the living room; and
 - vi) The first floor rear facing opening shall be provided with either obscured glass louvres to a height of at least 1.6m above the floor level at first floor OR provided with a fixed aluminium privacy screen to a height of at least 1.6m above the floor level at first floor that comprises louvres fixed upwards at 45 degrees to horizontal and with a density of 75%.
- h) The applicant is to provide a storage area for 2 x 240 litre mobile garbage bins in the car parking area for garden organics.
- i) Any necessary basement vents (for the extraction of car exhausts) shall be clearly notated on the plans and shall:
- i) Not be inserted in boundary walls; and
 - ii) Be designed and sited to have minimal or no visual impacts when viewed from the public domain.
- j) Terraces 6 to 10 are to include the following:
- i) The bin enclosure is to be set behind the line of the front palisade fence and the front palisade fence is to continue across the face of the bin enclosure.
 - ii) The maximum height of the bin enclosure is to not exceed 1200mm above floor level

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.

[Condition 6(j) added by M/2015/57 on 29 October 2015]

The amendments are to be provided prior to the issue of a Construction Certificate.

- k) Car parking provision at No. 233A Johnston Street allocated to the dwelling at No. 170 View Street is not approved. Any reference to parking associated with No. 170 View Street and the proposed stairs, pathway and fencing associated with the accessway / ROW connecting No. 233A Johnston Street (i.e. behind Terrace 10 at No. 233A) and No. 170 View Street are to be deleted from all relevant plans, including architectural and

subdivision plans. The currently proposed accessways required to be deleted as above, behind Terrace 10 and No. 170 View Street are to be replaced with plants and shrubs consistent with the landscape design at the rear of Terraces 5-9 shown on the landscape plans.

[Condition 6(k) added by M/2016/3 on 5 August 2016]

- l) The two parking spaces to the immediate north of the vehicle turning bay shall be nominated as visitor spaces.
[Condition 6(l) added by M/2016/3 on 5 August 2016]
 - m) The pedestrian entrance / gate at the rear of No. 41 Rose Street shall be relocated to the north-eastern corner of this site (adjacent to the rear pedestrian entrance at No. 39 Rose Street). As a result of this change, landscaping to the rear of No. 41 Rose Street shall be modified to accommodate, but should be otherwise generally consistent with the approved landscape design shown on the plans listed in **Condition 2**.
[Condition 6(l) added by M/2016/3 on 5 August 2016]
- 6A. Prior to the issue of a Construction Certificate, the following condition must be satisfied and a letter provided by Council's Manager Property and Commercial Services certifying that the condition has been satisfied.

Eloura Holdings Pty Ltd must:

- a) Exercise the option to purchase part of the drainage reserve in DP 4844 being part of the land in certificate of title 1/1179883 granted by the Deed Granting Option to Purchase Real Estate dated 19 September 2012 between Eloura Holdings Pty Ltd ACN 117 032 103 as the Purchaser, Glo Depot Pty Limited ACN 125 653 992 as the Related Company and Leichhardt Council ABN 92 379 942 845 as the Vendor (Option Deed), and
 - b) Complete the Contract created by the exercise of the option in accordance with the Option Deed including payment of the purchase price and other amounts specified and creation of the Easement to Drain Water and Rights of Access in favour of Council as authority benefitted; and
 - c) Either provide evidence that the easement sites will not be built over by the proposed development or, in accordance with the terms of the easements attached to the contract attached to the Option Deed, request that the easement sites be relocated and have this appropriately documented (either by registration of a plan or agreement for this to be included in the subsequent plan of re-subdivision) to the reasonable satisfaction of Council." **(Condition Added under M/2015/78 – 21 May 2015)**
7. Timber and metal to be salvaged from the *Surface Gallery Building* is to be identified prior to any works being undertaken. Details demonstrating compliance with this requirement must be provided prior to Leichhardt Council for information purposes prior to the issue of a Construction Certificate.
8. Except where otherwise conditioned, materials, finishes and colours to the external fabric of the building shall be consistent with the materials, finishes and

colours detailed on the plans and materials and colours schedule / sample board listed in **Condition 2** of this consent. Highly reflective roofing materials must not be used. 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 Certifying Authority.

9. 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 0.0035 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.
10. 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:

Column A	Column B
Open space and recreation	\$310,072.45
Community facilities and services	\$47,394.45
Local area traffic management	\$2,024.35
Light rail access works	\$187.80
Bicycle works	\$320.95

The total contribution is: \$360,000.00

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.

11. All demolition works must strictly comply with the following conditions:
 - a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence 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 Council / 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 Council / 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: Council requires 24 hours notice to carry out inspections. 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 Office, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the plans will be stamped indicating that no further requirements are necessary.
- 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 5.30pm 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 Department of Environment and Climate Change NSW.
- 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.
 - 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 Council / 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 / 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.
12. 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
 - 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.

- 13. 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 appropriate:

- a) 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) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) 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.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors New South Wales Inc. or an accredited certifier.
- b) Construction Noise

During excavation, demolition and construction phases, noise generated from the site must be controlled.

- 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.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Traffic Authority publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

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.

14. 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 compatible with the Construction Management and Traffic Management Plan referred to in 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;
 - 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.
15. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Council prior to the issue of a Construction Certificate. 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.
- a) The dwelling at No. 235 Johnston Street, Annandale;
 - b) The dwelling at No. 168 View Street, Annandale; and
 - c) The dwelling at No. 172 View Street, Annandale.

The dilapidation report is to be prepared by a practising Structural Engineer agreed to by both the applicant and the owner of the adjoining property. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

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 concurrence must be obtained from the Certifying Authority in such circumstances.

16. A dilapidation report on the visible and structural condition of the following public infrastructure, including photographic survey, must be provided to Council prior to the issue of a Construction Certificate.
- a) The existing sandstone retaining wall at the Johnston Street property boundary.
 - b) The existing sandstone retaining wall at the western end of Rose Street, including the Winkworth Steps.

The dilapidation report is to be prepared by a practising Structural/Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

The liability of any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition will be borne by the applicant.

17. A certificate prepared by a qualified Geotechnical Engineer must be provided prior to the issue of the Construction Certificate to the satisfaction of the Certifying Authority. This is to certify the existing rock formations and substrate on the site are capable of:
- a) Withstanding the proposed loads to be imposed.

- b) Withstanding the proposed excavation, including any shoring works that may be required to ensure stability of the excavation.
 - c) Providing protection and support of adjoining properties.
 - d) The provision of appropriate subsoil drainage during and upon completion of construction works.
- ~~18. All plant and associated equipment must be located within the approved building envelope and is not be located on or project out the roof. Details on the location of all plant and equipment must be provided prior to the issue of a Construction Certificate.~~
- [Condition 18 deleted by M/2015/57 on 29 October 2015]**
19. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided 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 prepared by Taylor Thomson Whitting and dated 12 September 2013.
 - b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total 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.
 - 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.
20. Architectural plans, amended to address all relevant recommendations of the Flood Risk Management Plan prepared under **Condition 19** must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:

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

[Condition 20 amended by M/2015/57 on 29 October 2015]

21. An engineering design that addresses all relevant recommendations of the Flood Risk Management Plan prepared under **Condition 19** prepared by a qualified practicing Structural 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) Structural integrity of all structures from immersion and/or impact of velocity and debris.
 - b) Waterproofing works, where applicable.

[Condition 21 amended by M/2015/57 on 29 October 2015]

22. 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 prepared/ amended to make provision for the following:
 - a) The design must be generally in accordance with the stormwater drainage concept plan on the following drawings prepared by Umow Lai Consulting Engineers:
 - Drawing No S.ELH-0101-H002 Revision P5 dated 11 September 2013.
 - Drawing No S.ELH-0101-H003 Revision P5 dated 11 September 2013.
 - Drawing No S.ELH-0101-H004 Revision P4 dated 9 September 2013.
 - Drawing No S.ELH-0101-H010 Revision P4 dated 11 September 2013.
 - b) Comply with Council's Stormwater Drainage Code.
 - c) Charged or pump-out stormwater drainage systems are not permitted.
 - d) All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage.
 - e) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
 - f) 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.
 - g) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.

- h) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
23. An application must be made to Council for the issue of a Levels Certificate. The certificate, issued by Council, must be provided 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 Levels Certificate may specify levels in the adjacent road reserve to be changed from those existing.

24. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standard *AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking*. 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 longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*.
- b) A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.

To achieve compliance in the vicinity of the Rose Street entry, the proposed service zone or the building structure may need to be modified or set back further from the boundary.

- c) Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- d) The two parking spaces to the immediate north of the vehicle turning bay shall be nominated as visitor spaces, and the vehicle turning bay and two visitor spaces are to be clearly labelled and signposted.
[Condition 24(d) amended by M/2016/3 on 5 August 2016]
- e) The vehicular access must be provide adequate sight lines to pedestrians in Rose Street in accordance with the Standard
- f) A bicycle storage area must be provided to accommodate the numerical requirements of DCP 2000 and be designed in accordance with relevant provisions of AS 2890.3-1993.

- g) The vehicle access to Rose Street must be designed to include the provision of traffic control measures inside the property boundary to improve pedestrian safety associated with vehicles exiting the property and maximising sight distance to pedestrians. The design must include a road hump designed in accordance with Section 4.9 of AS/NZS 2890.1-2004, stop signage, and hold lines.

The design must be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia and be provided prior to the issue of a Construction Certificate

25. Prior to the issue of a Construction Certificate, a design of retaining walls, road and drainage works in Rose Street and Johnston Street must be prepared and approved by Council in accordance with Section 138 of the *Roads Act 1993*. The design must be prepared to address the following:

Retaining Walls

- a) A structural engineering report and design plans that address the proposed works in the vicinity of the Johnston Street boundary, must be prepared by a qualified practicing Structural Engineer. The report and plans must be prepared following detailed assessment of the existing retaining walls and make provision for the following:
- i) The design must be generally in accordance with the recommendation in the Geotechnical Investigation Report prepared by Douglas Partners dated 12 October 2012, the Heritage Assessment Report prepared by Urbis dated July 2012, and the Heritage Wall Investigation prepared by Pells Sullivan Meynink dated 29 January 2013.
 - ii) A comprehensive structural and geotechnical assessment of the existing sandstone retaining wall on the Johnston Street frontage must be undertaken. The wall must have a minimum design life of a further 100 years and remedial works must be undertaken to achieve this design life if required. The assessment must address any required re-pointing of the wall with a suitable mortar mix i.e. Lime rich mortar. Note that the cost of any remedial works shall be borne by the owner/applicant.
 - iii) The original retaining walls, generally on the same alignment as the retaining wall abutting the Winkworth Steps are to be retained and remain unenclosed where possible. Details of compliance with these requirements are to be addressed in the structural engineering assessment and design and heritage assessment.
 - iv) The development must be supported independently to the existing sandstone retaining wall to Johnston Street. In this regard, all structures, including entries and accessways, bin stores and fencing adjacent to the Johnston Street boundary, must be cantilevered

where necessary and be fully supported by the proposed development

- v) 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 100 years.
- vi) Provide relevant geotechnical/ subsurface conditions of the site, as determined by full geotechnical investigation.
- vii) An archival recording must be undertaken and submitted to Leichhardt Council (in conformity with current NSW Heritage Branch standards) for any stonework to be removed from the site associated with the retention of Johnston Street.
- viii) A coping material (sympathetic to the historical character of the Johnston Street retaining wall - which may include sandstone or other product of a similar appearance) must be provided for the full length of the top course of the retaining wall to help minimise ongoing weathering of the stone face.
- ix) Provide details of the proposed overland flow path at the base of the Johnston Street retaining wall to demonstrate how the works will be undertaken without adverse drainage and structural impacts on the retaining wall.

Road and Drainage works

- b) Design plans must be prepared by a qualified practicing Civil Engineer and make provision for the following:
 - i) Stormwater drainage and road works, generally in accordance with the following:
 - Drawing No. 11037 / 0_1001 / H prepared by Taylor Thomson Whitting dated 2 September 2013.
 - Drawing No. 111814 / C03 / P3 prepared by Taylor Thomson Whitting dated 12 November 2013
 - Drawing No. 111814 / C10 / P2 prepared by Taylor Thomson Whitting dated 12 November 2013.
 - Drawing No. 111814 / C11 / P3 prepared by Taylor Thomson Whitting dated 12 November 2013.
 - Drawing No. S.ELH-0101-H003 / P5 prepared by Umow Lai dated 11 September 2013.
 - ii) The existing stormwater manhole adjacent to the existing stairs must be lowered/ reconstructed to accommodate the new footpath which is to meet finished levels at the base of the adjacent stairs.

- iii) Construction of a kerb inlet pit at the junction of the pipeline draining the Johnston Street setback and the existing pipeline within Rose Street. The inlet pit must have a lintel with a minimum opening length of 1200mm.
 - iv) Pit No's 6 and 12 are to be reconstructed over the existing pipelines such that they replace the blind pipe junctions (proposed Pit No's 5 and 11). The pipeline from proposed Pit No. 13 must connect directly to Pit No. 12.
 - v) A new kerb inlet pit must be constructed in Johnston Street, to the north of the existing garden bed and be connected directly to Pit No. 6 via a 450mm diameter pipeline.
 - vi) Reconstruction of kerb and gutter, footpath and plantings across the western end of Rose Street to formalise a turning area for vehicles. The plans must show existing and proposed on street parking in Rose Street and include installation/ relocation of parking/ traffic signs as required.
 - vii) Construction of a concrete vehicle crossing and closure of the redundant vehicle crossing at the Rose Street frontage.
 - viii) Reconstruction of the kerb, gutter and footpath including grass verge at the Rose Street frontage.
 - ix) Closure of the redundant vehicle crossing(s) within Johnston Street.
 - x) Reconstruction of the footpath including grass verge at the Johnston Street frontage.
 - xi) A design of the interallotment drainage system within 170 View Street, including a long section and hydraulic grade line analysis. The pit and pipeline system must be designed to be of adequate capacity to convey the potential flows generated from all properties draining towards the Council Drainage Reserve during a 20 year ARI storm.
 - xii) Reconstruction of the existing kerb inlet pit at the View Street frontage of the site. The inlet pit must have a lintel with a minimum opening length of 2400mm.
 - xiii) Extension/ replacement of the existing handrail at the base of the Winkworth Steps to suit the proposed adjustment of footpath levels.
- c) The design must be accompanied by detailed engineering drawings including relevant long and cross sections and location of utility services. Appropriate test holes will be required during the design process.
- d) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards.

- e) The applicant must consult with Council's Manager – Urban Design & Project Management 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 for a Roadworks Permit under Section 138 of the Roads Act 1993 for approval to construct these works.**

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

The design will 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.

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 to the value of \$129,000.00 must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee.

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

27. 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 to the value of \$25,500 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.

Payment will be accepted in the form of cash, bank cheque or EFTPOS/credit card (to a maximum of \$10,000).

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.

An inspection fee of \$200.00 to determine the condition of the adjacent road reserve is also required to be paid to Council prior to the commencement of demolition works on the site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first). A request for release of the security may be made to the Council after all construction work has been completed and an 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.

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 proposal additional, or altered structural loads must be provided prior to the issue of a Construction Certificate to the satisfaction of the certifying authority.
29. Pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000* the existing building is required to be brought into conformity with the Building Code of Australia. Plans and specifications demonstrating conformity are to be provided prior to the issue of a Construction Certificate.
30. Before the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved landscape plans listed in **Condition 2** of this consent have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

The landscape plan(s) shall be amended in the following ways:

- a) The street tree species (Rose Street and View Street) and container size shall be amended to the satisfaction of Council.

A detailed Landscape plan prepared by a qualified Landscape Architect must be provided prior to the issue of a Construction Certificate. The plan must include:

- a) Location of all proposed and existing planting delineating existing trees to be retained, removed or transplanted.
- b) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity.

- c) At least 85% of the plantings must be native species from the Sydney locale.
- d) Details of planting procedure.
- e) Planter box soil mix and mulch specifications.
- f) Details of earthworks including mounding, retaining walls, and planter boxes.
- g) Details of drainage and watering systems.
- h) Reference to the approved Landscape Management Plan referenced in this consent.

Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the stormwater plans are amended within the deep soil zone along the rear of terraces 6 - 10. The lines shall be relocated to be as close as possible to the building façade to minimise the impact to the deep soil area for the establishment of the screen planting and trees located in the courtyards.

Note: A plan detailing the routes of these services for the entire site and trees protected under the Tree Preservation Order shall be endorsed in writing by an AQF Level 5 Arborist and submitted to the Principal Certifying Authority.

[Condition 30 amended by M/2016/3 on 5 August 2016]

- 31. Details of any proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the Building Code of Australia and Australian Standard 1668 Parts 1 and 2 (including exhaust air quantities and discharge location points) are to be submitted to Council or the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.
- 32. Details and location of the proposed garbage room are to be provided prior to the issue of a Construction Certificate. Rooms used for the storage of garbage and rooms used for the washing and storage of garbage 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 floor must be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room.
 - b) Garbage rooms must be vented to the external air by natural or mechanical ventilation.
- 33. Fire Safety upgrading where building works proposed

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

- a) The building is to be provided with either a smoke alarm system that complies with AS 3786-1993 / Amendment 4 – 2004: Smoke Alarms or a smoke alarm system that is listed in the Scientific Services Laboratory Register of Accredited Products – Fire Protection Systems. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2.3 of the Building Code of Australia 1996 (Housing Provisions). The smoke alarm system must be connected to the mains electrical power supply and must have a stand-by (battery backup) power supply.

Amended plans and specifications demonstrating compliance with this condition must be submitted to the certifying authority with the application 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.

34. The Rose Street car park entry must be provided with an intercom system and each ground level entry area to the building must have an intercom system. Details of the intercom systems must be provided prior to the issue of a Construction Certificate.
35. 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*.
36. A statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* must be provided prior to the issue of a Construction Certificate.
37. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Service Centre 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. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au see Building Developing and Plumbing then Quick Check or telephone 132092.

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

PRIOR TO THE COMMENCEMENT OF WORKS

38. Site cranes and hoists may be erected within the boundaries of the site subject to compliance with the relevant provisions of Australian Standard AS 1418:2005 *Crane, hoists and winches*, Australian Standard AS 2549:1996 *Cranes (including hoists and winches)* and Australian Standard AS 2550:2002 *Cranes, hoists and winches*.

Cranes must not swing or hoist over any public property unless the relevant approval under Local Government Act 1993, Crown Lands Act 1989, or the Roads Act 1993 has been obtained prior to the commencement of works.

The use of the cranes and hoists must comply with the approved hours of construction. The cranes must not be illuminated outside approved working hours other than safety beacons required by the Civil Aviation Safety Authority. No illuminated signs are to be erected upon or displayed upon any crane.

39. The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment. 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 boundaries must be set out by a registered surveyor 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: -

- a) location of the building with respect to the boundaries of the site;
 - b) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
 - c) site coverage of the buildings on the site.
40. The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

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.

Separate approval is required to erect a hoarding or temporary fence 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.

41. 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.

If Council is nominated as the Principal Certifying Authority then a copy of the certificate of insurance must be submitted to Council 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 Council.

In all other cases, written notice must be given to Council of:

- a) the name and licence number of the principal contractor and
- b) the name of the insurer by which the work is insured under Part 6 of the Home Building Act 1989.

If arrangements for doing the residential work are changed while the work is in progress, further work must not be carried out unless the Certifying Authority has given Council written notice of the updated information.

This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

42. 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.
43. 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.
44. Prior to the commencement of works, a Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works. The Plan shall address, but not be limited to, the following matters:

- a) Identification of activities carried out and associated noise sources.
 - b) Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment.
 - c) Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
 - d) Noise and vibration monitoring, reporting and response procedures.
 - e) Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles.
 - f) Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction.
 - g) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency.
 - h) Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration.
 - i) Contingency plans to be implemented in the event of non-compliances and/or noise complaints.
45. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form and details of the appointed Principal Certifying Authority shall be submitted to Council.
46. An application for any of the following on public property (footpaths, roads, reserves) shall be submitted and approved by Council prior to the commencement of works.
- a) Construction zone.
 - b) A pumping permit.
 - c) Mobile crane.
 - d) Skip bins other than those authorised by Leichhardt Council.
47. Prior to the commencement of works, a sign must be erected in a prominent position on the site 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 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.

- 48. To preserve the following trees, no work shall commence until tree protection (fencing, ground protection or other special protection) has been installed to the satisfaction of an AQF Level 5 Arborist. The tree protection shall be in accordance with Sections 5.14 - 5.29 and Appendix F of the Arboricultural Assessment Report prepared by Redgum Horticultural Ref No. 7127 and dated 21 March, 2013 and amended report dated 3rd September. The tree protection shall be maintained intact until the completion of all demolition/building work on site.

Schedule of trees to be protected
Tree 1 - <i>Celtis species</i> (Hackberry),
Tree 5 - <i>Jacaranda mimosifolia</i> (Jacaranda),
Tree 6 - <i>Corymbia torelliana</i> (Cadaghi)
Tree 7 - <i>Eucalyptus nicholii</i> (Narrow Leafed Paperbark)
Tree 8 - <i>Lophostemon confertus</i> (Brush Box)
Tree 12 - <i>Robinia pseudoacacia</i> var ' Frisia' (Golden Robinia)

The tree protection fencing being constructed of galvanised pipe and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.

Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions. An AQF Level 5 Arborist shall provide a written statement that the installed tree protection complies with all relevant conditions.

Tree canopy pruning (Trees 1, 5, 6, 7 and 8) required to provide clearance for the construction of the approved development (including for the required scaffolding) shall be undertaken by an AQF Level 3 Arborist as specified by an AQF Level 5 Arborist. The pruning shall be undertaken in accordance with AS 4373 'Pruning of Amenity Trees'. Only those branches that will be in direct conflict with the approved works are to be removed.

- 49. The location and facilities for the collection, storage and disposal of waste generated within the premises shall be submitted to and approved by Council prior to the commencement of works.

DURING WORKS

- 50. A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.
- 51. The site must be appropriately secured and fenced at all times during works.

52. Excavation, building or subdivision work must be restricted to the hours of 7:00am to 5:30pm Monday to Friday inclusive, 7:00am to 1:00pm Saturday. Work is not be carried out on Sunday or Public Holidays.
53. 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. Construction material and vehicles shall not block or impede public use of footpaths or roadways.
55. Building materials and machinery are to be located wholly on site.
56. 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 structural engineer.

If an 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.
57. The Class 1a structures shall be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) At the commencement of the building work, and
 - b) After excavation for, and prior to the placement of, any footings, and
 - c) Prior to pouring any in-situ reinforced concrete building element, and
 - d) Prior to covering of the framework for any floor, wall, roof or other building element, and
 - e) Prior to covering waterproofing in any wet areas, and
 - f) Prior to covering any stormwater drainage connections, and
 - g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building by the Principal Certifying Authority.
 58. Any Class 2 building must be inspected at the following stages during

construction:

- a) At the commencement of the building work, and
 - b) Prior to covering waterproofing in any wet areas, and
 - c) Prior to covering any stormwater drainage connections, and
 - d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.
59. Any Class 6 and Class 7a building must be inspected at the following stages during construction:
- a) At the commencement of the building work, and
 - 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.
60. Where any works are proposed in the public road reservation, the following applications must be made to Council, as applicable:
- a) For installation or replacement of private stormwater drainage lines or utility services, including water supply, sewerage, gas, electricity, etc. an application must be made for a *Road Opening Permit*.
 - b) For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a *Roadworks Permit*.
- Note: Private stormwater drainage is the pipeline(s) that provide the direct connection between the development site and Council's stormwater drainage system, or street kerb and gutter.
61. Any replacement street trees must be planted by a qualified Arborist/Horticulturist (AQF Level 3 min).
- a) The tree pits must be inspected by Council's Parks Technical Officer before and after planting.
 - b) The street trees must be maintained by a qualified Horticulturist/Arborist (AQF Level 2/3) for a minimum period of 18 months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning and fertilising and pest and disease control.
 - c) At the completion of the 18 month maintenance period written approval must be obtained from Council before handover of the street tree to Council.

- d) If the street tree requires replacement due to maintenance deficiencies during the 18 month maintenance period, the 18 month maintenance period will commence again from the date of the planting of the replacement tree.

No storage or disposal of materials taking place beneath the canopy of any tree (including street trees and trees on adjacent sites) protected under Council's Tree Preservation Order at any time.

- 62. Regarding retained trees:
 - a) All builders' refuse, spoil and/or material unsuitable for use in landscape areas being removed from the site on completion of the building works;
 - b) If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and 'fit for purpose' tool. The pruning shall be undertaken by an experienced Arborist with a minimum qualification of AQF (Australian Qualification Framework) Level 3 in Arboriculture; and
 - c) All works within a 5 meter radius of Tree 1 (*Celtis species* - Hackberry) and Tree 5 (*Jacaranda mimosifolia* - Jacaranda) shall be undertaken as specified by, and under the direct supervision of, an AQF Level 5 Arborist.
- 63. The requirements of the Soil and Water Management Plan must be maintained at all times during the works and any measures required by the Soil and Water Management Plan 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 into 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.

- 64. 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.
- 65. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Any soil, which fails to meet the criteria, is not to be disposed of off-site unless agreed to in writing by the Department of Environment and Conservation.

Results of the testing are to be forwarded to Leichhardt Council and the Department of Environment and Conservation for acknowledgement before any off-site disposal and before proceeding with any construction works.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

66. 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 compliance with the approved Construction Certificate plans and all conditions of this Development Consent.
67. Prior to the issue of an Occupation Certificate the site is to be remediated in accordance with:
 - a) The relevant approved Remedial Action Plan, and
 - b) Development Control Plan No. 42 – Contaminated Land Management, and
 - c) State Environmental Planning Policy No. 55 – Remediation of Land and
 - d) The guidelines in force under the Contaminated Land Management Act.

Within thirty (30) days after the completion of the remediation works, a notice of completion, including validation and/or monitoring report is to be provided to Council. This notice must be consistent with Clause 18 of State Environmental Planning Policy No. 55 – Remediation of Land.

Council reserves the right, to require a Site Audit Statement and Report from the applicant, at the completion of the validation report, prior to occupation.

68. A second Dilapidation Report, including a photographic survey, with respect to the dwelling at No. 235 Johnston Street, Annandale must be submitted after the completion of works. A copy of this Dilapidation Report together with the accompanying photographs must be given to the property owners referred to in this Development Consent. A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.
69. A second Dilapidation Report addressing the public infrastructure identified in **Condition 15**, including a photographic survey, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council prior the issue of an Occupation Certificate.

70. Prior to the issue of an Occupation Certificate, a registered surveyor must provide certification of the heights of the buildings to the satisfaction of the Principal Certifying Authority.

71. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species, have been undertaken in accordance with the approved landscape plan and conditions of Development Consent.
72. Provision must be maintained for access to and within the building on the site for persons with a disability in accordance with the provisions of Australian Standard AS 1428.1:2001 *Design for access and mobility – General requirements for access – new building work* prior to the issue of an Occupation Certificate.
73. 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.

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 Principal 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 Principal Certifying Authority stamped Construction Certificate plans.

74. The car wash bay in the ground level car parking area shall be graded to an internal drainage point, connected to a Sydney Water sewer and with access to a water supply must be provided. When not in use for washing a car, the space may be used for visitor parking. Car wash bays are not to be used for engine degreasing or mechanical repairs and must be signposted accordingly. Work is to be completed prior to the issue of an Occupation Certificate.
75. Prior to the issue of an Occupation Certificate, the Principle 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 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 Principle Certifying Authority prior to the issue of an Occupation Certificate.

76. 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 and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer that all aspects of the Flood Risk Management Plan have been implemented and constructed in accordance with the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

77. Prior to the issue of an Occupation Certificate, the Principle 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:

- a) The car park has been completed, line marked and all signage relating to car parking erected.
- b) A notice has been clearly displayed at the Johnston Street frontage to indicate that visitor parking is available within the property with access from Rose Street.
- c) Sign(s) have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area(s).

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 Principle Certifying Authority prior to the issue of an Occupation Certificate.

78. Prior to the issue of an Occupation Certificate, the Principle 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 Principle Certifying Authority prior to the issue of an Occupation Certificate.

79. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the stormwater treatment facilities.

The Plan must set out, at a minimum, the proposed maintenance regime of the gross pollutant traps and cartridge filters, specifying that the systems are to be regularly inspected and checked by qualified practitioners.

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.

80. Before the issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including street tree planting, have been undertaken in accordance with the approved plan(s) and conditions of consent. A copy of an active landscape management contract that is relevant to, and consistent with, the approved Landscape Management Plan shall be provided prior to the issue of the Occupation Certificate.

81. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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 "Water Servicing Coordinator" under "Developing Your Land" or telephone 132092 for assistance.

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.

The Section 73 Certificate must be submitted to the Certifying Authority prior to the issue of an Occupation Certificate.

82. There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

Emission control equipment shall be provided in the mechanical exhaust system serving the cooking appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for the subject works.

83. At the completion of the installation of any mechanical exhaust system, a certificate from the installer shall be submitted to Council or the Principal Certifying Authority indicating the following:-
- a) inspection, testing and commissioning details;
 - b) date of inspection testing and commissioning,
 - c) the name and address of the individual who carried out the test, and
 - d) a statement that the service has been designed, installed and is capable of operating to the above standard.

The mechanical exhaust vent shall extend no less than one (1) metre above the subject buildings apex, or the adjoining buildings apex in the event of a shared common wall.

Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property.

Noise and vibration from the use of the mechanical exhaust and/or ventilation system shall not exceed the background noise level by more than 5dB(A) and shall not be audible in any premises of a neighbouring occupancy.

84. 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.
85. 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.

86. All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 *Mailboxes* and to Australia Post's satisfaction. Work is to be completed prior to the issue of an Occupation Certificate.
87. A street / shop number must be clearly displayed at the ground level frontage of the building prior to the issue of an Occupation Certificate. A separate application must be made to Council if new street numbers or a change to street numbers is required.
88. Prior to the issue of an Occupation 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*.

89. The Principal Certifying Authority must not issue an Occupation Certificate unless a design verification statement from a qualified designer is submitted in accordance with State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

90. Prior to the issue of a Subdivision Certificate, the applicant shall submit an original plan of subdivision plus six (6) copies for Council's endorsement. The following details shall also be submitted:
- a) Evidence that all conditions of Development Consent have been satisfied.
 - b) Evidence of payment of all relevant fees.
 - c) Payment of the Section 94 contributions applicable to the development.
 - d) The 88B instrument plus six (6) copies.
 - e) A copy of the final Occupation Certificate issued for the development.
 - f) All surveyor's or engineer's certification required by the Development Consent.
 - g) A copy of the Section 73 Compliance Certificate issued by Sydney Water.

All parking spaces and common property, including visitor car parking spaces and on-site detention facilities must be included on the final plans of subdivision.

91. Drainage easements must be created in accordance with the following:
- a) An easement in favour of Council over the stormwater drainage pipeline which will drain the existing Council Drainage Reserve(s). The easement must have a minimum width of 900mm and the pipeline should be generally located central to the easement.
 - b) Drainage easements over stormwater pipelines that traverse lots other than those which they benefit. The easement(s) must have a minimum width of 900mm.

The easement(s) must be registered on the title of the relevant lot(s) with the NSW Department of Lands. The easement plan must be approved by Council prior to lodgement at the NSW Department of Lands. Proof of registration of the easement with NSW Department of Lands must be provided to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

92. 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 the NSW Department of Lands must be submitted to and approved by the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

93. 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 ensure the ongoing maintenance of the overland flowpath through the site, adjacent to the Johnston Street retaining wall.

Council requires the preparation of covenant under Section 88E of the Conveyancing Act 1919 to. The terms of the 88E instrument with positive covenant shall include, but not limited to the following:

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

- a) The proprietor of the property shall be responsible for maintaining and keeping clear the overland flowpath.
- b) 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 components or structures in or upon

the said land which comprise the overland flowpath; and recover the costs of any such works from the proprietor.

- c) 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 overland flowpath, or failure to clean, maintain and repair the overland flowpath.
94. Prior to the issue of a Subdivision Certificate, the following are to be included in strata by-laws for the property:
- a) An Active Landscape Management Plan for the maintenance of landscaping associated with all dwellings fronting Johnston Street that is consistent with the Landscape Management Plan referenced in this consent; and
 - b) Guidelines for the maintenance of the retaining wall to Johnston Street, which is to be consistent with the recommendations in the Structural Report referenced in this consent prepared by Taylor Thompson Whitting and dated 8 February 2013.
 - c) Guidelines relating to access to parking spaces for Nos. 39 and 41 Rose Street within the car parking area at No. 233A Johnston Street.
[Condition 94 amended by M/2016/3 on 5 August 2016]
95. Car Parking provided shall only be used in conjunction with the units and tenancies contained within the development in the case of Strata subdivision, and shall be individually allocated to units as part of their unit entitlement.

Visitor parking facilities required by this consent are to be designated as common property on the strata plan, and under no circumstances shall Strata by-laws be created to grant exclusive use of nominated visitors parking spaces to occupants / owners of units or tenancies within the building.

Details are to be provided prior to the issue of a Subdivision Certificate.

96. A Registered Surveyor shall provide certification that all services (eg drainage, stormwater, water supply, gas, electricity, telephone) as constructed are contained within each lot or within appropriate easements to accommodate such services. The certification is to be provided prior to the issue of a Subdivision Certificate.

ONGOING CONDITIONS OF CONSENT

97. An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.
98. 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.

99. The provision of any air conditioning units associated with any terraces and dwellings on Johnston Street associated with the development require the further consent of Council.

99A. Any rear entrance gates to Nos. 39-41 Rose Street shall be maintained in a manner, and shall incorporate mechanisms, that prevent noise during opening and closing operations.

[Condition 99A added by M/2016/3 on 5 August 2016]

~~100. No goods are to be displayed outside the confines of the building, unless separate approval and a licence under the Roads Act 1993 is obtained from Council.~~

[Condition 100 deleted by M/2015/57 on 29 October 2015]

~~101. The local shop use is only to be open for business and used for the purpose approved within the following hours.~~

Monday	7:00am to 6:00pm
Tuesday	7:00am to 6:00pm
Wednesday	7:00am to 6:00pm
Thursday	7:00am to 6:00pm
Friday	7:00am to 6:00pm
Saturday	7:00am to 6:00pm
Sunday	7:00am to 6:00pm
Public Holidays	Closed

[Condition 101 deleted by M/2015/57 on 29 October 2015]

102. 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).

[Condition 102 amended by M/2015/57 on 29 October 2015]

~~103. There are to be no emissions or discharges from the premises which will give rise to an offence under the Protection of the Environment Operations Act 1997 and Regulations.~~

[Condition 103 deleted by M/2015/57 on 29 October 2015]

~~104. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining properties and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, odour, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.~~

[Condition 104 deleted by M/2015/57 on 29 October 2015]

~~105. Collection of all glass bottles and recycling is to occur between the hours of 7:00 am and 5:00 pm Monday to Friday and 7:30 am and 1:00 pm Saturday. No collection is to occur on Sundays and public holidays.~~

~~[Condition 105 deleted by M/2015/57 on 29 October 2015]~~

~~106. All food handling practices carried out on the premises, such as the preparation and handling of food must be carried out in accordance with the *Food Act 2003* and *Food Safety Standards*.~~

~~[Condition 106 deleted by M/2015/57 on 29 October 2015]~~

~~107. All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with, where relevant, Australian Standard AS 1158.3:2005 *Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance* and design requirements and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.~~

~~[Condition 107 deleted by M/2015/57 on 29 October 2015]~~

~~108. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwellings and refreshment room without the prior consent of the Council unless the change to another use is permitted as exempt development under *Leichhardt Development Control Plan 35 – Exempt and Complying Development*.~~

~~The use of the premises as dwellings and a refreshment room, are defined under the *Leichhardt Local Environmental Plan 2000* as follows:~~

~~**Dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.~~

~~**Local Shop** means a shop having a gross floor area used for retail purposes not exceeding 60m² that is used principally for the provision of convenience goods and services for the benefit of the occupants of the immediate locality and includes a milk bar, newsagent, video library, laundrette and the like, but does not include a refreshment room.~~

~~[Condition 108 deleted by M/2015/57 on 29 October 2015]~~

109. 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.

110. All vehicles must enter and exit the site in a forward direction.

111. Pedestrian access to the basement car park must be kept clear of obstacles, including parked vehicles, at all times.

111A. The two parking spaces to the immediate north of the vehicle turning bay shall be maintained as visitor spaces, and the vehicle turning bay and two visitor spaces are to be clearly labelled and signposted.

[Condition 111A added by M/2016/3 on 5 August 2016]

112. All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council Resident Parking Schemes. All occupants and/or employees of this building will be ineligible to obtain Council Resident Parking Scheme parking permits. The owner of the dwelling must advise in writing all intending owners, tenants and occupiers of the dwelling, at the time of entering into a purchase / lease / occupancy agreement, of this prohibition.
113. Signs reading "all owners, tenants and occupiers of this building are advised that they are not eligible to obtain Resident Parking Scheme parking permits from Council", must be located in prominent places such as at display apartments and on directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to the issue of an Occupation Certificate being issued and must be maintained in good order at all times.
114. The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
115. The Operation and Management Plan for the on-site detention facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
116. The Operation and Management Plan for the stormwater treatment facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

ROADS AND MARITIME CONDITIONS

117. RMS has no approved proposal that requires any part of the subject property for road purposes. Therefore there are no objections to the development proposal on property grounds provided all structures and works are clear of the Johnston Street road reserve (unlimited in height or depth).
118. The proposed residential component of the development should be designed such that road traffic noise from Johnston Street is mitigated by durable materials to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007. The RMS's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.
119. Council should ensure that post development stormwater discharge from the subject site into the RMS drainage system does not exceed the pre-development discharge. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973, Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before the RMS approval is issued. With regard to the Civil Works requirements, please contact the RMS Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

120. The developer is to comply with the requirements of the Technical Direction GTD 2012/001). This will require the developer to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment. The developer is to meet the fill cost of the assessment by RMS.

This report would need to address the following key issues:

- a. The impact of excavation / rock anchors on the stability of Johnston Street and detailing how the carriageway would be monitored for settlement.
 - b. The impact of the excavation on the structural stability of Johnston Street.
 - c. Any other issues that may need to be addressed (Contact: Geotechnical Engineer Ph: 8837 0246 or 8837 0245 for details).
121. Any redundant driveway on Johnston Street shall be removed and replaced with kerb and gutter to match existing.
122. The design and construction of the kerb and gutter works on Johnston Street shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta on 8849 2496.
123. The swept path of the longest vehicle (including garbage truck) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which illustrates that the proposed development complies with this requirement.
124. Off-street parking shall be in accordance with AS2890.1-2004 and AS2890.2-2002.
125. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to the Council prior to the issue of the Construction Certificate.
126. All works associated with the proposed development shall be at no cost to RMS.

AUSGRID REQUIREMENTS

127. The developer should be aware of Ausgrid's existing assets surrounding the proposed development area.

Ausgrid encourages the developer to assess their power supply requirements for the premise alterations. Prior to any electrical work commencing, an Application for Connection form must be submitted to Ausgrid.

Delays can be avoided by ensuring the Application for Connection form is accurately filled out and submitted well in advance of the required supply connection date to allow Ausgrid sufficient time to assess the connection requirements.

Should Ausgrid not have the capacity to provide a 3 phase electrical service to the proposed development, additional network assets may need to be constructed, which could include an electrical distribution substation within the site boundary.

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 the 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. 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) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) 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.

Have you made a political donation?

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at www.leichhardt.nsw.gov.au/Political-Donations.html. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.



Eric Wong
Senior Planner

Attachment D - Original Approved Plans (as last amended)

