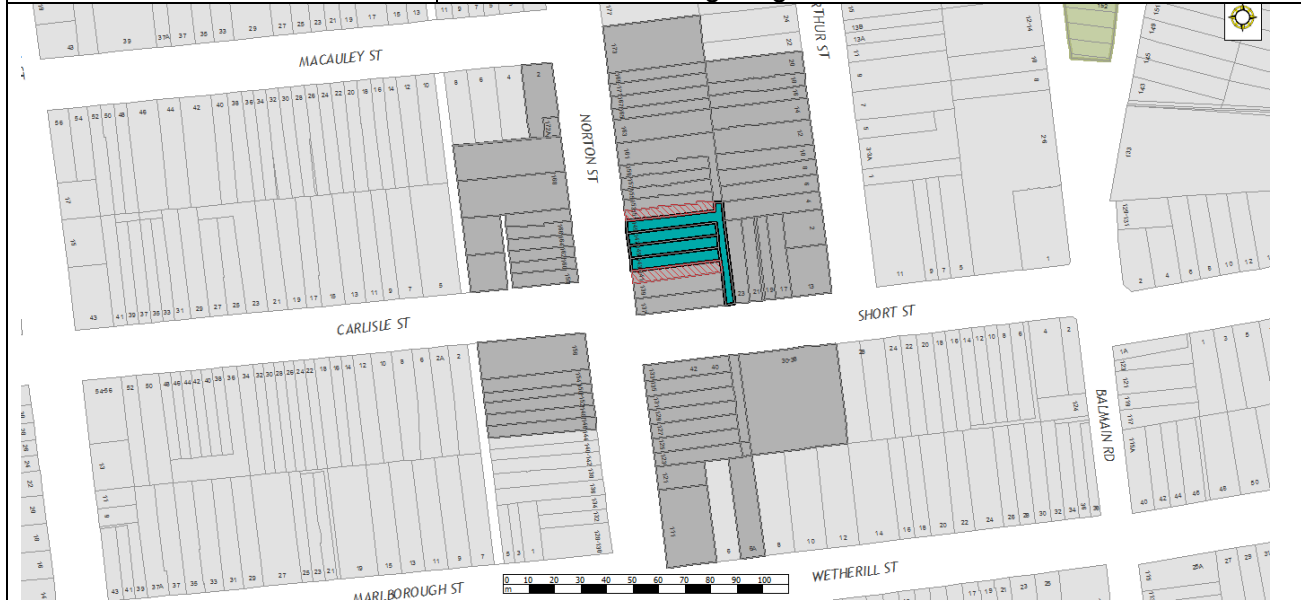




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/427
Address	143-149 Norton Street, Leichhardt
Proposal	Removal of trees, demolition of existing structures and construction of a three storey mixed use development comprising retail, parking and waste facilities on the ground floor and eight residential units on the first and second floors, with Units 1-4 also comprising individual roof terraces.
Date of Lodgement	15-Aug-2018
Applicant	Tony Owen Partners
Owner	Hmma Properties Pty Ltd
Number of Submissions	Objections from two (2) properties
Value of works	\$4,281,996
Reason for determination at Planning Panel	SEPP 65 applicable development, breach of diverse housing control beyond officer's delegation.
Main Issues	Impact to private open space of first floor dwelling at No. 141 Norton Street; Impact to Heritage Conservation Area; Non-compliance with Diverse Housing controls; and Stormwater and Parking Design.
Recommendation	Deferred Commencement Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council including the removal of trees, demolition of existing structures and construction of a three storey mixed use development comprising retail, parking and waste facilities on the ground floor and eight residential units on the first and second floors, with Units 1-4 also comprising individual roof terraces at 143-149 Norton Street, Leichhardt. The application was notified to surrounding properties and two (2) submissions received.

The main issues that have arisen from the application include:

- Impact to private open space of first floor dwelling at No. 141 Norton Street;
- Impact to Heritage Conservation Area;
- Non-compliance with Diverse Housing controls; and
- Stormwater and Parking Design.

The non-compliances can be made acceptable subject to conditions and therefore the application is recommended for deferred commencement approval.

2. Proposal

The application seeks approval for demolition of all existing improvements upon the land and construction of a 3 storey shop top housing development comprising 2 x commercial premises, 8 apartments and associated at grade car parking.

Commercial Premises

The proposal includes 2 x commercial premises at the ground floor, with Retail 01 comprising an area of 68.9m² and Retail 02 comprising an area of 67.3 m². One (1) car parking space has been allocated to the commercial land use, plus an additional space for loading/service purposes.

Residential Component

The residential component of the development is comprised of 8 x 2 bedroom dwellings. The first level of each dwelling provides the entry, bedrooms and bathrooms, with the second level dedicated to a combined kitchen, dining and living room. Units 1 - 4 have access to individual roof terraces. Private open spaces are functional and comprise a landscaped courtyard at each unit's entry level and more substantial balconies above ground level.

Car Parking & Storage

Access to the at grade car parking is provided from the battle axe handle of the subject site which extends to Short Street. The car park will accommodate seven (7) vehicles. Space has also been allocated for motorcycle and bicycle parking. One (1) loading space is also dedicated and area for manoeuvring.

3. Site Description

The subject site is identified as Lots 1 - 4 DP 33422, No. 143 -149 Norton Street, Leichhardt. The site is irregular in shape, has a frontage of 19.465 metres to Norton Street, a depth of approximately of 38.1 metres has a consolidated area of 802.3 m². The site generally falls towards the northern boundary of the site. Four (4) single storey vacant commercial buildings of rendered brick and metal construction occupy the site. The existing structures are built to the front and side boundaries. Vehicular access to the site is gained via a battle-axe handle providing access via Short Street.

The Leichhardt centre itself has a unique and historic cultural identity. The site does not however contain a heritage item nor does it adjoin an item of heritage significance, although it is located within the Wetherill Estate Heritage Conservation Area.

Adjoining the site to the north and south at Nos. 141 and 151 Norton Street are two storey mixed use developments comprising masonry and steel construction, characteristic of development in the immediate locality.



View of the four properties (143, 145, 147 and 149 Norton Street) that forms as part of the subject site.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
BA5354	<u>149 Norton Street</u> Alterations to Barber's shop	Approved 20-Nov-1962
DA4019	<u>145 Norton Street</u> Coin operated Laundry & Res.	Approved 16-Mar-1971
BA10424	<u>149 Norton Street</u> Alterations to shop front	Approved 13-Jun-1972
D/2004/530	<u>143 - 149 Norton Street</u> Demolition of existing buildings and construction of a four storey mixed commercial and residential building, comprising of three commercial tenancies, nine residential dwellings, ground level parking and balcony over footpath.	Refused on Appeal 30-May-2005

D/2005/455	<u>143 - 149 Norton Street</u> Demolition of all existing structures on the site, construction of a mixed use commercial/residential building containing 8 residential units and 3 commercial tenancies with parking for 11 vehicles in total., , Please note: this application is being renotified to include the proposed roof plan.	Approved 27-Feb-2007
D/2013/584	<u>143 Norton Street</u> Alterations and additions to existing building including replacing the shop front. Change of use to cafe/bakery with hours of operation from 6:30 am to 9:30 pm, 7 days a week.	Approved 05-May-2014
PREDA/2016/202	Removal of trees, demolition of existing structures and construction of a 3 storey mixed development over one basement level.	Issued 23-Jan-2017
PREDA/2017/351	Removal of trees, demolition of existing structures and construction of a 3 storey mixed use development.	Issued 01-May-2018

The current proposal is generally consistent with the Pre-DA advice given in PREDA/2017/351.

Surrounding properties

Application	Proposal	Decision & Date
BA/1990/588	<u>141 Norton Street</u> Second Storey addition to shop	Approved 22-Nov-1990
BA/1997/457	<u>141 Norton Street</u> Alterations and additions – Shop/Residence	Approved 13-Oct-1997
D/2017/147	<u>151 Norton Street</u> Alterations and additions to existing building and construction of a dwelling at first and second floors at the rear.	Approved Operational Consent 16-Jul-2018
M/2018/143	<u>151 Norton Street</u> Modification of Development Consent D/2017/147 seeking various changes, including: changes to ground floor entry; addition of fire rated blade walls to rear; and wall finish amendment to rear unit.	Approved 09-Oct-2018
D/2018/490	<u>168 Norton Street</u> Demolition of all structures on site. Site remediation. Construction of a part 5/part 6 storey building to provide residential accommodation for seniors and associated community use at ground level, plus a new retail shop fronting Norton Street at ground floor level. Fifty independent living units are proposed, of which eight will be affordable. Two levels of basement car	Currently under assessment

	parking are proposed providing parking for 57 vehicles.	
D/2014/717	<u>173 Norton Street</u> Demolition of existing buildings and construction of a mixed use development comprising 13 dwellings, 1 retail premises and basement parking. Remediation of the site.	Approved on Appeal 17-Jun-2015
M/2015/269	<u>173 Norton Street</u> Modify D/2014/717 which approved demolition of existing buildings and construction of a mixed use development comprising 13 dwellings, 1 retail premises and basement parking, Remediation of the site. Modification involves deletion of 3-bedroom unit and part of ground floor business premises, and replacement with 4 x ground floor residential units and changes to parking, and lift over-run.	Approved 20-Jun-2016

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
7 December 2018	Request for additional information/amended plans letter including the following issues: <ol style="list-style-type: none"> 1. Access and Parking 2. Stormwater drainage 3. Waste Collection. 4. Amendments required addressing heritage concerns 5. Amendments to maximise solar access to the living areas of the residential units 6. Landscape and Tree Issues 7. Additional information to address issues raised in the objections 8. Additional information in relation to existing party wall shared with No. 141 Norton Street 9. Additional information in relation to details of the staging of the construction
19 February 2019	Additional information and amended plans were provided: <p>Additional information:</p> <ol style="list-style-type: none"> 1. Traffic and parking assessment report prepared by Traffix. 2. Landscape Plans prepared by Formed Gardens 3. Amended stormwater plans 4. Amended Shadow diagrams <p>The amended plans consist of the following amendments:</p> <ol style="list-style-type: none"> 5. Fenestration to first floor level has been redesigned to comprise of single vertically proportioned windows with the ratio of glazing to masonry to be more in keeping with surrounding historic development. 6. Units 01-04 kitchen/laundry have been mirrored to maximise the

	<p>solar access</p> <ol style="list-style-type: none"> 7. Units 05-08 stairs have been relocated to the northern wall of the units to maximise solar access to the living areas. 8. Ground floor level amended to address engineering issues. 9. The massing has been reduced to improve solar access to 141 Norton Street. 10. The roof top terrace of Unit 4 was redesign to be located further away from the western boundary but further towards the eastern boundary. <p>With the exception of the changes to the roof top terrace of Unit 4, the proposed changes would result in a lesser development where the amended design would not need to be renotified under Part A, Leichhardt DCP 2013. As discussed in later sections of the report, a condition will recommended to setback the eastern side of the roof terrace of Unit 4 to align with the eastern side of Units 1 – 3 to ensure the roof terrace of Unit 4 will not result in any additional impacts when compared to the originally notified development.</p>
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5. Assessment

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

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 No 65—Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The following provides further discussion of the relevant issues:

5(a)(i) 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 land is, or can be made, suitable for the proposed works prior to granting its consent.

The site has been used in the past for activities (i.e. dry cleaners) which could have potentially contaminated the site. A preliminary contamination investigation prepared by EI Australia provided the following conclusions:

- *Historical records showed that commercial properties occupied a majority of the site during the 1930 aerial photograph and has remained commercial until the current date;*
- *The site and surrounding properties are not reported as being subject to regulation in relation to environmental impacts, as documented in the NSW EPNOEH public registers;*

- *A WorkCover NSW Authority data search of records relating to historical storage of dangerous goods on the site revealed no records pertaining to the site were held;*
- *A search of Council records relating to previous development applications, complaints and other information pertaining to previous activities at site is currently pending, the findings of which will be reported as soon as they become available;*
- *A conceptual site model (CSM), and qualitative risk assessment was derived for the site in this PSI. The CSM identified potential contaminating sources that may occur at the site and evaluated the likelihood for relevant exposure pathways to be complete during and after the proposed development. As the risk assessment identified possible risks to sensitive receptors, investigation of soils and groundwater will be required to quantify any contamination that may be present at the site;*
- *The site walkover inspection did not identify areas of environmental concern; however, previous use of fill of unknown origin for site levelling, and potential burial of ACM from potential demolished structures was considered to present a low potential risk of exposure to impacted materials during excavations;*
- *No evidence was identified to indicate the presence of any onsite sources of groundwater contamination; however previous site use as a dry cleaner could of caused previous contamination; and*
- *Acid sulfate soil is unlikely to present at the site due to the fact that the site sits in a "No Known Occurrence" area. As a result, there is no requirement for an acid sulfate soil management plan.*

The report concluded that there is a potential for contamination to be present on the site that could pose risks to sensitive receptors. As such, a detailed site investigation (DSI) will be required to characterise soils and groundwater, and ascertain the presence of any contamination onsite.

Subsequently, a Detailed Site Investigation (DSI)) have been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The detailed site investigation prepared by EI Australia concluded that:

- *Soil sampling and analysis were conducted at six test bore locations. The sampling regime was considered to be appropriate for preliminary investigation purposes and comprised a general systematic (triangular grid) sampling pattern, with allowance for structural obstacles (e.g. building walls, underground and overhanging services and other physical obstructions in use by existing operating businesses). Two of the six test bores were converted into groundwater monitoring wells.*
- *The sub-surface layers comprised anthropogenic filling overlying clay then shale bedrock.*
- *Results of soil samples reported concentrations or 95% UCL concentrations of the contaminants of concern below the adopted SILs.*
- *Groundwater seepage was encountered at approximately 6.5 m BGL during monitoring well installation.*
- *Results of Groundwater samples collected from soil test borehole displayed the following results:*
 - *Various metals exceeded the adopted GIL. It was considered that these metal concentrations were within background concentrations and unlikely to be present an environmental risk at the point of exposure.*
 - *PAHs, TRH/BTEX and VOCs assessed returned values below PQL or below the adopted GIL.*

EI conclude that soils and groundwater are suitable for the proposed development. As redevelopment will include demolition and bulk excavation, recommendations detailed in Section 11 must be implemented.

The contamination documents have been reviewed and found that the site, subject to the recommendations in the report, is suitable for the proposed development. To ensure these recommendations are undertaken, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of SEPP 55.

5(a)(ii) 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.

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is acceptable having regard to the nine design quality principles.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within LDCP2013 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Solar access impacts to neighbouring properties

Objective 3B-2 requires the overshadowing of neighbouring properties is minimised during mid winter.

Design guidance in the ADG is as follows:

- Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access;
- Solar access to living rooms, balconies and private open spaces of neighbours should be considered;
- Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%;
- If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy;
- Overshadowing should be minimised to the south or down hill by increased upper level setbacks;
- It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development; and

- A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.

For east-west orientated sites, the Leichhardt DCP 2013 requires solar access to be retained to the private open spaces of the adjoining properties for 2.5 hours to 50% of the private open space. To reduce the impacts to the private open space of No. 141 Norton Street, Unit 4 and the associated roof terrace has been reduced. The amended proposal demonstrates that solar access will be retained solar access to at least 50% of the private open space of No. 141 Norton Street for 2.5 hours between 12pm and 2.30pm, and therefore, is considered to be satisfactory in this regard.

Communal Open Space

The ADG prescribes the following requirements for communal open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

Comment: The proposed communal open space is approximately 629 m² in size, which is approximately 7.8% of the site area. The shadow diagrams provided indicate that the communal private open space will receive the required solar access between 10am and 12pm during winter solstice.

Having considered the constraints of the proposed site and the nature of the proposal as a mixed use development where it is not possible to utilise the ground floor level for communal open space, and given that, each of the units will receive an amount of private open space that exceeds the minimum requirements, it is considered that proposed communal open space area is acceptable.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m ²	-	7%
650m ² - 1,500m ²	3m	
Greater than 1,500m ²	6m	
Greater than 1,500m ² with significant existing tree cover	6m	

Comment: The proposal provides approximately 56 sqm of deep soil planting which is approximately 7% of the site area. However, the deep soil planting is provided by planter boxes, and none of these will satisfy the requirement of a 3 metre dimension specified by the apartment design guide. Having considered the constraints of the proposed site and the nature of the proposal as a mixed use development where it is not possible to utilise the ground floor level for deep soil zones, the proposed deep soil provisions is considered to be acceptable.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Up to four storeys/12 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Comment: As the proposal is 3 storeys in height, the controls up to 4 storeys are applicable. The adjoining buildings consist of mixed use developments to the north and south of the property, and as the proposed development is proposed to be built to the boundaries, the proposal does not provide the separation as specified above. The proposed development would only be setback approximately 3 metres to the eastern (rear) boundary.

Having considered the nature of the developments on the adjoining properties where dwellings are located at first floor level, it is considered that the separation distances can be supported subject to visual privacy impacts being adequately addressed.

In regards to the east-adjoining properties (23 Short Street and 4 Arthur Street), adequate privacy screens have been provided at first and second floor levels to mitigate the potential sightlines from the proposed rear balconies and windows on the eastern elevation. The roof top terraces of Units 1 – 3 have adequate setbacks to the eastern (rear) boundary (approximately 9 metres). The amended plans reduced the roof terrace of Unit 4 to the eastern boundary by 3 metres to be setback approximately 6 metres from the eastern boundary which is considered to be unsatisfactory as the roof top terrace will have directly sightlines into the private open of 4 Arthur Street. Therefore, conditions will be recommended that requires the roof terrace of Unit 4 to be amended to be setback further away from the eastern boundary to match the rear alignments of the roof terraces of Units 1-3 and the stairs to the terrace of Unit 4 to be redesigned (e.g. L-shaped instead of a straight-stair) to accommodate this design.

In regards to impacts to No. 141 Norton Street, the proposed Unit 4 is located within 6 metres within the balcony of the first floor residential dwelling at No. 141 Norton Street. To ensure adequate privacy is being retained to the private open space of the first floor dwelling at No. 141 Norton Street and no further overshadowing impacts will occur as a result of the additional privacy screens required to mitigate the sightlines from the terrace, conditions are

recommended to reduce the roof top terrace (and associated planter box) of Unit 4 by a further 1 metre away from the eastern boundary and the privacy screens to return a minimum of 1.5 metres on the eastern boundary. A privacy screen minimum 1.6 metres in height is also recommended to be located on southern side of the east-facing balcony of Unit 4.

In regards to impacts to No. 151 Norton, it is noted that there an approved development (D/2016/545) for alterations and additions to ground and first floor at rear of existing dwelling that includes a rear first floor balcony and the depiction of the adjoining property at No. 151 on the proposed drawings does not reflect the approved works under D/2016/545. To reduce the potential sightlines from the proposed Roof Terrace of Unit 1 into the first floor balcony at No. 151 Norton Street, a privacy screen minimum 1 metre in width and 1.6 metres in height is to be placed on the western side of the roof terrace of Unit 1, directly adjacent to the stairs to the roof terrace of Unit 1.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: The amended proposal ensures that solar access will be provide the open-plan living/kitchen/dining area and the respective balcony/terrace areas for two hours between 9am and 11am for Units 1-4 and between 11am and between 1pm and 3pm for Units 5-8.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: This proposal is satisfactory in this regard.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope

If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use
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Comment: The proposal is satisfactory in this regard.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m ²
1 Bedroom apartments	50m ²
2 Bedroom apartments	70m ²
3 Bedroom apartments	90m ²

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
 - 3.6 metres for studio and 1 bedroom apartments.
 - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: The sizes of the proposed apartments are as follows:

Apartment	Minimum Internal Area	Apartment Area	Complies
Unit 1	70m ² + 5 m ²	82.5 m ²	Yes
Unit 2	70m ² + 5 m ²	82.5 m ²	Yes
Unit 3	70m ² + 5 m ²	79 m ²	Yes
Unit 4	70m ² + 5 m ²	73 m ²	No
Unit 5	70m ² + 5 m ²	86 m ²	Yes

Unit 6	70m ² + 5 m ²	86 m ²	Yes
Unit 7	70m ² + 5 m ²	86 m ²	Yes
Unit 8	70m ² + 5 m ²	86 m ²	Yes

The size of the bedrooms and width of living rooms are as follows:

Apartment	Master Bedroom Area	Bedroom Area	Living room minimum width	Complies
Unit 1	12.8 m ²	11.8 m ²	3.5 - 4.6 m ²	Yes
Unit 2	12.8 m ²	11.8 m ²	3.5 - 4.6 m ²	Yes
Unit 3	12.0 m ²	10.7 m ²	3.5 - 4.6 m ²	Yes
Unit 4	11.1 m ²	9.4 m ²	3.6 - 4.5 m ²	Yes
Unit 5	12.6 m ²	10.2 m ²	3.5 - 4.6 m ²	Yes
Unit 6	12.6 m ²	10.2 m ²	3.5 - 4.6 m ²	Yes
Unit 7	12.6 m ²	10.2 m ²	3.5 - 4.6 m ²	Yes
Unit 8	12.6 m ²	10.2 m ²	3.4 - 4.5 m ²	Yes

The proposed development will achieve compliance with the other provisions listed above with the exception of Unit 4 in regards to minimum apartment size. It is considered that the size of Unit 4 is acceptable in this instance as the variation in size is minor (3%) and the design of the apartment unit is considered to be satisfactory as it receives adequate amenity and it is of sufficient size to fulfil the functions that is expected to be of residential use.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 Bedroom apartments	8m ²	2 metres
2 Bedroom apartments	10m ²	2 metres
3+ Bedroom apartments	12m ²	2.4 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3 metres.

Comment: Units 1-4 provides roof top terraces which exceed the minimum sizes as well as providing balconies with a minimum depth of 2 metres and Units 5 – 8 provides balconies 4.2 metres in depth and approximately 19 sqm in size. Therefore, the proposal meets the requirements under this part.

Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: The central core is shared by eight units and therefore the building is satisfactory in this regard.

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio apartments	4m ³
1 Bedroom apartments	6m ³
2 Bedroom apartments	8m ³
3+ Bedroom apartments	10m ³

Note: At least 50% of the required storage is to be located within the apartment.

Comment: It is noted that the Statement of Environment Effects provided by the applicant suggests that the proposal complies with the storage requirements. However, noting that the storage in kitchens, bathrooms and bedrooms must be excluded from the calculations, the available storage areas are as follows:

Apartment	Required Storage Area	Proposed Storage Area Inside Unit
Unit 1	8 m ²	4.3 m ²
Unit 2	8m ²	4.3 m ²
Unit 3	8 m ²	4.3 m ²
Unit 4	8m ²	1.6 m ²
Unit 5	8m ²	1.4 m ²
Unit 6	8m ²	1.4 m ²
Unit 7	8m ²	1.4 m ²
Unit 8	8m ²	1.4 m ²

It is also noted that the additional storage is provided at the ground floor level between 4.8 m² and 5.6 m² although it is unclear which apartment receives the larger storage areas. While it might not be possible to provide 4 m² of storage within the apartment of Unit 5-8, there are some opportunities to provide storage underneath the stairs and it is considered that the storage size is satisfactory subject to conditions to provide additional internal storage in Units 5-8 underneath the stairs. A condition addressing this matter is recommended as a condition of consent.

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

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.3 – Flood Planning
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise
- Clause 6.11A Residential accommodation in Zone B1 and Zone B2
- Clause 6.13 – Diverse housing

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Required: [1.5:1]	1.05:1 838.8m ²	N/A	Yes

The following provides further discussion of the relevant issues:

Clause 2.3 – Zone objectives and Land Use Table and Clause 6.11A Residential accommodation in Zone B1 and Zone B2

The subject site is located in the B2 Local centre zoning. The Objectives of zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that development is appropriately designed to minimise amenity impacts.
- To allow appropriate residential uses to support the vitality of local centres.
- To ensure that uses support the viability of local centres.
- To provide a mixture of compatible land uses.
- To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.
- To integrate suitable business, office, residential, retail and other development in accessible locations.

The development which consists of a mixed use development with two commercial premises at ground floor level and 8 residential units above is considered to be of a form that is consistent with the objectives of the B2 Local Centre. As main street frontage is

predominately associated with the commercial premises, it is considered that that proposal achieves an active street frontage and satisfies Clause 6.11A.

The proposed development being for *mixed use development* comprising of retail and residential uses is permissible with consent under the zoning provisions applying to the land. The development is considered acceptable having regard to the objectives of the R1 – General Residential zone

Clause 4.4A Exception to maximum floor space ratio for active street frontages

The following controls are applicable:

- (1) The objective of this clause is to provide floor space incentives for mixed use development that incorporates active street frontages at ground floor level in Zone B1 Neighbourhood Centre or Zone B2 Local Centre.*
- (2) This clause applies to land identified as “Area 1” on the [Floor Space Ratio Map](#).*
- (3) Despite clause 4.4, the maximum floor space ratio for a building on land to which this clause applies is 1.5:1 if the consent authority is satisfied that:
 - (a) the building will have an active street frontage, and*
 - (b) the building comprises mixed use development, including residential accommodation, and*
 - (c) the building is compatible with the desired future character of the area in relation to its bulk, form, uses and scale.**
- (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:
 - (a) entrances and lobbies (including as part of mixed use development),*
 - (b) access for fire services,*
 - (c) vehicular access.**
- (5) In this clause, a building has an active street frontage if all floor space on the ground floor of the building facing the street is used for a purpose other than residential accommodation.*

The proposed development comprises with mixed use development and the built form and scale is considered to be compatible with the desired future character of the area. In addition, as there are no residential units located at ground floor level and the non-commercial components are related to vehicular access, services and entrance lobby to the residential units, it is considered that the development complies with these controls and hence the FSR of 1.5:1 can be applied. The proposal achieves a FSR of 1.05:1, and therefore, complies with the applicable FSR development standard at 1.5:1.

Clause 5.10 - Heritage Conservation

The subject site is not listed as a heritage item on the Leichhardt LEP 2013. It is a contributory item to 'Wetherill Estate Conservation Area (14). It is not located in close proximity of listed heritage items that would be affected by the proposal. The proposal in its current form is supported subject to conditions. Refer to section 5(c) for a more detailed discussion on heritage conservation

Clause 6.8 – Development in areas subject to aircraft noise

As the site is located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

An acoustic report prepared by Acoustic Logic dated 25/08/2017 was provided as supporting information to the application and concludes that subject to recommendations, the proposed

development will be satisfactory in this regard. This submitted acoustic report will be referenced in any consent granted.

Clause 6.13 - Diverse Housing

Clause 6.13(3)(a) requires at least 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include self-contained studio dwellings or one-bedroom dwellings, or both. The proposed development which includes 8 x 2 bedroom units does not comply with this development.

The applicant seeks a variation to the Diverse Housing development standard under Clause 6.13 - Diverse Housing of the applicable local environmental plan by 100% (No single bedroom/studio provided).

Clause 4.6 – Exceptions to development standards

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- That the objectives of the diversity standard can be achieved notwithstanding the numerical non-compliance, is able to be demonstrated by considering a recent development approved in the locality. The development nearing completion at Nos. 173 - 175 Norton Street, which is less than 100 metres away, comprises 8 x studio apartments, 4 x 2 bed and 1 x3 bed dwellings (13 apartments in total). Significantly, 62% of the dwellings provided were studio apartments, providing a significant number of this dwelling type in a single development, and demonstrating that when site constraints permit, developers will provide housing diversity desired by market demand. On balance, if this approved development and the subject development were considered on balance, a total 21 dwellings are proposed, with 38% of the proposed dwellings being provided as studio apartments, and thus, satisfying the objective of the standard for the provision of diverse housing in the locality.
- The rationale is that development standards are not ends in themselves, but means of achieving these ends. The ends are the environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).
- Reducing the size of the dwellings to achieve compliance with the standard would only thwart the objective of ensuring an adequate supply of housing in appropriate locations to facilitate employment and economic opportunities, and to reinforce demand for the goods and services available within the neighbourhood centre. The proposed density of development is already below the maximum achievable upon the site.
- The proposed variation will not contravene the objectives of the EPM which seek to promote the proper management, development and conservation of the State's natural and other resources, and to promote the orderly and economic use and development of land.

- Given these considerations, and the very limited opportunity available for redevelopment within the precinct, it is unlikely that the proposed variation will undermine the legitimacy or future standing of the diverse housing standard.
- The development, despite non-compliance with the diverse housing standard, still contributes to achieving the relevant objects of the EPAA.
- There are no adverse impacts that result from variation of the diverse housing standard.
- Non-compliance will not undermine the public benefit and legitimacy of the standard, and would generate opportunities for community benefits to be provided through additional development contribution funds accumulated.
- There are no matters of State or regional planning significance affected by varying the standard.

Objectives of the B2 Local Centre zone and the development standard for Diverse Housing in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt Local Environmental Plan are:

Clause 6.13 - Diverse Housing

(1) The objective of this clause is to ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development that includes shop top housing.

Objectives of the B2 Local Centre

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure that development is appropriately designed to minimise amenity impacts.*
- *To allow appropriate residential uses to support the vitality of local centres.*
- *To ensure that uses support the viability of local centres.*
- *To provide a mixture of compatible land uses.*
- *To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations.*

It is considered the development is in the public interest because it is consistent with the above objectives, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The dwelling size for the two bedroom dwellings are not considered large when assessed against the Apartment Design Guide which require 70sqm for a two bedroom and the proposed dwellings are between 73-86 sqm.
- The proposed floor space ratio is significantly below the permissible FSR and therefore is not overdevelopment of the site.
- Having considered the nearby mixed use development at 173 - 175 Norton Street which was recently constructed and provides an additional 8 studio apartments (which exceeds the requirement by 37%), despite having no one bedroom or studio apartments as part of this application, the supply of types of apartment units within the immediate surroundings will continue to be diverse. Therefore the short fall of one-bedroom dwellings is not considered to have an adverse impact to the overall apartment mix in the LGA.
- The individual amenity of the dwellings and between the proposed dwellings, is acceptable

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Diverse Housing Development Standard and it is recommended the Clause 4.6 exception be granted.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

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

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

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
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	Yes
C1.3 Alterations and additions	Not Applicable
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Yes, subject to conditions
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Not applicable

C1.11 Parking	Not applicable
C1.12 Landscaping	Refer to SEPP 65 assessment
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	Not applicable , no signage proposed
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	Yes
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	
C2.2.3.5 Leichhardt Commercial Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Not applicable
C3.8 Private Open Space	Refer to SEPP 65 Assessment
C3.9 Solar Access	Yes, subject to conditions
C3.10 Views	Refer to SEPP 65 Assessment
C3.11 Visual Privacy	Refer to SEPP 65 Assessment
C3.12 Acoustic Privacy	Refer to SEPP 65 Assessment
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	Not applicable
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development	

Applications	
E1.1.1 Water Management Statement	Yes, subject to conditions
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	
E1.2.1 Water Conservation	Not applicable
E1.2.2 Managing Stormwater within the Site	No, to be addressed by conditions
E1.2.3 On-Site Detention of Stormwater	No, to be addressed by conditions
E1.2.4 Stormwater Treatment	No, to be addressed by conditions
E1.2.5 Water Disposal	No, to be addressed by conditions
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	
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:

C1.2 Demolition

The row of shops at No. 143-149 Norton Street are not listed as an individual heritage item but are located within the Wetherill Estate Conservation Area, C14. One of the significant characteristics of the Wetherill Estate conservation area is its varied character, including the shops and attached dwellings along Norton Street. The age range for the significant building stock is from the 1870s to the 1930s and 1940s, with most buildings being nineteenth century.

The Statement of Heritage Impact (SOHI) submitted with D/2018/427 only considered the exterior of the building and the interiors were not inspected. One chimney remains visible at the northern end of the building, indicating that an earlier residential building is buried within the complex. On closer inspection the block appears to be a row of single storey houses that have had shops added replacing the front garden. The exact date of construction of the row of houses has not been determined however the initial residential building dates from the early twentieth century, with the shop fronts added at a later date, perhaps in the 1920s. The building does not contain sufficient physical evidence to warrant retention. Therefore there is no objection to the proposed demolition of the existing buildings.

C1.4 Heritage Conservation Areas and Heritage Items and C2.2.3.5 Leichhardt Commercial Distinctive Neighbourhood

Generally the proposal to demolish this row of shops and replace it with a row of shops with staggered awnings and apartments above is acceptable given the condition of the current building and the limited extent of surviving fabric from the key period of significance.

The proposed Norton Street frontage is consistent with the urban character of the locality. The subject site is located in the Norton Street - Centro Sub Area within the Leichhardt Commercial Distinctive Neighbourhood which discourages large scale developments. While the proposal will not comply with the 3.6 metre building envelope control, it is considered that as the second floor level had been adequately setback from the front boundary, the resultant built form will be compatible with the existing built forms of the surrounding properties at 137, 139, 141, 151, 153, 155, 157 and 159 Norton Street. When viewed from street level, will read as a two storey building form, consistent with recent development in the locality. Therefore it is considered that the proposed works will be consistent with the existing character of the street.

The proposed alteration to the first floor glazing to the front elevation to provide a pair of windows is acceptable provided that horizontal glazing bars are incorporated. This issue is recommended to be addressed by conditions.

C1.11 Parking

Number of Parking Spaces

The following parking rates are applicable to the proposed development:

Parking Rates				
Land Use	Residents		Visitors	
	Minimum	Maximum	Minimum	Maximum
Residential				
Single dwelling house	Nil	2 spaces per dwelling house	Nil	Nil
Bed-sit / Studio	Nil	0.5 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
1 bedroom unit	1 space per 3 dwellings	0.5 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
2 bedroom unit	1 space per 2 dwellings	1 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
3+ bedrooms unit	1 space per dwelling	1.2 spaces per dwelling	1 space per 11 dwellings	0.125 spaces dwelling
Land Use	Staff & Visitors Combined			
	Minimum		Maximum	
Business premises	1 space per 100m2		1 space per 60m2	

Several specific land uses within recognised shopping streets have an exemption applied for the first 50 m2 in the “minimum” category. The exemption is based on an assumption that 50 m2 represents a minimum basic space in a main street premise, such as a shop or café, and is aimed at recognising the walk-up potential of the locations. Refer to Control No. 15 within this section of the Development Control Plan.

(“Recognised shopping streets” are: Norton and Marion Streets Leichhardt, Darling Street and Balmain Road Rozelle, Darling Street Balmain, Johnston and Booth Streets Annandale, Parramatta Road Leichhardt and Annandale).

Table C6: Bicycle parking provision rates

Land use	Residents/staff	Customers/Visitors
Apartments	1 space per 2 <i>dwellings</i>	1 space per 10 <i>dwellings</i>
Shops	1 space per 10 staff	2 spaces, plus 1 space per 100 sqm over 100 sqm GFA

C23 Motor bike parking is to be provided at a rate of (1) space for developments that require between 1 to 10 vehicle spaces and 5% of the required vehicle parking thereafter. The rate of total parking provision required is established by Table C4: (General Vehicle Parking Rates) for the land use.

As the development consist of 8 x 2 bedroom units and 2 x business premises (total 136.2 sqm), the parking is required:

$$8 \times 2 \text{ bedroom unit} = 1 \text{ space per } 2 \text{ dwellings} + 1 \text{ space per } 11 \text{ dwellings} = 5 \text{ spaces}$$

$$\text{Business premises} = 1/100 \text{ sqm} = 136.2 \text{ sqm} - 50 \text{ sqm}/100 = 0.86 \text{ spaces.}$$

Therefore, the total minimum parking requires is 6 spaces.

It is noted that due to the location of the subject site, Council’s Traffic Engineer has indicated that the development would not be eligible for parking permit, and since the parking in the area is limited with ticketed parking restrictions, Council’s traffic engineer recommended that the development comply with the Leichhardt DCP2013 maximum parking rates which would require an additional 3 residential parking spaces or a reduction in residential units would be required to meet the maximum parking rates.

However, as the proposal achieves the specified minimum requirements for parking as outlined in C1.11 Parking, there will be inadequate justification to reduce the number of units based on car parking. Therefore it is considered that the proposed development is satisfactory in this regard, but an advisory note will be added to the Determination Notice to clearly outline that that the development will not be eligible for parking permits.

The proposed parking provides for one motorcycle which complies with C23. There are also 4 bicycle spaces that are provided which complies with the bicycle rates for apartments. While there are no bicycle spaces provided for the retail premises, it is considered that it is acceptable in this instance given the size of the retail units and the proximity of the site to bus stops on Norton Street.

Parking Space for Persons with Disability and Accessible Toilet

The access path to the accessible toilet and Shared Zone for the accessible Parking Space for Persons with Disability is limited due to encroachment into the access pathway by the Basement Ramp. To ameliorate this issue the lift and lift shaft and associated infrastructure, Accessible parking space 01 and associated shared zone area, Residential Parking Space 02 and Visitor Parking Space/Car Wash Bay 03 could be relocated by 400mm to the west.

NB: It is noted that with the above change the access path will be limited to the western side of the share zone bollard and have a width of approximately 1.1m (i.e. distance between adjacent parking space and share zone bollard) as no access path will be available on the eastern side of the bollard due to the basement ramp location. However further relocation to

the west to address this issue is not possible as the Lift etc. would encroach on the Service Bay Turning Bay area.

To provide further improvements to the access path widths would require the Residential Parking Space 02 to be converted to an accessible Parking Space, however this is not supported as this would result in the loss of one parking space.

Loading and Service Bay Headroom

The development relies on servicing by a B99 Van type vehicles however only provides headroom of 2200mm. In accordance with Leichhardt DCP 2013 C31 a minimum headroom clearance of 2500mm is to be provided within the service area and along the vehicular path of travel to or from the service area.

To address the above issue the Finished Floor Level of Bedroom 1 and Balcony of Unit 03 is required to raise by 300mm to be at RL. 37.10m AHD and the Finished Floor Level of Bedroom 1 and Balcony of Unit 02 shall be raised by 300mm to be at RL. 36.90m AHD to provide the 2500mm Headroom to the basement.

C1.14 Tree Management

The removal of 2x *Celtis sp* (Hackberry) located at the rear of the site is supported subject to adequate compensatory replanting.

A review of the submitted Deep Soil Calculations plan, prepared by TONY OWEN PTNRS. Dated Dec 2017, DWG No. A403 and Landscape Works Level One Plan, prepared by Formed Gardens Design and Construction, DWG 002 has found the proposed replacement plantings of *Archontophoenix alexandrae* (Alexander Palms) to be unacceptable.

Calculations taken from satellite imaging have found that more than 250m² of tree canopy has been proposed to be removed from site. Given the above, it is requested that two (2) 400L canopy trees are planted within the first floor communal open space courtyard to compensate for the loss of urban forest canopy resulting from the development.

Tree species to be planted must be capable of achieving a minimum mature height of 8m. It is essential that adequate volume of good soil and sufficient water is provided for these trees to establish well and remain healthy.

A landscape plan and section details are required to provide information on soil volume and planting conditions for the compensatory trees. It will need to be demonstrated that adequate soil volume can be provided to sustain viable canopy trees. This may be achieved by modification of the courtyard layout to accommodate an extended area of available deep soil. Raised planter beds shall have specifically designed soil specification for this application.

A total soil volume of 20m³ is to be achieved and information on irrigation installation and maintenance programs is to be provided. Incorporation of Water Sensitive Urban Design (WSUD) principles is encouraged.

Additional information was requested and after reviewing the amended Landscape Plans, prepared by *Formed Gardens Design and Construction*, DWG No's. 002 and 004, dated 23/01/2019, it was concluded that the concerns that were raised relating to loss of canopy coverage and additional construction/planting details outlined above have satisfactorily been addressed. Given the above, the application is supported in this regard.

C1.7 Site Facilities

The doors to the Residential Garbage Room, Commercial Garbage Room and door at the southern side of the Basement Ramp encroach into the rear laneway and splay corners when open which results in potential conflict between the doors/pedestrians and vehicles using the laneway and obstruction of sightlines between vehicles to other vehicles and between vehicles and pedestrians exiting the site via these doors. To address this issue these doors must be setback from the building alignment by 1m.

B3.1 Social Impact Assessment

The Social Impact Comment (SIC) is embedded as part of the Statement of Environmental Effects (Social Impacts, Section 4.4.6). The proposal entails a mixed use development comprised of retail spaces on the ground level and eight two-bedroom residential apartments on the other levels. The SIC is an assessment of the extent to which the proposal meets local economic needs as well as the demand for different models of affordable housing.

The SIC indicates a positive economic benefit to the Leichhardt community on Norton Street with the opportunity for new retail business in an area of high amenity. It will stimulate moderate local employment in the commercial use part of the development and new residents will enjoy a vibrant urban lifestyle with close proximity to shops while having easy access to public transport.

The report states that a Statement of Compliance Access for People with a Disability confirms the proposal mostly complies with the relevant standards, where departure from the standards have been identified the non-compliances can be resolved by minor design changes.

The proposal contributes to the vision for Leichhardt and is consistent with public interest. There is a sufficient management plan to mitigate construction impacts including noise, dust and traffic movements and there is a demonstration of design elements employed to preserve privacy.

The development is not subject to the Inner West Affordable Housing Policy because it is a small development with only 8 residential apartments.

The proposal meets the Social Impact Comment (SIC) criteria of the Leichhardt Development Control Plan. The Social Impact Comment addresses each of the questions and the positive social impacts outweigh negative impacts in the construction phase.

E1.2.2 Managing Stormwater within the Site

Stormwater Overland Flow Path

A stormwater overland flow path is proposed along the northern Boundary to convey stormwater flows from the Rear Laneway (ROW) to Norton Street when the stormwater drainage system is blocked or capacity is exceeded as required by Leichhardt DCP2013 Part E (Water) Section E1.2.2 Managing Stormwater within the site. However a number of issues have not been addressed as follows:

- a) The proposal includes changes the surface levels along the existing rear Laneway/Right of Way at the rear of the property including at the rear frontage of 151 Norton Street where there is an existing garage. This is not permitted. The existing surface levels shall be maintained at the rear of 151 Norton Street such that vehicular access to the garage is maintained.
- b) It has not been demonstrated how surface flows will be directed into the overland flow path as the surface level at the entrance to the overland flow path is at

- RL.33.83m AHD (i.e. 33.63m AHD plus 0.2m Lintel Height) which is above the boundary level with 151 Norton Street at RL33.75m AHD.
- c) The proposal relies on transitioning flows around the 90 degree change in direction from the rear lane to the overland flow path along the northern side boundary which is hydraulically inefficient and would likely result in flows continuing in a northern direction and flowing into the neighbouring property at 151 Norton Street rather than flowing into the overland flow path to Norton Street.
 - d) It has not been demonstrated how surface flows will exit the overland flow path to Norton Street.
 - e) The fire stairs encroach into the overland flow path such that the headroom of only 100mm is provided which would be subject to blockage and access for inspection and maintenance would be significantly restricted.

As a result of the above, an alternative stormwater design is required to collect stormwater drainage from the rear Laneway/Right of Way and convey surface flows to the Stormwater Overland Flow Path. It is likely this will require alteration to the Comm. Garbage room and Switch room to transition flows from the rear lane to the Stormwater Overland Flow Path. Details of open type screening of inlet and outlets from overland flow path and the Stairs between the ground floor and first floor require reconfiguration to increase the clearance below to 300mm (minimum). Conditions reflecting these technical requires are included in the attached draft consent.

In addition to above, alteration to the Comm. Garbage Room and Switch Room will require relocation of the bicycle parking spaces.

5(d) The Likely Impacts

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

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

The site is zoned B2 Local Centre. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Leichhardt DCP 2013 for a period of 14 days to surrounding properties. A total of two (2) submissions were received.

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

- The increase in visual bulk from the development, Solar access impacts to private open space of No. 141 Norton Street and Privacy implications from the new balcony – see Section 5(a)(ii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.

Comment: To ensure adequate privacy is being retained to the private open space of the first floor dwelling at No. 141 Norton Street and no further overshadowing impacts will occur as a result of the additional privacy screens that is required to mitigate the sightlines from the terrace, conditions will be recommended to reduce the roof top terrace (and associated planter box) of Unit 4 by a further 1 metre away from the eastern boundary and the privacy screens to return a minimum of 1.5 metres on the eastern boundary. A privacy screen minimum 1.6 metres in height will also be required to be located on southern side of the east-facing balcony of Unit 4.

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

Issue: 149 Norton St is attached to my dwelling so I would like to see some sort of engineering report on how it is proposed to retain the wall from collapsing.

Comment: The proposed development proposed a separate boundary wall that is independently supported. Standard conditions will be recommended which includes the requirement of dilapidation reports before and after construction, requirements for excavation and underpinning etc.

Issue: There is a proposed pathway between 149-151 Norton st for stormwater overflow, my concern is flooding and seepage considering my side is lower than this property. What measures are to be taken for waterproofing and flood protection to my property 151 Norton Street.

Comment: The drainage system has been designed to ensure that all runoff from the Laneway to Council's drainage system in Norton Street is captured via pit and pipe for the 1 in 20 years ARI and 1 in 100 years ARI. As a result of the updated design, there will be no unacceptable additional overland flow.

Issue: With all the extra traffic to the rear of the laneway will the new development be sealing the rear lane with bitumen and extending past the rear of my property.

Comment: The Laneway is currently shared by 7 properties; given the proposed development comprises only 4 residential parking and 1 retail parking. The increase in traffic generation would be none or very minimal. As council requested in item A.2.f), A concept design has been proposed for reconstruction of the Laneway in Civil Public Domain Plans.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage Officer – Satisfactory subject to conditions.
- Development Engineer – Satisfactory subject to conditions.
- Community Services – No objections
- Landscape – No objections.

6(b) External

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

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal.

Residential Community Facilities Levy	\$23,576.00
Non-Residential Community Facilities Levy	-\$4,849.74
TOTAL COMMUNITY FACILITIES LEVY	\$18,726.26
Residential Open Space Levy	\$ 154,264.00
Non-Residential Open Space Levy	-\$ 9,452.64
TOTAL OPEN SPACE LEVY	\$ 144,811.36
LATM	\$ 576.63
Bicycle	\$ 202.82
TOTAL TRANSPORT & ACCESS LEVY	\$ 779.45

Therefore the Total contribution is \$164,317.07.

Pursuant to the Ministerial Direction on Local Infrastructure Contributions dated 3 March 2011:

- (2) *A council (or planning panel) must not grant development consent (other than for development on land identified in Schedule 2) subject to a condition under section 94 (1) or (3) of the Environmental Planning and Assessment Act 1979 requiring the payment of a monetary contribution that:*
- (a) *in the case of a development consent that authorises one or more dwellings, exceeds \$20000 for each dwelling authorised by the consent, or*
- (b) *in the case of a development consent that authorises subdivision into residential lots, exceeds \$20 000 for each residential lot authorised to be created by the development consent.*

In this instance the consent authorises the erection of eight dwellings and hence Council may not impose a condition that requires payment in excess of \$40,000. As the proposed condition requires payment above \$160,000, the break down of the fees will be adjusted so that the section 7.11 contributions will be no higher than \$160,000.

Contribution Plan	Contribution
Community Facilities	\$18,234.27
Open Space	\$141,006.76
Local Area Traffic Management	\$561.48
Bicycle	\$197.49
Total	\$160,000

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$160,000 would be required for the development under Leichhardt Section 7.11 Contributions Plan. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the Leichhardt Development Control Plan 2013. in support of the contravention of the development standard for Clause 6.13 - Diverse Housing. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds, the proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 to grant Deferred Commencement Approval to Development Application No. D/2018/427 for Removal of trees, demolition of existing structures and construction of a three storey mixed use development comprising retail, parking and waste facilities on the ground floor and eight residential units on the first and second floors, with Units 1-4 also comprising individual roof terraces at 143-149 Norton Street, subject to conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

DEFERRED COMMENCEMENT

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

1. Amended plans are to be submitted to address the following:
 - a) The existing surface levels within the rear Laneway/Right of Way shall match existing at the rear of 151 Norton Street and adjacent all other neighbouring properties with vehicular access such that access is maintained.
 - b) All doors to/from the rear Laneway/Right of Way, including within the vehicular access ramp/splays, (i.e. Resi Garbage, Stairwell from Accessible Space Share Zone and Comm. Garbage) shall be setback 1000mm from the adjacent ground floor wall alignment such that the doors do not encroach into the rear laneway and sightlines to vehicles and pedestrians are not obstructed during the operation of the doors. The stairwells and rooms shall be suitably reconfigured to accommodate the relocated doors.
 - c) Headroom of 2500mm shall be provided along the vehicle access path to the Loading Area Service Bay. Headroom shall be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.

The Finished Floor Level of Bedroom 1 and Balcony of Unit 03 shall be raised by 300mm to be at RL. 37.10m AHD and the Finished Floor Level of Bedroom 1 and Balcony of Unit 02 shall be raised by 300mm to be at RL. 36.90m AHD to provide the required 2500mm Headroom to the basement.
 - d) Longitudinal sections along each outer edge of the access and parking facilities, extending from the centreline of the Short Street carriageway to the 3metres within the boundary with 161 Norton Street and to the basement parking space(s) shall be provided, demonstrating compliance with headroom requirements, ground clearance template (Figure C1) for a B99 Vehicle from AS/NZS 2890.1-2004 and maintaining access from the Laneway/Right of Way to all neighbouring properties. The long sections shall show both existing surface levels and proposed surface levels.
 - e) The rear Laneway/Right of Way shall be adequately paved to provide all weather access.
 - f) An overland flow path shall be provided to convey surface flows from the rear Laneway/Right of Way to Norton Street including the following:
 - i) Surface flows shall be conveyed from the rear laneway to the overland flow path at grade via a kerb and gutter system.
 - ii) A Kerb Inlet Pit shall be provided immediately upstream of the inlet into the overland flow path to collect and convey surface flows to the site drainage system prior to the overland flow path.
 - iii) Surface flows from the eastern side of the rear laneway shall be conveyed to the overland flow path.
 - iv) Minor areas that are unable to be conveyed to the overland flow path at the rear of 151 Norton Street shall be collected by pit and pipe system and conveyed to the site drainage system.

- v) The Comm. Garbage Room and Switch Room shall be setback from the rear laneway by 1000mm and flows directed into the overland flow path via kerb and gutter system. The bicycle parking spaces shall be relocated to accommodate this reconfiguration.
 - vi) a hydraulically efficient transition provided from the kerb and gutter system to the overland flow path. To accommodate the transition a 1mx1m splay corner shall be provided on the north eastern corner of the Switch Room.
 - vii) Access Doors shall be provided to the Stormwater Overland Flow Path at the rear lane and Norton Street. The doors shall open inwards such that they do not encroach on the rear lane or Norton Street and shall be screened to a height no less than 300mm above the adjacent surface level with vertical elements that are no wider than 50mm and separated by no less than 90mm to allow stormwater to flow through unimpeded.
 - viii) The existing surface levels within the rear Laneway/Right of Way shall match existing at the rear of 151 Norton Street and adjacent all other neighbouring properties with vehicular access such that access is maintained.
 - ix) The Stormwater Overland Flow Path shall have 2100mm headroom such that the flow path is accessible for inspection and maintenance. Where the Stormwater Overland Flow Path is encroached by the Stairs from Level 1 to Ground Floor there shall be no less than 300mm between the surface level of the flow path and the underside of the Stair Slab to reduce the likelihood of blockage and provide access for inspection and maintenance. Cross section(s) and long section(s) and plan(s) demonstrating clearances and headroom along the overland flow path shall be provided.
- g) The OSD system shall be designed such that post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 for the total site area including the rear Laneway/Right of Way.
- h) The Lift and Lift Shaft and associated infrastructure, Accessible parking space 01 and associated shared zone area, Residential Parking Space 02 and Visitor Parking Space/Car Wash Bay 03 to be relocated by 400mm further to the west.
- i) The roof top terrace (and associated planter box) of Unit 4 to be reduced in size by setback the terrace a further 1 metre away from the eastern boundary and the proposed privacy screens to return a minimum of 1.5 metres on the eastern boundary. A privacy screen minimum 1.6 metres in height will also be required to be located on southern side of the east-facing balcony of Unit 4. The roof terrace of Unit 4 is also to be amended to be setback further away from the eastern boundary to match the rear alignments of the roof terraces of Units 1-3 and the stairs to the terrace of Unit 4 to be redesigned (e.g. L-shaped instead of a straight-stair) to accommodate this design.
- j) A privacy screen minimum 1 metre in width and 1.6 metres in height is to be placed on the western side of the roof terrace of Unit 1, directly adjacent to the stairs to the roof terrace of Unit 1.

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

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

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CONDITIONS OF CONSENT

2. Development must be carried out in accordance with Development Application No. D/2018/427 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Drawing no. A100, Rev D – Ground floor Level	Tony Owen Partners	Jan 2019
Drawing no. A100(a), Rev D – Ground floor Level	Tony Owen Partners	Jan 2019
Drawing no. A101, Rev D – Level 1 Plan	Tony Owen Partners	Jan 2019
Drawing no. A102, Rev D – Level 2 Plan	Tony Owen Partners	Jan 2019
Drawing no. A201, Rev D – Elevation A	Tony Owen Partners	Jan 2019
Drawing no. A200, Rev D – Elevation C	Tony Owen Partners	Jan 2019
Drawing no. A202, Rev D – Elevation B	Tony Owen Partners	Jan 2019
Drawing no. A203, Rev D – Elevation D	Tony Owen Partners	Jan 2019
Drawing no. A300, Rev D – Section A	Tony Owen Partners	Jan 2019
Drawing no. A301, Rev D – Section B	Tony Owen Partners	Jan 2019
Drawing no. A302, Rev D – Section C	Tony Owen Partners	Jan 2019
Drawing no. A303, Rev D – Section D	Tony Owen Partners	Jan 2019
Drawing no. A304, Rev D – Section E	Tony Owen Partners	Jan 2019
Drawing no. A305, Rev D – Section F	Tony Owen Partners	Jan 2019
Document Title	Prepared By	Dated
BASIX Certificate No. 929765M	ESD Synergy Pty Ltd	27 May 2018
Hazardous Materials Survey Report E23445.G01 - Geotechnical Desktop Study Report	Airsafe eiaustralia	23-06-17 18 July 2017
Report E23445.E01_Rev0 – Preliminary Site Investigation	eiaustralia	14 August 2017
Report E23445.E02_Rev0 - Detailed Site Investigation	eiaustralia	10 August 2018
Ref: D2018-026 - Building Code of Australia 2016 Capability Statement	Technical Inner Sight	25 May 2018
Reference: 17.584r01v02 TIA Report - Traffic Impact Assessment	Traffix	May 2018
Reference:	Acoustic Logic	25/07/2017

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20170918.1/2507A/R0/RL - DA Acoustic Report		
Statement of Compliance Access for People with a Disability	Howard Moutrie	25-05-2018

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

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

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

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

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

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

Elements	Location
Existing structures on 143, 145, 147 and 149 Norton Street	As indicated on the approved drawings

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

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.

- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be

employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
- i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Amended plans are to be submitted incorporating the following amendments:
- a) The paired timber windows to the street are to be detailed to include sashes and frames and a horizontal glazing bar. The use of modern double hung sashes (stegbar or similar) is acceptable.
 - b) Additional storage to be provided underneath the stairs of Units 5-8.

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.

5. A stormwater drainage design, incorporating On-site Stormwater Detention, prepared by a qualified practising Civil Engineer shall be provided prior to the issue of a Construction Certificate. The design shall be prepared/ amended to make provision for the following:
- a) The design shall be generally in accordance with the stormwater drainage concept plan approved under **Deferred Commencement Condition 1**
 - b) Comply with Council's Stormwater Drainage Code.
 - c) Charged or pump-out stormwater drainage systems are not permitted.
 - d) Stormwater runoff from all roof and paved areas shall be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) and outlet from OSD system by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
 - e) The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design shall include the collection of such waters and discharge to the Council drainage system.
 - f) An overland flowpath shall be provided along the Northern Boundary between the rear Laneway/Right of Way and Norton Street frontage. The rear laneway shall be

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graded so that bypass flows from the site drainage system are directed to the overland flowpath.

- g) As there is no overland flow/flood path available from the central courtyards and Balconies to the Norton Street frontage or Rear Lane frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 - i) Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe.
 - ii) The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building
 - iii) The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands/roof areas.
- h) All plumbing within the site shall be carried out in accordance with Australian Standard *AS/NZS3500.3.2018 Plumbing and Drainage – Stormwater Drainage*.
- i) The stormwater system shall not be influenced by backwater effects or hydraulically controlled by the receiving system.
- j) An inspection opening or stormwater pit shall be installed inside the property adjacent to the boundary for all stormwater outlets.
- k) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
- l) New pipelines within the footpath area that are to discharge to the kerb and gutter shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm.
- m) New kerb outlets in stone kerb shall be carefully cored through the existing kerb stone such that the kerb outlet is perpendicular (a 90° angle) with the gutter. The pipe under the footpath shall end 30mm within the kerb stone with mass concrete around the pipe connection to the kerb stone.
- n) Stormwater Pit 4 within the basement shall have a solid cover to prevent pollutants from vehicles entering the stormwater system.
- o) Installation of 3x 690mm High SW 360 Filtration Cartridges or approved equivalent

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

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

- 6. The design of the vehicular access and off street parking facilities shall comply with *AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking*, *AS/NZS 2890.6-2009 Off-street parking for people with disabilities* and *AS 2890.3-2015 Parking Facilities* -

Bicycle parking facilities. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues shall be addressed in the design:

- a) The floor/finished levels within the property shall be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
- b) The basement entry shall rise to be 170mm above the adjacent rear laneway gutter level. The longitudinal profile across the width of the vehicle crossing shall comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 vehicle.
- c) A minimum of 2200mm headroom shall be provided throughout the access and parking facilities and a minimum headroom clearance of 2500mm shall be provided within the Service Bay Area, for all parking spaces for people with disabilities and along the vehicular path of travel to or from the Service Bay area. Note that the headroom shall be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- d) Longitudinal sections along each outer edge of the access and parking facilities, extending from the parking space(s) to the centreline of the Short Street carriageway shall be provided, demonstrating compliance with the above requirements.
- e) Where the drop along the driveway exceeds 600mm, structural barriers shall be provided. Where the drop is between 150-600mm, wheel stops shall be provided. These physical controls shall be installed in accordance with the requirements of Section 2.4.5 of AS/NZS2890.1-2004. The design of structural barriers shall be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia prior to the issue of the issue of a Construction Certificate.
- f) A plan of the proposed parking facilities, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space(s) complies with the AS/NZS 2890.1:2004.
- g) Convex mirrors shall be installed at the vehicular access at the Short Street frontage of the site to provide improved sightlines to pedestrians. The mirrors shall be located within the site.
- h) The external form & height of the approved structures shall not be altered from that depicted on the approved plans.

The design shall be certified by a suitably qualified Civil Engineer as complying with the above requirements.

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

7. To ensure that waste water is treated in an acceptable manner the car wash bay shall be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water.

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

8. Prior to the issue of a Construction Certificate, Architectural Plans accompanied by a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the architectural plans that are the subject of the Construction Certificate application do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to the consent authority and all owners of the party wall/s.
9. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

An acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

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

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

11. Prior to the issue of the Construction Certificate structural drawings must be prepared and submitted to the satisfaction of the Principal Certifying Authority. The drawings must include full details of all temporary and permanent support to excavation batters. No details should be left to the builder to “provide temporary support as required”. The design should be accompanied by a statement from an experienced chartered geotechnical engineer (CPEng) that the design details are in accordance with good geotechnical practice.
12. Prior to the issue of the Construction Certificate a suitable shoring system must be specified by a practising Structural Engineer to ensure that there is no loss of support to excavated faces on the north and south boundaries to the satisfaction of the Principal Certifying Authority.

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

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

13. Prior to the issue of the Construction Certificate the builder in conjunction with or certified by a suitably qualified Civil engineer shall prepare a detailed work method statement including detailed specifications of the proposed method of excavation including the size, weight and power rating of plant and accessories, as well as appropriate hold points. to the satisfaction of the Principal Certifying Authority.

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

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

14. A certificate prepared by a qualified Geotechnical Engineer must be provided prior to the issue of the Construction Certificate to the satisfaction of the Principal 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.

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

15. Prior to issue of the Construction Certificate the applicant shall have a Geotechnical/Civil Engineering report prepared which addresses (but is not limited to)the following:-
 - a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
 - b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated;
 - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site);
 - d) The existing groundwater levels in relation to the basement structure, where influenced;

- e) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.

The report, satisfying the requirements of this condition, must be provided as part of the supporting documentation lodged with the Principal Certifying Authority for approval of the Construction Certificate application. The professional recommendations of the report shall be implemented in full during the relevant stages of excavation and construction.

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

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

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

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

- 18. All privacy screens must:

- a) have no individual opening more than 30mm wide, and
- b) have a total area of all openings that is less than 25 per cent of the surface area of the screen; and
- c) be permanently fixed and made of durable materials.

Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The privacy measures must be maintained for the life of the building

- 19. A contribution pursuant to the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* for the services detailed in column A and for the amount detailed in column B must be made to Council prior to the issue of a Construction Certificate:

Column A	Column B
Community Facilities	\$18,234.27
Open Space	\$141,006.76
Local Area Traffic Management	\$561.48
Bicycle	\$197.49
Total Contribution	\$160,000

Payment will only be accepted in the form of cash, bank cheque or EFTPOS / Credit Card (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for Section 7.11 Contributions. Contribution Plans may be inspected on Council's website www.leichhardt.nsw.gov.au or a copy purchased at the Customer Service counter in Council's Administration Centre, 7-15 Wetherill Street, Leichhardt, during business hours.

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

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

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

21. The approved plans must be checked online with Sydney Water Tap In 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. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

The Certifying Authority must ensure that the appropriate approval has been provided prior to the issue of a Construction Certificate.

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

- a) 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 work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road).
 - 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) Noise & Vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation,

2006) www.epa.nsw.gov.au for guidance and further information. Advice should be obtained from a suitably qualified Geotechnical Engineer. .

- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be provided on plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual" 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.

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

23. Details and location of the proposed waste and recycling room (s) are to be provided prior to the issue of a Construction Certificate. Rooms used for the storage of waste and recycling and rooms used for the washing and storage of waste and recycling receptacles are to be constructed of solid material, cement rendered and trowelled to a smooth even surface and subject to the following requirements:
- a) The floor must be of impervious material covered at the intersection with the walls, graded and drained to an approved floor waste within the room.
 - b) Waste/recycling rooms must be vented to the external air by natural or mechanical ventilation.
 - c) Waste and recycling storage rooms/areas for all developments should be capable of accommodating Council's standard waste and recycling containers in accordance with Part D – Waste of Development Control Plan 2013
 - d) Waste storage and recycling areas or rooms shall be flexible in design allowing for future changes of use or tenancy.
 - e) Waste and recycling storage rooms / areas serving residential units must be located separately to storage rooms / areas designated for non-residential uses and in accordance with the approved plans and/or within the approved building envelope, design and form.
 - f) The waste and recycling storage room/areas must be accessible by Council's or nominated contractor collection vehicles

Any modifications required to address this condition externally or to the vehicle parking/manoeuvring areas must be the subject of further approval from Council under Section 96 of the Environmental Planning and Assessment Act 1979.

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

24. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m3) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

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

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

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

Property	Structures / Area
141 Norton Street	Whole Building
151 Norton Street	Whole Building

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

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A

copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

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

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

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

26. Prior to the commencement of works or issue of a Construction Certificate (whichever occurs first), 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 and Assessing Vibration: A technical guideline (available www.environment.nsw.gov.au). 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 (consistent with conditions of this consent).
 - 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.
27. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
 - b) A concrete pump across the roadway/footpath
 - c) Mobile crane or any standing plant
 - d) Skip bins
 - e) Scaffolding/Hoardings (fencing on public land)
 - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
 - g) Awning or street verandah over footpath
 - h) Partial or full road closure
 - i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

28. Dial Before You Dig
- Underground assets may exist in the area that is subject to the approved development. In the interests of health and safety and in order to protect damage to third party assets contact Dial Before You Dig at www.1100.com.au or telephone on 1100 prior to works commencing. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction. Care must be taken to ensure any identified assets are protected accordingly.

If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

PRIOR TO THE COMMENCEMENT OF WORKS

29. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities.
30. The person acting on this consent shall apply for a Work Zone along the site frontage for construction vehicles. A minimum of 2 months should be allowed for the processing of the application.
31. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West 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.
32. The site must be secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

33. The *Home Building Act 1989* requires that insurance must be obtained from an insurance company approved by the Department of Fair Trading prior to the commencement of works approved by this Development Consent.

A copy of the certificate of insurance must be submitted to the Certifying Authority prior to the works commencing.

If the work is to be undertaken by an owner-builder, written notice of their name and owner-builder permit number must be submitted to the Certifying Authority.

In all other cases, written notice must be given to the Certifying Authority of:

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

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

34. 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.
35. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
36. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
 - a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

37. Waste water arising from the use must be directed to the sewers of the Sydney Water Corporation under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation's requirements must be obtained prior to the commencement of works and submitted to Council or the Principal Certifying Authority.

DURING WORKS

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

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

39. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
40. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or

property and in accordance with the design of a suitably qualified structural engineer.

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

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

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

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

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

43. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
44. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
 - a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

45. The development site must be (at minimum) inspected at the following stages during construction:
 - a) after the commencement of the excavation for, and before the placement of, the first footing.
 - b) prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, 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.
46. The development site must be inspected at the following stages during construction:
 - a) after the commencement of the excavation for, and before the placement of, the first footing.
 - b) prior to covering any stormwater drainage connections, and
 - c) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
47. 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.

48. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
49. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

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

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

50. Vibration caused by excavation and construction at any residence or structure outside the site must be limited to:
 - a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
 - b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).

Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

51. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:
 - a) The construction of heavy duty vehicular crossings to all vehicular access locations unless determined by Council Engineer that the crossing is suitable to be retained;
 - b) Stormwater drainage pit(s) and pipe/box culverts in Norton Street to Council requirements to convey the site drainage system to Council's drainage system. The box culvert shall be designed for direct loadings where necessary due to limited cover to the roadway above.
 - c) The restoration of the public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, landscaping, street furniture, etc shall be reconstructed / upgraded to be consistent with the Norton Street Precinct and Masterplan. Restoration of the road shall be in full concrete panels.

Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate with all works completed before to the issue of an Occupation Certificate.

52. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall 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 and OSD system commissioned and Stormwater Quality Improvement Devices installed in accordance with the approved design and relevant Australian Standards, shall be submitted and accepted by Council prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) shall 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 shall be marked in red on a copy of the Principal Certifying Authority stamped Construction Certificate plans.

53. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that an Operation and Management Plan has been prepared and implemented for the on-site detention facilities and stormwater quality improvement device(s). The Plan shall 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 shall be prepared by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

54. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the vehicle access and off street parking facilities, including convex mirrors at Short Street vehicular access, have been constructed/installed in accordance with the approved design and relevant Australian Standards.

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

55. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate.

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

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

57. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
58. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
59. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
60. A Positive Covenant under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act, shall be created on the title of the property detailing the following (at the Applicant's full cost):
 - a) surface flow path;
 - b) finished pavement and ground levels;
 - c) prevent the erection of any structures or fencing;
 - d) on-site stormwater detention and/or retention system;
 - e) all stormwater quality improvement devices.

The wording in the Instrument shall be submitted to and approved by the Inner West Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate (a typical document is available from Council's Development Assessment Engineer). The Instrument shall be registered prior to the completion of development.

The following documents shall be submitted to Council as part of the Positive Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):

- i) **Work-As-Executed Plans**
A "Work-as-Executed" plan prepared and signed by a registered surveyor shall be submitted to the Inner West Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its

connection to Council's drainage system, shall be shown together with the following information:

- location;
- pipe diameter;
- gradient;
- pipe material i.e. PVC or EW etc;
- orifice size;
- trash screen at orifice;
- emergency overflow dimensions and RL;
- all buildings (including floor levels) and finished ground and pavement surface levels;
- Full details of SQIDS.

ii) Engineer's Certificate

A qualified practising Civil Engineer shall certify on the completion of drainage works in respect of:

- * the soundness of the storage structure;
- * the capacity of the detention storage;
- * the emergency overflow system being in place;
- * the works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- * the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- * basement car park pumps are class one zone two;
- * OSR pumps and SQIDS have been installed and commissioned.

iii) Restriction-As-To-User

A "Restriction-as-to-User" shall be placed on the title of the subject property to indicate the location and dimensions of the detention area and SQIDS. This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, shall not be carried out without the prior consent in writing of the Council.

Such restrictions shall not be released, varied or modified without the consent of the Council.

A typical document is available from Council's Development Assessment Engineer.

iv) A Maintenance Schedule.

A typical document is available from Council's Development Assessment Engineer.

61. 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.

62. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:

- the approved plans;
- BASIX certificate (where relevant),

- approved documentation (as referenced in this consent); and
- conditions of this consent.

63. Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Leichhardt Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

Document Title	Prepared By	Dated
Hazardous Materials Survey	Airsafe	23-06-17
Report E23445.G01 - Geotechnical Desktop Study Report	eiaustralia	18 July 2017
Report E23445.E01_Rev0 – Preliminary Site Investigation	eiaustralia	14 August 2017
Report E23445.E02_Rev0 - Detailed Site Investigation	eiaustralia	10 August 2018
Ref: D2018-026 - Building Code of Australia 2016 Capability Statement	Technical Inner Sight	25 May 2018
Reference: 17.584r01v02 TIA Report - Traffic Impact Assessment	Traffix	May 2018
Reference: 20170918.1/2507A/R0/RL - DA Acoustic Report	Acoustic Logic	25/07/2017
Statement of Compliance Access for People with a Disability	Howard Moutrie	25-05-2018

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

64. All allotments involved in this proposal must be consolidated into one allotment. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Evidence of registration shall be submitted to Council or the Principal Certifying Authority prior to the issue of an Occupation Certificate.

65. Prior to the issue of any interim / final Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the following contamination reports:

Title	Prepared by	Date
Report E23445.E01_Rev0 – Preliminary Site Investigation	eiaustralia	14 August 2017
Report E23445.E02_Rev0 - Detailed Site Investigation	eiaustralia	10 August 2018

have been complied with throughout excavation, demolition & development work stages. The certification shall also include:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be

submitted to the Council within one month from completion of the remediation work.

- b) A detailed survey of all sites used for landfill disposal must be prepared within one month from completion of the remediation work, and submitted to Council.
- c) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all site used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

66. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:
- Compare the post construction report with the pre-construction report required by these conditions,
 - Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

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

67. 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.
68. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer this condition has been complied with must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

69. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.
70. 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 any Occupation Certificate.

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

71. 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.

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

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

73. 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*.

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

74. 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 "Plumbing, building & developing".

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

75. 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.

ONGOING CONDITIONS OF CONSENT

76. 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.

77. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
78. All loading and unloading operations are to be carried out wholly within the site.
- The loading dock must be used in connection with the approved use.
- All loading and unloading operations must be carried out via the rear of the property.
79. The parking bays proposed for the commercial / retail component of the development must be easily accessible and be clearly designated marked and signed. Access to these bays must not be restricted in any way by security doors or intercom access during business hours approved for the commercial development.
80. The parking bays proposed for the residential component of the development must be inaccessible to visitors to the commercial component of the development and shall be clearly designated, marked and signed. In addition, the parking bays must be appropriately marked or signed to indicate which residential unit they have been allocated to. Car spaces that are stacked must be allocated to the same residential unit.
81. A public address system or sound amplifying equipment that permits the emission of sound that is audible from any public place or adjoining property must not be installed or used unless separate Development Consent is obtained.
82. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. Retail premises and Residential flat buildings without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.
- The use of the premises as a Retail premises and Residential flat buildings, is defined under the *Leichhardt Local Environmental Plan 2013*.
83. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's Technical Guidelines for Assessing Vibration.
84. To ensure minimal impacts on surrounding properties, commercial waste and recyclable material generated by the premises must be collected between the hours of 7.00am and 10.00pm, Monday to Saturday and between 8.00am and 10.00pm on Sundays and public holidays.
85. Suitably constructed waste disposal containers with securely fitting lids must be kept on the property for the storage of any clinical, contaminated or related waste prior to the final disposal of the material at a facility approved by the Environmental Protection Authority.
86. Owners and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person

acting on this consent shall advise any purchaser or prospective tenant of this condition. In addition the by-laws of any future residential strata plans created for the property shall reflect this restriction.

87. The Operation and Management Plan for the on site detention facilities, approved with the Occupation Certificate, shall be implemented and kept in a suitable location on site at all times.
88. All vehicles shall enter and exit the site in a forward direction.

PRESCRIBED CONDITIONS

A. BASIX Commitments

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

In this condition:

- a) Relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 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

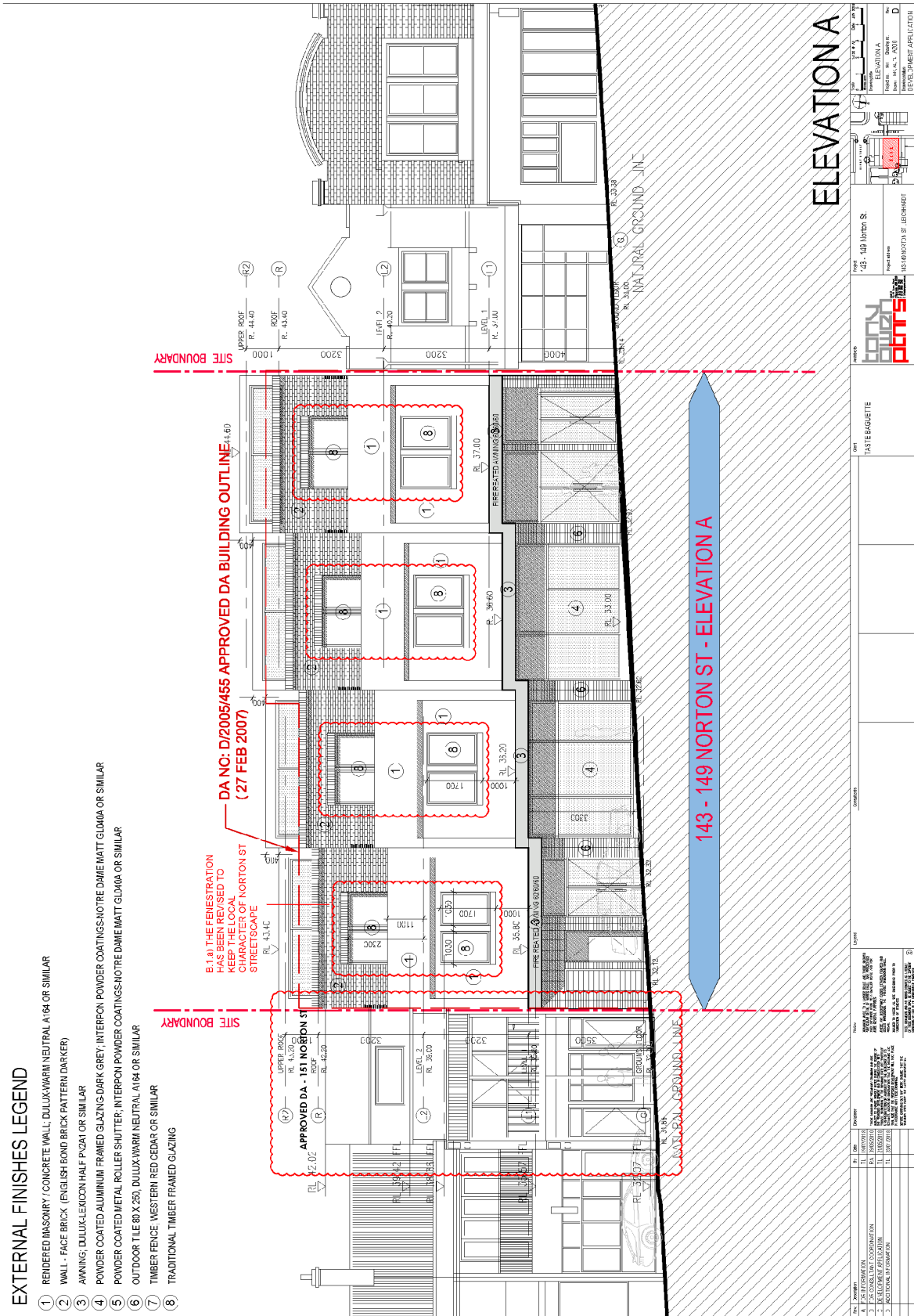
- 1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, 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.

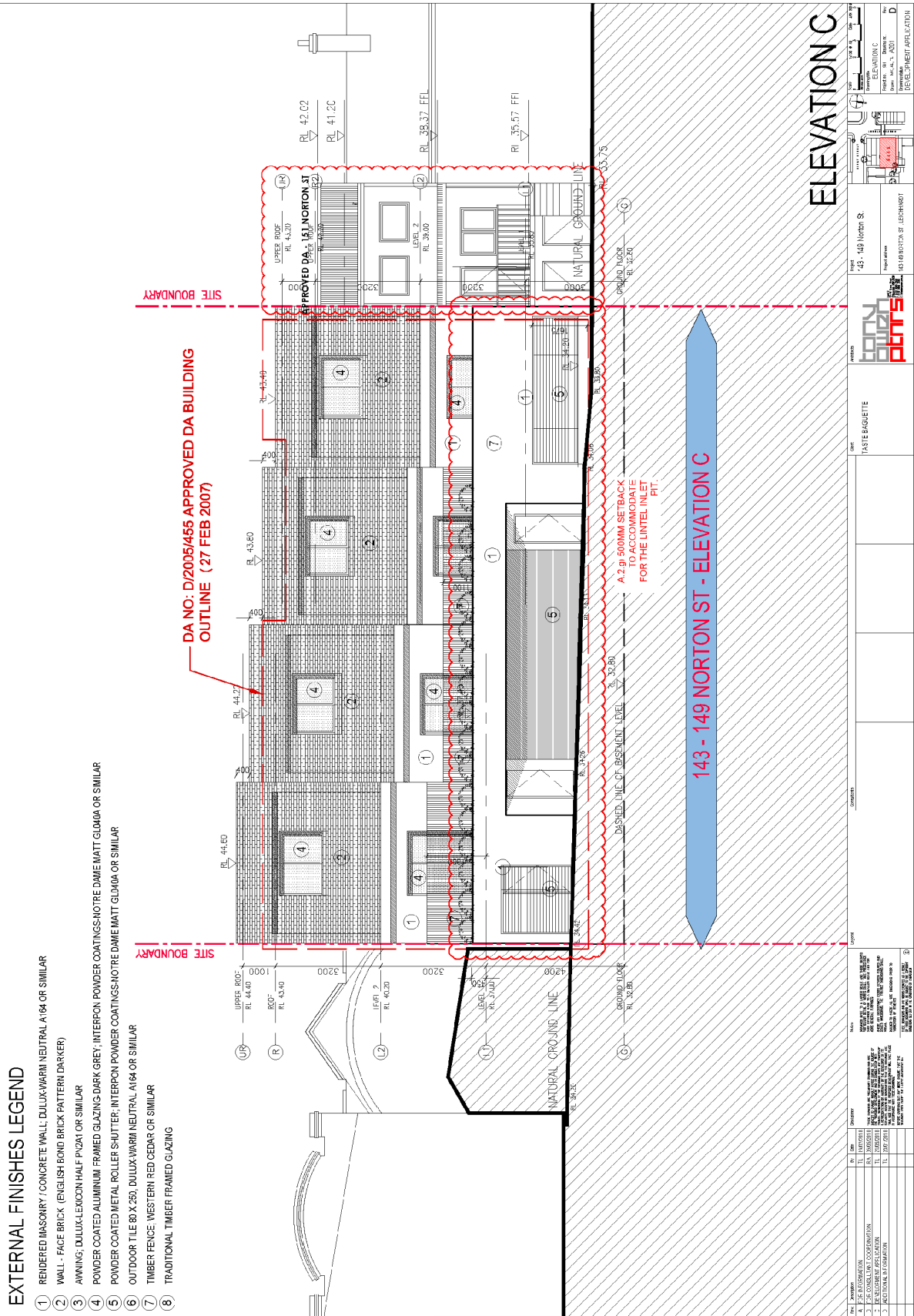
NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 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 or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.

3. If you are unsatisfied with this determination, Section 8.7 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 4.55 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.
9. Owners and occupants of the proposed building is not be eligible to obtain parking permits under any existing or future resident parking scheme for the area.

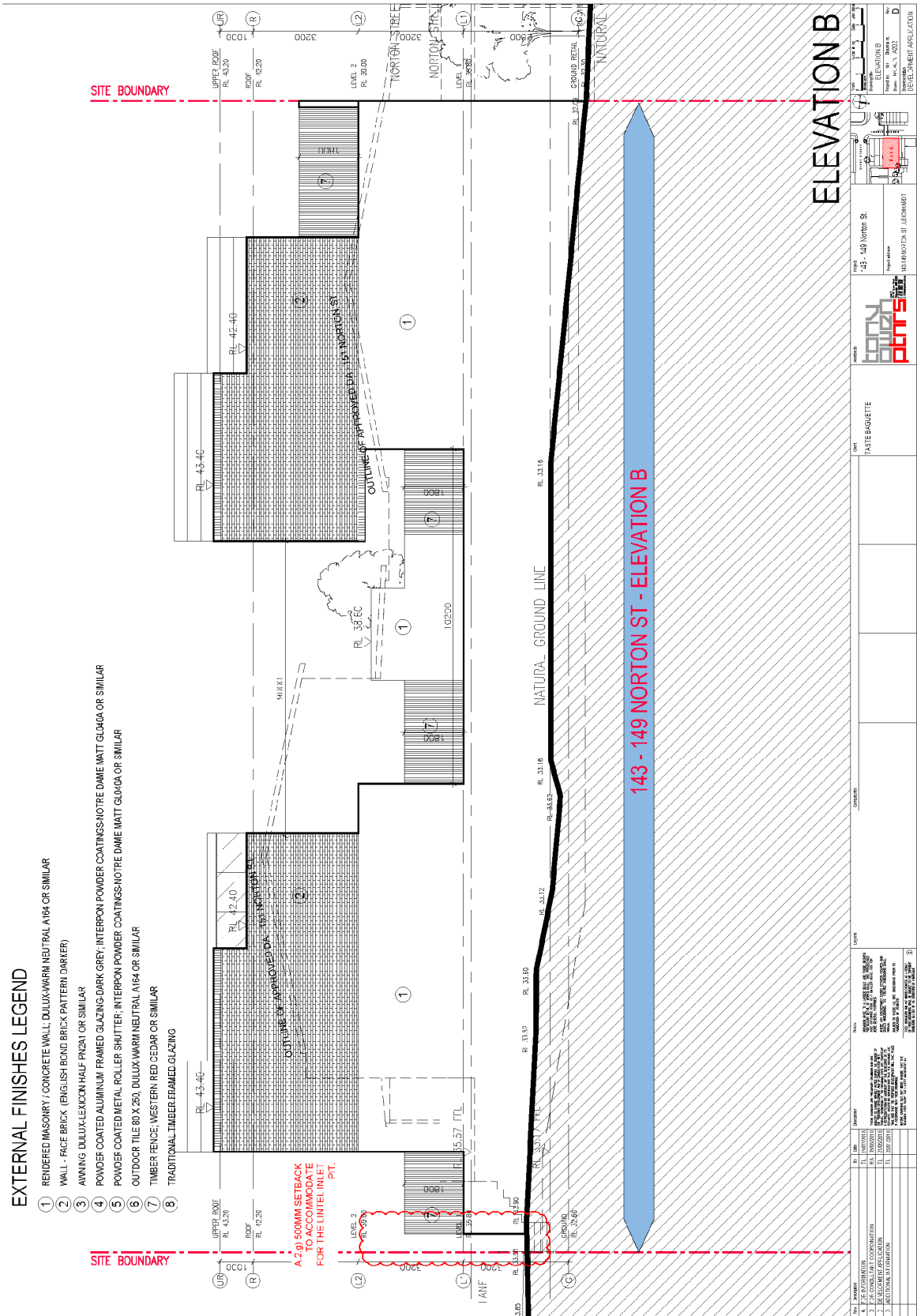
Attachment B – Plans of proposed development





EXTERNAL FINISHES LEGEND

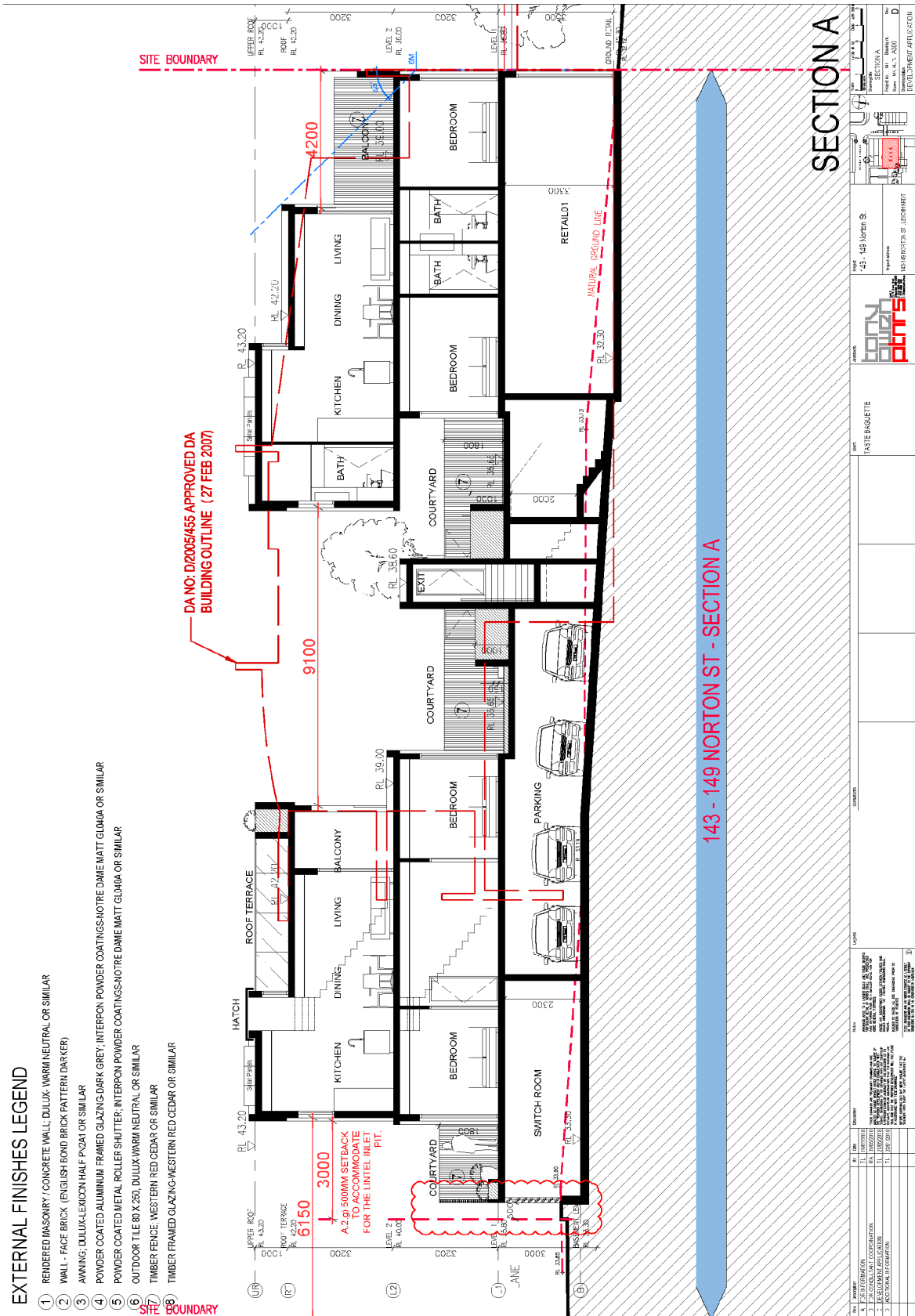
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- ② WALL - FACE BRICK (ENGLISH BOND BRICK PATTERN DARKER)
- ③ AWNING; DULUX-LEXICON HALF P10241 OR SIMILAR
- ④ POWDER COATINGS-NOTRE DAME MATT GLD1010 OR SIMILAR
- ⑤ INTERPON POWDER COATINGS-DARK GREY; INTERPON POWDER COATINGS-NOTRE DAME MATT GLD1010 OR SIMILAR
- ⑥ POWDER COATED ALUMINIUM; FRAMED GLAZING-DARK GREY; INTERPON POWDER COATINGS-NOTRE DAME MATT GLD1010 OR SIMILAR
- ⑦ POWDER COATED METAL ROLLER SHUTTER; INTERPON POWDER COATINGS-NOTRE DAME MATT GLD1010 OR SIMILAR
- ⑧ OUTDOOR TILE 80 X 250; DULUX-WARM NEUTRAL A164 OR SIMILAR
- ⑨ TIMBER FENCE; WESTERN RED CEDAR OR SIMILAR
- ⑩ TRADITIONAL TIMBER FRAMED GLAZING

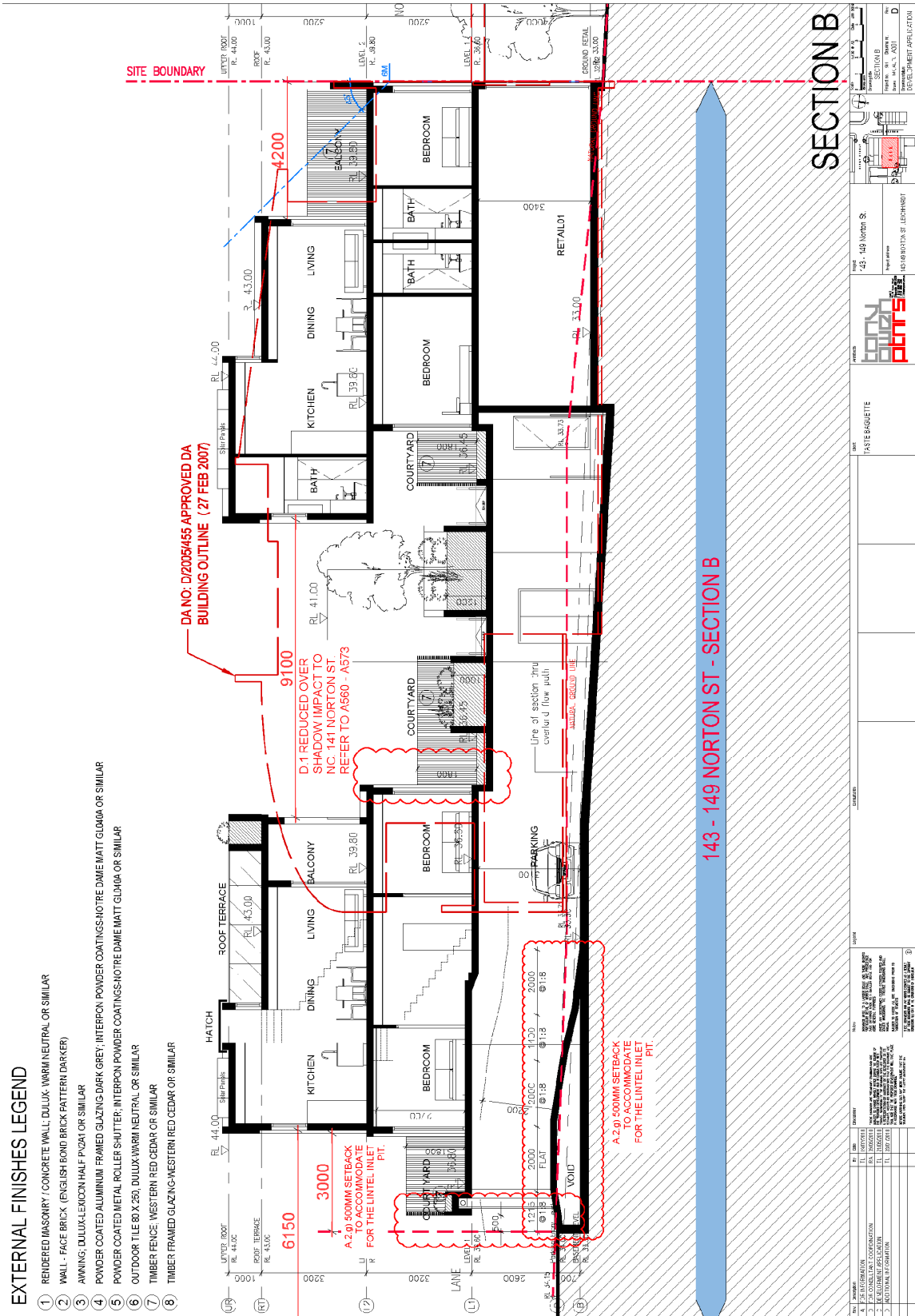


EXTERNAL FINISHES LEGEND

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- ② WALL - FACE BRICK (ENGLISH BOND BRICK PATTERN DARKER)
- ③ AWNING DULUX LEXCON HALF FIN201 OR SIMILAR
- ④ POWDER COATED ALUMINUM FRAMED GLAZING-DARK GREY; INTERPON POWDER COATINGS-NOTRE DAME MATT GLAZIA OR SIMILAR
- ⑤ POWDER COATED METAL ROLLER SHUTTER; INTERPON POWDER COATINGS-NOTRE DAME MATT GLAZIA OR SIMILAR
- ⑥ OUTDOOR TILE 80 X 20; DULUXWARM NEUTRAL A164 OR SIMILAR
- ⑦ TIMBER FENCE; WESTERN RED CEDAR OR SIMILAR
- ⑧ TRADITIONAL TIMBER FRAMED GLAZING

A2.9) 500MM SETBACK TO ACCOMMODATE FOR THE LINTEL HEIGHT P.T.



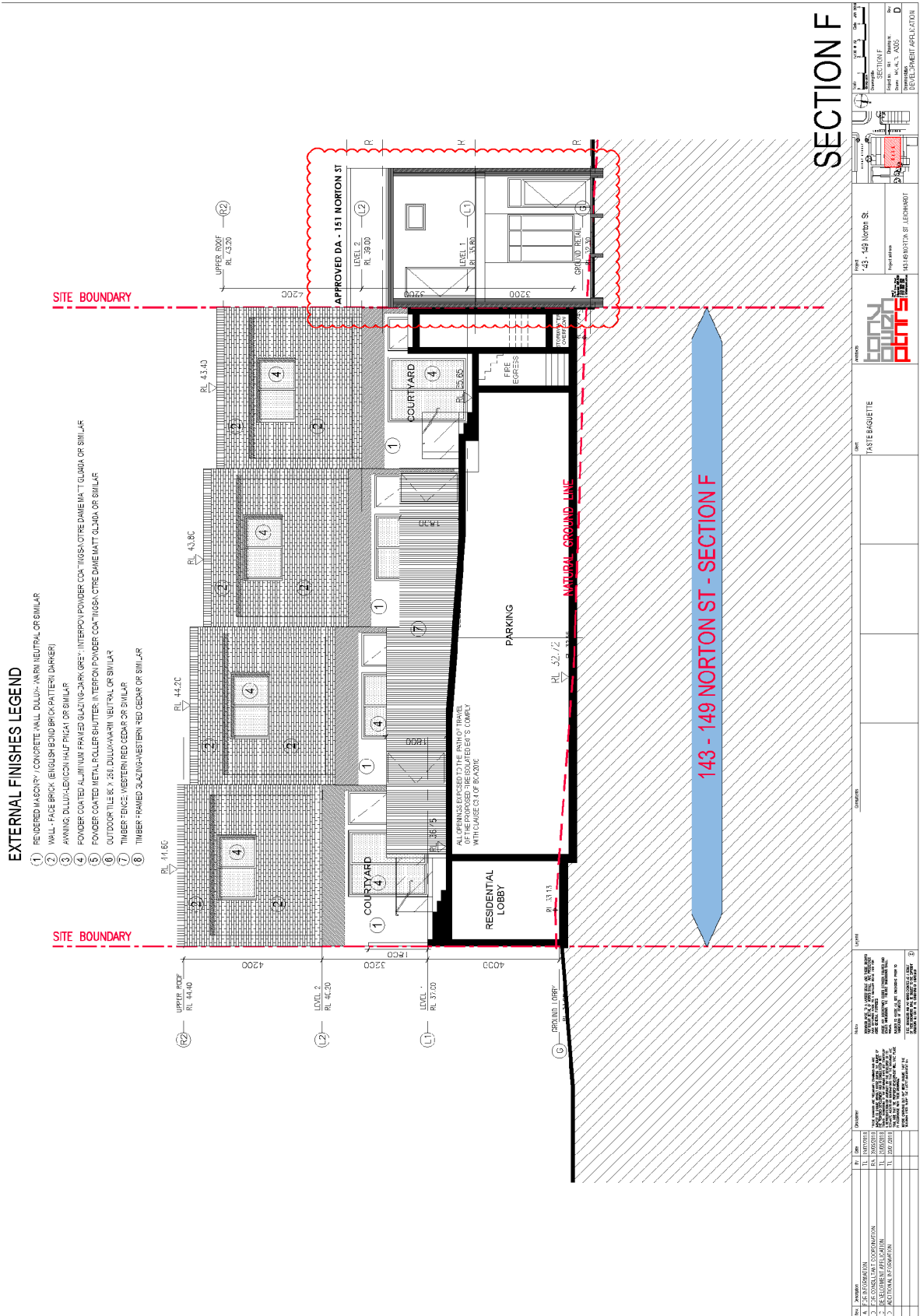


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- ③ ANWING; DULUX LEXICON HALF PIGMENT OR SIMILAR
- ④ POWDER COATED ALUMINIUM FRAMED GLAZING-DARK GREY; INTERPON POWDER COATINGS-HOTRE DAME MATT GL040A OR SIMILAR
- ⑤ POWDER COATED METAL ROLLER SHUTTER; INTERPON POWDER COATINGS-HOTRE DAME MATT GL040A OR SIMILAR
- ⑥ OUTDOOR TILE 60 X 30; DULUX WARM NEUTRAL OR SIMILAR
- ⑦ TIMBER FENCE; WESTERN RED CEDAR OR SIMILAR
- ⑧ TIMBER FRAMED GLAZING-WESTERN RED CEDAR OR SIMILAR

NO.	REVISION	DATE	BY	DESCRIPTION
1	ISSUE FOR PERMIT	11/07/2020
2	REVISED PER LOCAL PLANNING PANEL	11/10/2020
3	REVISED PER LOCAL PLANNING PANEL	11/10/2020
4	REVISED PER LOCAL PLANNING PANEL	11/10/2020

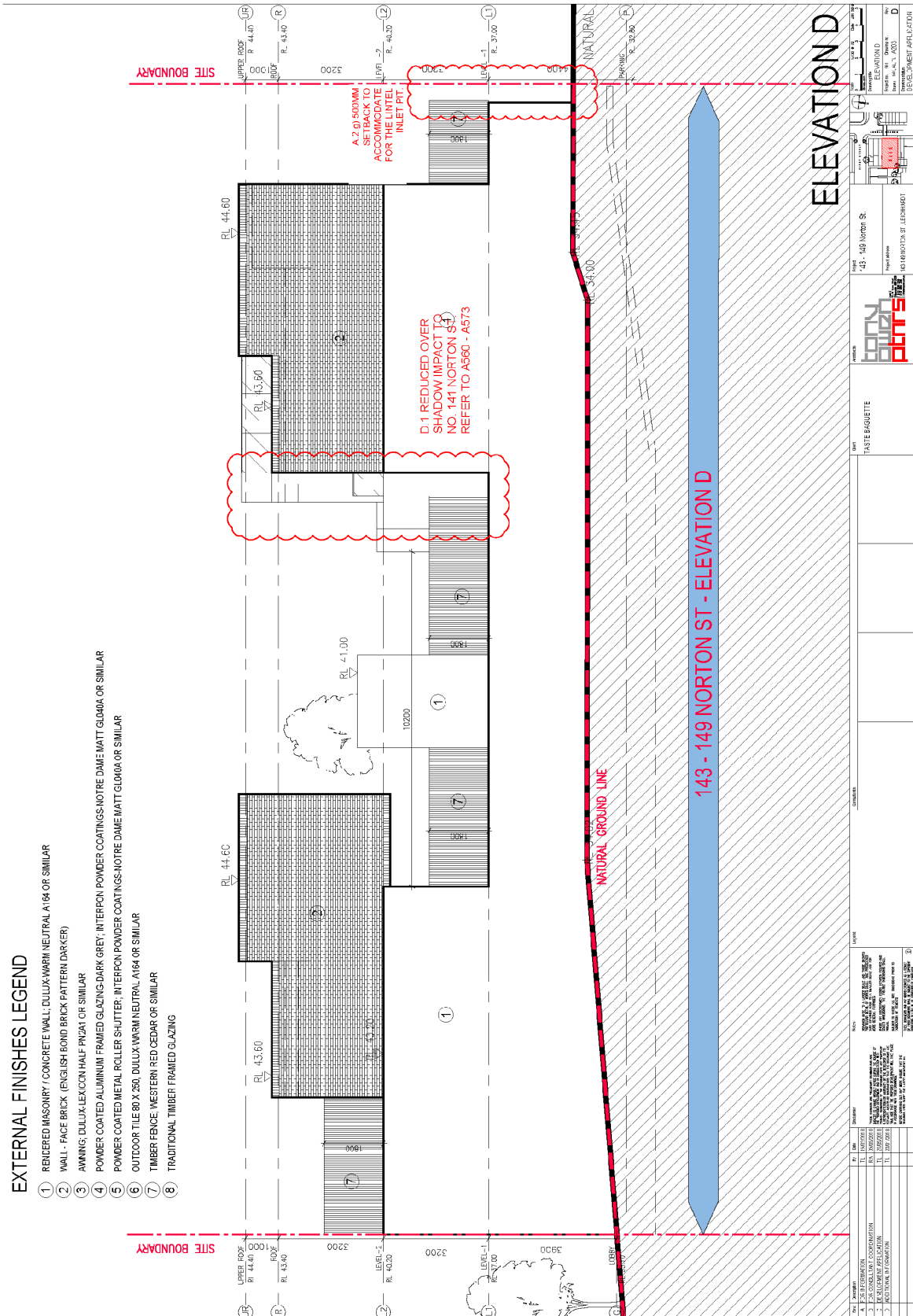
PROJECT	PAVÉ BAGUETTE
CLIENT	143 - 149 Norton St.
DATE	14/08/2020
DESIGNER	...
DRAWN	...
CHECKED	...
SCALE	...
PROJECT NO.	...
DATE OF ISSUE	...
PROJECT LOCATION	...
PROJECT TYPE	...
PROJECT STATUS	...
PROJECT VALUE	...
PROJECT RISK	...
PROJECT COMPLEXITY	...
PROJECT CHALLENGES	...
PROJECT OPPORTUNITIES	...
PROJECT RISKS	...
PROJECT BENEFITS	...
PROJECT IMPACTS	...
PROJECT SUSTAINABILITY	...
PROJECT COMMUNITY	...
PROJECT ECONOMIC	...
PROJECT SOCIAL	...
PROJECT ENVIRONMENTAL	...
PROJECT CULTURAL	...
PROJECT HISTORICAL	...
PROJECT ARCHITECTURAL	...
PROJECT LANDSCAPE	...
PROJECT INFRASTRUCTURE	...
PROJECT SERVICES	...
PROJECT UTILITIES	...
PROJECT TRANSPORT	...
PROJECT ENERGY	...
PROJECT WATER	...
PROJECT WASTE	...
PROJECT CLIMATE	...
PROJECT AIR QUALITY	...
PROJECT NOISE	...
PROJECT VIBRATION	...
PROJECT LIGHT	...
PROJECT HEAT	...
PROJECT COOLING	...
PROJECT HEATING	...
PROJECT POWER	...
PROJECT TELECOMMUNICATIONS	...
PROJECT SECURITY	...
PROJECT HEALTH	...
PROJECT WELLBEING	...
PROJECT QUALITY OF LIFE	...
PROJECT RESILIENCE	...
PROJECT ADAPTABILITY	...
PROJECT FLEXIBILITY	...
PROJECT INNOVATION	...
PROJECT SUSTAINABILITY	...
PROJECT COMMUNITY	...
PROJECT ECONOMIC	...
PROJECT SOCIAL	...
PROJECT ENVIRONMENTAL	...
PROJECT CULTURAL	...
PROJECT HISTORICAL	...
PROJECT ARCHITECTURAL	...
PROJECT LANDSCAPE	...
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PROJECT HEALTH	...
PROJECT WELLBEING	...
PROJECT QUALITY OF LIFE	...
PROJECT RESILIENCE	...
PROJECT ADAPTABILITY	...
PROJECT FLEXIBILITY	...
PROJECT INNOVATION	...



SECTION F

No.	Description	Date	Author	Notes
1.	PRELIMINARY	11/11/2011	DAVID J. HAYES	PRELIMINARY DESIGN
2.	PROVISIONAL	11/11/2011	DAVID J. HAYES	PROVISIONAL DESIGN
3.	PROVISIONAL	11/11/2011	DAVID J. HAYES	PROVISIONAL DESIGN
4.	PROVISIONAL	11/11/2011	DAVID J. HAYES	PROVISIONAL DESIGN
5.	PROVISIONAL	11/11/2011	DAVID J. HAYES	PROVISIONAL DESIGN
6.	PROVISIONAL	11/11/2011	DAVID J. HAYES	PROVISIONAL DESIGN
7.	PROVISIONAL	11/11/2011	DAVID J. HAYES	PROVISIONAL DESIGN
8.	PROVISIONAL	11/11/2011	DAVID J. HAYES	PROVISIONAL DESIGN

Project	143 - 149 Norton St.
Location	143 - 149 Norton St. LEICESTER
Client	DAVID J. HAYES ARCHITECTS
Scale	1:100
Section	SECTION F
Drawn by	DAVID J. HAYES
Checked by	DAVID J. HAYES
Date	11/11/2011
Project No.	143 - 149 Norton St.
Section No.	SECTION F
Scale	1:100
Author	DAVID J. HAYES ARCHITECTS
Client	DAVID J. HAYES ARCHITECTS
Location	143 - 149 Norton St. LEICESTER
Project	143 - 149 Norton St.
Section	SECTION F
Scale	1:100
Author	DAVID J. HAYES ARCHITECTS
Client	DAVID J. HAYES ARCHITECTS
Location	143 - 149 Norton St. LEICESTER
Project	143 - 149 Norton St.
Section	SECTION F
Scale	1:100
Author	DAVID J. HAYES ARCHITECTS
Client	DAVID J. HAYES ARCHITECTS
Location	143 - 149 Norton St. LEICESTER



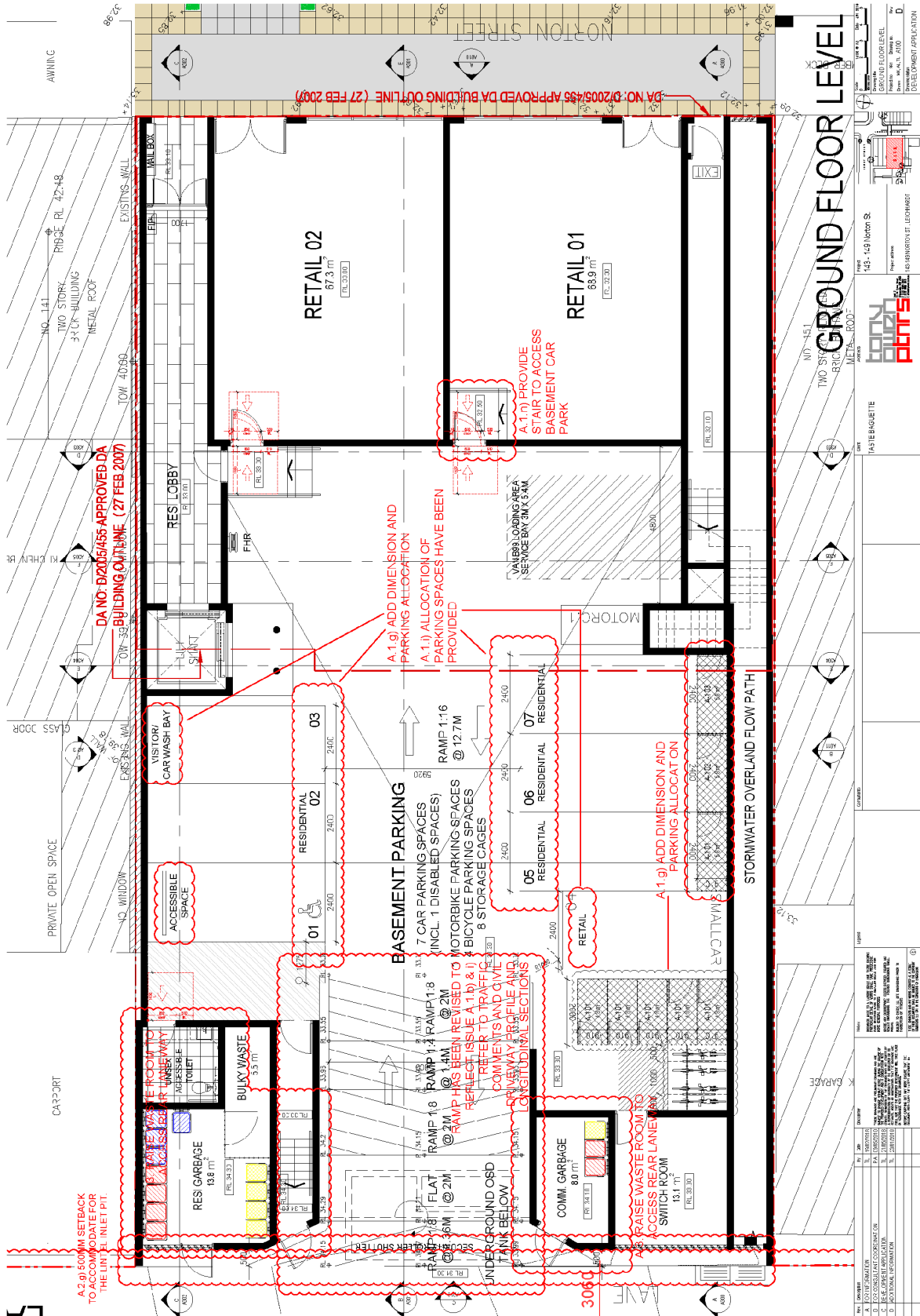
EXTERNAL FINISHES LEGEND

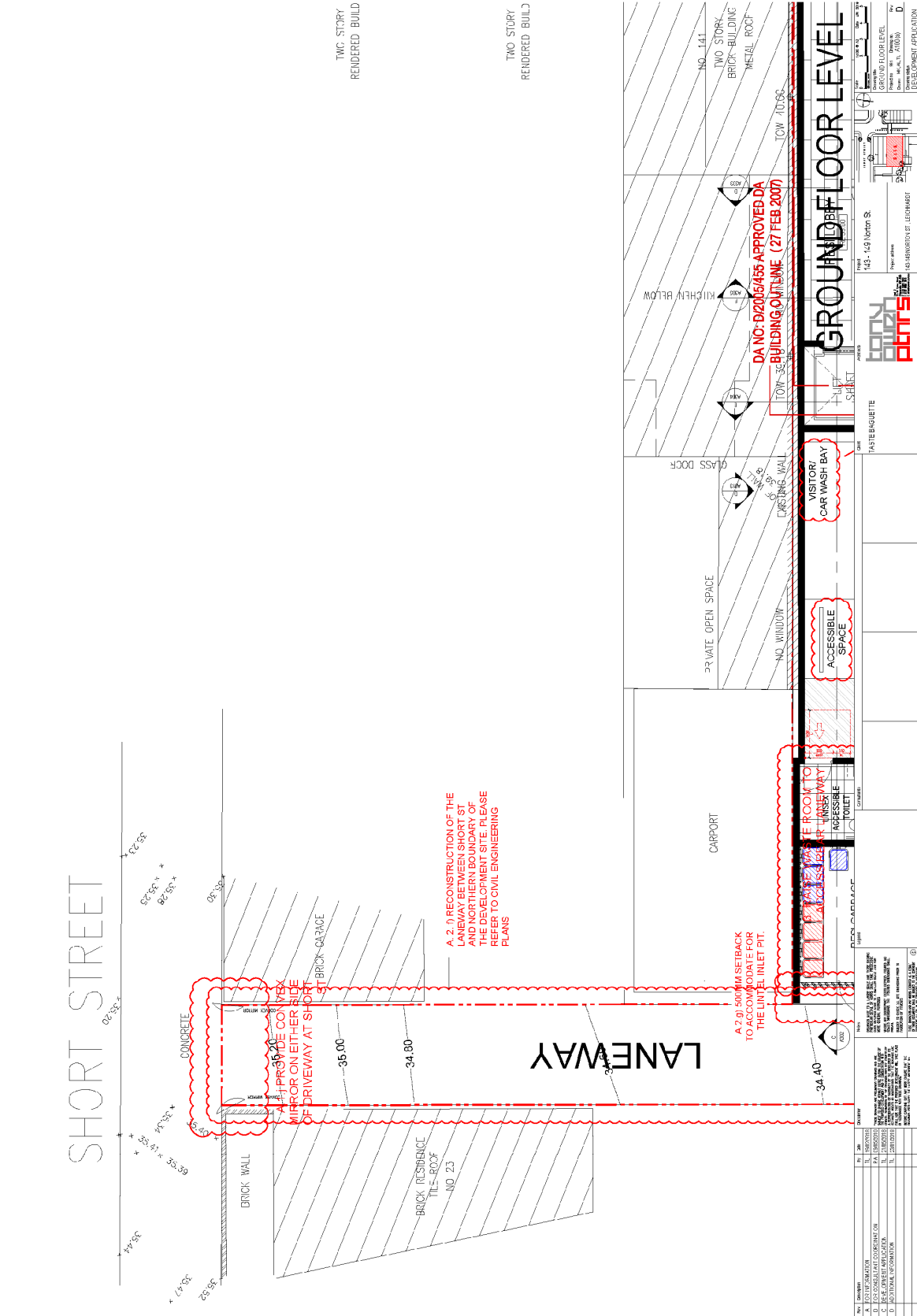
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- ② WALL - FACE BRICK (ENGLISH BOND BRICK PATTERN DARKER)
- ③ AWNING; DULUX LEXICON HALF PW241 OR SIMILAR
- ④ POWDER COATED ALUMINUM FRAMED GLAZING-DARK GREY; INTERPON POWDER COATINGS-NOTRE DAME MATT GLOUDA OR SIMILAR
- ⑤ POWDER COATED METAL ROLLER SHUTTER; INTERPON POWDER COATINGS-NOTRE DAME MATT GLOUDA OR SIMILAR
- ⑥ OUTDOOR TILE 80 X 250; DULUX WARM NEUTRAL A164 OR SIMILAR
- ⑦ TIMBER FENCE WESTERN RED CEDAR OR SIMILAR
- ⑧ TRADITIONAL TIMBER FRAMED GLAZING

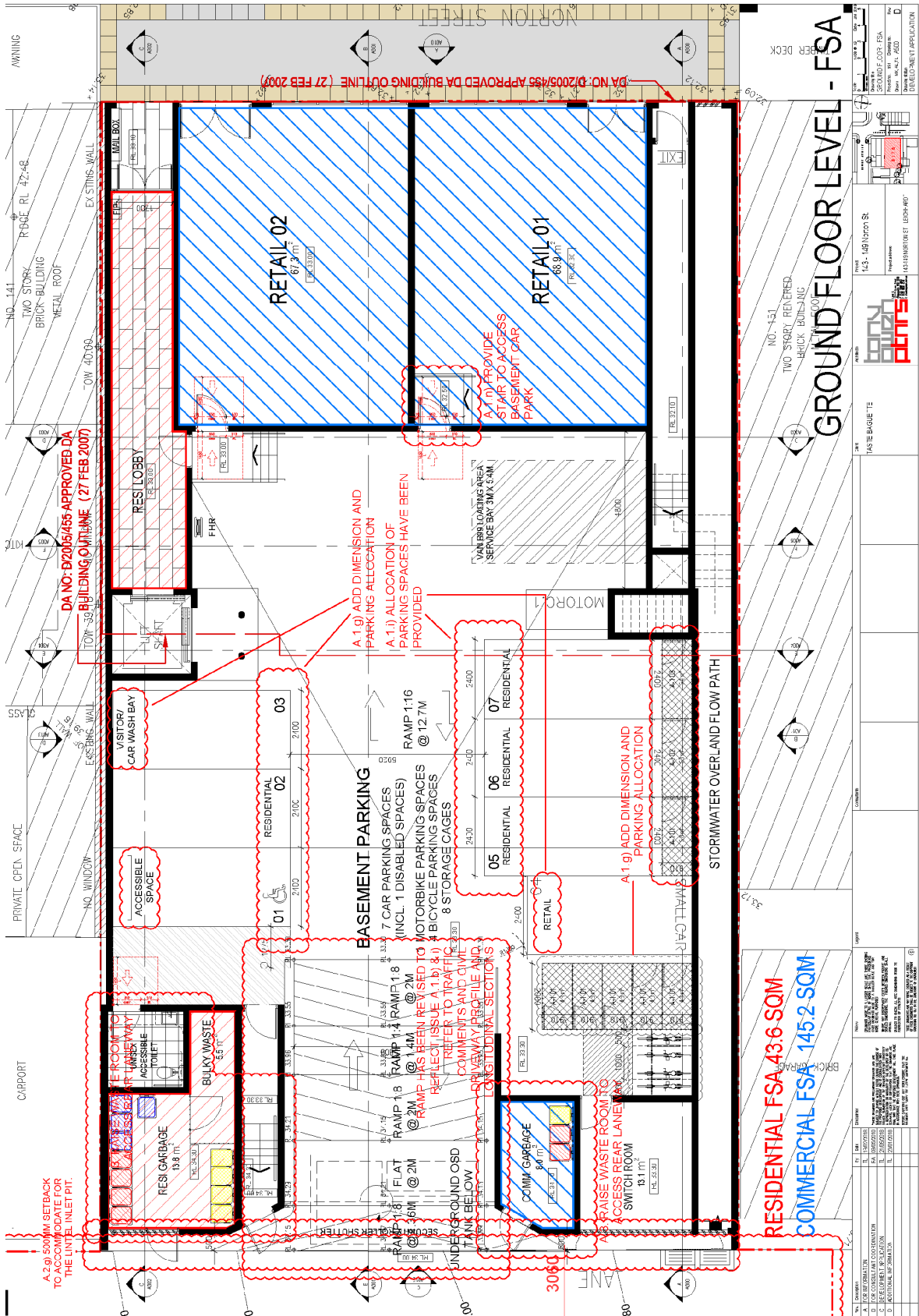
ELEVATION D

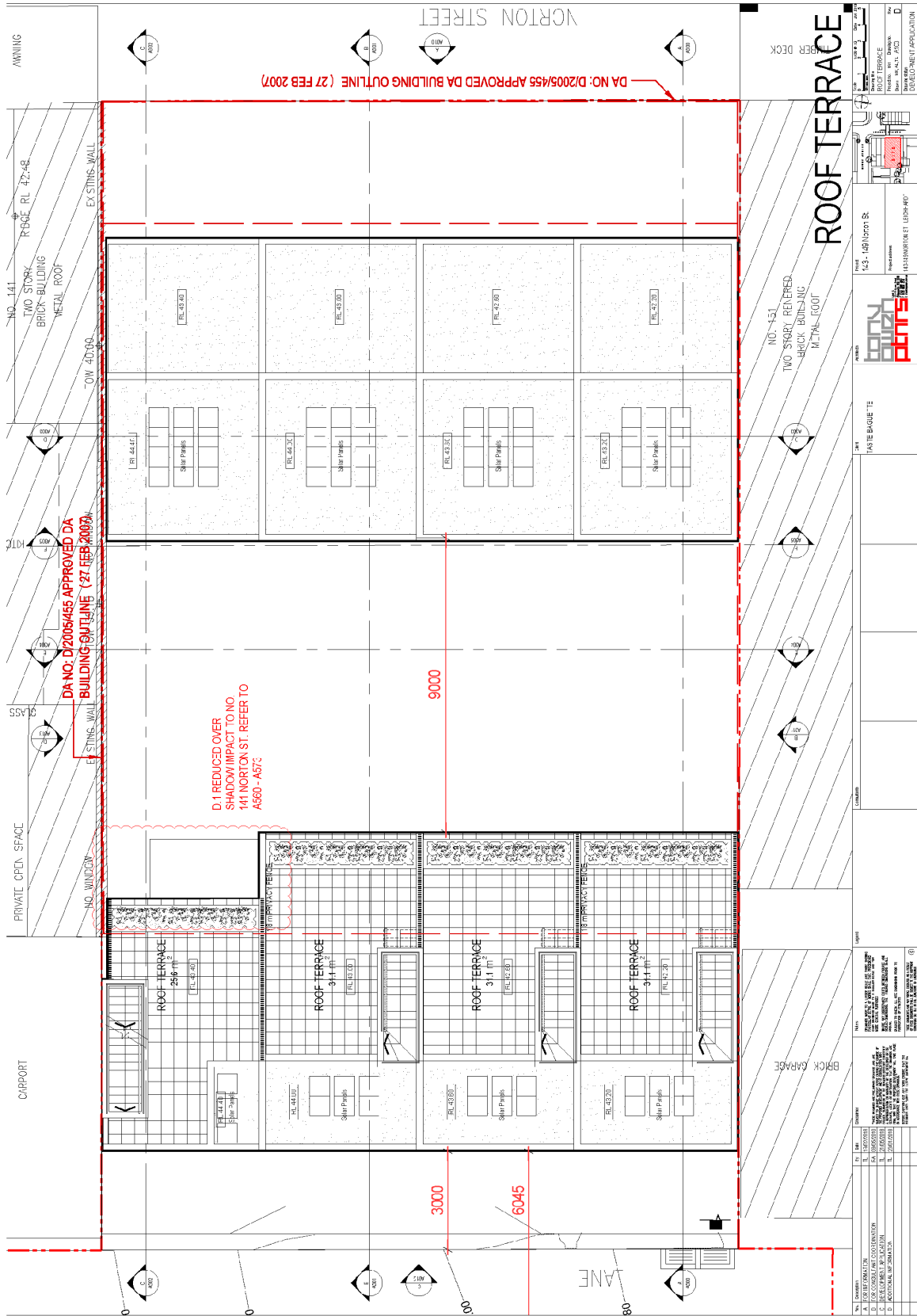
NO.	REVISION	DATE	DESCRIPTION
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2.	REVISIONS FOR APPLICATION	11/11/2021	REVISIONS FOR APPLICATION
3.	REVISIONS FOR APPLICATION	11/11/2021	REVISIONS FOR APPLICATION
4.	REVISIONS FOR APPLICATION	11/11/2021	REVISIONS FOR APPLICATION

PROJECT	143 - 149 Norton St
CLIENT	TASTE BASKETTE
ARCHITECT	PLIN'S ARCHITECTURE
DATE	11/11/2021
SCALE	AS SHOWN
PROJECT NO.	143 - 149 NORTON ST - ELEVATION D









Attachment C- Clause 4.6 Exception to Development Standards

- 4. In this clause, a building has an active street frontage if all floor space on the ground floor of the building on the primary street frontage is used for a purpose other than residential accommodation (with the exception of areas for access or service purposes).

Clause 6.13 – Diverse Housing

The objective of this clause is to ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development. Development consent must not be granted to development to which this clause applies unless:

- (a) at least 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include self-contained studio dwellings or one-bedroom dwellings, or both, and
- (b) no more than 30% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include dwellings with at least 3 bedrooms.

Comment: The proposal does not comply with Clause 6.13 of the LEP, as the development is only comprised of 2 bedroom dwellings.

In circumstances where applicable, Clause 4.6(3) of the LEP prescribes requirements for when a written objection is made by an applicant seeking to justify contravention of a development standard. The applicant is required to demonstrate:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Pursuant to Clause 4.6(4)(a) of the LEP, in circumstances where applicable, consent for a development that contravenes a development standard must not be granted unless in addition to those matters in Subclause 4.6(3), the consent authority is additionally satisfied that:

- (i) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

This objection has been prepared having regard to the following relevant matters:

- Section 4.15 of the Environmental Planning and Assessment Act 1979;
- Clause 4.6 of the Leichhardt Local Environmental Plan 2013;
- The considerations for assessing development standards set out by Preston CJ in *Weirbe v Pitwater Council* [2007] NSWLEC 627;
- The recent decision considering the assessment of a Clause 4.6 variation by Pearson CJ in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009; and
- Varying development standards: A Guide, published by the Department of Planning and Infrastructure in August 2011.

The site is located within the B2 Local Centre Zone. The objectives of this zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that development is appropriately designed to minimise amenity impacts.

- To allow appropriate residential uses to support the vitality of local centres.
- To ensure that uses support the viability of local centres.
- To provide a mixture of compatible land uses.
- To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.
- To integrate suitable business, office, residential, retail and other development in accessible locations.

The specific objective of Clause 6.13 of the LEP is to ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development that includes slop top housing, and applies to any such development that includes at least 4 dwellings. The proposed development is for 8 x 2 bedroom dwellings.

Clause 4.6 of the LEP enables an exception to the height standard in certain circumstances and only following consideration of a written request from the applicant justifying the contravention in the terms stated below. Clause 4.6 of the LEP is reproduced as follows:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development;
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production, Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

- (b) This clause does not allow development consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development;
 - (b) a development standard that arises under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated;
 - (c) clause 5.4.

This request to vary the development standard is structured in accordance with the 'test' provided in *Wetbe v Pittwater Council*, which provides that an applicant must satisfy the consent authority that the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The consent authority must also be persuaded that granting consent to the development would be consistent with the aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 1.3 of the Environmental Planning and Assessment Act 1979. It is also recognised that a consent authority must consider whether non-compliance with the development standard raises any matter of significance for State or regional planning, and finally to determine the public benefit of maintaining the planning control adopted by the environmental planning instrument.

It is also important to respect the decision by Pearson C in *Four2Five Pty Ltd v Ashfield Council* in an application to vary a development standard, recognising that it is also necessary to demonstrate there are sufficient environmental planning grounds to justify contravening the development standard.

In the *Wetbe* decision, Preston CJ set out five ways in which an objection to a development standard can be supported:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.

The proposed scheme is for the provision of 8 x 2 bedroom dwellings. The development standard would have the effect of requiring that 2 of the dwellings be reduced in size to provision for 1 bedroom dwellings or studio apartments, or that the configuration of apartments perhaps be modified to enable a greater number of smaller units. A scheme was initially presented to Council in December 2016 which comprised 9 x studio apartments, 5 x 1 bedroom, 1 x 2 bedroom and 1 x 3 bedroom dwellings within a similar building envelope. Council advised at this time that:

Demolition of the four single storey buildings will only be supported for a development proposed closely to that approved under D2005/455 for three storeys, surface parking for 11 vehicles (assessed under C1.11 of the DCP), 9 units and up to three tenancies (subject to merit based assessment);

The first consideration, demonstrating that the objectives of the diversity standard can be achieved notwithstanding the numerical non-compliance, is able to be addressed by considering recent development approved in the locality. The development nearing completion at Nos. 173 – 175 Norton Street, which is less than 100 metres away, comprises 6 x studio apartments, 4 x 2 bed and 1 x 3 bed dwellings (13 apartments in total). Significantly, 62% of the dwellings provided were studio apartments, providing a significant number of this dwelling type in a single development, and demonstrating that when site constraints permit, developers will provide housing diversity desired by market demand. On balance, if this approved development and the subject development were considered on balance, a total 21 dwellings are proposed, with 38% of the proposed dwellings being provided as studio apartments and thus satisfying the objective of the standard for the provision of diverse housing in the locality.

The rationale is that development standards are not ends in themselves but means of achieving these ends. The ends are the environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development offers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

Reducing the size of the dwellings to achieve compliance with the standard would only thwart the objective of ensuring an adequate supply housing in appropriate locations to facilitate employment and economic opportunities, and to reinforce demand for the goods and services available within the neighbourhood centre. The proposed density of development is already below the maximum achievable upon the site.

The proposed variation will not contravene the objectives of the EPAA which seek to promote the proper management, development and conservation of the State's natural and other resources, and to promote the orderly and economic use and development of land.

Given these considerations, and the very limited opportunity available for redevelopment within the precinct, it is unlikely that the proposed variation will undermine the legitimacy or future standing of the diverse housing standard.

There are no matters of State or regional planning which would be affected by the proposed variation to the housing diversity standard.

The proposed development makes use of an underutilised land resource, provides good design as a suitable precedent for future development within the town centre, and adds to the stock of medium density housing available within the local government area, and is therefore consistent with the public interest.

For the following reasons, compliance with the diverse housing standard of the LEP is considered unnecessary:

- The objectives of the height standard are achieved despite non-compliance with the standard – compliance with the standard is therefore demonstrated to be unreasonable and unnecessary;
- The development, despite non-compliance with the diverse housing standard, still contributes to achieving the relevant objects of the EPAA;
- There are no adverse impacts that result from variation of the diverse housing standard;
- Non-compliance will not undermine the public benefit and legitimacy of the standard, and would generate opportunities for community benefits to be provided through additional development contribution funds accumulated; and
- There are no matters of State or regional planning significance affected by varying the standard.

Having taken into account the relevant heads of consideration pursuant to Section 4.15 of the EPAA, the proposed development is considered an appropriate development of the site, sensitively considering the site's context, whilst promoting the availability and affordability of housing in the locality.

Attachment D – Statement of Heritage Significance of Heritage Conservation Area

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Area 4 Wetherill Estate Conservation Area

Landform

The area is predominantly on the Norton Street ridge, and falling gently towards the north and Balmain Cemetery, now Pioneers Park.



Figure 4.1 Wetherill Estate Conservation Area Map.

History

This conservation area falls within the Wetherill Estate which was subdivided in 1875. By 1888 there were 114 buildings erected in the Wetherill Estate subdivision – 93 were of brick, 16 were of weatherboard and five were of unknown construction. The conservation area also covers a small number of allotments at the very southern end of Pioneer Park, where two very early attached single-storey cottages and some other early buildings front Allen Street. The two attached cottages could have been constructed for the caretakers of the cemetery.

Development of the area proceeded gradually, so that it was not until at least the 1930s before all the land was taken up and built upon. Some buildings along Derbyshire Road (outside the existing conservation area) have recently been demolished for new townhouses.

Sources

Information provided by Max Solling.

Significant Characteristics

- Varied character – shops and attached dwellings along Norton Street; Art Deco pub and store; large two-storey free-standing houses; single-storey double and single-fronted houses; small groups of terraces and semis; blocks of 1930s/40s flats.

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- Landmark and public buildings dominate the skyline and streetscape – Leichhardt Town Hall, post office and fire station.
- Streets mostly one chain wide, with some grassed verges.
- A range in age of buildings from 1870s-1930s/40s: from a pair of early joined single-storey cottages without fire walls to two Inter-War period buildings on the corner of Short Street and Balmain Road and blocks of flats. Most buildings belong to the nineteenth century.
- Brick by far the most dominant building material, used in a variety of surfaces: as plastered brick generally through the 1880s, as face brick with plaster decoration c1890s onwards and as brown or dark blue face brick into the 1930s.
- Few timber houses – Short Street is an exception.
- Roof cladding predominantly of unglazed terracotta tiles. Few slate roofs and some iron roofs.
- Simple parapeted roofs to Norton Street facades with awnings suspended over Norton Street footpaths.
- Decorative elements such as plaster mouldings, decorative glazed tiles, chimneys and Art Deco brick decoration to facades.
- Sandstone kerbs and gutters with few interruptions for access to garages.
- Fences – some original iron palisade fences and some decorative brick fences contemporary with the construction of their houses.
- Street planting of natives and deciduous trees and shrubs.

Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is significant for illustrating development over sixty years between 1870s-1930s and includes civic, ecclesiastical and commercial buildings and a variety of housing.
- With the adjoining Whaleyborough Estate subdivision to the west, its roads, lanes and subdivision pattern define the layout of central Leichhardt.
- It is of aesthetic significance for the landmark quality of its public buildings centred around the high land at the Marion/Norton Street corner.
- It demonstrates through its range of external finishes (first plaster, then brown face brick and blue face brick) the increasing sophistication in Sydney brick making from 1870s-1930s.
- Through its now rare weatherboard buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs.

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Management of Heritage Values

Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

Retain

- Existing width and alignment of the streets: avoid chicanes which cut diagonally across the carriageways.
- All remaining sandstone kerbs and gutters.
- All pre-1939 buildings especially the few remaining timber houses.
- All original plaster finishes to external walls (as a rough rule of thumb this will mostly apply to pre-1890s buildings). Reconstruct where necessary.
- All original unplastered face brick external walls.
- All original external architectural detail, including verandahs, parapets and awnings, and encourage replacement of lost elements, but only where evidence is available.
- Any remaining original iron palisade or low brick fences.
- All street planting schemes. Reinstate individual trees where they have been lost.
- All existing landmark buildings in the area and their settings. Find new sympathetic uses for these buildings if the original use should be closed.

Avoid

- Demolition of any pre-1939 building especially timber buildings.
- Removal of any plaster or decorative plaster to external walls, except where it is to remove more recent plaster on face brick walls.
- Plastering and/or painting of original face brick walls.
- Alteration to the original roof form over the main part of any building, including second-storey additions to single-storey buildings.
- Additional architectural detail for which there is no evidence in the photographic record or on the building itself.
- Inappropriate fences such as high brick fences/walls, new iron palisades on high brick bases.
- Interruption of the kerb and gutter line for vehicular access.