DEVELOPMENT ASSESSMENT REPORT					
Application No. M/2019/150					
Address	23 Coleridge Street, LEICHHARDT NSW 2040				
Proposal	Modification of D/2016/341 includes an attic in existing terrace,				
Toposai	rear dormer window and 'parent's retreat' as new level at rear of				
	new dwelling				
Date of Lodgement	5 September 2019				
Applicant	Justin Loe Architects				
Owner	Mrs F M Y Seeto-Loe				
Number of Submissions	1				
Value of works	\$850,000				
Reason for determination at	Variation to FSR development standard exceeds officers				
Planning Panel	delegation				
Main Issues	FSR Variation				
Recommendation	Approved with Conditions				
Attachment A	Draft Conditions of Consent				
Attachment B	Plans of proposed development				
Attachment C	Development Consent Determination D/2016/341				
Attachment D	Approved Plans Determination D/2016/341				
FOWler Street 49 47 48 41 30 31 32 48 41 29 65 67 27 28 20 21 31 29	Approved Plans Determination D/2016/341				
LOCALITY MAP					
Subject Site	Objectors				
Notified Area	Supporters				

1. Executive Summary

This report concerns an application under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 to modify Determination No. D/2016/341 dated 11 October 2016 to extend the attic of existing terrace with rear facing dormer window and to provide "parents retreat" as a new level at rear of new dwelling. The application was notified in accordance with Council's notification policy and 1 submission was received regarding the impact of these modifications on existing views.

The application is referred to the Inner West Local Planning Panel for determination because the original consent was granted by the Panel, with various breaches on each lot. The modification application seeks to vary the FSR of the dwelling houses greater than 10% and thus does not fall within staff delegation.

Although a Clause 4.6 variation request is not required for a modification application, the applicant has demonstrated that subject proposal satisfies the objectives of the R1 – General Residential Zone and FSR Development Standard. The proposed additions are behind the approved facade so do not to detract from the Coleridge Street streetscape.

The potential impacts to the surrounding environment have been considered as part of the assessment process and the proposed modified development is acceptable. The application is recommended for approval.

2. Proposal

This application seeks consent to modify Development Consent No. D/2016/341 pursuant to the provisions of Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979 in the following way:

Modifications to approved southern Dwelling (Existing)

- 1. Remove external blinds on bedroom 3
- 2. Reconfigure internal stairs and bathroom location on level 1
- Install new dormer window to the rear elevation and use of new space as office/ guest room

Modifications to approved Northern Dwelling (New)

- Minor reconfiguration of angle blade wall to front façade and relocation of stair.
- 2. Installation of new staircase to service proposed parents retreat
- 3. Provision of a 4.6m x 2.8m parents retreat above the master bedroom
- 4. Remove external blinds on master bedroom

Other modifications to approved application:

- 1. Increse width and extend roof over the 2 carports
- 2. New bin storage locations
- 3. New air conditioner locations

The original Development Application determined on 11 October 2016 gave approval for Alterations and additions to existing dual occupancy including reconfiguration plus alterations and additions to existing terrace to create single dwelling and addition of new attached dwelling plus new carports at rear and Torrens title subdivision

3. Site Description

The site is legally described as Lot 23 in DP 976348 and is approximately 320.5sqm in area. The frontage is 9.1m to Coleridge Street and to the rear lane servicing the property. The site is located on the eastern side of Coleridge Street, being orientated East west.

The site previously supported a dual occupancy dwelling, which presented as two storey to Coleridge Street. The adjoining properties consist of single storey detached dwelling and two storey attached dwellings.

The subject site is not a heritage item or located within a conservation area. The site is not identified as a flood control lot.

There are no protected trees growing on the site.

The site is zoned R1- General Residential pursuant to Leichhardt Local Environmental Plan 2013 (LLEP 2013).



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
PREDA/2015/74	alterations to existing house and construction of new house	Advice letter issued in general support of proposal, 2015
D/2016/341	Alterations and additions to existing dual occupancy including reconfiguration plus alterations and additions to existing terrace to create single dwelling and addition of new attached dwelling plus new carports at rear with green roof plus Torrens title subdivision	Approved, 2016

Surrounding properties

25 Coleridge Street, Leichhardt

Application	Proposal	Decision & Date
D/2017/498	Demolish existing dwelling, subdivide into 2 torrens title lots and erect two attached dwellings	Approved on appeal, 2018

4(b) Application history

Not applicable

5. Section 4.55 Assessment

Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, requires the following matters to be assessed in respect of all applications which seek modifications to approvals.

The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).

<u>Comment</u>: The original application approved Alterations and additions to an existing dual occupancy including reconfiguration plus alterations and additions to the existing terrace to create single dwelling and addition of new attached dwelling plus new carports at rear with green roof plus Torrens title subdivision.

The proposed modifications include internal changes and to extend the attic of existing terrace with rear facing dormer window, provide "parents retreat" as a new level at rear of new dwelling and increase the size of covered carports. The development as proposed to be modified will remain qualitatively and quantitatively "substantially the same" as that for which consent was originally granted.

Council has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority.

<u>Comment</u>: No concurrence with any external bodies was required.

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

<u>Comment</u>: The application was advertised for a period of 14 days. The advertising period was between 24 September and 8 October 2019.

A total of 1 objection was received during the notification period.

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

Comment: The issues raised in the objection are discussed later in this report.

6. Assessment

The following is a summary of the assessment of the application in accordance with Sections 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979*.

6(a) Environmental Planning Instruments

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

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Leichhardt Local Environmental Plan 2013 (LLEP 2013)

The following provides further discussion of the relevant issues:

6(a)(i) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A revised BASIX Certificate was not submitted with the application. A revised BASIX Certificate is to be provided prior to the issue of and Construction Certificate, otherwise, the proposal is acceptable.

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

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

Clause 1.2 - Aims of the Plan

Clause 2.3 - Zone objectives and Land Use Table

Clause 2.6 - Subdivision

Clause 2.7 - Demolition

Clause 4.1 - Minimum subdivision lot size

Clause 4.3 - Height of buildings

Clause 4.3A - Landscaped areas for residential accommodation in Zone R1

Clause 4.4 – Floor Space Ratio

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

Clause 4.5 - Calculation of floor space ratio and site area

Clause 4.6 - Exceptions to development standards

Clause 6.1 - Acid Sulfate Soils

Clause 6.2 - Earthworks

Clause 6.4 - Stormwater management

Clause 6.8 - Development in areas subject to aircraft noise

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R1 – General Residential under the *LLEP 2011*. The *LLEP 2013* defines the development as 'semi-detached dwellings', which the LLEP 2013 defines as:

"semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling"

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R1 – General Residential zone.

The following table provides an assessment of the application against the development standards for the 2 lots to be created with D/2016/341:

Lot A

Standard	Proposal	non compliance	Complies	
Minimum subdivision lot size Minimum permissible: 200 sqm	179.5 sqm	20.5 sqm or 10.25%	No (no change to previous approved consent)D/2016/341	
Floor Space Ratio Maximum permissible: 0.7:1 c 125.65 sqm	r	0.96:1 or 172.84 sqm	47.19 sqm or 37.56%	No – previous approval to 0.82:1
Landscape Area Minimum permissible: 15% c 26.925 sqm	r	17.48% or 31.38sqm	Nil	Yes
Site Coverage Maximum permissible: 60% control of the control of t	r	76% or 136.7sqm	29 sqm or 21%	No change with this modification

Lot B

Standard	Proposal	non compliance	Complies
Minimum subdivision lot size Minimum permissible: 200 sqm	141 sqm	59 sqm or 30%	No (no change to previous approved consent)D/2016/341
Floor Space Ratio Maximum permissible: 0.8:1 or 112.8 sqm	0.81:1 or 113 sqm	1.7sqm or 1.51%	No – previous approval to 0.7:1
Landscape Area Minimum permissible: 15% or 21.15 sqm	16.33% or 23.03sqm	Nil	Yes
Site Coverage Maximum permissible: 60% or 84.6 sqm	74% or 105sqm	20.4 sqm or 23%	No change with this modification

*Note: The approved FSR under D/2016/341 was 0.82:1 (148sqm) for the existing dwelling and 0.7:1 (101.5sqm) for the infill dwelling. The Inner West Local Planning Panel determined this application on 11/10/2016

This modification seeks two small increases to the Gross Floor Area of 27.84sqm and 11.5sqm for Lots A & B being a percentage increase of 16% and 11.3% for each dwelling. The approved modification will provide an additional non-compliance of 17.32% for lot A and 1.51% for lot B on that approved with D/2016/341.

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the modified proposal results in a breach of the Floor Space Ratio development standard.

The applicant seeks a variation to the FSR development standard under Clause 4.4 of the applicable local environmental plan by 37.56% (47.19sqm).

Pursuant to *Gann & Anor v Sutherland Shire Council* [2008] NSWLEC 157, the Land and Environment Court has held that there is power to modify a development application where the modification would result in a breach or further breach of development standards without the need to lodge variation requests (in this case under Clause 4.6 of the LLEP2013).

Notwithstanding the above, had a Clause 4.6 *Exceptions to Development Standards* request been required, seeking Council's consent to vary the Floor Space Ratio standard, the request would be considered favourably in this instance for the following reasons:

- The proposal does not result in any significant additional adverse amenity impacts upon the surrounding properties.
- The modifications maintain the maximum roof height as RL34.34 being the ridge height of the previous dual occupancy on site. The proposed parents retreat for the approved infill dwelling has a maximum RL of 33. Being setback 14m from the front boundary and behind the ridge line of the existing dwelling.
- The additional GFA proposed with this modification is located behind the front façade
 of the approved dwelling for lot A. As such, this attic space does not add to the bulk
 and scale of the proposed dwelling.
- The modified design for Lot B is sympathetic within the immediate context of the area following the approval of a similar design to the adjoining property 25 Coleridge Street (D/2017/498). The setback of the parents retreat presents a minimal visual profile and is in keeping with the bulk and scale of established streetscape.
- The proposed dwellings are of similar bulk, scale to adjoining dwellings, and do not result in view loss.
- The additional parents retreat and attic space have a negligible impact to the solar access to adjoining properties compared to the approved development
- The proposal complies with the Landscaped Area standards and maintains the approved site coverage, providing a suitable balance between landscaped areas and the built form.
- The proposal is considered acceptable with regard to the objectives of the R1 General Residential zone.
- The proposal is considered acceptable with regard to the objectives of Clause 4.4 Floor Space Ratio.

6(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

6(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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
••	
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special	Not applicable
Events)	
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes - See Discussion
C1.4 Heritage Conservation Areas and Heritage Items	Not applicable
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Yes – no change to
C 1.0 Subdivision	approved
C1.7 Site Facilities	Yes
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Not applicable
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	Yes - see discussion
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Not applicable
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies,	Not applicable
Verandahs and Awnings	
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Yes
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep	Not applicable
Slopes and Rock Walls	
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable
Part C: Place – Section 2 Urban Character	
C2.1.3 Piperston, Leichhardt	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
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C3.8 Private Open Space	Yes
C3.2 Site Layout and Building Design C3.3 Elevation and Materials C3.4 Dormer Windows C3.5 Front Gardens and Dwelling Entries C3.6 Fences C3.7 Environmental Performance	Yes – see discussion Yes – see discussion Yes Yes Yes Yes Yes

C3.9 Solar Access	Yes
C3.10 Views	Yes – see discussion
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
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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	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Not applicable
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With	Yes
Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Not applicable
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Not applicable
E1.3.1 Flood Risk Management	Not applicable
E1.3.2 Foreshore Risk Management	Not applicable
Part F: Food	Not applicable
Part G: Site Specific Controls	Not applicable

The following provides discussion of the relevant issues:

C1.3 Alterations and Additions

The new bedroom in the attic level and the associated rear dormer are supported the rear window does not result in adverse visual privacy impacts

C1.11 Parking

The proposal includes modifications to the approved car parking spaces to increase their width. The modified carports are satisfactory in terms of dimensions and access.

C3.2 Site Layout and Building Design

The modifications will retain the established Building Location Zone for ground floors on both adjoining properties. There is no first floor level in the northern neighbouring dwelling,

however the proposed modifications to the attic and second floor of the infill dwelling will extend no further back than the footprint of the northern neighbour and will not result in overshadowing, visual bulk or loss of privacy.

C3.3 Elevation and Materials

The proposed modification will not change the presentation of the dwellings to the Coleridge street. The rear elevations provide a sensible transition between the contemporary and traditional forms adjoining the subject site. The different heights of visible horizontal banding follow the natural fall of the land. The design is considered a good fit within the context. C3.10 Views

The Land and Environment Court accepts that the value ascribed to views can be subjective and has established a planning principle to help establish a more structured approach in assessing the impact of development in terms of view sharing.

The **first step** is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

<u>Comment:</u> A neighbouring property at 10 Coleridge Street currently enjoys partially obstructed views of the Sydney city skyline.

The **second step** is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

<u>Comment:</u> The views obtained from the dwelling are from balconies and living area windows on the first floor and from small dormer window to a 2nd floor bedroom.







(Standing on Balcony looking east)





(Standing in living room)

(Seated in living room)

The **third step** is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

<u>Comment:</u> The view loss impact is to a restricted view corridor and under the planning principle its impact is relatively negligible for this scenario. The proposed modifications will affect the view to a single tree and not the skyline. It is reasonable to expect neighbouring 21 Coleridge street to be developed beyond its current single storey scale in the future which would, as a 2 storey design, diminish this view of the neighbourhood tree.

The **fourth step** is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

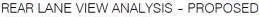
Comment:

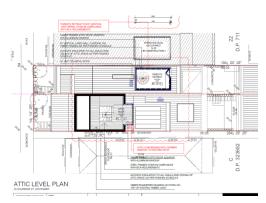
Although the proposed modifications entail a non-compliance with the FSR control, the modified design is in keeping with the streetscape and does not result in a significant increase view impacts. Having regard to *Tenacity*, the proposal is considered to be reasonable and satisfactory with respect to views subject to conditions.

C3.11 Visual Privacy

The proposal includes new windows on the eastern ("rear") elevation to service the new attic space and parents retreat. There would be no loss of privacy to nearby properties as the windows are rear facing with no direct line of site to adjoin windows. The proposed location also has significant setbacks from the adjoining properties private open space.







6(d) The Likely Impacts

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

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

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

6(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. A total of one submission was received.

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

- The impact on existing views from the development – see Section 3.10

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

<u>Issue</u>: This process of taking DA approvals and then adding extensive intrusive modifications is in our minds most deceptive.

<u>Comment</u>: The modification of development consents by way of section 4.55 is permissible and as such the method chosen for making the application is not a in and of itself an adverse effect to be resolved.

6(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.

7 Referrals

7(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.

Development Engineer

7(b) External

The application did not require referral to any external body for comment.

8. Section 7.11 Contributions/7.12 Levy

As the original Development Application involved demolition of a dual occupancy and construction of 2 larger attached dwellings, Section 7.11 contributions were payable for the proposal. This modification does not alter this requirement.

9. Conclusion

The proposed modification generally complies with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and Leichhardt Development Control Plan 2013.

The modified development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

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

10. Recommendation

A. 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*, grant consent to the modification application under Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Determination No. D/2016/341 for an attic in existing terrace, rear dormer window and 'parent's retreat' as new level at rear of new dwelling at 23 Coleridge Street, Leichhardt subject to the conditions listed in Attachment A below.

Attachment A - Recommended conditions of consent

Attachment A - Recommended conditions of consent

A. Condition 1 to be amended as follows:

 Development must be carried out in accordance with Development Application No. D/2016/341 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Dwg 0239/S4.55 01/F Site/Roof Plan		04/09/2019
Dwg 0239/S4.55 02/F Ground Floor Plan		04/09/2019
Dwg 0239/S4.55 03/F Level 1 Plan		04/09/2019
Dwg 0239/S4.55 03.2/F Attic Level Plan		04/09/2019
Dwg 0239/S4.55 04/F Street and Rear Elevation	Studio JLA	04/09/2019
Dwg 0239/S4.55 05/F East & West Elevations		04/06/2019
Dwg 0239/S4.55 06/F Sections	Studio JLA	04/09/2019
Dwg 0239/DA-L01/B Ground Floor Plan – Subdivision Plan	Studio JLA	10/6/2016
Dwg 0202/D01/A – Demolition Plan	Studio JLA	10/6/2016
Document Title	Prepared By	Dated
Waste Management Plan	Kozarovski and Partners	6/7/2016
Stormwater Plans – Dwg C- 3072-01	Pavel Kozarovski	6/7/2016
BASIX Certificate Lot A – A253319	Gat & Associates	7/7/2016
Basix Certificate Lot B - 739619S	A/A	A/A
Exterior Finishes Colour Schedule 01		undated
Nationwide House Energy Rating Scheme Certificate 0000486373		7/7/2016
Site Waste Management Plan	Justin Loe Architects	undated

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

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

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

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

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings. (Condition Modified by M/2019/150)

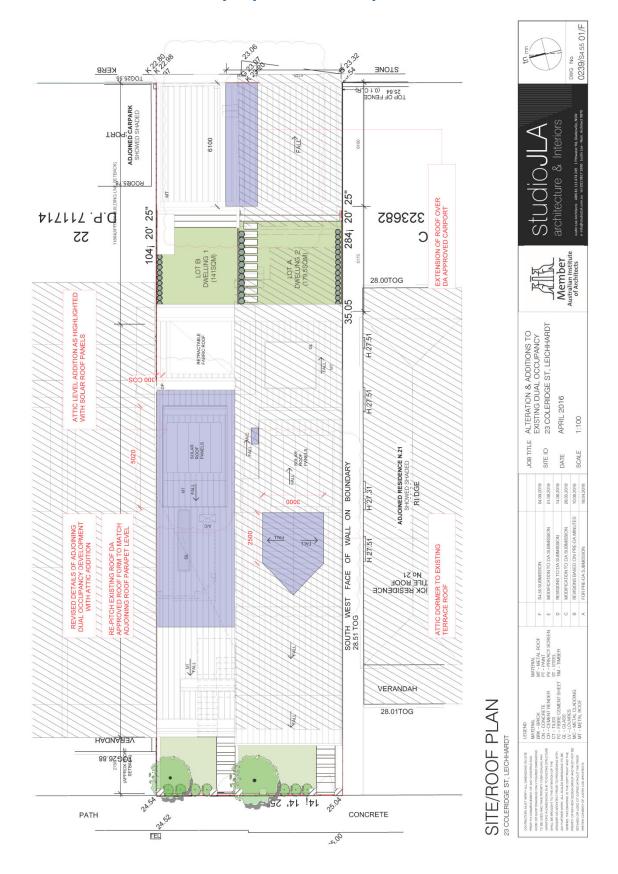
B. Delete Condition 3:

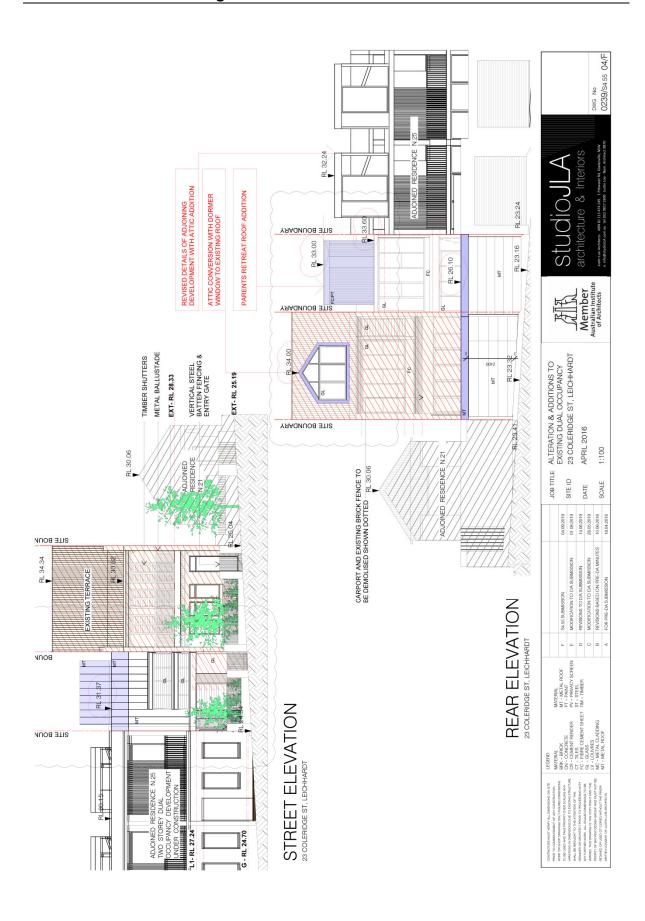
- 3. Amended plans are to be submitted incorporating the following amendments:
 - a) The roof garden over the carport on Lot A is to be deleted. The roof of the carport on Lot A is to match the roof of the carport on Lot B.
 - b) The front window serving the study in Dwelling B is to be reduced to a maximum of 1200mm wide, with masonry elements to either side, to better relate to the architectural tradition of terrace style dwellings.

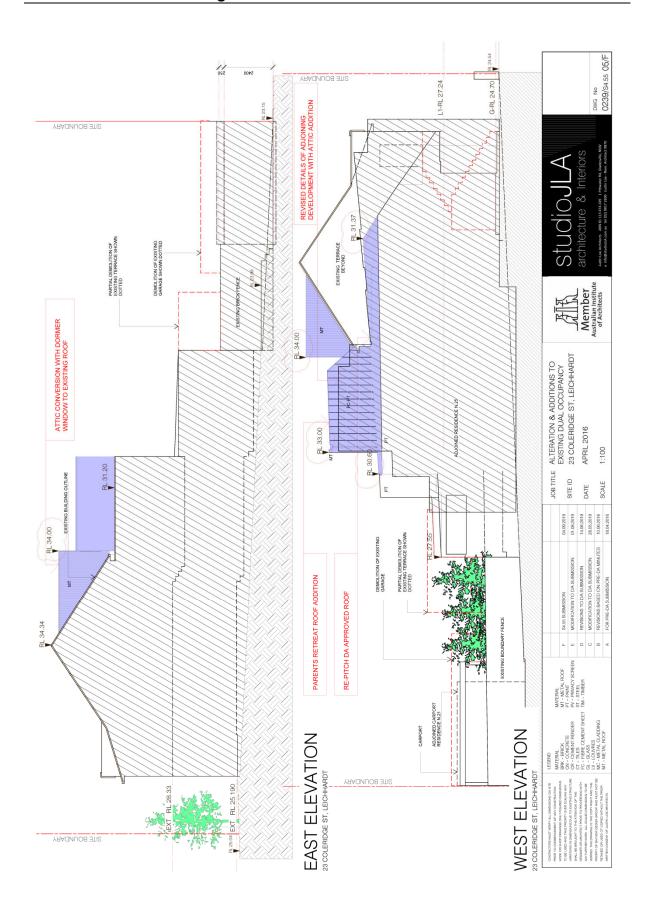
Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

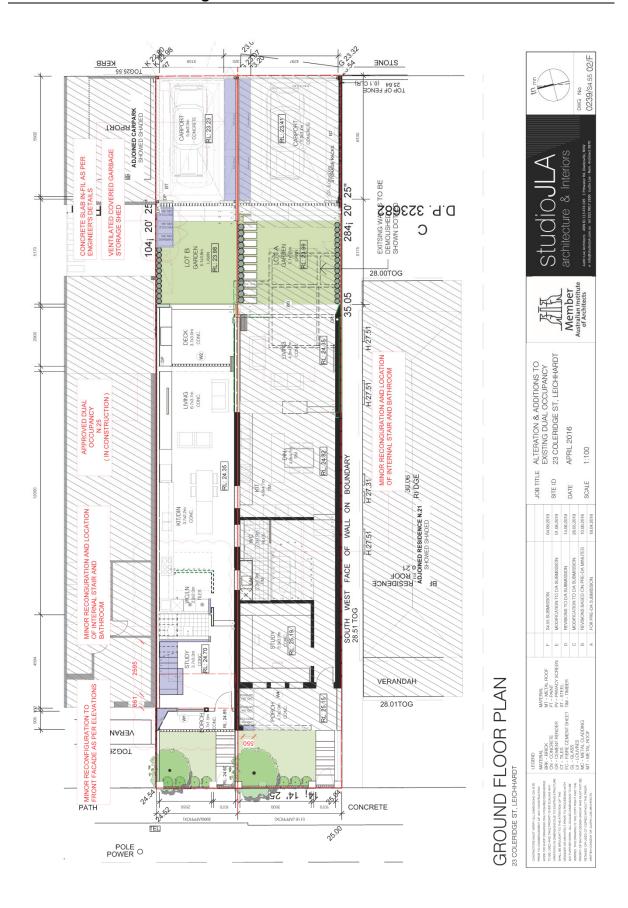
(Condition deleted by M/2019/150)

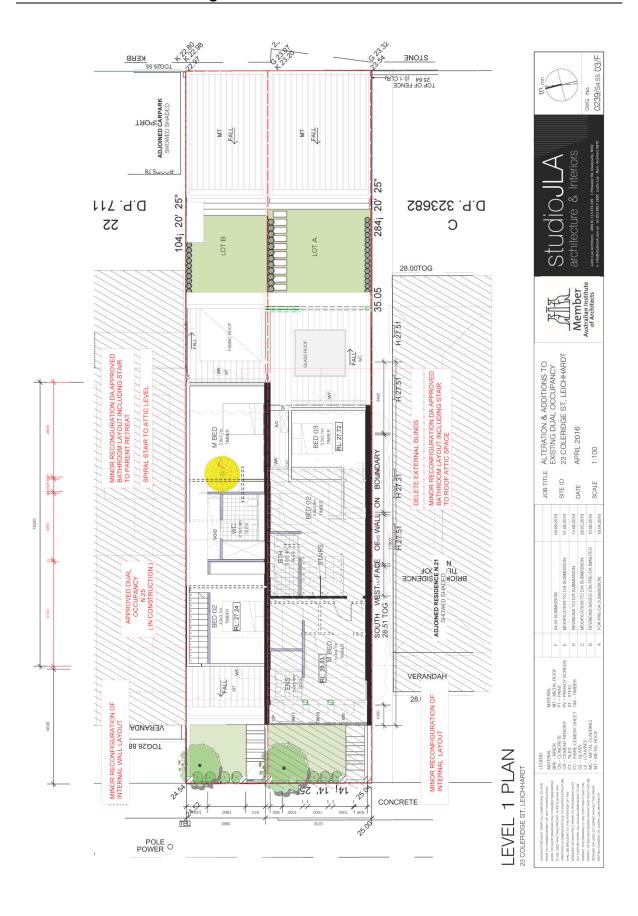
Attachment B - Plans of proposed development

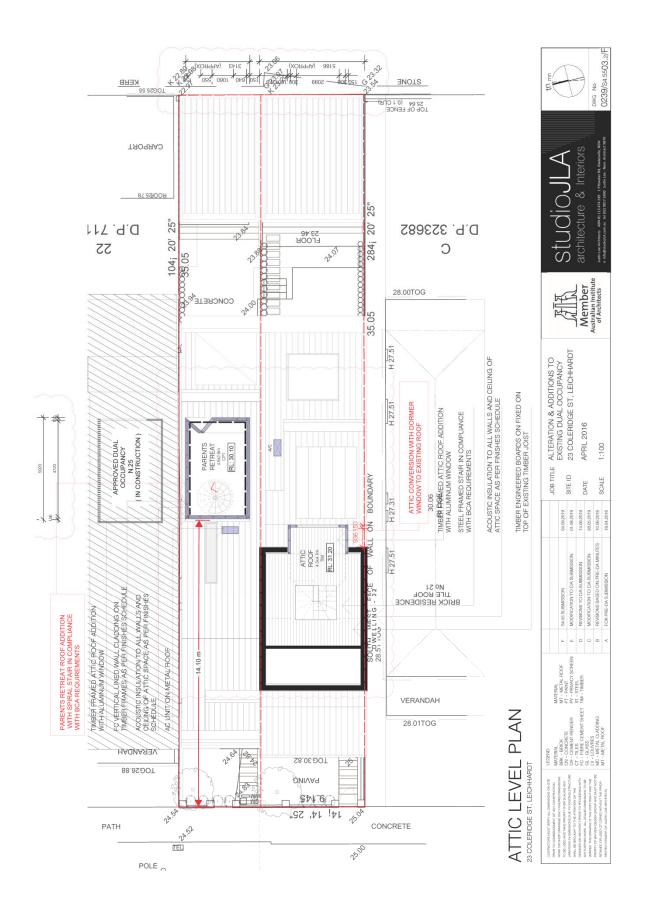


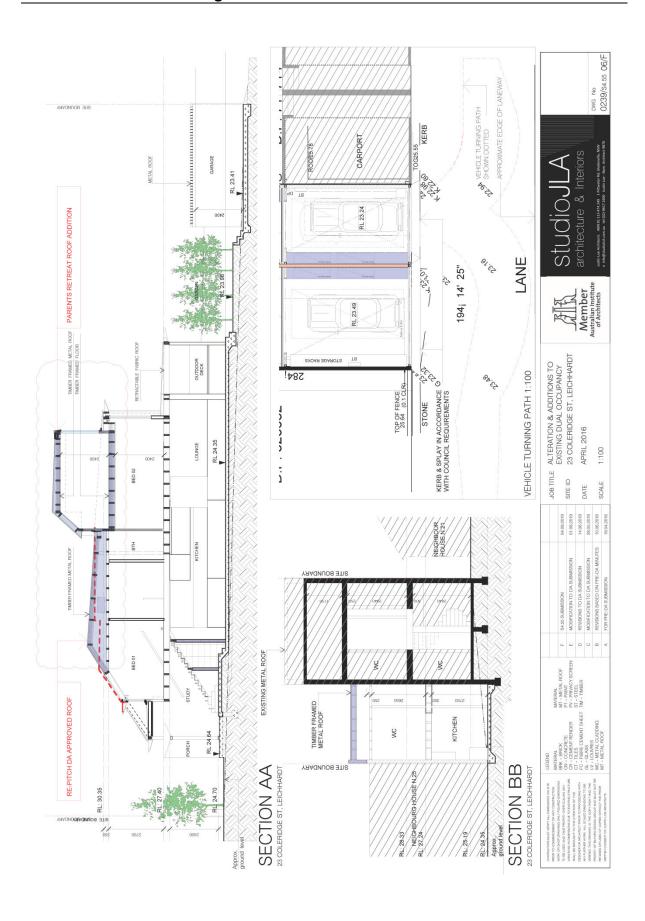


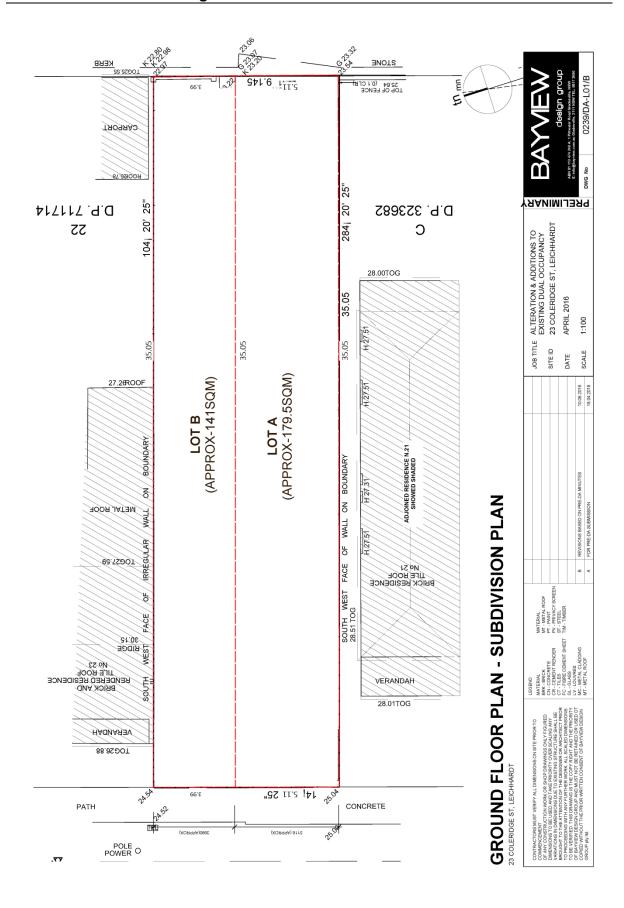


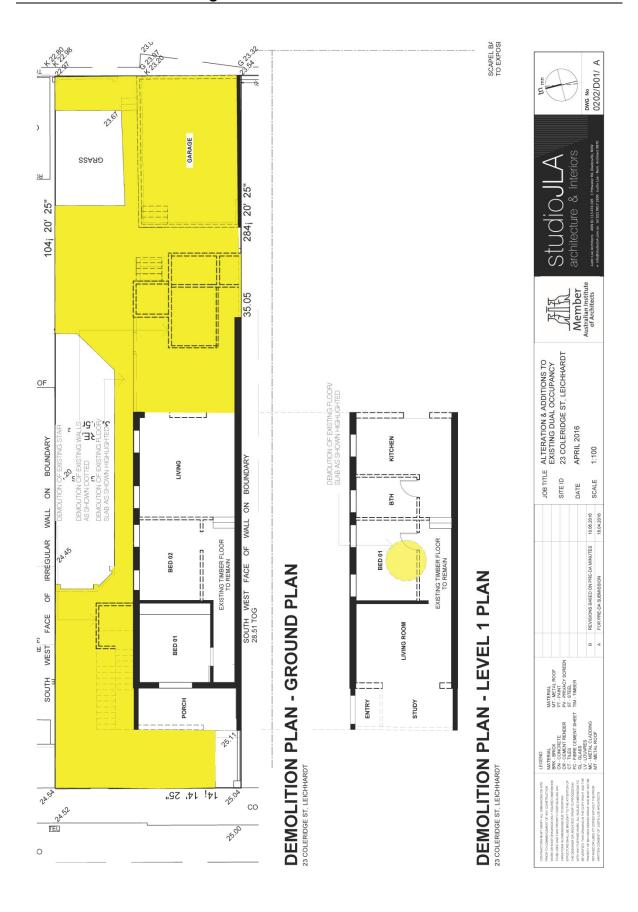












Attachment C – Development Consent Determination No. D/2016/341



Contact: Adele Cowie Phone: 9367 9085 18 October 2016

> Justin Loe Architects C/- Justin Loe 1 Pittwater Rd GLADESVILLE NSW 2111

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO: D/2016/341 Issued under the Environmental Planning & Assessment Act 1979 (Section 81(1)(a))

Applicant Name: Justin Loe Architects

Applicant Address: C/- Justin Loe

1 Pittwater Rd

GLADESVILLE NSW 2111

Land to be Developed: Lot 23 DP 976348

23 Coleridge Street, LEICHHARDT NSW 2040

Proposed Development: Alterations and additions to existing dual

occupancy including reconfiguration plus alterations and additions to existing terrace to create single dwelling and addition of new attached dwelling plus new carports at rear and

Torrens title subdivision

Determination: Approval

Date of Determination: 11 October 2016

Consent to Operate From: 11 October 2016

Consent to Lapse On: 11 October 2021

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

Customer Service Centres

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

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

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

 Development must be carried out in accordance with Development Application No. D/2016/341 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Dwg 0239/DA02/B Ground Floor Plan	Studio JLA	10/6/2016
Dwg 0239/DA-L01/B Ground Floor Plan – Subdivision Plan	Studio JLA	10/6/2016
Dwg 0239/DA01/B Site/Roof Plan	Studio JLA	10/6/2016
Dwg 0239/DA03/B Level 1 Plan	Studio JLA	10/6/2016
Dwg 0239/DA04/B Street and Rear Elevation	Studio JLA	10/6/2016
Dwg 0239/DA05/B East and West Elevation		10/6/2016
Dwg 0239/DA06/B Sections	Studio JLA	10/6/2016
Dwg 0202/D01/A – Demolition Plan	Studio JLA	10/6/2016
Domondon i lan		
Document Title	Prepared By	Dated
Document Title Waste Management Plan	Kozarovski and Partners	6/July/2016
Document Title Waste Management Plan Stormwater Plans	Kozarovski and Partners Prepared By	6/July/2016 Dated
Document Title Waste Management Plan Stormwater Plans C-3072-01	Kozarovski and Partners Prepared By Pavel Kozarovski	6/July/2016 Dated 6/7/2016
Document Title Waste Management Plan Stormwater Plans	Kozarovski and Partners Prepared By	6/July/2016 Dated
Waste Management Plan Stormwater Plans C-3072-01 BASIX Certificate Lot A –	Kozarovski and Partners Prepared By Pavel Kozarovski Gat & Associates	6/July/2016 Dated 6/7/2016
Document Title Waste Management Plan Stormwater Plans C-3072-01 BASIX Certificate Lot A – A253319 Basix Certificate Lot B – 739619S Exterior Finishes Colour Schedule 01	Kozarovski and Partners Prepared By Pavel Kozarovski Gat & Associates A/A Studio JLA	6/July/2016 Dated 6/7/2016 7/7/2016 A/A undated
Document Title Waste Management Plan Stormwater Plans C-3072-01 BASIX Certificate Lot A – A253319 Basix Certificate Lot B – 739619S Exterior Finishes Colour	Kozarovski and Partners Prepared By Pavel Kozarovski Gat & Associates A/A Studio JLA	6/July/2016 Dated 6/7/2016 7/7/2016 A/A

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

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

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

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

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

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

Elements	Location
As shown on Dwg 0202/D01/A – Demolition Plan	As per plan

Excluding the following elements which must be retained:

Elements to be retained						Location	
All	buildings	not	otherwise	shown	on	Dwg	Remainder
0202/D01/A – Demolition Plan							

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

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: Demolition of structures.

- g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- 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.
- 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.
- 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.
- All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
- An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

- 3. Amended plans are to be submitted incorporating the following amendments:
 - a) The roof garden over the carport on Lot A is to be deleted. The roof of the carport on Lot A is to match the roof of the carport on Lot B.
 - b) The front window serving the study in Dwelling B is to be reduced to a maximum of 1200mm wide, with masonry elements to either side, to better relate to the architectural tradition of terrace style dwellings.

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.

- 4. A stormwater drainage design, incorporating on site retention/ re-use facilities (OSR), prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/amended to make provision for the following:
 - a) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. C-3072-01 prepared by Kozarovski & Partners and dated 6 July 2016.
 - b) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
 - c) Charged or pump-out stormwater drainage systems are not permitted.
 - d) The front yard to each dwelling must be graded to fall to the Coleridge Street frontage so that surface flows and bypass flows from the site drainage system are directed away from the dwelling
 - e) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.
 - f) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2003 Plumbing and Drainage Stormwater Drainage.
 - g) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.

- h) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- i) An inspection opening or stormwater pit must be installed inside the property adjacent to the boundary for all stormwater outlets.
- All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.
- k) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
- m) The proposed on-site retention tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation.

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

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

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

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

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

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

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

The system/s shall be operated as follows:

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

- i) 10:00pm to 7:00am on Monday to Saturday: and
- ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background L_{A90} , $_{15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

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

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

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

- 7. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
- In accordance with the provisions of Section 81A of the Environmental Planning and Assessment Act 1979 construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
 - A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - 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.

- 9. The design of the vehicular access and off street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:
 - a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those obtained in the Levels Certificate issued by Council for the full width of the vehicle crossing. The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.

- b) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- c) Longitudinal sections along <u>each</u> outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- d) Each carport must have minimum clear internal dimensions of 5700 x 3000mm (length x width) and a minimum door opening width of 3200mm at the street frontage.
- e) Where the drop adjacent to the end of the parking module(s) exceeds 600mm, structural barriers must be provided. Where the drop is between 150-600mm, wheel stops must be provided. These physical controls must be installed in accordance with the requirements of Section 2.4.5 of AS/NZS2890.1-2004. The design must be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia prior to the issue of a Construction Certificate.
- f) The external form & height of the approved structures must not be altered from that depicted on the approved plans.

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

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

10. 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.

- 11. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
- 12. The applicant must bear the cost of construction of the following works:

- Reconstruction of the existing concrete vehicle crossing at the laneway frontage of Lot A.
- b) Construction of a concrete vehicle crossing at the laneway frontage of Lot B.
- c) Reconstruction of the sandstone kerb and gutter and concrete infill footpath for the remainder of the laneway frontage of the site.

Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council and a Roadworks Permit issued under Section 138 of the Roads Act 1993 prior to construction of these works. The Roadworks Permit must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

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

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

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

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

- 14. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:
 - The building is to be provided with smoke alarm system that complies with AS3786-1993: Smoke Alarms and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

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

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

15. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued (whichever occurs first), a security deposit to the value of \$4,500 must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date. The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

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

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

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

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

- 17. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:
 - 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.

18. 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.

- 19. 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:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - b) Noise and vibration

During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust

generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.

c) Occupational Health and Safety

All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.

d) Toilet Facilities

During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.

e) Traffic control plan(s) for the site

All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

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

COLUMN A	COLUMN B
Open space and recreation	\$13 056.00
Community facilities and services	\$1996.00
Local area traffic management	Nil
Bicycle works	Nil

The total contribution is: \$15 052.00

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

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.

21. 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:

- 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)

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

Security Deposit	\$ 2075.00
Inspection fee	\$ 276.00

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

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

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

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

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

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

satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

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

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

PRIOR TO THE COMMENCEMENT OF WORKS

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

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

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

- a) location of the building with respect to the boundaries of the site;
- 25. 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.

26. 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.

- 27. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
- 28. 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.
- 29. 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.
- 30. 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.

 The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

DURING WORKS

31. 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.

32. 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.

- 33. The site must be appropriately secured and fenced at all times during works.
- 34. 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.

- 35. 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);
 - 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.

- 36. 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.
- 37. 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.

- 38. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- 39. 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.
- 40. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.

41. 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.

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

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

43. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

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

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

- 44. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
- 45. 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.
- 46. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on-site retention/re-use facilities. The Plan must set out the following at a minimum:
 - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

47. 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.

- 48. 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.

- 49. 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.
- 50. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council Roadworks Permit approval.

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

ONGOING CONDITIONS OF CONSENT

- 51. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
- 52. 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.
- 53. The Operation and Management Plan for the on-site retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
- 54. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling house 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 dwelling house, is defined under the *Leichhardt Local Environmental Plan 2013.*

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and

accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

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

B. Building Code of Australia

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

C. Home Building Act

- 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:
 -) 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:
 -) 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
- showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

E. Condition relating to shoring and adequacy of adjoining property

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

NOTES

- This Determination Notice operates or becomes effective from the endorsed date of consent.
- 2. Section 82A of the Environmental Planning and Assessment Act 1979 provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.
- 3. If you are unsatisfied with this determination, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
- Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act 1979 and/or the conditions of this consent may result in the serving of penalty notices or legal action.
- 5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.

- 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.
 - Application for a Construction Certificate under the Environmental Planning and Assessment Act 1979.
 - 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.
 - 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.

ADVISORY NOTE - DOCUMENTATION REQUIREMENTS TO BE LODGED WITH COUNCIL PRIOR TO RELEASE OF ANY SUBDIVISION CERTIFICATE.

The applicant is advised that a Subdivision Certificate application must be lodged with Council.

Prior to the issue of a Subdivision Certificate, the applicant shall submit an original plan of subdivision plus three (3) copies for Council's endorsement and administration sheet. The following details shall also be submitted:

- a) Evidence that all conditions of Development Consent D/2016/341 have been satisfied.
- b) Evidence of payment of all relevant fees and contributions.
- c) The 88B instrument plus six (6) copies.
- d) A copy of the final Occupation Certificate issued for the development.

- e) All surveyor's or engineer's certification required by the Development Consent.
- f) A copy of the Section 73 Compliance Certificate issued by Sydney Water.

All parking spaces and common property, including visitor car parking spaces and on-site detention facilities must be included on the final plans of subdivision and allocated in accordance with the approved plans

Have you made a political donation?

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

Elizabeth Richardson

MANAGER ASSESSMENTS

Attachment D - Approved Plans Determination No. D/2016/341

