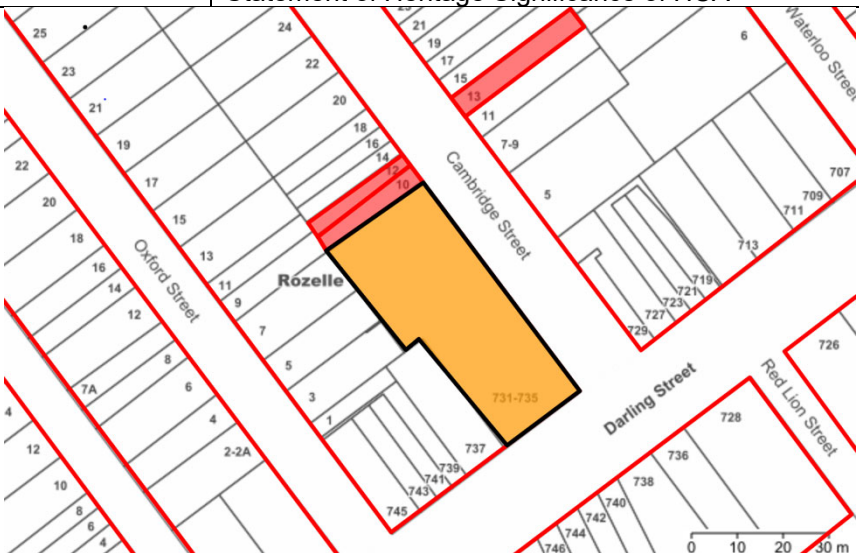





 DEVELOPMENT ASSESSMENT REPORT				
Application No.	M/2019/232			
Address	731-735 Darling Street ROZELLE NSW 2039			
Proposal	Modification to Development Consent D/2017/491 for redevelopment for mixed use (retail and apartments)			
Date of Lodgement	16 December 2019			
Applicant	Ipm Pty Ltd			
Owner	731 Darling Street Rozelle Pty Ltd			
Number of Submissions	Objections from 3 properties.			
Value of works	\$6,842,937.00			
Reason for determination at Planning Panel	Development to which SEPP No. 65 applies Heritage Item			
Main Issues	Impact to Heritage Item, Parking, Amenity to adjoining properties			
Recommendation	Approval with Conditions			
Attachment A	Recommended conditions of consent			
Attachment B	Plans of proposed development			
Attachment C	Conditions of Consent - D/2017/491			
Attachment D	Approved Plans – D/2017/491			
Attachment E	Statement of Heritage Significance of Heritage Item			
Attachment F	Statement of Heritage Significance of HCA			
				
LOCALITY MAP				
Subject Site		Objectors		 N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for Modification to Court Consent D/2017/491 which approved redevelopment for mixed use (retail and apartments) at 731-735 Darling Street Rozelle. The application was notified to surrounding properties and submissions from 3 properties were received in response to the initial notification.

The main issues that have arisen from the application include:

- Impact to the heritage item
- Parking
- Amenity impact to neighbours

The proposal complies with the parking requirements under Leichhardt DCP 2013. The impact to the heritage item and amenity impacts are considered acceptable subject to conditions and therefore, the application is recommended for approval.

2. Proposal

The modification seeks to:

- Introduce a flat slab level across the entire ground floor retail area (with exception to the level differences at entries);
- Increase the number of retail tenancies from 2x tenancies to 4x tenancies on ground level;
- Include common amenities on ground floor;
- Remove the dedicated retail lift from basement parking to ground floor;
- Change of proposed paint colour of the heritage façade.

3. Site Description

The subject site is a corner lot located on the north-western side of Darling Street and south-western side of Cambridge Street. The site consists of one allotment and is generally L-shaped with a total area of 1325 sqm and is legally described as Lot 100 in DP1146981.

The site has a frontage to Darling Street of 20.72 metres and a secondary frontage of approximate 57.315 metres to Cambridge street.

The site currently features a one storey retail building, the entirety of which is vacant and previously occupied by a single tenant. A customer car park and loading dock is provided at the rear of the site.

To the north of the site are medium-density residential dwellings, consisting primarily of attached and semi-detached townhouses and terraces. To the east of the site is Darling Street, which features a wide range of retail and commercial buildings, predominately in terrace buildings of various architectural styles. To the south of the site are further commercial premises along Darling Street. To the west of the site are commercial premises and medium density residential dwellings

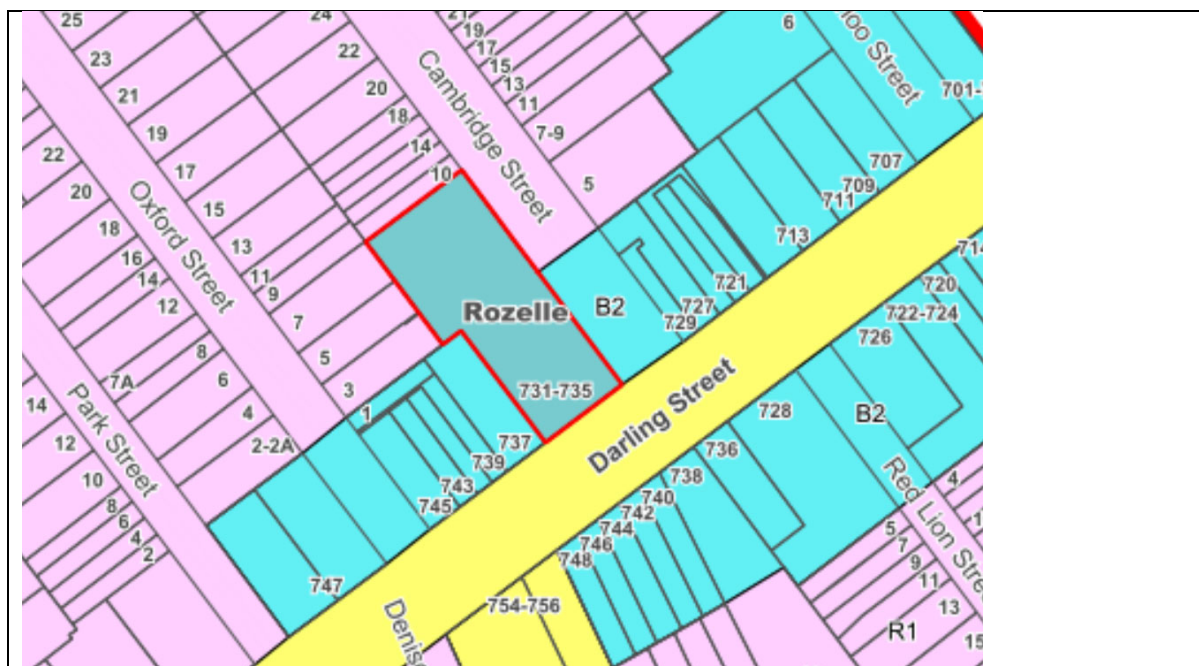
The subject site is listed as a heritage item. The property is located within a conservation area. The property is not identified as a flood prone lot.



The subject site as viewed from Darling Street



The subject site as viewed from Cambridge Street



4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2017/491	Demolition of existing at-grade car park and part of existing retail building, with retention of the heritage facade, entryways and awning. Excavation for one basement level and construction of a four-storey shop-top housing development, including: 370 m2 of retail floorspace on the ground floor, and 16 residential units on levels 1 to 3; and 23 car spaces and a loading dock, across the ground and basement levels.	Approved – Land & Environment Court 01/07/2019

5. Section 4.56 Assessment

Under Section 4.56 of the Environmental Planning and Assessment Act 1979, the consent authority can only modify a consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, and
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification

by sending written notice to the last address known to the consent authority of the objector or other person, and
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

The original development approval consisted of a mixed-use development consisting of retail premises at ground floor level and residential premises first floor and above. The proposed modification includes changes to the exterior and internal configurations at ground floor and basement levels. While the number of retail premises will increase from 2 to 4 retail premises, the resultant development will continue to be of a mixed-use nature, with retail premises at ground floor level and residential premises first floor and above. The development being modified is considered to be substantially the same as the development for which consent was originally granted.

No authorities or bodies were required to be consulted. The application was notified as required and submissions from 4 neighbouring properties were received. The issues raised in the objections is discussed in more detail in a later section of the report.

6. Assessment

The original assessment of the proposal under s4.15 of the *Environmental Planning and Assessment Act 1979* remains relevant to the development. The following is a summary of the assessment of the modification application in accordance with the relevant parts of section 4.15.

6(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The following provides further discussion of the relevant issues:

6(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

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

As part of the original development application, a Stage 1 Preliminary Environmental Site Assessment has been prepared by Environmental Investigation Services (EIS) which identified that there is potential for an Underground Fuel Storage Tank (UST) to be present on site. Notwithstanding, EIS considers that the site can be made suitable for the proposed mixed use development, subject to the following further investigations:

- Undertake a Stage 2 ESA to address any data gaps;

- Undertake remediation works to remediate any potential contamination; and
- Undertake a Hazardous Materials Assessment (Hazmat) for the existing buildings prior to the commencement of demolition work.

A Stage 2 Site Investigation Assessment and Remedial Action Plan, prepared by Environmental Investigation Services (EIS) was also provide in D/2017/491 which reached the following conclusions:

- a) Are there elevated concentrations of contaminants above the SAC present? Yes. Elevated concentrations of lead, copper, nickel, zinc, B(a)P TEQ and TRH F3 were detected in soil samples. Elevated concentrations of copper and zinc were detected in the groundwater.*
- b) Was asbestos containing material identified in sub-surface soil samples? Yes. Chrysotile asbestos was identified in matted material in sample BH101 0.15-0.25.*
- c) Is further investigation required? Yes. Additional assessment is required at the building locations on site. The UST (if still remaining) and/or the underground structures (particularly if associated with the former UST) should be removed from site and the removal will need to be observed and validated by an environmental consultant. The fill material at the site requires further assessment for waste classification for the off-site disposal of the impacted fill material.*
- d) Is the site suitable or can be made suitable for the proposed use? EIS are of the opinion that the site can be made suitable for the future mixed-use of the site, subject to the recommendations below:*
 - 1. Undertake additional Stage 2 ESA at the building locations (eastern section of the site) to address the data gaps identified in Section 11.3;*
 - 2. Prepare a Remediation Action Plan (RAP) to outline remedial measures for the site, including the additional assessment at the building locations, additional assessment for waste classification (particularly around BH101) and decommissioning and removal of the potential UST and/or underground structures (potentially associated with the former UST) ;*
 - 3. Prepare an Asbestos Management Plan (AMP);*
 - 4. Prepare a Validation Assessment (VA) report on completion of remediation; and*
 - 5. Undertake a Hazardous Materials Assessment (Hazmat) for the existing buildings prior to the commencement of demolition work.*

In the event unexpected conditions are encountered during development work or between sampling locations that may pose a contamination risk, all works should stop and an environmental consultant should be engaged to inspect the site and address the issue.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) has been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. To ensure that these works are undertaken, the relevant conditions that were included in the conditions of consent for the original development application will be retained.

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

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*. *SEPP 65* prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including

context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

As the proposed modifications does not include any changes to the residential units on the first floor and above, the proposed modifications will not result in any additional impacts in regards to the residential components of the proposal and the proposed modification is satisfactory in this regard.

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

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

- Clause 2.3 - Zone objectives and Land Use Table
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.10 - Heritage Conservation
- Clause 6.4 - Stormwater management

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

The site is zoned B2 Local Centre under the *LLEP 2013*. The Land and Environment Court characterised the development as *shop top housing with retail floorspace*. The development remains permissible with consent within the zone and consistent with the objectives of the zone.

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

Standard	Proposal	Non compliance	Complies
Floor Space Ratio Maximum permissible: 1.5:1 or 1987.5 sqm	1.48:1 or 1951 sqm	N/A	Yes

Clause 5.10 - Heritage Conservation

The subject premises are listed as a heritage item scheduled in the former Leichhardt LEP 2013.

The property, described as “single storey shops” was listed in the following terms:
“No. 731-735 Darling Street is of local historic, aesthetic and social significance as an early twentieth century commercial building. The original building form and character is retained particularly the parapet wall and glass shopfronts and street awning. The building makes a positive contribution to the Darling Street streetscape.”

The description of the building put emphasis on its street facades:
“Single storey early twentieth century shop located on the corner of Darling and Cambridge Streets with a high rendered parapet wall. The Darling Street facade consists of a glass shopfront consisting of a series of large glass metal framed panels on a rendered base. The main entry is recessed with a tessellated tile floor and timber frame glass french doors.

The Cambridge Street façade consists of a glass shopfront consisting of a series of large glass metal framed panels on a rendered base. A side recessed entry has a tessellated tile floor and glass timber framed door. The glass shopfront panels consist of large plain glass panels with a patterned leadlight toplight panel above. The front and side parapet wall is rendered with

moulded cornices and a central raised panel with a decorative centre motif and cornice mouldings. A wide awning extends around the building and is supported by the parapet wall.

A single storey skillion roofed section extends from the rear of the building with timber and glass walls facing Cambridge Street and render and glass wall facing the rear carpark”.

The building had in fact been extensively internally altered, as evidenced by many successive documented approvals for building works held in Council records. The approval by the Court of the adaptive re-use of the site for new commercial spaces and apartments within a three storey building with excavated basements will require reconsideration of the property’s significance, and a re-drafted Statement of that Significance, in due course. It is considered that the adapted complex, including the retained façade, will still exhibit locally important historic, cultural and aesthetic significances.

The modification proposal for which consent is sought involves a number of detail changes mostly of planning concern, but some of potential heritage impact. These, and the related comment on their impact (*shown in italics*) are :

- In reflection of changes to the ground floor commercial tenancy layouts, two additional single entry doors are proposed in the Cambridge Street façade, as front entry doors to two of the tenancies - *while one is suitably centred on the rendered wall panel into which it is being inserted, the other requires adjustment to be so centred* ; the design treatment of the doors is not detailed – *it is suggested these be glazed sash doors with transoms over, similar to the nearby door assembly to the apartment’s lobby* ;
- The modification includes a proposed colour scheme which essentially comprises a mixture of variously toned greys – *it is suggested that the retained heritage façade should be subtly differentiated from the apartments structure by use of a more traditional colour treatment, such as a warm to neutral stone colour, trimmed with tonally related colour on mouldings and other façade elements (copings, inlay mouldings, the cartouche/medallion) eg., BS381c colour # 366 “Light Stone” with half-strength trim, or other stone/buff colours such as Pascol Heritage Colours “Drab” or “Coir”.*
- The drawings also call up the installation of a traditionally detailed suspended street awning to the Darling Street and Cambridge Street elevations – *detailed construction drawings of the proposed awnings should be provided for Council’s approval prior to the release of the Construction Certificate.*

The proposed modification is supported in heritage terms, subject to implementation of the following conditions:

1. The two new tenancy front entry doors are to be centred on the rendered wall panels into which they are being inserted, and are to be glazed and metal framed sash doors with transoms over, similar to the nearby door assembly to the apartments lobby;
2. In the proposed colour scheme the retained heritage façade is to be differentiated from the apartments structure by use of a more traditional colour treatment, such as a warm to neutral stone colour, trimmed with tonally related colour on mouldings and other façade elements (copings, inlay mouldings, the cartouche/medallion);
3. For the traditionally detailed suspended street awning to the Darling Street and Cambridge Street elevations, detailed construction drawings are to be provided for Council’s approval prior to the release of the Construction Certificate.

The requirements of Council’s Heritage Advisor are recommended to be imposed as new conditions on the modified consent – see recommended conditions in Attachment A of this report.

6(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

6(d) 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	Yes
B3.1 Social Impact Assessment	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes, subject to conditions
C1.4 Heritage Conservation Areas and Heritage Items	Yes, subject to conditions
C1.5 Corner Sites	Yes, subject to conditions
C1.6 Subdivision	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	Yes
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Yes
C1.17 Minor Architectural Details	Yes, subject to conditions
Part C: Place – Section 2 Urban Character	
C2.2.5.5 Rozelle Commercial Distinctive Neighbourhood	Yes – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes – see discussion
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Refer to SEPP 65

	Assessment
C3.9 Solar Access	Refer to SEPP 65 Assessment
C3.10 Views	Refer to SEPP 65 Assessment
C3.11 Visual Privacy	Refer to SEPP 65 Assessment
C3.12 Acoustic Privacy	Refer to SEPP 65 Assessment
C3.14 Adaptable Housing	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	Yes
C4.15 Mixed Use	Yes
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
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes, subject to conditions
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes, subject to conditions
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	Yes, subject to conditions
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes, subject to conditions
E1.2.3 On-Site Detention of Stormwater	Yes, subject to conditions
E1.2.4 Stormwater Treatment	Yes, subject to conditions
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

The following provides discussion of the relevant issues:

C1.3 Alterations and additions, C1.4 Heritage Conservation Areas and Heritage Items, C1.5 Corner Sites, C1.17 Minor Architectural Details, C2.2.5.5 Rozelle Commercial Distinctive Neighbourhood, C3.3 Elevation and Materials

The proposed modifications include changes to the exterior of the heritage item. This is discussed in detail in an earlier section of the report and is considered to be acceptable subject to the heritage officer’s conditions detailed above.

C1.11 Parking, E1.2.2 Managing Stormwater within the Site and E1.2.3 On-Site Detention of Stormwater

Carparking

The proposed modification seeks revised internal layout including a new OSD tank and other facilities within the parking facilities areas.

There are no proposed changes to the number of residential parking spaces nor any changes to the residential component of the approved development.

The following parking rates apply to the retail component of the development:

Land Use	Staff & Visitors Combined	
	Minimum	Maximum
Shops / supermarkets	1 space per 50 sqm If the premises are located on a “Recognised Shopping Street” the first 50 sqm are exempt from parking provision (Refer to Note 3)	1 space per 50 sqm

Note 3. Several specific land uses within recognised shopping streets have an exemption applied for the first 50 m2 in the “minimum” category. The exemption is based on an assumption that 50 m2 represents a minimum basic space in a main street premise, such as a shop or café, and is aimed at recognising the walk-up potential of the locations. Refer to section C1.11.7 within this section of the Development Control Plan.

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

It should be noted that the total amount of required parking spaces is based on Gross Floor Area and not based on the number of tenancies. D/2017/491 included approximately 450 sqm of retail gross floor area, whereas the proposed modifications will result in a reduction of retail gross floor area to 405 sqm due to the proposed shared amenities.

It is also noted that, as the subject site is located within a Recognised Shopping Street, the first 50 sqm for each shop is excluded from calculations for parking requirements. Therefore the proposal will generate a requirement of 5 retail car parking spaces. If the shared amenities is included in the total gross floor space, the requirement will be 6 retail car parking spaces.

As 6 parking spaces have been retained to be used by the retail premises, there are no additional impacts from the proposed modifications as the proposal will comply with the parking requirements under C1.11 – Car Parking.

Stormwater

A revised stormwater plan has not been submitted to address the new OSD tank therefore stormwater plans must be as per the stormwater plan submitted with the development application.

In addition, a review of the Development Application and conditions of consent has identified that the Land and Environment Court failed to impose the relevant and necessary engineering conditions to ensure compliance with the Roads Act 1993, Council's DCP and stormwater code, and Australian Standards.

There are no objections to the proposed modifications in this regard subject to the additional conditions (12A – 12D, 60A – 60K, 62A, 62B and Advisory Note A) and condition 20 to be amended as per Attachment A.

C4.5 Interface Amenity and C4.15 Mixed Use

As there are no changes to the bulk and scale of the development, the proposed modifications will not result in any additional impacts to adjoining residential properties in relation to solar access, visual privacy or loss of views.

While the proposed modifications will result in an increase of retail tenancies from 2 to 4 tenancies, the closest retail tenancy to the northern boundary will retain a 27.5 metre setback that is consistent with the original approved development. It is considered that the proposed increase of tenancies will not result in additional adverse noise / amenity impacts due to the following reasons:

- Despite an increase of the number of tenancies, there is no significant increase to Retail Gross Floor Space (technically there is a reduction due to the provision of shared amenities).
- Tenancies of smaller sizes are likely to attract specialised retail premises which are of low noise impacts.
- The retail premises will be located a significance distance away from the north-adjacent residential properties (approximately 27.5 metres away from the northern boundary which is consistent with the approved development).

Therefore, the proposed modifications will result in additional adverse amenity impacts to adjoining properties compared to the previously approved development.

However, To ensure that there will be no adverse noise impacts from plant and equipment, a standard condition will be recommended that requires the proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

6(e) The Likely Impacts

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

6(g) Any submissions

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

Objections from 3 properties were received in response to the initial notification.

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

- Issues in relation to impact to Heritage Item – see Section 6(a)(iii) of the report
- Issues in relation to Parking – see Section 6(d) of the report
- Issues in relation to amenity impacts - see Section 6(d) of the report

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

Issue: It seems that the list of proposed modifications are more significant than what a normal application for a S4.56 would cover.

Comment: The proposed modification will result in a development that is considered to be substantially the same as the development that was originally approved.

Issue: Issues in relating to noise from plant room and machinery.

Comment: A standard condition had been recommended that requires the proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

Issue: Issues in lack of information regarding retail use in relation to trading hours, deliveries etc.

Comment: Given that there are no specific prospective tenants for the proposed premises, there is no information in relation to trading hours, deliveries etc. Any future use of the retail premises will require approval under a DA or Complying Development Certificate, which will impose conditions in relation to trading hours.

Issue: I am concerned re the crane work that is proposed with confirmation the crane's 'bucket' will be overhead 10 Cambridge Street. In fact, our concern is how the crane is secured outside work hours. I request an independent WHS company - not associated with the construction company in any way - be engaged to ensure safe protocols are observed at all times.

Comment: This is a construction safety matter which is separate to the development assessment process. There are no provisions within the planning regime that allow the imposition of the requirement for an independent WHS company to manage the construction process. The applicant will need comply with the requirements under SafeWork NSW.

6 (h) The Public Interest

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

The proposal is not considered 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.

- Heritage – No objections, subject to recommended conditions in Attachment A of this report.

- Engineers - No objections subject to recommended amended and additional conditions in Attachment A of this report.

7(b) External

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

8. Section 7.11 Contributions/7.12 Levy

Section 94 contributions are of \$320,000 were levied on the original consent. The modification proposal does not affect this amount under the Leichhardt contributions Plan.

9. Conclusion

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

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

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

10. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.56 of the *Environmental Planning and Assessment Act 1979*, grant consent to Application No. M/2019/232 for a Modification to the Court approved redevelopment for mixed use (retail and apartments) at 731-735 Darling Street Rozelle subject to the conditions listed in Attachment A.

Attachment A – Recommended conditions of consent

- Development must be carried out in accordance with Development Application No. D/2017/491 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA-001 K (Context Plan – Site Plan)	Nettleton Tribe	5/2/2019
DA-002 J (Demolition Plan – Ground)	Nettleton Tribe	1/11/2018
DA-003 G (Demolition Plan – Roof)	Nettleton Tribe	1/11/2018
DA-004 I (Demolition Elevations)	Nettleton Tribe	1/11/2018
DA-100 L DA-100 M (Basement Level Floor Plan)	Nettleton Tribe	5/2/2019 21/11/2019
DA-101 M DA-101 O (Ground Floor Plan)	Nettleton Tribe	5/2/2019 12/12/2019
DA-102 N (Level 1 Floor Plan)	Nettleton Tribe	5/2/2019
DA-103 N (Level 2 Floor Plan)	Nettleton Tribe	5/2/2019
DA-104 N (Level 3 Floor Plan)	Nettleton Tribe	5/2/2019
DA-105 L (Roof Plan)	Nettleton Tribe	5/2/2019
DA-201 L DA-201 M (Southeast & Northeast Elevations)	Nettleton Tribe	5/2/2019 21/11/2019
DA-202 L DA-202 M (Northeast & Southwest Elevations)	Nettleton Tribe	5/2/2019 21/11/2019
DA-301 L DA-301 M (Sections)	Nettleton Tribe	5/2/2019 21/11/2019
DA-302 E (Sections)	Nettleton Tribe	5/2/2019
DA-303 A (Sections)	Nettleton Tribe	5/2/2019
DA-401 J (Adaptable Unit Type 102/202)	Nettleton Tribe	1/11/2018
DA-402 K (Adaptable Unit Type 107/207)	Nettleton Tribe	5/2/2019
DA-701 I (Survey Plan)	Nettleton Tribe	1/11/2018
DA-901 H (BASIX Spec Bloc)	Nettleton Tribe	1/11/2018
LP01 D (Landscape Plan)	Narelle Sonter Botanica	2/11/2018
LP02 E (Landscape Plan – Planters)	Narelle Sonter Botanica	5/2/2019
C00 DA1 (Coversheet, Legend and Drawing Schedule)	AJ Whipps Consulting Group	30/06/2017
C01 DA1 (Erosion and Sediment Control Plan)	AJ Whipps Consulting Group	30/06/2017
C02 DA1 (Erosion and Sediment Control Details)	AJ Whipps Consulting Group	30/06/2017

C03 DA3 (Basement Plan)	AJ Whipps Consulting Group	6/11/2018
C04 DA3 (Ground Floor Plan)	AJ Whipps Consulting Group	6/11/2018
C05 DA3 (Roof Plan)	AJ Whipps Consulting Group	6/11/2018
C06 DA1 (Details Sheet 1)	AJ Whipps Consulting Group	30/06/2017
C07 DA1 (Details Sheet 2)	AJ Whipps Consulting Group	30/06/2017
Documentation	Prepared By	Dated
Façade Retention Construction Methodology	M+G Consulting	8/11/2018
Waste Management Plan	Elephants Foot	6/11/2018
Acoustic Review	Marshall Day Acoustics	6/11/2018
BASIX Certificate (Certificate Number 834914M_03)	Eco Certificates Pty Ltd	2/11/2018
NatHERS Certificate and Building Thermal Modelling Performance Specifications	Eco Certificates Pty Ltd	2/11/2018
Remediation Action Plan	EIS	24/08/2017
Design Verification Statement	Nettleton Tribe	29/06/2017
Geotech Report	JK Geotechnics	3/07/2017
Fire Safety Schedule	Peter Dix	5/11/2018

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

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

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

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

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.
(Condition modified by M/2019/232 insert date)

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

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.
- q) Compliance with the Façade Retention Construction Methodology set out in the M+G Consulting Methodology dated 8 November 2018.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

3. [not used]
4. [not used]
- 4A. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:
 - a. The two new tenancy front entry doors are to be centred on the rendered wall panels into which they are being inserted, and are to be glazed and metal framed sash doors with transoms over, similar to the nearby door assembly to the apartments lobby ;
 - b. In the proposed colour scheme the retained heritage façade is to be differentiated from the apartments structure by use of a more traditional colour treatment, such as a warm to neutral stone colour, trimmed with tonally related colour on mouldings and other façade elements (copings, inlay mouldings, the cartouche/medallion) ;
 - c. For the traditionally detailed suspended street awning to the Darling Street and Cambridge Street elevations, detailed construction drawings are to be provided for Council's approval prior to the release of the Construction Certificate.
5. 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.
6. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - c) At least two days notice, in writing has been given to Council of the intention to commence work.

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

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

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

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 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.

9. [not used]
10. 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.

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

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

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

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

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

- 12A. A stormwater drainage design, incorporating on site stormwater detention facilities (OSD), prepared by a qualified practicing Civil Engineer shall be provided prior to the issue of a Construction Certificate. The design shall be prepared/amended to make provision for the following:
- a) The design shall be generally in accordance with the stormwater drainage concept plan on the following drawings prepared by AJ Whipps Consulting Group:
 - Drawing No. 20170131-C3 Issue DA2 and dated 02.08.17
 - Drawing No. 20170131-C4 Issue DA2 and dated 02.08.17
 - Drawing No. 20170131-C5 Issue DA2 and dated 02.08.17
 - Drawing No. 20170131-C6 Issue DA1 and dated 30.06.17
 - b) Site discharge shall be connected directly to Council's piped drainage system. In this regard, the existing system shall be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 3.0m lintel) shall be installed.

The pipeline shall be Class 4 steel reinforced concrete pipe and be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.
 - b) Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
 - c) Charged or pump-out stormwater drainage systems are not permitted other than for a pump-out system for the subsoil drainage system.
 - d) Subsoil drainage including below the basement floor slab shall be provided to intercept potential seepage at the soil/bedrock interface and through opening defects within the bedrock profile. The subsurface drainage system shall be detailed on the plans and located fully within the property boundaries.
 - e) Stormwater pits within the basement shall have solid covers to prevent pollutants from vehicles entering the stormwater system other than where required to collect subsurface flows at the point of ingress to the basement.
 - f) A pump-out system for stormwater disposal is permitted for drainage of the subsurface drainage system only and must be designed in accordance with the following criteria:
 - i. Comply with all relevant Australian Standards.
 - ii. An overflow, flashing light and audible alarm is to be provided to warn of pump failure.

- iii. *A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months.*
- iv. *The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration, 100-year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from one-hour duration 20-year ARI storm event.*
- v. *Where OSD facilities are required by this consent, the pump system must be discharged to the OSD storage tank.*
- vi. *Subsurface flows must be collected at the point of ingress to the basement i.e. at the basement walls.*
- vii. *The subsurface drainage system must have sufficient capacity to collect and convey all surface flows to the pump out system.*
- viii. *Inlet pits and drains for subsurface drainage must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system. e.g.. isolate any subsurface drains at boundary walls, inspection pits with solid covers, etc.*

- g) *The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design shall include the collection of such waters and discharge to the Council drainage system.*
- h) *An overland flow path shall be provided at the north western boundary to Cambridge Street frontage.*
- i) *As there is no overland flow/flood path available from the balconies, the design of the sag pit and piped drainage system is to meet the following criteria:*
 - i) *Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe.*
 - ii) *The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building*
- j) *The drainage system shall have adequate capacity to collect and convey the 100 year storm event flows to the OSD tanks.*
- k) *Calculations, including DRAINS computer modelling data and results files,*

shall be submitted to support the flow rates and OSD/OSR storage volumes proposed in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013.

OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) 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. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use.

- l) Drainage long sections from the OSD/OSR tank to the point of connection to Council's drainage system shall be provided. The plans shall all surface and invert levels, pipe gradients/diameters, type/location/depth of adjacent utility services and 20 year and 100 year Hydraulic Grade Line Analysis.
- o) An inspection opening or stormwater pit shall be installed inside the property adjacent to the boundary for all stormwater outlets.
- n) Any pipe connections to Council's stormwater drainage system shall be no less than 150mm above the invert of Council's downstream stormwater pipe at the point of connection.
- p) Calculations, including MUSIC computer modelling data and results files, shall be submitted to support the proposed stormwater treatment measures. Stormwater quality improvement devices shall be installed such that stormwater flows leaving the site meet the following environmental targets:

Pollutant	Baseline Pollution (kg/ha/yr)	Annual Load	Retention Criteria
Gross Pollutants, including trash, litter and vegetation matter greater than 5mm	500		90% reduction of average annual load
Total Suspended solids, including sediment and other fine material less than 5mm	900		85% reduction of average annual load
Total Phosphorous	2		65% reduction of average annual load
Total Nitrogen	15		45% reduction of average annual load
Hydrocarbons (Oil and Grease)			90% reduction of average annual load – no visible discharge

Toxicants		100% containment of toxicants
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The design shall be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. (Condition added by M/2019/232 insert date)

12B. *An integrated structural and geotechnical report and plans that address design of the proposed basement, prepared by a qualified practicing Structural and Geotechnical Engineer, must be provided prior to the issue of a Construction Certificate. The report and plans must be prepared/ amended to make provision for the following:*

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

The design must be certified as compliant with the terms of this condition by a suitably qualified practicing Structural and Geotechnical Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate. (Condition added by M/2019/232 insert date)

12C *The design of the vehicular access and off street parking facilities shall comply with Australian Standards AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and AS/NZS2890.3-2015 Parking Facilities – Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues shall be addressed in the design:*

- a) *The floor/finished levels within the property shall be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.*
- b) *The garage slab or driveway shall rise within the property to be no less than 170mm above the adjacent road gutter level.*
- c) *The longitudinal profile across the width of the vehicle crossing shall comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 vehicle.*
- d) *A minimum of 2200mm headroom shall be provided throughout the access and parking facilities. Note that the headroom shall be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.*
- e) *Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway shall be provided, demonstrating compliance with the above requirements.*
- f) *The parking space(s) dimensions shall be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.*
- g) *The external form & height of the approved structures shall not be altered from that depicted on the approved plans.*

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

Details demonstrating compliance shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. (Condition added by M/2019/232 insert date)

12D *In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:*

- a) *Construction of a heavy duty concrete vehicle crossing at the at the vehicle access location.*
- b) *Closure of any portion of redundant vehicle crossing.*
- c) *the existing system shall be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 3.0m lintel) shall be installed.*

The pipeline shall be Class 4 steel reinforced concrete pipe and be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.
- d) *Removal of all redundant stormwater pipelines within the footpath area.*
- e) *The works shall be constructed in accordance with the approved plans, conditions of the Roadworks Permit, Council's standard drawings and specifications and AUS-SPEC#2-"Roadworks Specifications".*
- f) *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.*

Full detailed construction plans and specifications prepared by a qualified practising Civil Engineer shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate.

The plans shall include long sections along both sides of the proposed vehicular crossing, drawn at a 1:20 natural scale, from the centreline of the adjacent road to a minimum of 7.5 metres into the property and long sections of stormwater pipe from the OSD tank to the point of connection to the existing Council drainage system. All plans and sections must show existing surface levels and proposed surface levels.

All works shall completed before to the issue of an Occupation Certificate at no cost to Council. (Condition added by M/2019/232 insert date)

13. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways

accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.

- iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- 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.

14. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.
- All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.
15. [not used]
16. An Access Management Plan must be provided by an Accredited Access Consultant prior to the issue of a Construction Certificate. Details of the Access Management Plan must include:
- a) Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether an upgrade of the 'Affected part' is required.
 - b) Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia.
 - c) Conduct an assessment and identify any non-compliances with the Disability Standards 2010 and/or the Building Code of Australia where applicable and provide recommendations to achieve compliance with the relevant performance requirements.
- Suitable access is to be provided to all communal areas including the common room and private open space.
17. [not used]
18. 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
Community Facilities	\$42,175.28
Open Space	\$275,960.26
Local Area Traffic Management	\$1,579.13
Bicycle	\$285.34
Total	\$320,000.00

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

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

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

- 19. 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 (FOOT)	\$\$16,576.70
Inspection fee (FOOTI)	\$230.65

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.

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

Property
737 Darling Street 10 Cambridge Street 3 Oxford Street 5 Oxford Street 7 Oxford Street All Public Lands being "Cambridge Street" and "Darling Street" within and adjacent areas of works incl. roads and footpaths
If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing. In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works. Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works. Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be

submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate. **(Condition modified by M/2019/232 insert date)**

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

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

22. The tree in 737 Darling Street, adjacent to the boundary with the subject property, shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites AS 4970—2009*, unless Council is provided with the consent of the owner of 737 Darling Street to remove that tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required.

Reason: To clarify that the tree in the neighbouring property must be retained and appropriately protected until such time as owners consent is given to remove the tree.

23. All reasonable directions in writing by the project arborist in relation to tree management and tree protection shall be complied with. All directions by the project arborist shall be confirmed in writing to the project manager.

Reason: To ensure that tree protection can respond to unforeseen risks and impacts

24. [Not Used]

PRIOR TO THE COMMENCEMENT OF WORKS

25. 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.

26. 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.

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

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

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

31. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.

Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

32. The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.

Reason: Council requires details of the project arborist to facilitate communication if required.

33. The project arborist shall prepare a Tree Protection Plan for the tree in 737 Darling Street, which shall be submitted to and approved by Council before work commences, unless Council is provided with the consent of the owner of 737 Darling Street to remove that tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required. The Tree Protection Plan shall ensure that the stability and ongoing viability of the neighbour's tree are not compromised.

Reason: To ensure the neighbour's tree is effectively protected and managed and its stability and ongoing viability are not compromised.

34. Where relevant and at the project arborist's direction, the tree protection measures detailed in the council-approved Tree Protection Plan shall be established before work commences.

Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised.

35. The project arborist shall inspect the tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the council-approved tree protection plan before work commences.

Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

DURING WORKS

36. 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.

37. 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.

38. The site must be appropriately secured and fenced at all times during works.
39. 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.

40. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
 - a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

8:00 am to 12:00 pm, Monday to Saturday; and
2:00 pm to 6:00 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.

41. 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.
42. 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.
43. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
44. 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.
45. 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.

46. 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 or unless Council is provided with the consent of the owner of the relevant surrounding properties to remove that any vegetation, in which case that vegetation may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required.

47. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. The pruning shall be undertaken by a minimum Level 3 (AQF 3) qualified Arborist.

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority

48. Tree protection measures detailed in the council-approved Tree Protection Plan and in Section 4 of Australian Standard *Protection of Trees on Development Sites AS 4970—2009* shall be implemented and complied with for the duration of works including site preparation, demolition, construction and landscaping (except where these conditions permit otherwise). Woody, structural roots within the Structural Root Zone (SRZ), as designated by the project arborist and detailed in the Tree Protection Plan, shall not be pruned, severed or otherwise harmed unless the consent of the owner of the land upon which the relevant tree is located is obtained to remove any tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required. Any reasonable directions in writing by the Project Arborist relating to tree protection shall be complied with.

Reason: To ensure trees being retained are effectively protected and managed and their stability and ongoing viability are not compromised.

49. 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.

50. During construction the project arborist shall undertake periodic inspections of the tree in 737 Darling Street and ensure that its protection is being undertaken in accordance with the approved Tree Protection Plan and these conditions, unless Council is provided with the consent of the owner of 737 Darling Street to remove that tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required.

Reason: To ensure that conditions relating to tree protection are complied with.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

52. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
53. 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.
54. 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.

55. A validation report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied.

The validation report shall be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and shall include:

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied
- Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminates.

56. Prior to the issue of any interim / final Occupation Certificate, certification from an appropriately qualified environmental consultant is to provide:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- b) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all site used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

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

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

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and plumbing section on the web site www.sydneywater.com.au then refer to "Plumbing, building & developing".

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

58. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.
59. 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.
60. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) before the issue of the Occupation Certificate that the conditions of consent relating to tree protection have been complied with and that the protected tree has not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Inner West Council.

Reason: To ensure that conditions that aim to ensure the sustainability of Inner West urban forest are complied with.

- 60A. ***The approved parking spaces shall be allocated as detailed on the Ground Floor plan D1515-02 Issue 11 Dated Jan 2019. All spaces shall be appropriately line marked and labelled according to this requirement prior to the issue of an Occupation Certificate. If the development is strata subdivided, the car park layout on the strata plan shall be in accordance with the required allocation:***

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate. (Condition added by M/2019/232 insert date)

- 60B. ***To ensure that waste water is treated in an acceptable manner the car wash bay shall be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water.***

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Cconstruction Ccertificate with details demonstrating that car wash bay has been constructed in accordance with per the approved plans including wastewater discharged to the sewer submitted prior to Occupation Certificate. (Condition added by M/2019/232 insert date)

- 60C. ***Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.***

Works-as-executed plans of the stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the drainage system has been constructed, including on site detention system and orifice plate and stormwater quality improvement devices, in accordance with the approved design and relevant Australian Standards, shall be submitted to Council prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) shall show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated shall be marked in red on a copy of the Principal Certifying Authority stamped Construction Certificate plans. (Condition added by M/2019/232 insert date)

- 60D. *Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that an Operation and Management Plan has been prepared and implemented for the on site detention facilities and stormwater quality improvement devices. The Plan shall set out the following at a minimum:*
- a) *The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.*
 - b) *The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.*

The Plan shall be prepared by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate. (Condition added by M/2019/232 insert date)

- 60E. *Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the vehicle access and off street parking facilities have been constructed, line marked including allocation to residential units/visitors/employees in accordance with the approved design and relevant Australian Standards.*

Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate. (Condition added by M/2019/232 insert date)

- 60F. *Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with written evidence from Council that all works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the Roads Act 1993. (Condition added by M/2019/232 insert date)*
- 60G. *Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with Certification by a suitably experienced Civil Engineer who*

holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a) *All works required to be undertaken on public roads have be designed and constructed in accordance with Council's approved plans, standard drawings, specifications and in accordance with Council Roadworks Permit.*
- b) *The works have been be supervised and inspected by a qualified civil engineer.*
- c) *Provide full details of all inspections.*
- d) *Video inspection (CCTV) in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia has been carried out of completed stormwater drainage works that are to revert to Council by an accredited operator.*
- e) *Full works-as-executed plans in PDF and CAD format (dwg or dxf files), prepared and signed by a Registered Surveyor have been submitted to Council.*

(Condition added by M/2019/232 insert date)

- 60H. *The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any stone kerbs requiring removal shall be carefully removed and returned to Council depot for reuse. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. (Condition added by M/2019/232 insert date)*
- 60I. *Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate. (Condition added by M/2019/232 insert date)*
- 60J. *You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate. (Condition added by M/2019/232 insert date)*
- 60K. *Prior to the issue of an Occupation Certificate, the Principal Certifying Authority*

must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act 1919, has been created on the title of the property detailing the following :

- a) Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;*
- b) Positive Covenant related to on-site stormwater detention and/or retention system;*
- c) Positive Covenant related to stormwater quality improvement devices; and*

The wording in the Instrument must be in accordance with Councils Standard wording. (Condition added by M/2019/232 insert date)

ONGOING CONDITIONS OF CONSENT

- 61. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
- 62. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *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.
- 62A. *The Operation and Management Plan for the on site detention facilities and stormwater quality improvement devices, approved with the Occupation Certificate, shall be implemented and kept in a suitable location on site at all times. (Condition added by M/2019/232 insert date)*
- 62B. *All vehicles shall enter and exit the site in a forward direction. (Condition added by M/2019/232 insert date)*
- 62C. *The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.. (Condition added by M/2019/232 insert date)*
- 63. [not used]

64. 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.

PRESCRIBED CONDITIONS**A. BASIX Commitments**

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

In this condition:

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

B. Building Code of Australia

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

C. Home Building Act

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

Council), has given the Council written notice of the updated information.

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

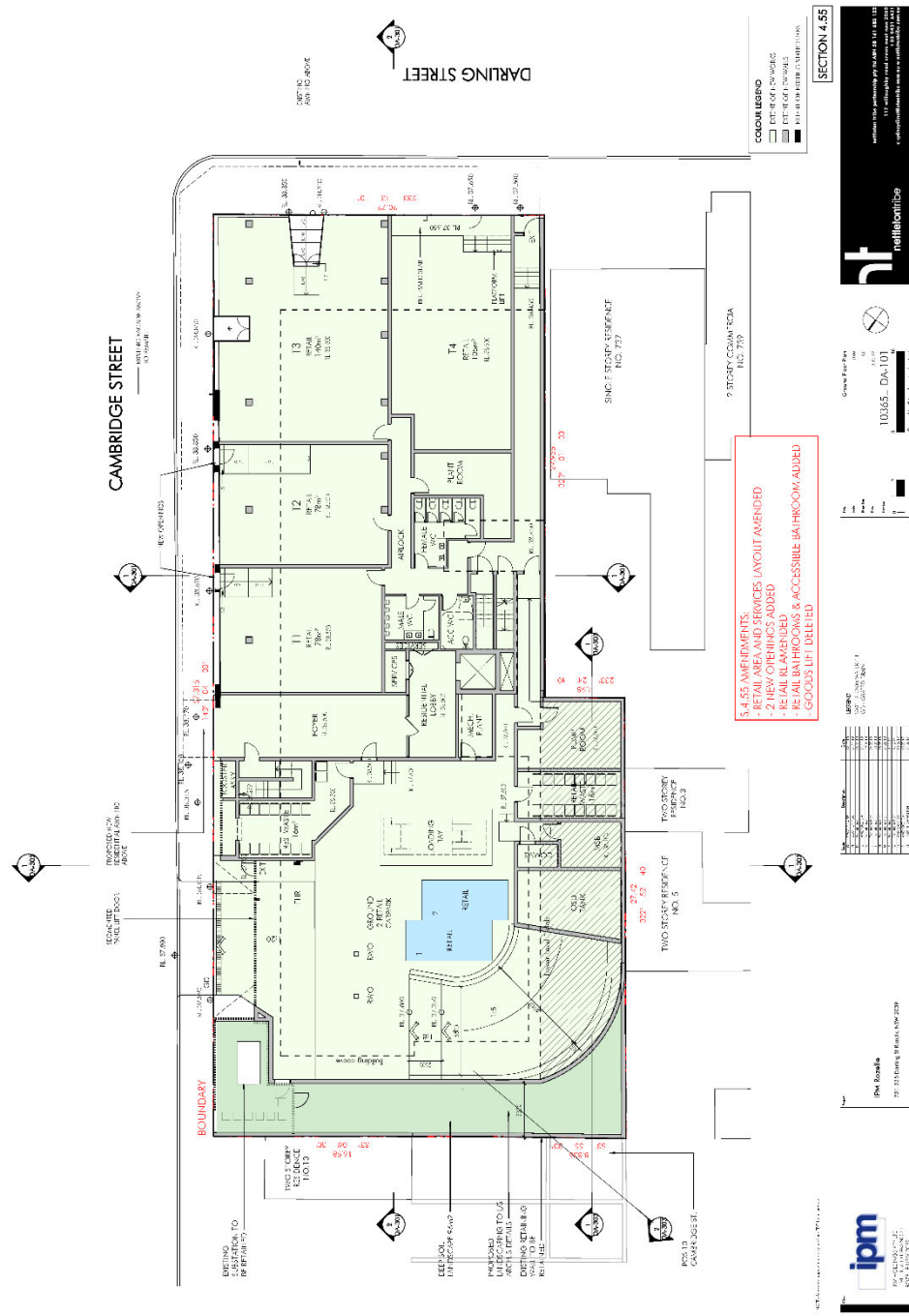
E. Condition relating to shoring and adequacy of adjoining property

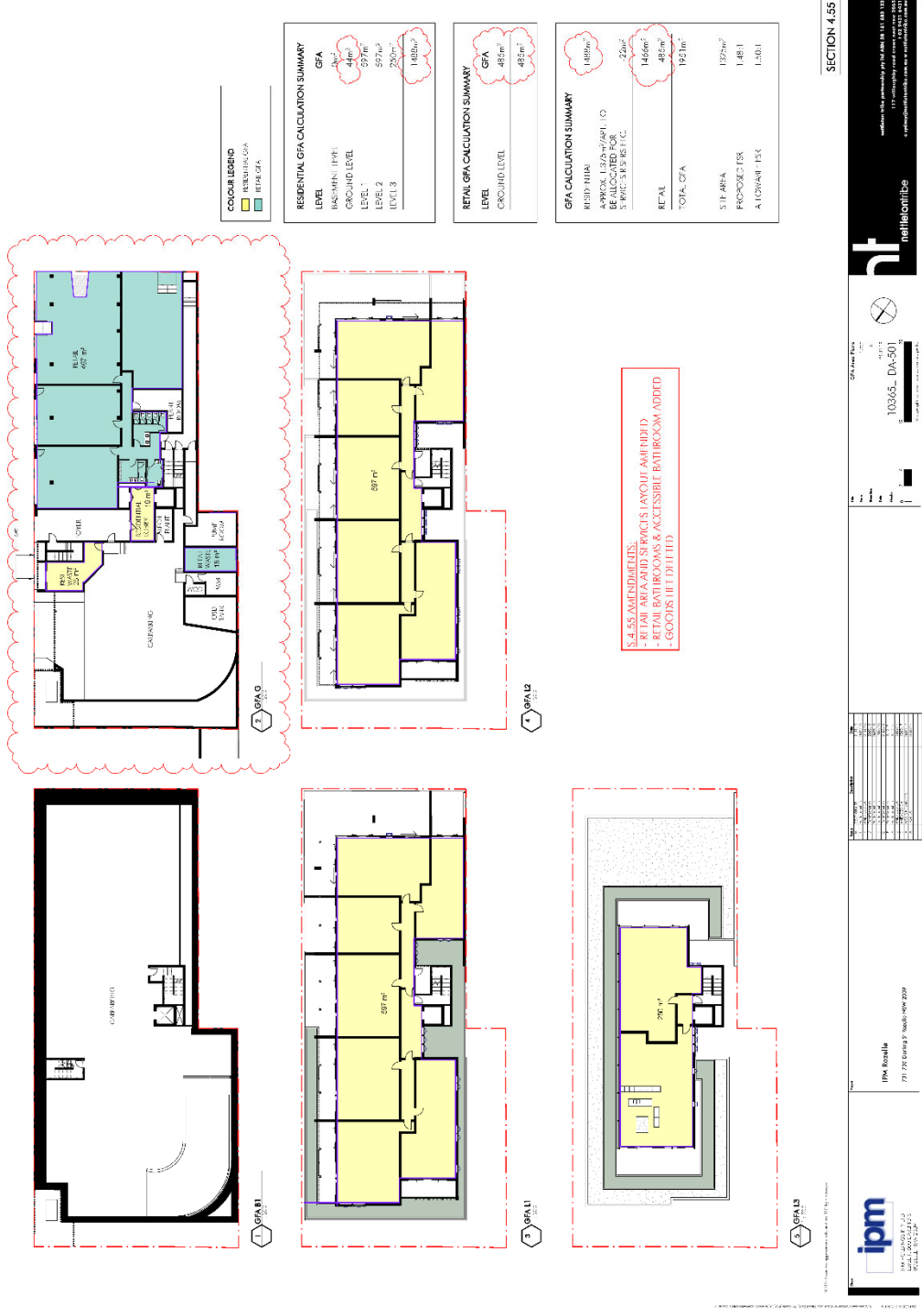
- (1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Advisory note

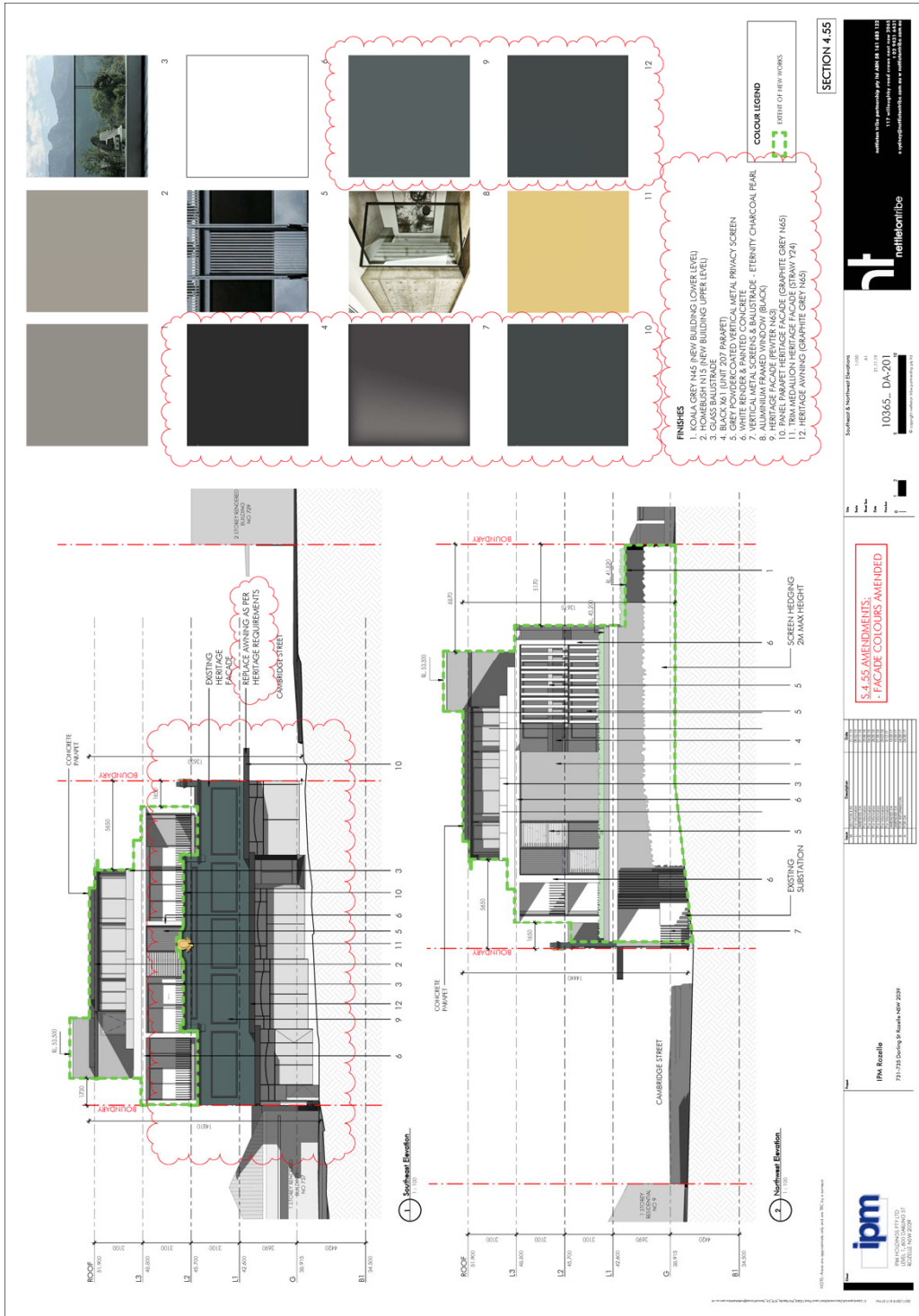
The vehicular crossing and/or public domain works are required to be constructed by your own contractor. You or your contractor shall complete an application for 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 1' form for design approval and an 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works. (Advisory note added by M/2019/232 insert date)

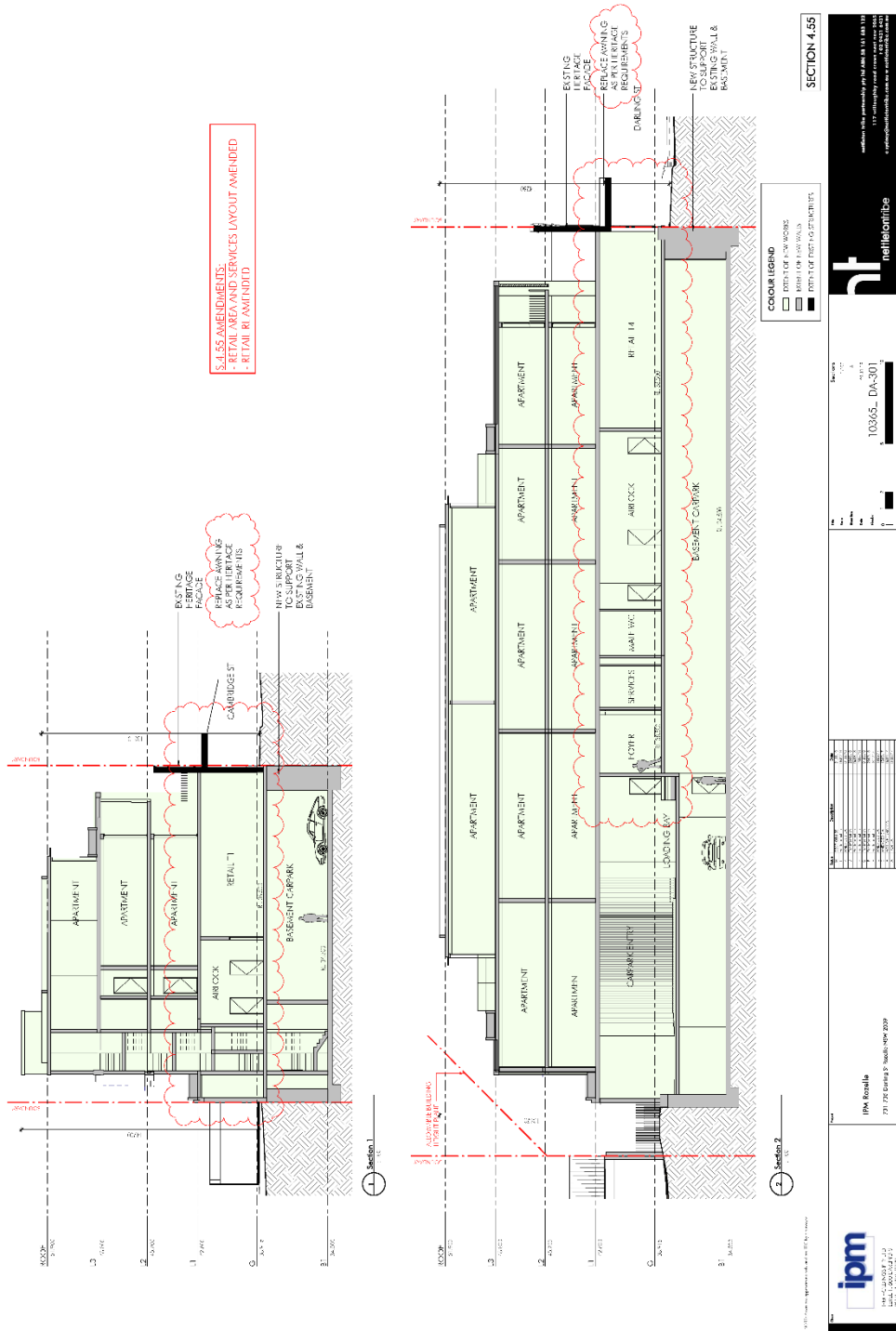
Attachment B – Plans of proposed development











S.4.55 AMENDMENTS:
- RETAIL AREA AND SERVICES LAYOUT AMENDED
- RETAIL 2 AMENDED

EXIST'NG HERITAGE FACE
REPLACE WITH NEW FACE
REPLACE WITH NEW FACE

NEW STRUCTURE TO SUPPORT EXIST'NG FACE
NEW STRUCTURE TO SUPPORT EXIST'NG FACE

SECTION 4.55
COLOR LEGEND
EXIST'NG FACE
NEW FACE
NEW STRUCTURE TO SUPPORT EXIST'NG FACE

SECTION 1
SECTION 2

IPM CONSULTANTS
7311 7311 Street 5, Southport QLD 4215

Attachment C – Conditions of Consent – D/2017/491

Appeal No. 17/384812

Annexure A

IPM Holdings Pty Ltd v Inner West Council

Conditions of Consent

731-735 Darling Street Rozelle (Council ref. D/2017/491)

1. Development must be carried out in accordance with Development Application No. D/2017/491 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA-001 K (Context Plan – Site Plan)	Nettleton Tribe	5/2/2019
DA-002 J (Demolition Plan – Ground)	Nettleton Tribe	1/11/2018
DA-003 G (Demolition Plan – Roof)	Nettleton Tribe	1/11/2018
DA-004 I (Demolition Elevations)	Nettleton Tribe	1/11/2018
DA-100 L (Basement Level Floor Plan)	Nettleton Tribe	5/2/2019
DA-101 M (Ground Floor Plan)	Nettleton Tribe	5/2/2019
DA-102 N (Level 1 Floor Plan)	Nettleton Tribe	5/2/2019
DA-103 N (Level 2 Floor Plan)	Nettleton Tribe	5/2/2019
DA-104 N (Level 3 Floor Plan)	Nettleton Tribe	5/2/2019
DA-105 L (Roof Plan)	Nettleton Tribe	5/2/2019
DA-201 L (Southeast & Northeast Elevations)	Nettleton Tribe	5/2/2019
DA-202 L (Northeast & Southwest Elevations)	Nettleton Tribe	5/2/2019
DA-301 L (Sections)	Nettleton Tribe	5/2/2019
DA-302 E (Sections)	Nettleton Tribe	5/2/2019
DA-303 A (Sections)	Nettleton Tribe	5/2/2019
DA-401 J (Adaptable Unit Type 102/202)	Nettleton Tribe	1/11/2018
DA-402 K (Adaptable Unit Type 107/207)	Nettleton Tribe	5/2/2019
DA-701 I (Survey Plan)	Nettleton Tribe	1/11/2018
DA-901 H (BASIX Spec Bloc)	Nettleton Tribe	1/11/2018
LP01 D (Landscape Plan)	Narelle Sonter Botanica	2/11/2018
LP02 E (Landscape Plan – Planters)	Narelle Sonter Botanica	5/2/2019
C00 DA1 (Coversheet,	AJ Whipps Consulting	30/06/2017

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Legend and Drawing Schedule)	Group	
C01 DA1 (Erosion and Sediment Control Plan)	AJ Whipps Consulting Group	30/06/2017
C02 DA1 (Erosion and Sediment Control Details)	AJ Whipps Consulting Group	30/06/2017
C03 DA3 (Basement Plan)	AJ Whipps Consulting Group	6/11/2018
C04 DA3 (Ground Floor Plan)	AJ Whipps Consulting Group	6/11/2018
C05 DA3 (Roof Plan)	AJ Whipps Consulting Group	6/11/2018
C06 DA1 (Details Sheet 1)	AJ Whipps Consulting Group	30/06/2017
C07 DA1 (Details Sheet 2)	AJ Whipps Consulting Group	30/06/2017
Documentation	Prepared By	Dated
Façade Retention Construction Methodology	M+G Consulting	8/11/2018
Waste Management Plan	Elephants Foot	6/11/2018
Acoustic Review	Marshall Day Acoustics	6/11/2018
BASIX Certificate (Certificate Number 834914M_03)	Eco Certificates Pty Ltd	2/11/2018
NatHERS Certificate and Building Thermal Modelling Performance Specifications	Eco Certificates Pty Ltd	2/11/2018
Remediation Action Plan	EIS	24/08/2017
Design Verification Statement	Nettleton Tribe	29/06/2017
Geotech Report	JK Geotechnics	3/07/2017
Fire Safety Schedule	Peter Dix	5/11/2018

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

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

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

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

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

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

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished

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materials in order to reduce the environmental impacts of waste disposal.

- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.

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- iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
- v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.
- q) Compliance with the Façade Retention Construction Methodology set out in the M+G Consulting Methodology dated 8 November 2018.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

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

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

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

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

- 8. 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

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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.

9. [not used]
10. 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.

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

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- 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.

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

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

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

- 13. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
 - a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - 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

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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.

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

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

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- 15. [not used]
- 16. An Access Management Plan must be provided by an Accredited Access Consultant prior to the issue of a Construction Certificate. Details of the Access Management Plan must include:
 - a) Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether an upgrade of the 'Affected part' is required.
 - b) Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia.
 - c) Conduct an assessment and identify any non-compliances with the Disability Standards 2010 and/or the Building Code of Australia where applicable and provide recommendations to achieve compliance with the relevant performance requirements.

Suitable access is to be provided to all communal areas including the common room and private open space.

- 17. [not used]
- 18. 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
Community Facilities	\$42,175.28
Open Space	\$275,960.26
Local Area Traffic Management	\$1,579.13
Bicycle	\$285.34
Total	\$320,000.00

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

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

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

- 19. 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 (FOOT)	\$16,576.70
Inspection fee (FOOTI)	\$230.65

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.

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

Property
737 Darling Street

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10 Cambridge Street 3 Oxford Street 5 Oxford Street 7 Oxford Street
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If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

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

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

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

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

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

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- 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.

22. The tree in 737 Darling Street, adjacent to the boundary with the subject property, shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009, unless Council is provided with the consent of the owner of 737 Darling Street to remove that tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required.

Reason: To clarify that the tree in the neighbouring property must be retained and appropriately protected until such time as owners consent is given to remove the tree.

23. All reasonable directions in writing by the project arborist in relation to tree management and tree protection shall be complied with. All directions by the project arborist shall be confirmed in writing to the project manager.

Reason: To ensure that tree protection can respond to unforeseen risks and impacts [Not Used]

24. **PRIOR TO THE COMMENCEMENT OF WORKS**

25. 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.

26. 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

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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.

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

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

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

31. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does

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not remove or prune trees in the Inner West local government area shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.

Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

32. The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.

Reason: Council requires details of the project arborist to facilitate communication if required.

33. The project arborist shall prepare a Tree Protection Plan for the tree in 737 Darling Street, which shall be submitted to and approved by Council before work commences, unless Council is provided with the consent of the owner of 737 Darling Street to remove that tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required. The Tree Protection Plan shall ensure that the stability and ongoing viability of the neighbour's tree are not compromised.

Reason: To ensure the neighbour's tree is effectively protected and managed and its stability and ongoing viability are not compromised.

34. Where relevant and at the project arborist's direction, the tree protection measures detailed in the council-approved Tree Protection Plan shall be established before work commences.

Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised.

35. The project arborist shall inspect the tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the council-approved tree protection plan before work commences.

Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

DURING WORKS

36. 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.

37. 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:

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- 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.

38. The site must be appropriately secured and fenced at all times during works.
39. 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.

40. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
 - a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

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8:00 am to 12:00 pm, Monday to Saturday; and
2:00 pm to 6:00 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.

41. 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.
42. 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.
43. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
44. 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.
45. 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

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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.

46. 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 or unless Council is provided with the consent of the owner of the relevant surrounding properties to remove that any vegetation, in which case that vegetation may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required.

47. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. The pruning shall be undertaken by a minimum Level 3 (AQF 3) qualified Arborist.

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority

48. Tree protection measures detailed in the council-approved Tree Protection Plan and in Section 4 of Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 shall be implemented and complied with for the duration of works including site preparation, demolition, construction and landscaping (except where these conditions permit otherwise). Woody, structural roots within the Structural Root Zone (SRZ), as designated by the project arborist and detailed in the Tree Protection Plan, shall not be pruned, severed or otherwise harmed unless the consent of the owner of the land upon which the relevant tree is located is obtained to remove any tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required. Any reasonable directions in writing by the Project Arborist relating to tree protection shall be complied with.

Reason: To ensure trees being retained are effectively protected and managed and their stability and ongoing viability are not compromised.

49. 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

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- 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.

- 50. During construction the project arborist shall undertake periodic inspections of the tree in 737 Darling Street and ensure that its protection is being undertaken in accordance with the approved Tree Protection Plan and these conditions, unless Council is provided with the consent of the owner of 737 Darling Street to remove that tree, in which case the tree may be removed in accordance with the Leichhardt Development Control Plan 2013, with Council consent if required.

Reason: To ensure that conditions relating to tree protection are complied with.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 51. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:
 - Compare the post construction report with the pre-construction report required by these conditions,
 - Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.
- A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate
- 52. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
 - 53. 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.
 - 54. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority

Appeal No. 17/384812

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.

55. A validation report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied.

The validation report shall be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and shall include:

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied
- Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminants.

56. Prior to the issue of any interim / final Occupation Certificate, certification from an appropriately qualified environmental consultant is to provide:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- b) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all site used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

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

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

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and plumbing section on the web site www.sydneywater.com.au then refer to "Plumbing, building & developing".

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

58. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.
59. 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.
60. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) before the issue of the Occupation Certificate that the conditions of consent relating to tree protection have been complied with and that the protected tree has not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Inner West Council.

Reason: To ensure that conditions that aim to ensure the sustainability of Inner West urban forest are complied with.

ONGOING CONDITIONS OF CONSENT

61. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
62. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *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.
63. [not used]
64. 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.

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- 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.

PRESCRIBED CONDITIONS

A. BASIX Commitments

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

In this condition:

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

B. Building Code of Australia

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

Appeal No. 17/384812

C. Home Building Act

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

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

E. Condition relating to shoring and adequacy of adjoining property

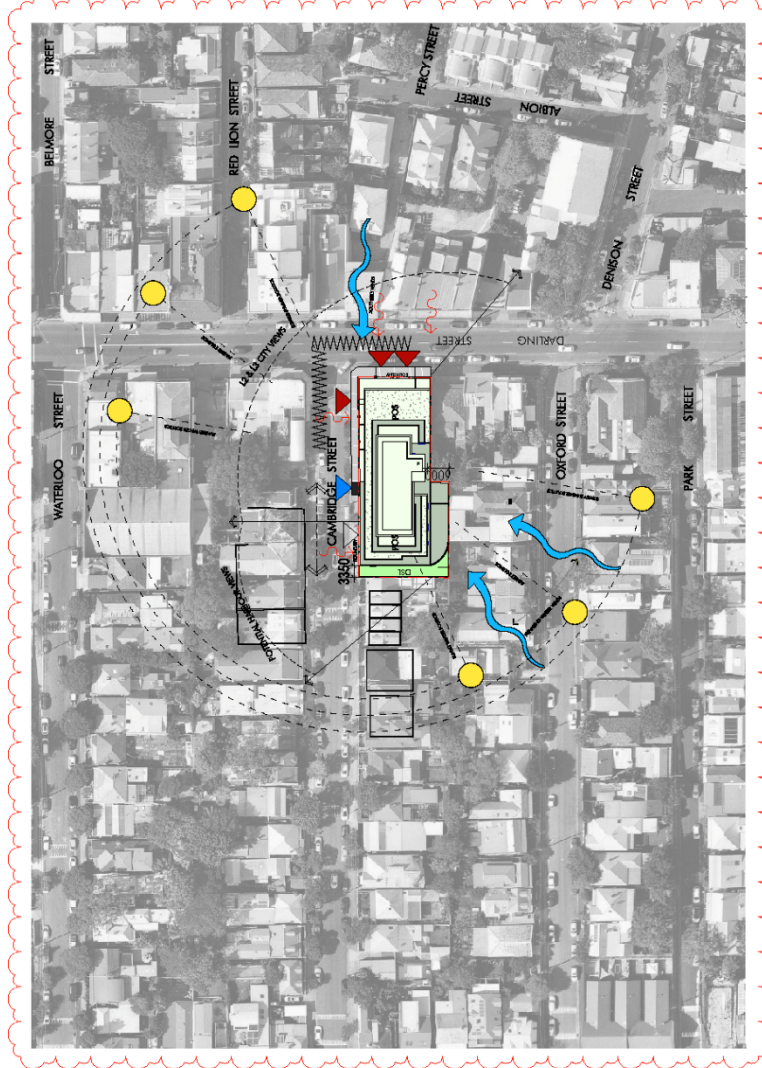
- (1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Attachment D – Approved Plans – D/2017/491



No	Drawing List Description
DA-000	Coverpage
DA-001	Context Plan - Site Plan
DA-002	Demolition Plan - Ground
DA-003	Demolition Plan - Roof
DA-004	Demolition Elevations
DA-1-00	Basement Level Floor Plan
DA-1-01	Ground Floor Plan
DA-1-02	Level 1 Floor Plan
DA-1-03	Level 2 Floor Plan
DA-1-04	Level 3 Floor Plan
DA-1-05	Roof Plan
DA-2-01	Southeast & Northwest Elevations
DA-2-02	Northeast & Southwest Elevations
DA-2-03	Building elevations - Analysis of neighbourhood character
DA-2-04	Building elevations - Analysis of neighbourhood character
DA-3-01	Sections
DA-3-02	Sections
DA-3-03	Sections
DA-4-01	Admittable Unit Type 1 02/202
DA-4-02	Admittable Unit Type 1 07/207
DA-5-01	GFA Area Plans
DA-6-01	Shadow Analysis - 9AM, 10AM Winter Solstice
DA-6-02	Shadow Analysis - 11AM, 12PM Winter Solstice
DA-6-03	Shadow Analysis - 1PM, 2PM Winter Solstice
DA-6-04	Shadow Analysis - 3PM Winter Solstice
DA-6-05	Elevation Solar Study - West of Oxford St
DA-6-06	Solar Study - Views from the Sun 9AM - 12PM Winter
DA-6-07	Solar Study - Views from the Sun 1PM - 3PM Winter
DA-7-01	Survey Plan
DA-9-01	BASIS Spec Block

IPM Rozelle
 731-735 Darling St Rozelle NSW 2039
 DEVELOPMENT APPLICATION
 FEBRUARY 2019



LEGEND

- INTERFACE WITH PUBLIC DOMAIN VEHICULAR
- INTERFACE WITH PUBLIC DOMAIN PEDESTRIAN
- DSL DEEP SOIL LANDSCAPE
- PCS PRIVATE OPEN SPACE
- BUILDING ENTRY VEHICLE RL 38.500
- BUILDING ENTRY VEHICLE RL 37.800
- BUILDING ENTRY RETAIL RL 38.400 (RETAIL RL TO MATCH EXISTING FOOTPATH)
- BUILDING BOUNDARY
- SUN
- NOISE
- EXTENT OF NEW WORKS

DEVELOPMENT APPLICATION

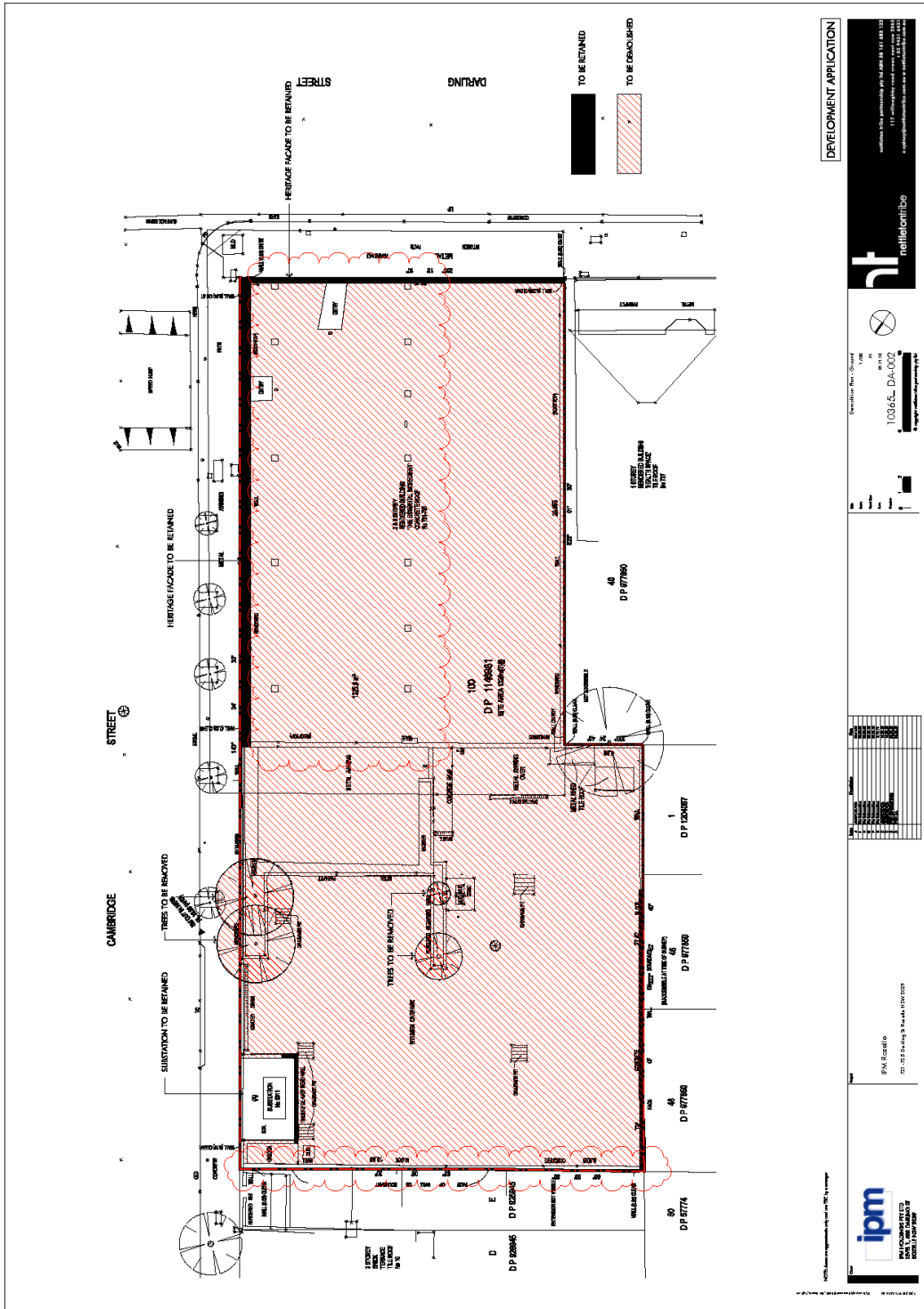
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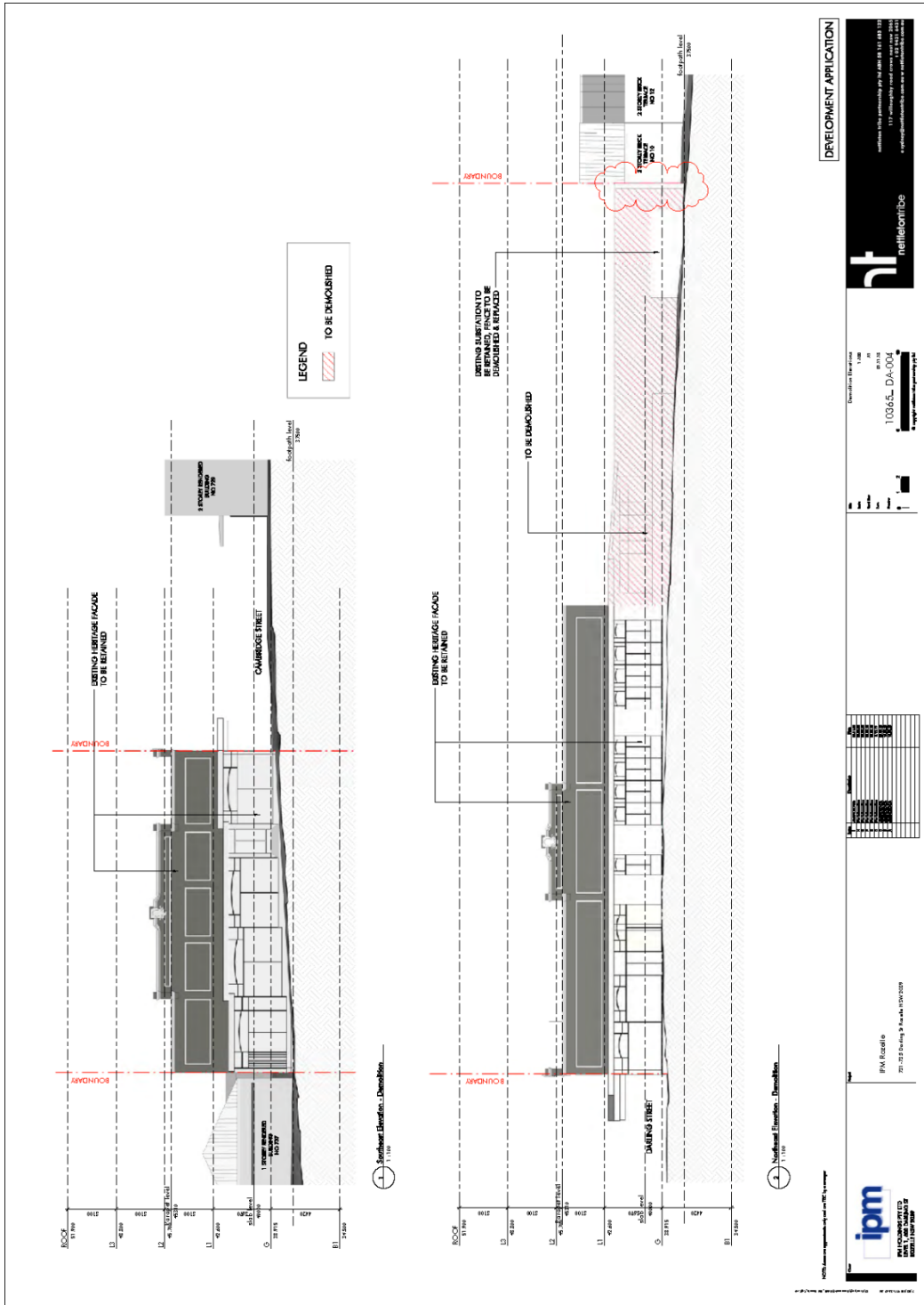
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Code	Description	Area (sqm)
1	Building Footprint	1000
2	Deep Soil Landscape	500
3	Private Open Space	200
4	Building Entry Vehicle	100
5	Building Entry Retail	100
6	Building Boundary	100
7	Sun	100
8	Noise	100
9	Extent of New Works	100

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DEVELOPMENT APPLICATION



10365 DA-004
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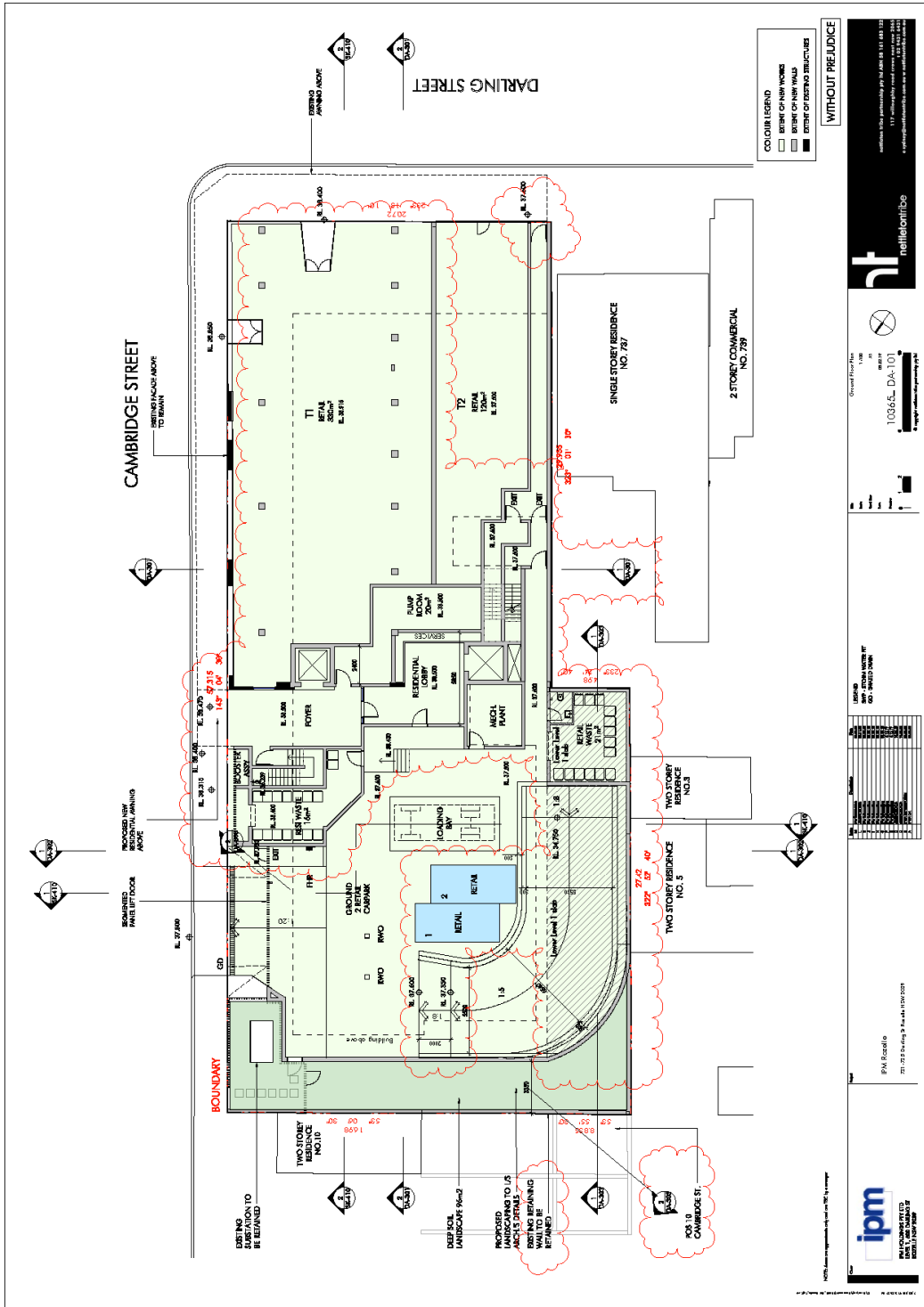
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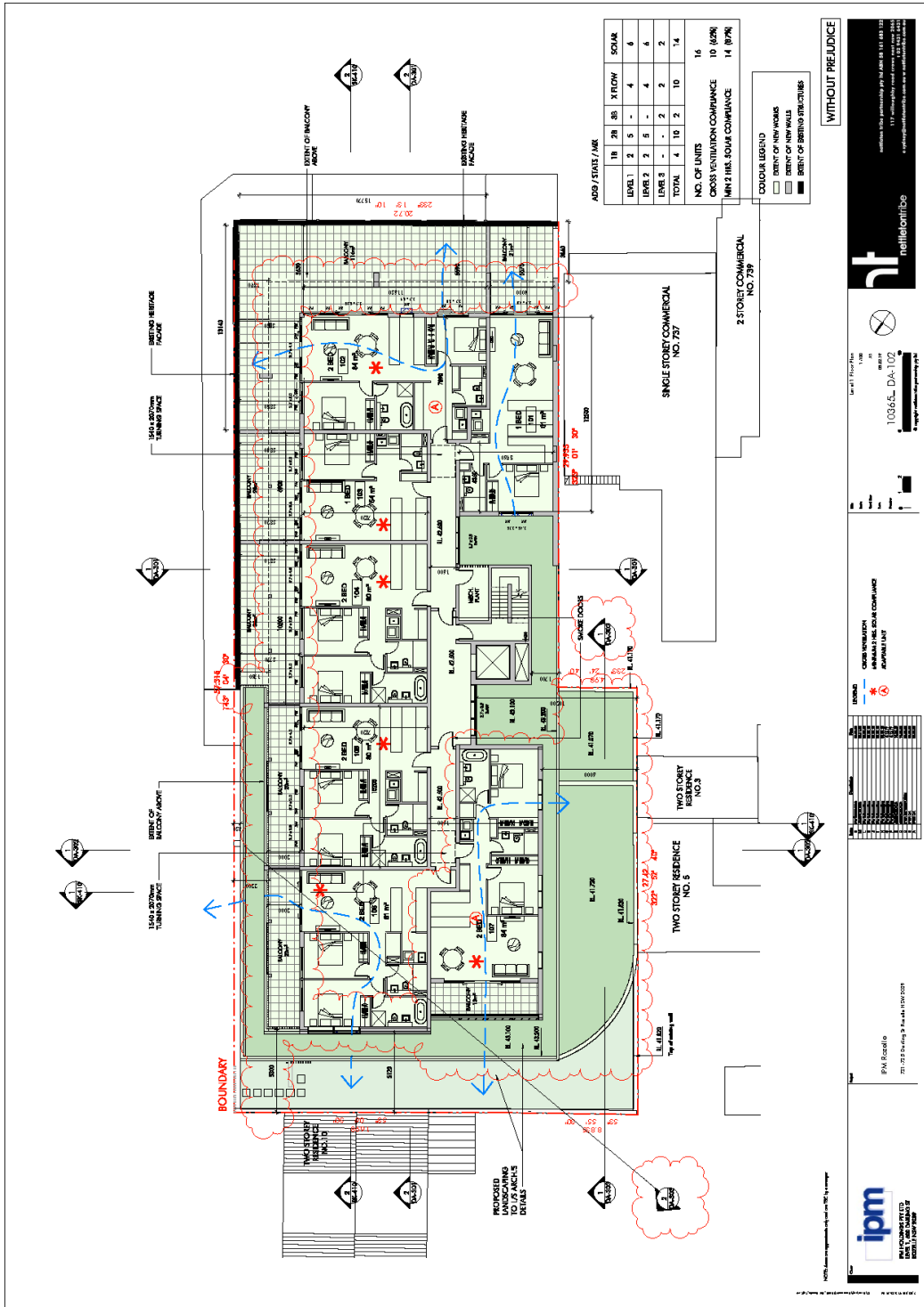
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2	REVISED TO REFLECT COMMENTS	10/12/2018
3	REVISED TO REFLECT COMMENTS	10/12/2018
4	REVISED TO REFLECT COMMENTS	10/12/2018
5	REVISED TO REFLECT COMMENTS	10/12/2018

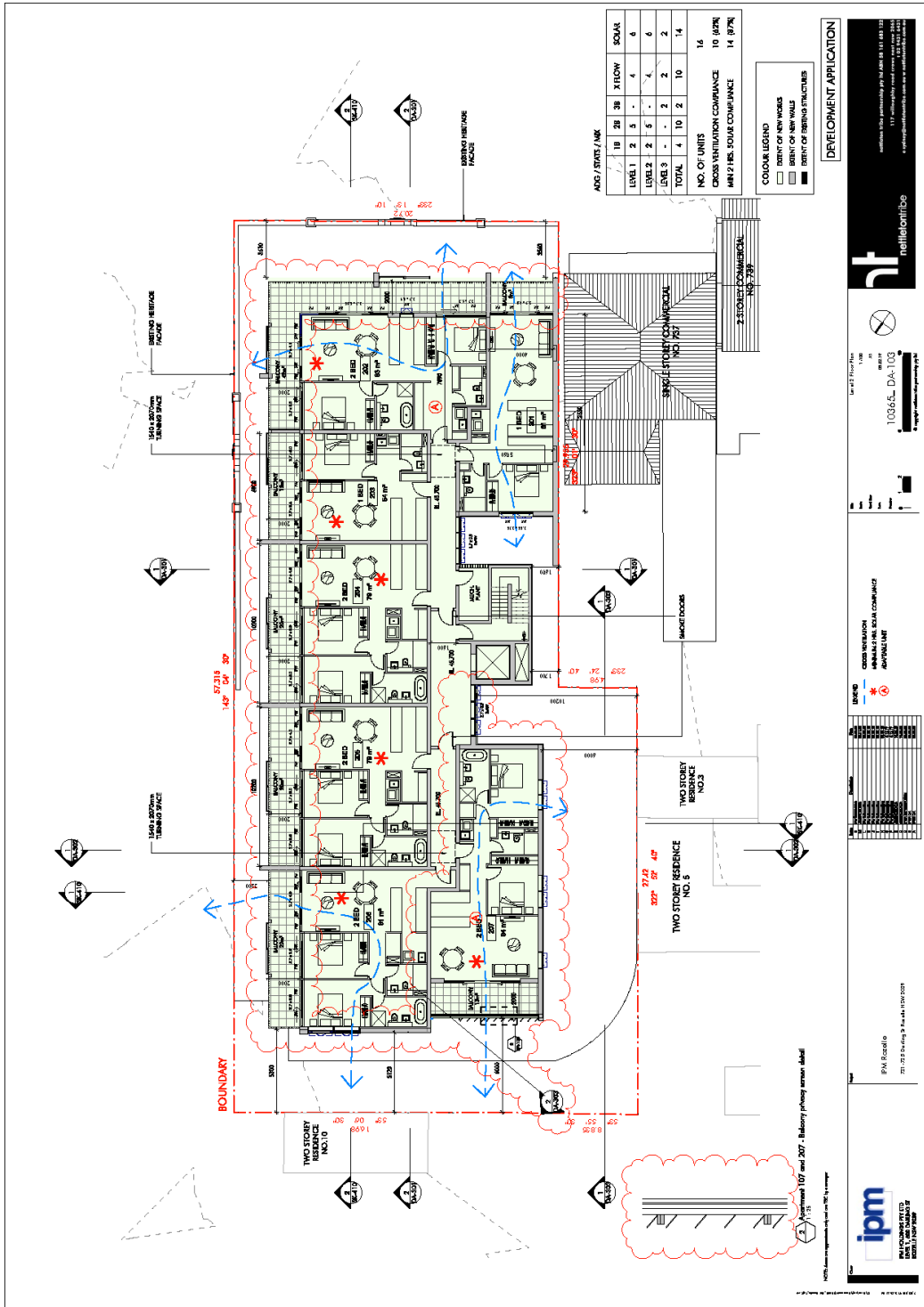
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 10/12/2018

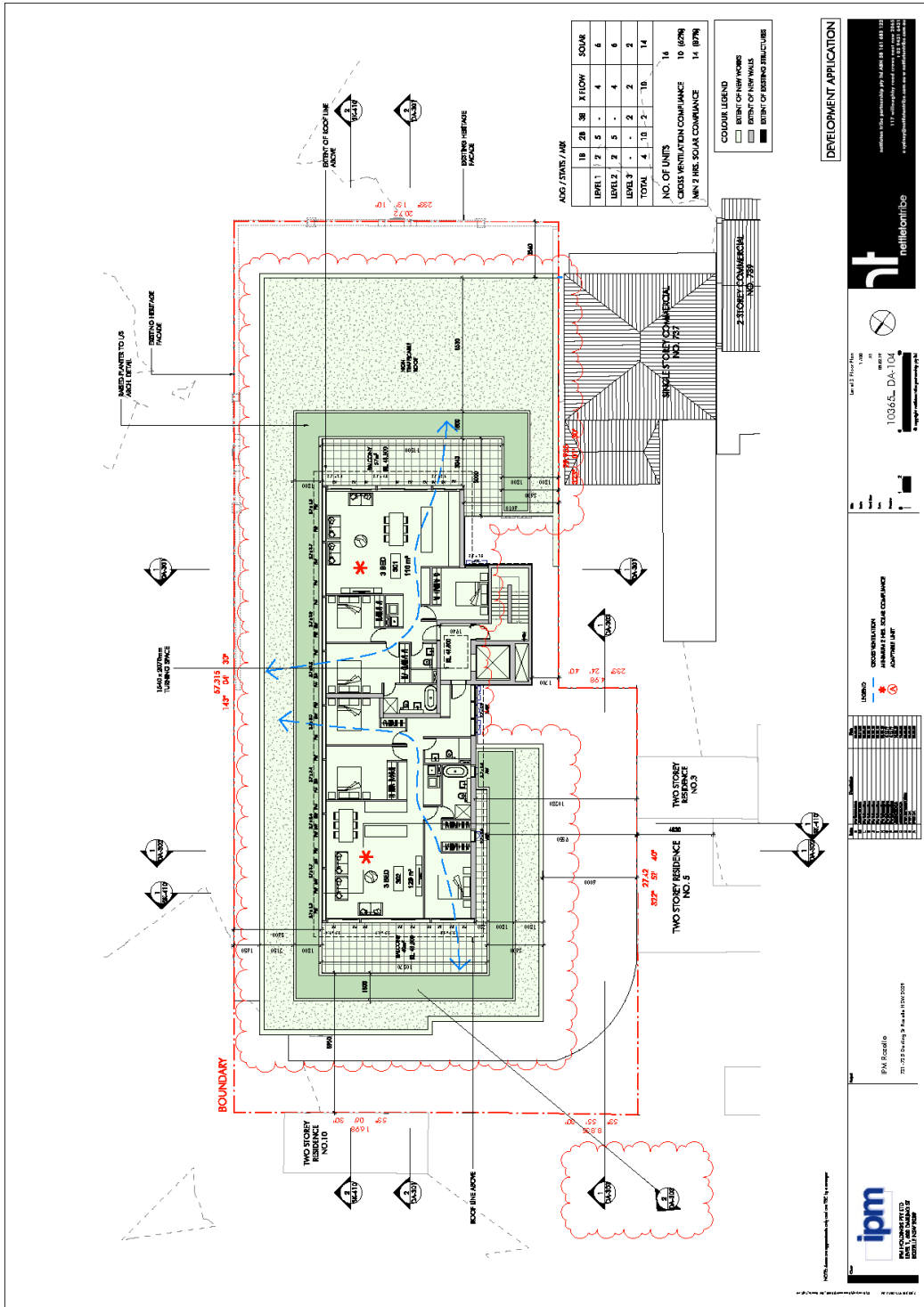


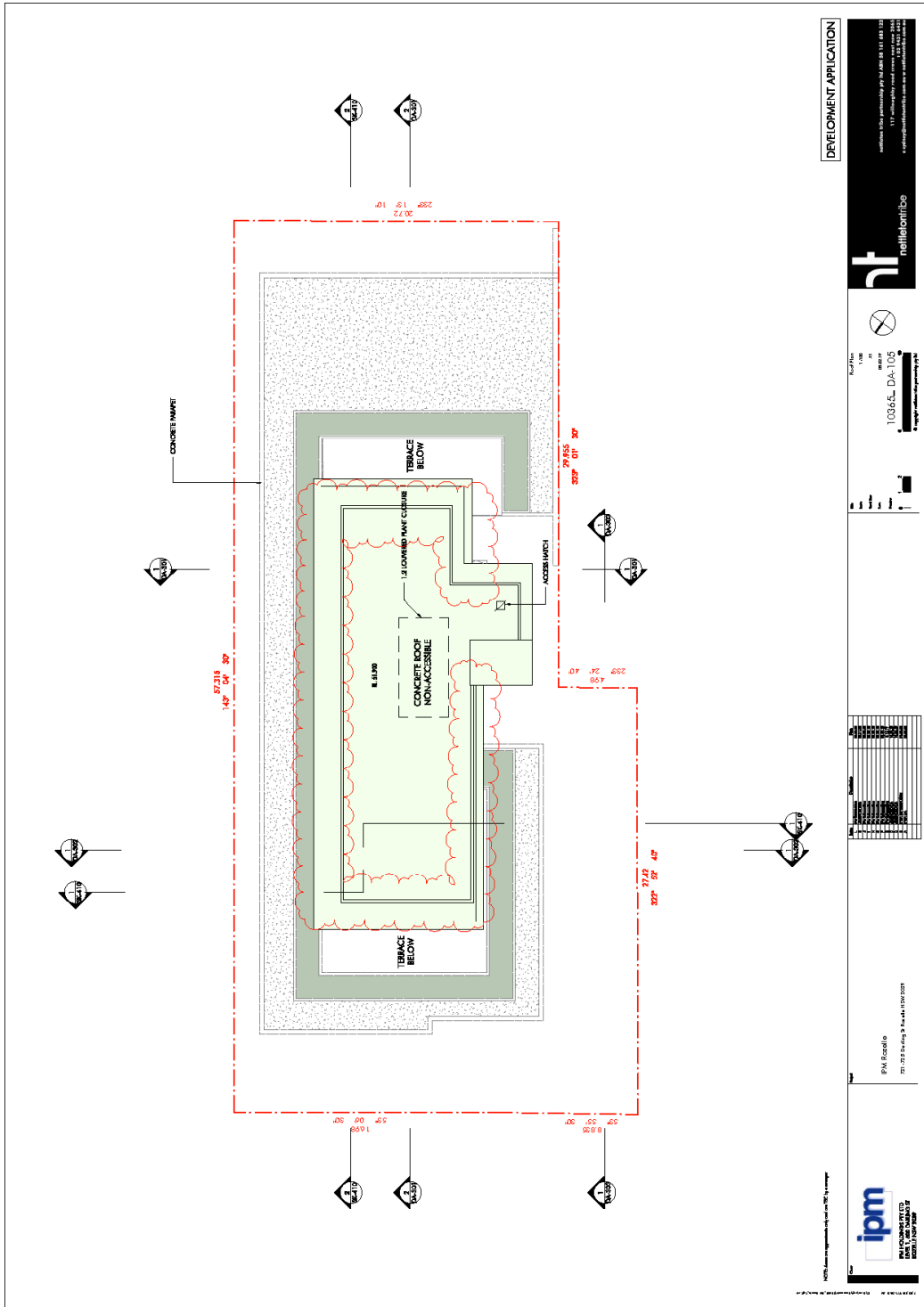












DEVELOPMENT APPLICATION

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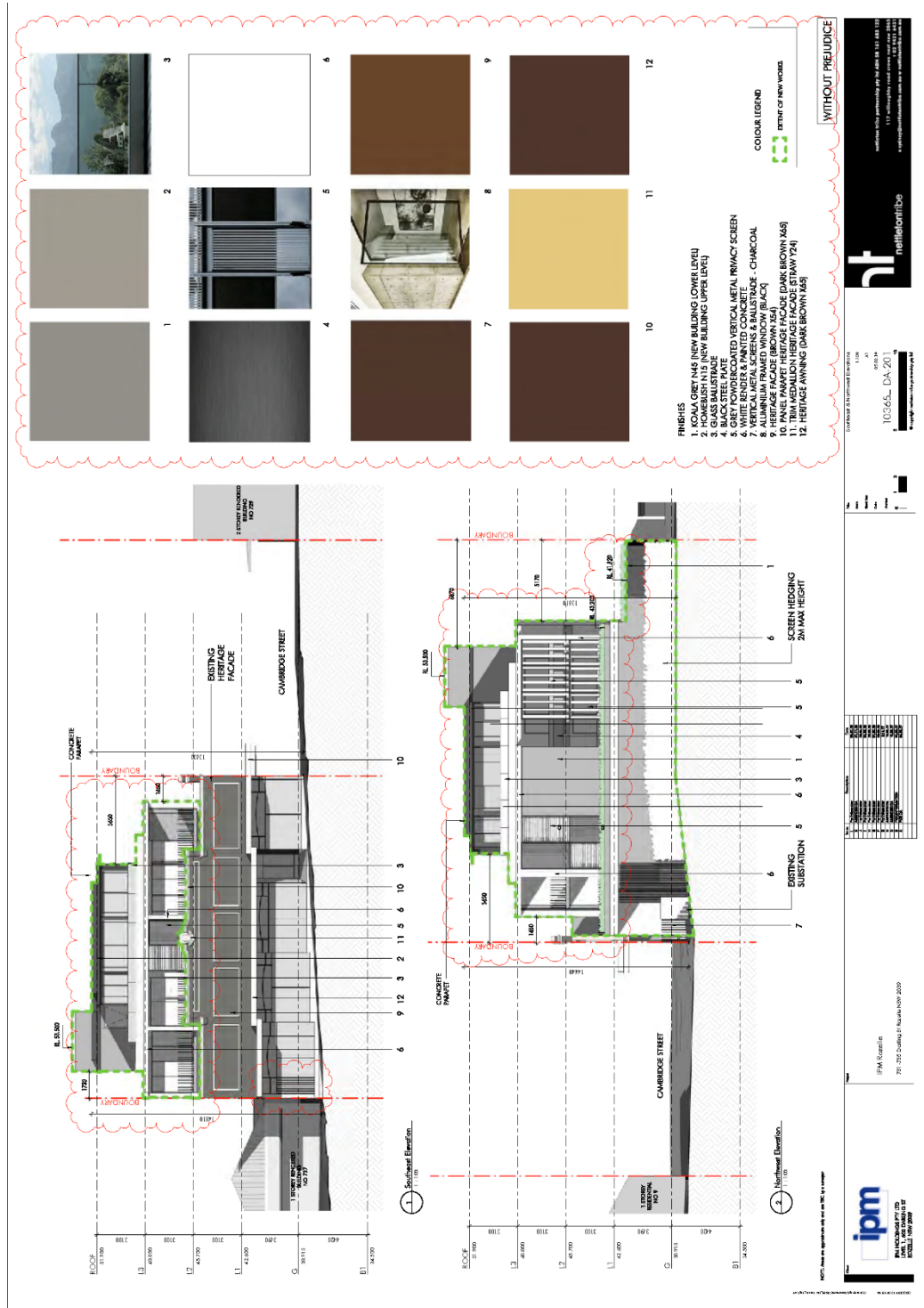
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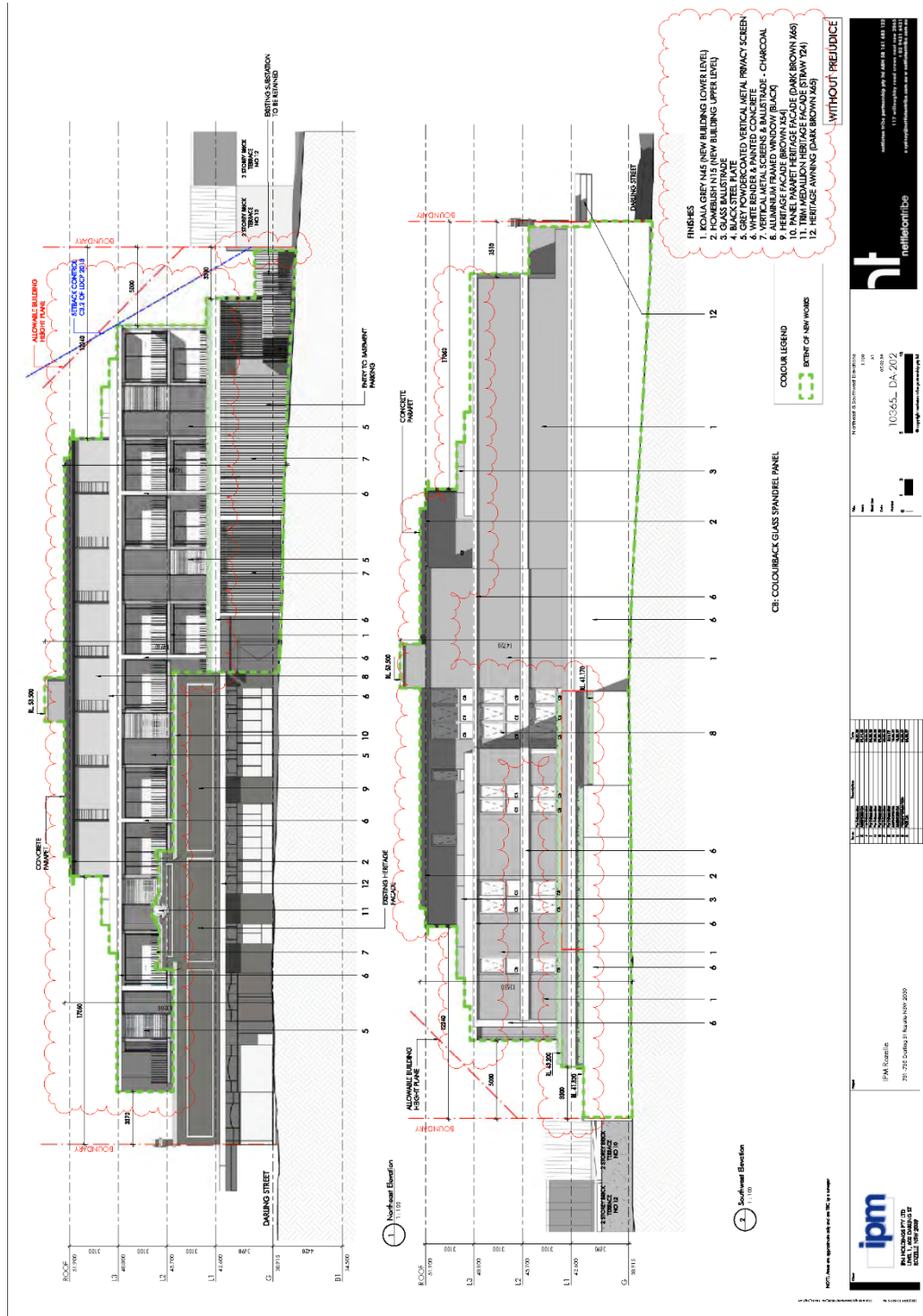
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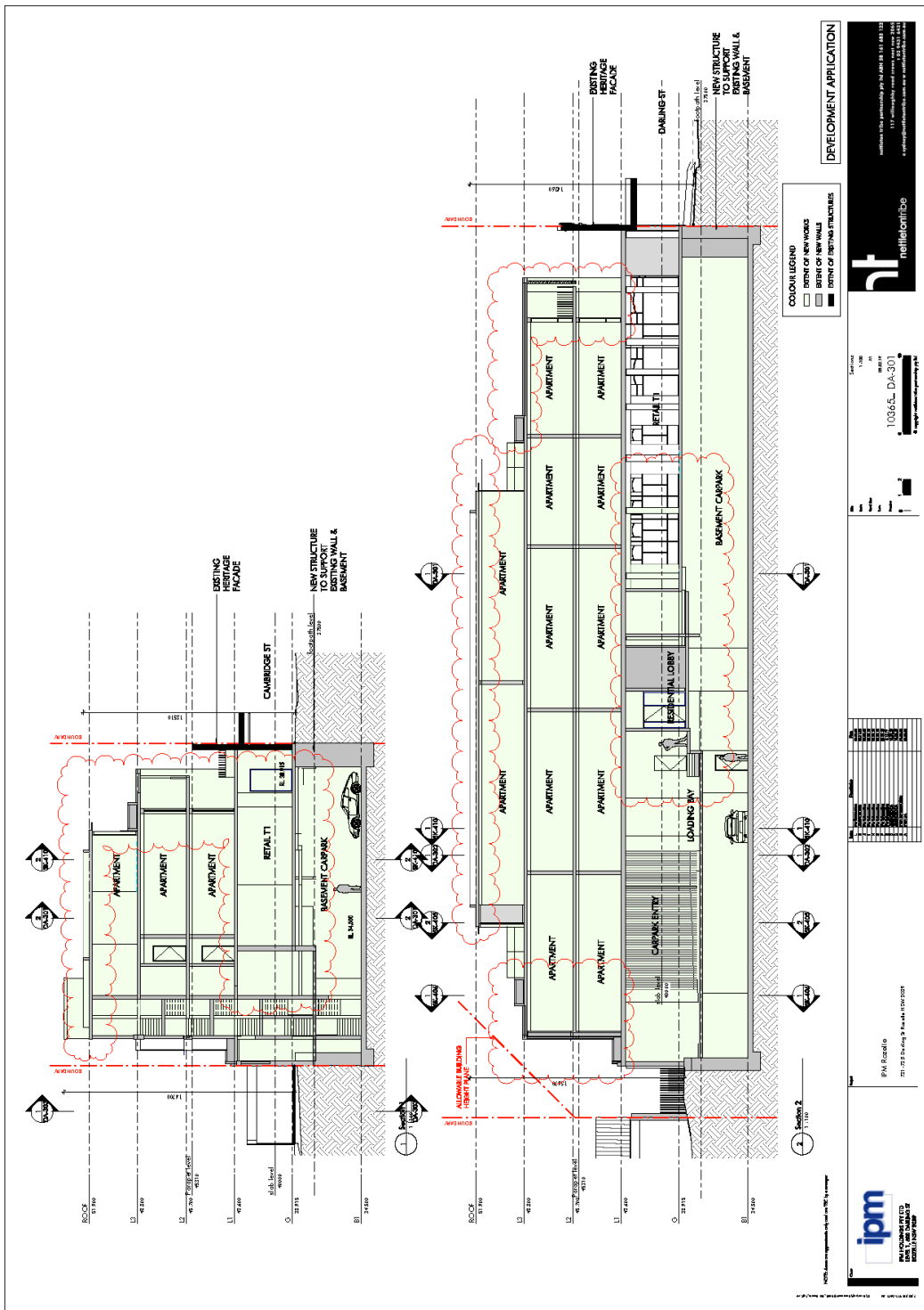
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1	CONCRETE IMPERF	145' 0"	30'	4350
2	CONCRETE ROOF NON-ACCESSIBLE	8' 11"	10'	81
3	1/2 DOWNBOW PARK CABINE	12'	12'	144
4	ACCESS SWICH	2'	2'	4
5	TERRACE BELOW	29' 6"	30'	888
6	TERRACE BELOW	29' 6"	30'	888
7	CONCRETE IMPERF	29' 6"	30'	888
8	CONCRETE IMPERF	29' 6"	30'	888
9	CONCRETE IMPERF	29' 6"	30'	888
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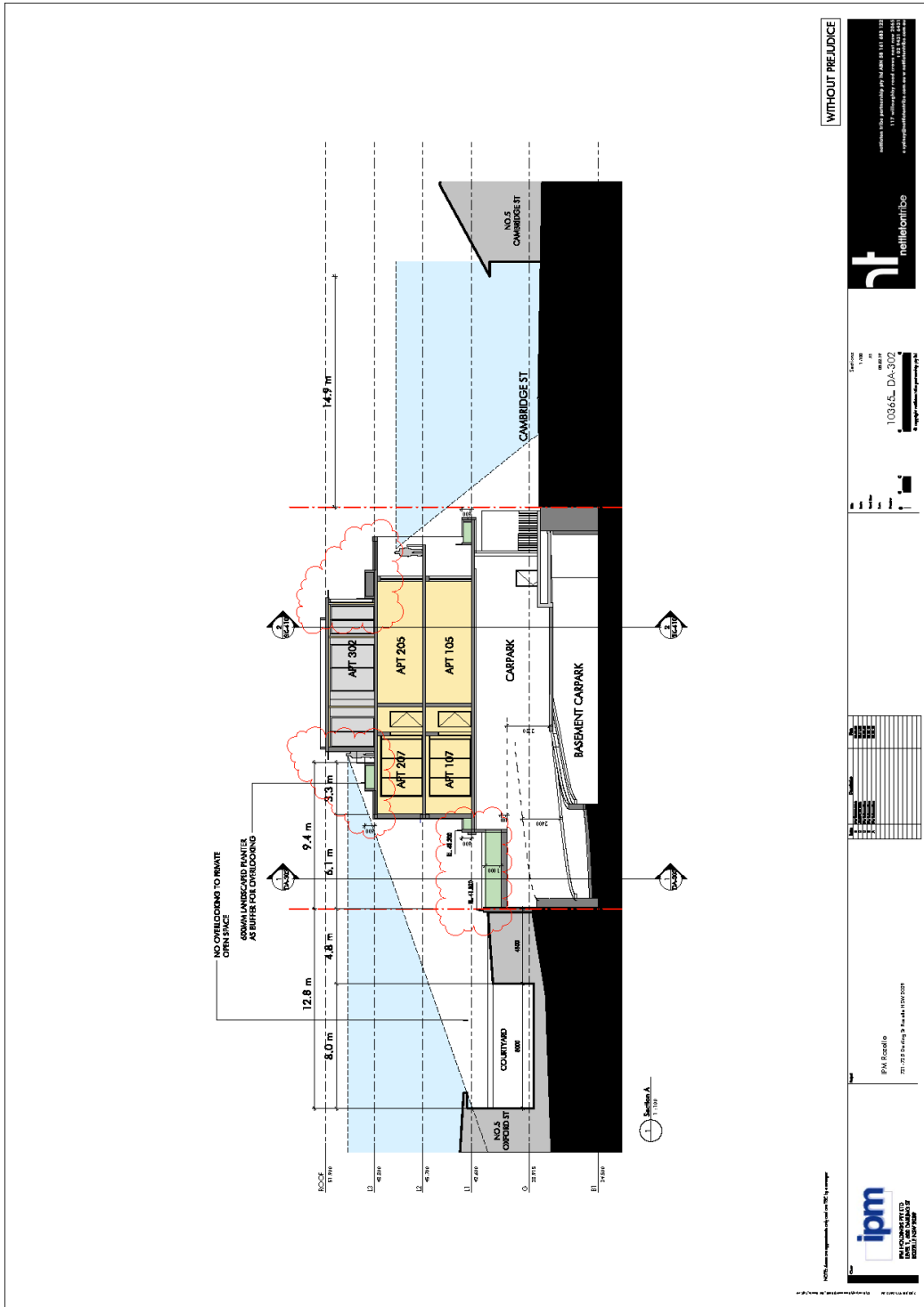
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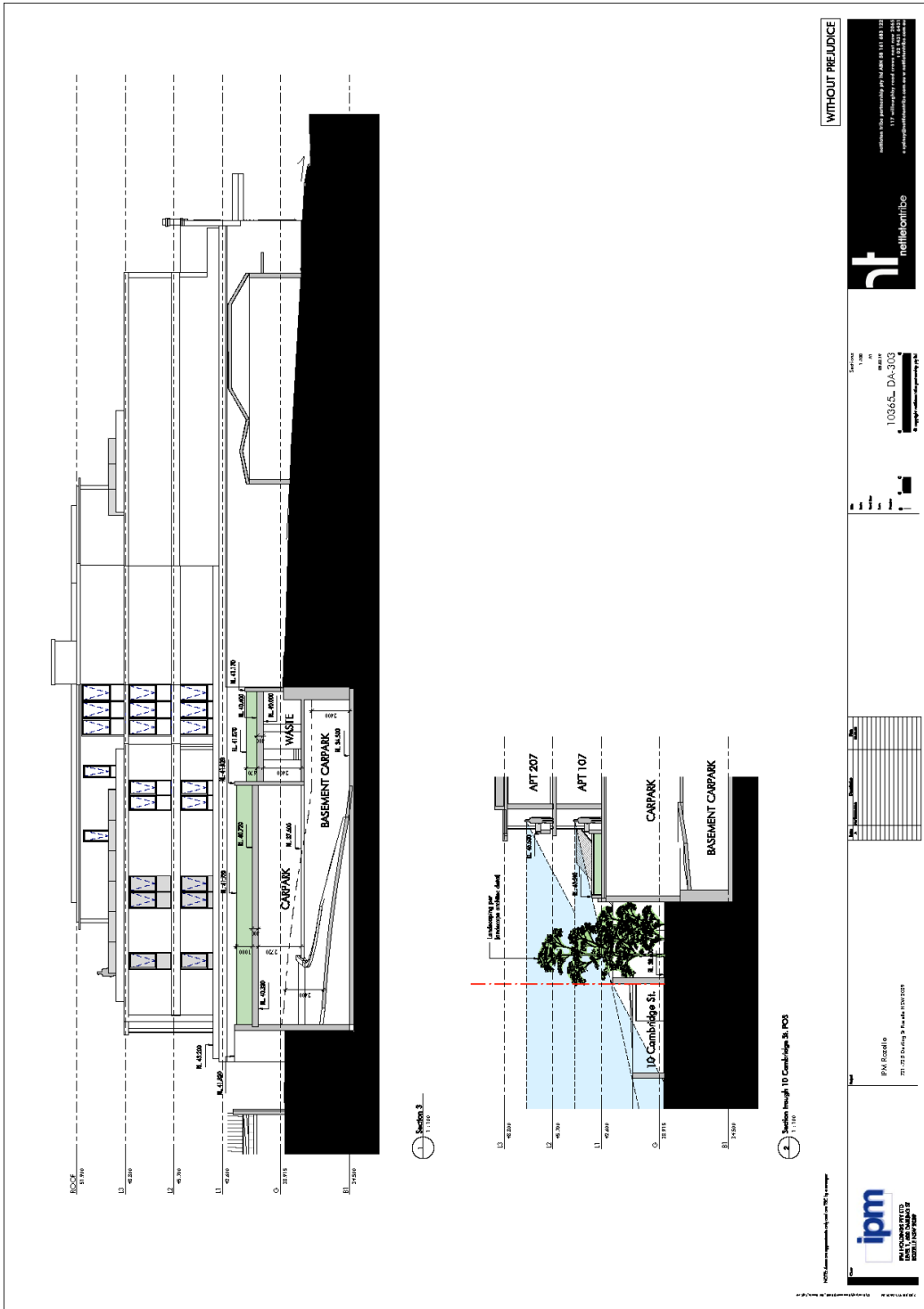
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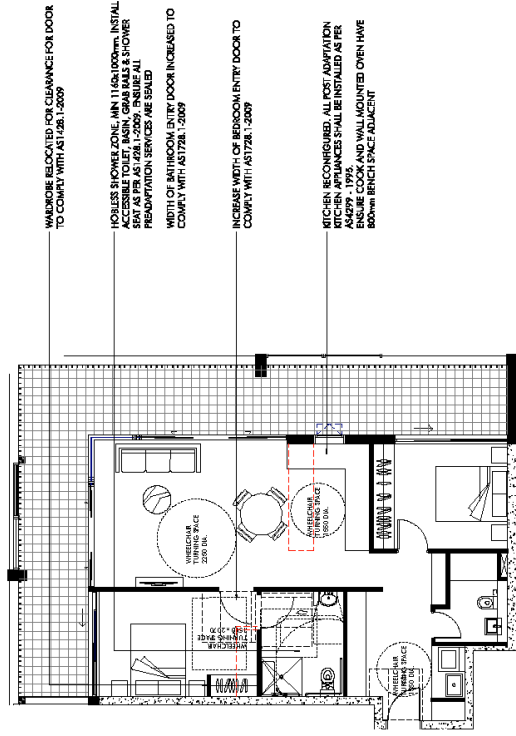




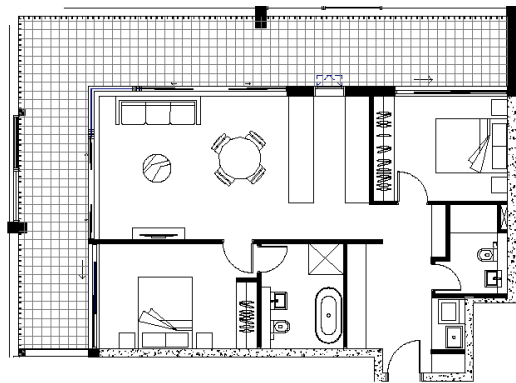








- WIDEN DOOR FOR CLEARANCE FOR DOOR TO COMPLY WITH AS11728.1:2009
- INSTALL GRAB RAILS AND SHOWER PANES TO ALL BATH AND SHOWER AREAS. ALL PRELIMINARY SERVICES ARE SAID
- WIDTH OF BATHROOM ENTRY DOOR INCREASED TO COMPLY WITH AS11728.1:2009
- INCREASE WIDTH OF BEDROOM ENTRY DOOR TO COMPLY WITH AS11728.1:2009
- RAMP IS REQUIRED. ALL RAMP, ELEVATION KITCHEN APPLIANCES SHALL BE INSTALLED AS PER AS4599 - 1998. NO WALL MOUNTED OVEN HAVE BEHIND BRICK OVER RADIANT



2. Vm1 15/6/2018, Final Adaptation

1. Vm1 15/6/2018, Final Adaptation

DEVELOPMENT APPLICATION

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10365-DA-401

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10365-DA-401

Assessor: Manuel Basiri
 ABEA Member
 BQAV Accredited Assessor VC0604/12/1462
 NSW EPA

eco
 CERTIFICATES
 10/13/15/16/17/18/19
 20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100
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NATHERS Building Thermal Modelling Performance Specifications
 Development: 731-735 Darling Street, Rozelle, NSW 2039

These are the specifications upon which the certified assessment is based. If you wish to deviate from these specifications, you must obtain the consent of the certifier. The specifications are based on the following assumptions:
 - The specifications are based on the current standards in force at the time of certification.
 - The specifications are based on the current standards in force at the time of certification.
 - The specifications are based on the current standards in force at the time of certification.

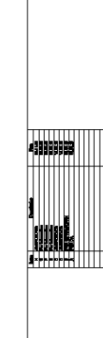
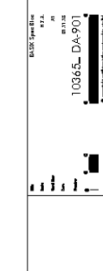
Description	Type	U Value	SHGC
All windows of 207, 301 & 302	Aluminium frames double glazed	4.80	0.61
All windows of 201	Aluminium frames double glazed	2.80	0.44
All other windows	Aluminium frames single glazed	5.40	0.58

Window and skylight U and SHGC values, if specified, are according to NERS. Alternative products or specifications may be used if the U value is lower, and the SHGC value is less than 5% higher or lower, than the U and SHGC values of the product specified for above.

Description	Type	Insulation	Colour - Solar Abs
All external walls	Brick Venner	R 1.5	Medium SA 0.475 - 0.7
All common area walls	AC Panels	R 1.5	
All party walls	AC Panels	N/A	

Description	Construction	Insulation	Covering-Solar Abs
All floors on level one under retail spaces	Concrete Slab	N/A	
All other floors on level one	Concrete Slab	R 1.0	
All floors on all other levels	Concrete Slab	N/A	
All ceilings under another floor	Concrete with plasterboard	N/A	
All ceilings under open air	Plasterboard	R 2.5	
All roof	Concrete	N/A	Light SA<0.475

Roof and external wall and roof or all other walls or floor spaces, which are fully covered by insulation, may be specified as follows:
 - True North Orientation: 30°
 - Terrain Category: Suburban-Open
 - Slope: 0%
 - Lighting Design: Provided: No
 - Climate Zone: 66



IPM Rozelle
 731-735 Darling St, Rozelle NSW 2039

10365-DA-901
 10/13/15/16/17/18/19
 20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100



Attachment E- Statement of Heritage Significance of Heritage Item

“No. 731-735 Darling Street is of local historic, aesthetic and social significance as an early twentieth century commercial building. The original building form and character is retained particularly the parapet wall and glass shopfronts and street awning. The building makes a positive contribution to the Darling Street streetscape.”

Attachment F – Statement of Heritage Significance of HCA

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Area 12 The Valley (Rozelle and Balmain)

Landform

This conservation area comprises a large but tightly formed valley which falls south and east from the Darling Street ridge towards White Bay affording enclosed views to industrial workings of the port city in the bay.

It includes a number of subdivisions/part subdivisions around the highest land in the Leichhardt Municipality on either side of the Darling Street ridge and across Victoria Road. It includes land east of Wellington Street to White Bay. It also includes the civic buildings and the commercial zone of Rozelle on both sides of Victoria Road, the land east of the Darling Street ridge beyond the commercial zone, the civic and commercial buildings of Balmain retail centre, small groups of shops along Darling Street and the former retail area of Evans and Beattie Streets.

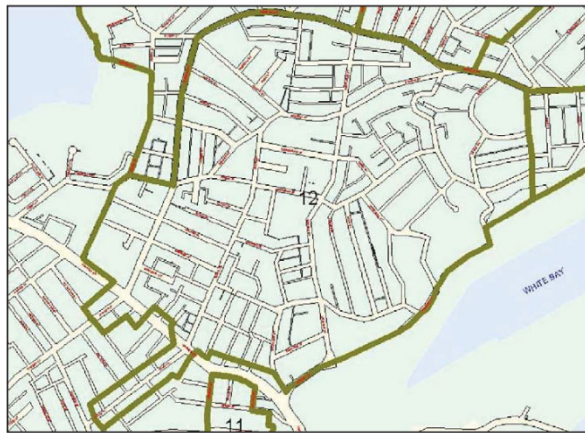


Figure 12.1 The Valley Conservation Area Map.

History

When sales of John Gilchrist's Balmain 550-acre grant were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections, using existing routes such as Darling Street, and other contour-hugging tracks, such as Beattie Street and Mullens Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

The largest of the estates put together from Langley's subdivisions was the 19 acres of the Merton Estate purchased by piano importers Paling and Starling, druggists George and Frederick Elliott and estate agent Alfred Hancock. It occupied the land between Terry Street and Evans Street. It was subdivided by its owners into 197 allotments generally 30ft x 100ft with 50ft-wide grid

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pattern of roads, and was auctioned by local agent and developer, Alfred Hancock from 1874.

A miscellaneous collection of service and consumer trades servicing these new dwellings appeared along Evans Street in the 1870s making it the main commercial thoroughfare along the upper reaches of the Balmain peninsula.

By the 1880s the growth of industry, including noxious industry, in White Bay and along Whites Creek, made the south and east-facing slopes of the Darling Street ridge unattractive for a more affluent residential market. Those who could find employment in these industries would seek housing within walking distance, as public transport – then the horse drawn bus or later the steam tram – were too expensive. Canny speculators, such as Hancock (later Mayor of Balmain) sold to small builders who constructed very dense workers' housing for rentees or purchasers on small budgets. By 1891 a large part of this area had been built upon.

The arrival of the government-owned steam tram at the junction of Darling Street and Victoria Road in 1892, provided relatively more affluent residents along its route with transport to the city, and a greater choice of employment away from places within immediate walking distance from home. The advent of the tramway probably explains the major impetus to growth in the area particularly to the west of Evans Street, so that in the 1890s much of Terry, Wellington, Merton and Nelson Streets were built upon with one-storey brick semis, pairs or small groups of terraces (two to an allotment) and double-fronted single-storey houses (one to an allotment). Most of these buildings were constructed by local builders such as Robert Gordon, William Whitehorn and James Gibson, whose small-scale operations are indicated by the small groups of similar houses or terraces.

From the 1850s, Booth's Saw Mill on White Bay provided a cheap source of timber and weatherboards, promoting weatherboard houses as the norm for workers' housing throughout Balmain until brick terrace housing became prevalent in the late nineteenth century.

The extension of the steam tram service along Darling Street by 1900 encouraged shopkeepers to relocate there to catch the passing trade, and Evans Street was superseded as a commercial centre.

The Metropolitan Detail Survey Sydney Water Archive¹ suggests that almost all the land east of Wellington Street was built upon by 1905.

By 1907 the precinct was generally known as Rozelle.

Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Further information provided by Max Solling.

Significant Characteristics

- Contour hugging main roads – Evans, Beattie and Reynolds.

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- Outline of subdivisions, size and aspect of allotments, determined by route of main roads.
- Wider residential roads off Darling Street ridge, with grid subdivision pattern, but
- Generally narrow roads between main access roads.
- Narrow, often shallow allotments.
- Back lanes are rare.
- Dense urban environment.
- Continuous lines of buildings create sharply defined lineal spaces.
- Buildings stepped up and down hill, following the topography.
- Houses sited close to road near Darling Street ridge; and sited onto the road alignment nearer to White Bay.
- Small front gardens near Darling Street; there are fewer gardens towards White Bay.
- Tree planting is minimal except where wider main access roads provide enough room – Langley, Roseberry, Llewelyn and Reynolds Street.
- Large stands of trees in parks and open spaces.
- Small range of housing types: single-fronted, single-storey timber terraces, two-storey terraces, free-standing timber or stone single-storey cottages.
- Some larger villas on high land around Smith Street, and more generous terraces in similar locations.
- Scale predominantly limited to one or two storeys.
- Pubs with verandahs act as punctuation marks in the streetscape.
- Corner stores.
- Commercial premises (and former commercial premises) with attached dwellings along Evans and Darling Streets.
- Small industrial/warehouse buildings occur throughout the area.
- Variety of materials – large number of timber, plastered brick, some later (1890s+) face brick and a few stone buildings.
- Roof materials vary – iron is common, terracotta tiles, some slate.
- Stone retaining walls.
- Remnants of iron palisade fences define some street frontages.
- Suspended awnings to commercial facades along Darling and Evans Streets.
- Sandstone kerbs and gutters.

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Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for illustrating development for workers' and artisan housing particularly from 1871-1891 which forms the major element of its identity. It is significant for its surviving development from that period and the later infill development up to World War II (ie pre-1939).
- Retains evidence of all its layers of growth within that period from the late-1870s.
- Through its important collection of weatherboard buildings, including the now rare timber terraces, it continues to demonstrate the nature of this important/major construction material in the fabric of early Sydney suburbs, and the proximity of Booth's saw mill and timber yards in White Bay.
- Through the mixture of shops, pubs and industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.
- Demonstrates through the irregular pattern of its subdivision the small-scale nature of the spec builders responsible for the construction of the suburb.
- Demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

Maintenance of Heritage Values

Generally

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

Retain

- Existing width and alignment of streets: avoid chicanes which cut diagonally across the carriageway.
- Existing back lanes.
- All buildings pre-1939 and particularly all timber buildings
- All original plaster finishes to external walls - reconstruct where necessary.
- All original unplastered face brick walls.
- All original external architectural detail, decorative tiles, plaster mouldings, chimneys, roof ridges and finials, commercial signs etc.

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Encourage replacement of lost elements, but only where evidence is available.

- All remaining sandstone kerbs and gutters.
- All corner stores, corner pubs and industrial buildings within the residential areas, and encourage their restoration. Consider small-scale commercial or professional uses for these buildings, if original uses no longer operate, as a reference to their original uses.
- Street and park planting; reinstate where necessary

Avoid

- Amalgamation that might lead to a change in the densely developed streetscape.
- Demolition of any pre-1939 building, particularly those pre-1910.
- Demolition of any remaining timber building.
- Additional storeys above the existing form of the building.
- Posted-verandahs over footpaths to commercial premises where no evidence can be provided to support their reconstruction. Encourage restoration of verandahs where evidence exists.
- Removal of plaster to external walls, where part of the original construction. Removal of original architectural details.
- Additional architectural detail for which there is no evidence.
- Inappropriate fences such as high brick walls, new iron palisades on high brick bases.
- Interruption to the almost continuous kerb and gutter line.

Endnotes

¹ Solling & Reynolds, p 81.
