





	
DEVELOPMENT ASSESSMENT PANEL REPORT	
<b>Application No.</b>	MOD/2023/0393
<b>Address</b>	1-13 Parramatta Road ANNANDALE
<b>Proposal</b>	Section 4.56 Modification of Development Consent D/2017/161 as last modified by MOD/2023/0104 seeking various internal and external changes including: removal of external planters; proposed amalgamation of Units A101 and A102; update unit layouts of Units A103 and Unit B402; and fenestration and blade wall changes
<b>Date of Lodgement</b>	29 November 2023
<b>Applicant</b>	Eranna Development Pty Limited
<b>Owner</b>	Eranna Pty Ltd
<b>Number of Submissions</b>	Nil
<b>Cost of works</b>	\$14,831,225.00
<b>Reason for determination at Planning Panel</b>	Variation to relevant development standards exceed 10%
<b>Main Issues</b>	Variation to development standards
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Most recent approved conditions of consent (MOD/2023/104)
<b>Attachment D</b>	Statement of Heritage Significance
	
LOCALITY MAP	
Subject Site	
Objectors	
Notified Area	
Supporters	
 N	
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 under Section 4.56 of the Environmental Planning and Assessment Act 1979 to modify Development Consent D/2017/161 as last modified by MOD/2023/0104 seeking various internal and external changes including: removal of external planters; proposed amalgamation of Units A101 and A102; update unit layouts of Units A103 and Unit B402; and fenestration and blade wall changes at 1-13 Parramatta Road Annandale.

The application was notified to surrounding properties and no submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Variation to the Floor Space Ratio and Diverse Housing development standard

The non-compliances are acceptable given that the increase of gross floor area is not visible from the public domain and does not create additional bulk to the approved built form and proposed modifications will retain the ability to provide a diverse range of housing to accommodate the varied needs of the community and therefore the application is recommended for approval.

## 2. Proposal

The proposal involves the following changes:

- This modification proposes to amalgamate Unit No. A.101 (Studio), A.102 (1B) & A.103 (1B) into 2 x 2 bedroom apartments.
- Deletion of a planter box.
- Internal modifications to Unit No. B.402.
- This application seeks approval for a modified dwelling mix, as follows:
  - 1 Bedroom units = 8 units (20%)
  - 2 Bedroom units = 22 units (54%)
  - 3 Bedroom units = 11 units (26%)

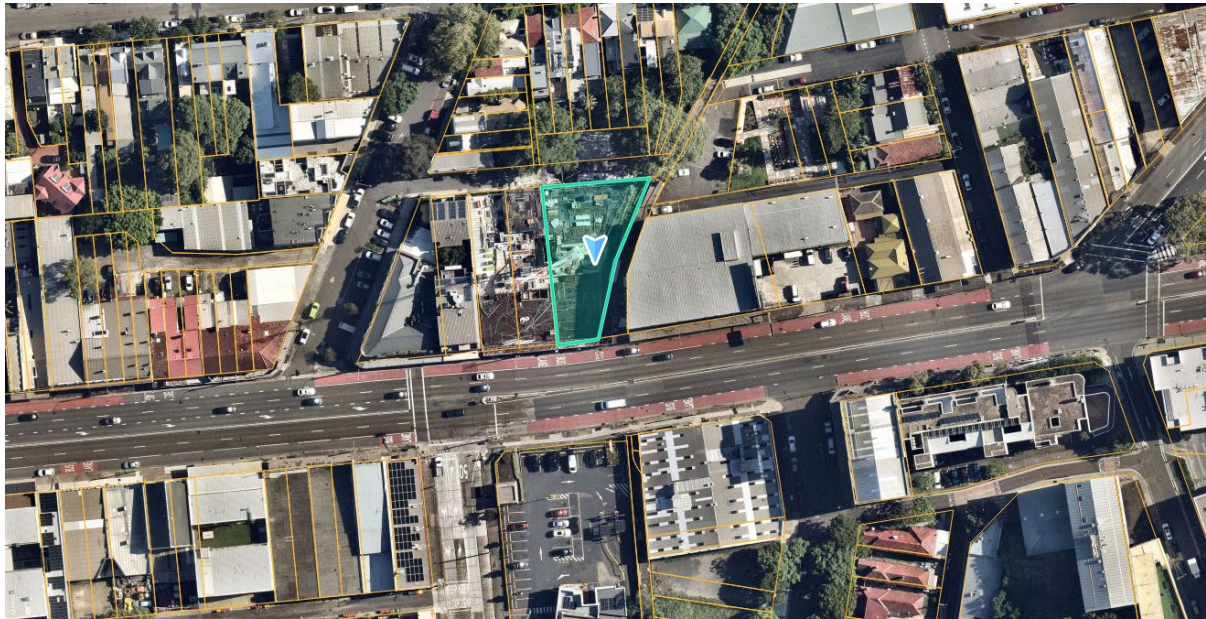
This is a reduction in 3 x studio / 1 bedroom units, and an increase in 2 x 2 bedroom units.

## 3. Site Description

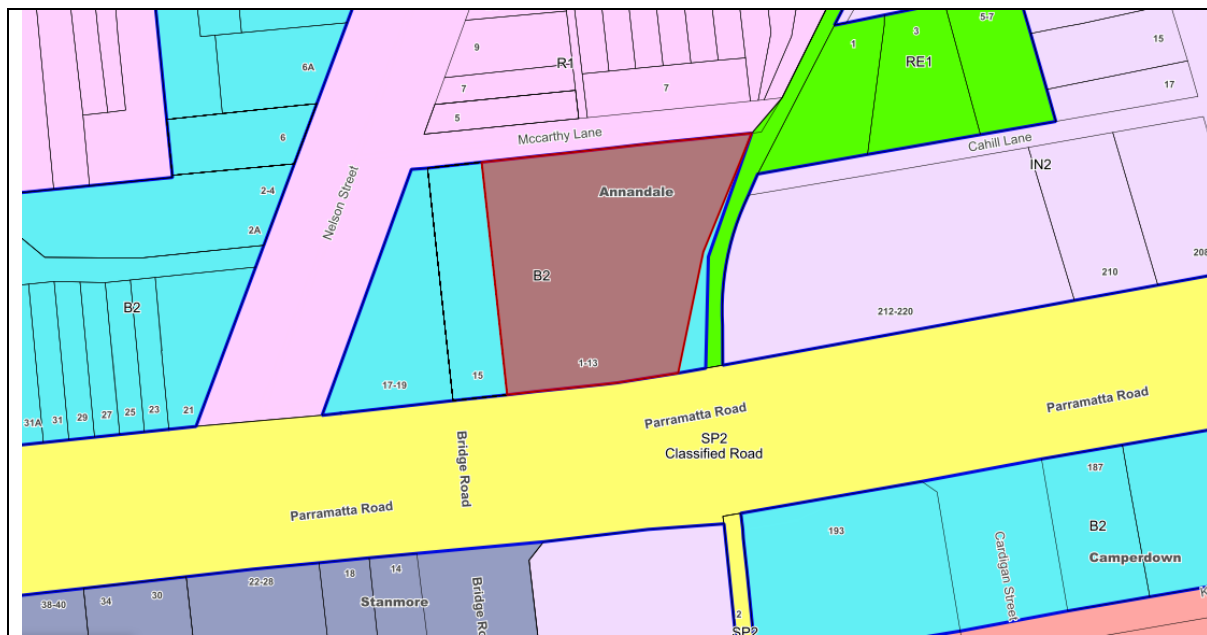
The subject site is located on the northern side of Parramatta Road, between Nelson Street and Water Street. The subject site comprises three lots and is legally described as Lots 3 and 4 in DP 814 and Lot 50 in DP 456784 and is known as 1 – 13 Parramatta Road, Annandale. The site has an area of approximately 1,758m<sup>2</sup> and is irregular in shape.

The site has a southern boundary to Parramatta Road of approximately 36.315m and a

northern boundary to McCarthy Lane of approximately 49.67m. The western common boundary is approximately 42.50m and the curved eastern boundary to Johnson Creek is approximately 44.83m.



*Aerial photo of the subject site outline in green*



*Zoning Map of subject site shaded/outlined in red*

## 4. Background

### 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
MOD/2023/0104	Section 4.56 Modification of Development Consent D/2017/161 - Modify existing consent to allow pre-cast finished concrete cladding to western wall rather than face brick	06/06/2023 Approved - Council
MOD/2022/0143	Section 4.56 Modification of Development Consent D/2017/161 – proposal seeks various internal and external changes, including: modifications to internal unit layouts; modifications to basement level layouts; amalgamation of the retail tenancies; rationalisation of ground floor layout; inclusion of rooftop plant and solar panels; and to increase the height of the building. Amendment to condition 23. Note: This proposal includes an updated Voluntary Planning Agreement.	16/12/2022 Approved – Council
MOD/2022/0014	Section 4.56 Modification of Development Consent D/2017/161 – Proposal seeks to create an internal wall opening between Units 104 and Units 105 and associated changes to the internal layout	17/05/2022 Approved - Council
M/2019/53	Modification of Development Consent D/2017/161 which approved demolition of existing structures and construction of a mixed use strata building with commercial tenancy, 41 residential units and basement parking and the subdivision of the site to dedicate a 1200mm road widening to McCarthy Lane. Proposed modifications involve various internal and external changes as detailed in the plans and supporting documentation.	18/05/2021 Approved - COURT
D/2017/162	Demolition of the existing structures and construction of a mixed use development including retail tenancy, 58 residential units and basement parking. Proposal also includes dedication of 1200mm road widening to McCarthy lane & 4000mm to Johnston creek.	3/3/2018 Approved - COURT

**Application History**

Date	Discussion / Letter / Additional Information
2 February 2024	Request for additional information sent to applicant that raises the following issues: <ul style="list-style-type: none"> <li>• Additional information required to justify non-compliance with Diverse Housing Development Standard.</li> <li>• Confirmation of how condition 1 will be amended and any other conditions that would require amendment</li> <li>• BASIX certificate needs amendment</li> </ul>
21 February 2024	Applicant provided the following additional information: <ul style="list-style-type: none"> <li>• Yield Mix Analysis</li> <li>• Amended BASIX Certificate.</li> <li>• A response letter from the applicant.</li> </ul>

**5. Section 4.56 Modification of Consent**

The following is a summary of the assessment of the application in accordance with Section 4.56 of the *Environmental Planning and Assessment Act 1979* (EPA Act 1979).



Section 4.56

Section 4.56 of the *EPA Act 1979* allows a consent authority to modify a development consent granted by it, 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.*

In considering the above:

- The essence of the development as modified is substantially the same as the original consent.
- The environmental impacts are minimal
- Does not require concurrence or General Terms of Agreement from any approval body.
- The application was notified to persons who made a submission against the original application sought to be modified.
- No submissions were received

Section 4.56(1A)

In consideration of Section 4.56(1A) of the *EPA Act 1979* the consent authority has taken into account the following reasons given by the Land and Environment Court for the granting of the original consent:

- The proposal generally complies with the aims, objectives and design parameters contained in the relevant environmental planning instruments and development controls plans;
- The proposal will not result in any significant impacts on the amenity of the adjoining properties, the streetscape and is considered to be in the public interest; and
- The proposal is considered suitable for approval subject to the imposition of appropriate conditions.

It is considered that the modified proposal has taken into account aforementioned reasons that the original development consent was granted.

## 6. Assessment

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

### A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

#### State Environmental Planning Policies (SEPPs)

##### SEPP (Resilience and Hazards) 2021

###### *Chapter 4 Remediation of land*

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

- “(a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”

The issues in relation to contamination had been considered in the previous approvals and the proposed modifications under this application does not raise any additional issues in this regard. The relevant conditions regarding contamination will be retained.

##### SEPP No. 65 - Design Quality of Residential Apartment Development

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved. As the majority of the modifications occur at level 1 in the northern portion of the site and does not alter the bulk or result in additional floor area, the proposed modifications is considered to be generally consistent with the design quality principles.

In accordance with Section 6A of the SEPP certain requirements contained within Leichhardt Development Control Plan 2013 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

- As the proposed modifications would retain the arrangement and layout of the majority of the approved units, the assessment will only focus of the units where there are proposed changes, i.e. Unit A.102, Unit A103 and Unit B.402.

#### Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9.00am and 3.00pm on 21 June (mid-winter).

**Comment:** No change to previous approved development.

#### Deep Soil Zones

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

Site Area	Deep Soil Zone (% of site area)
Less than 650sqm	7% (28sqm)

**Comment:** No change to previous approved development.

#### Visual Privacy/Building Separation

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

Room Types	Minimum Separation
<i>Up to 12 metres (4 storeys)</i>	
Habitable rooms and balconies	6m
Non-habitable rooms	3m

**Comment:** No change to previous approved development.

#### Solar and Daylight Access

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

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

Comment: Solar Access will be available to 31 units (i.e. 76% of the total number of units) and complies with the requirements under this part.

#### Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

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

**Comment:** Cross Ventilation will be available to 29 units (i.e. 69% of the total number of units) and complies with the requirements under this part.

#### Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7m
Non-Habitable	2.4m

**Comment:** The proposed modified development will comply with the minimum ceiling heights where the units will have at least 2.7 metres of minimum ceiling heights.

#### Apartment Size and Layout

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
1 bedroom	50sqm
2 Bedroom	70sqm
3 Bedroom	90sqm

**Note:** The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.

In addition to the above, the ADG prescribes the following requirements for apartment layout requirements:

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

**Comment:** The majority of the approved units remains unchanged with the exception of A.102, A.103 and B.402.

#### *Unit A.102*

This is a two bedroom unit with 2 bathrooms, and therefore, the minimum apartment size is 75 sqm. The proposed area for this unit is 78 sqm which complies. The proposed living room is 4 metres in width. All the bedrooms have dimensions that exceed 3 metres, and the Master Bedroom is approximately 14.8 sqm in size and the second bedroom is approximately 12 sqm in size.

#### *Unit A.103*

This is a two bedroom unit with 2 bathrooms, and therefore, the minimum apartment size is 75 sqm. The proposed area for this unit is 76 sqm which complies. The proposed living room is 4 metres in width. All the bedrooms have dimensions that exceed 3 metres and the Master Bedroom is approximately 11.8 sqm in size and the second bedroom is approximately 10.2 sqm in size.

#### *Unit B.402*

This is a three bedroom unit with 2 bathrooms, and therefore, the minimum apartment size is 100 sqm. The proposed area for this unit is 145 sqm which complies. The proposed living room is 6 metres in width. All the bedrooms have dimensions that exceeds 3 metres and the Master Bedroom is approximately 16.5 sqm in size and the second bedroom and third bedrooms are approximately 9.3sqm and 11.5 sqm in size respectively.

Therefore, the proposed modifications will satisfy the requirements under this part.

#### Private Open Space and Balconies

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



Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4sqm	-
1 bedroom apartments	8sqm	2m
2 Bedroom apartments	10sqm	2m

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

**Comment:** There are no changes to the previously approved balcony sizes with the exception of Units A.102 and Units A.103. The proposed balconies will have 2 metres in width and the proposed balcony sizes are 11sqm and 10 sqm respectively and therefore comply with the requirements under this part.

### Storage

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

Apartment Type	Minimum Internal Area
2 Bedroom apartments	8m <sup>3</sup>
3+ Bedroom apartments	10m <sup>3</sup>

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

**Comment:** A.102, A.103 and B.402 all have 7.9 sqm storage located outside the apartment and A.102, A.103 and B.402 have internal storage of 4.1 sqm, 6.6 sqm and 5.2 sqm respectively which means that these apartments all have storage areas that exceed the abovementioned requirements.

In considering the above, it is considered that the modified proposal is acceptable having regard to the ADG.

### SEPP (Sustainable Buildings) 2022

The applicant has included a BASIX Certificate as part of the lodgment of the application (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EPA Regulation 2021*.

### ***Inner West Local Environmental Plan 2022 (IWLEP 2022)***

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

**Part 1 – Preliminary**

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> <li>• The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents,</li> <li>• The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West,</li> <li>• The proposal prevents adverse social, economic and environmental impacts, including cumulative impacts</li> </ul>	Yes

**Part 2 – Permitted or Prohibited Development**

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> <li>• The proposal is for a mixed use development comprising of residential flat building and commercial premises which is permissible in the E1 zoning (previously B2 Zoning).</li> <li>• The proposal is consistent with the relevant objectives of the zone: <ul style="list-style-type: none"> <li>○ To encourage investment in local commercial development that generates employment opportunities and economic growth.</li> <li>○ To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.</li> <li>○ To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</li> </ul> </li> </ul>	Yes
Section 2.7 Demolition requires development consent	Standard conditions were imposed on the original consent to manage impacts which may arise during demolition.	Yes, subject to conditions

**Part 4 – Principal Development Standards**

Section	Proposed		Compliance
Section 4.4 Floor Space Ratio & Section 4.4A Exception to Maximum Floor Space Ratio for Active Street Frontages	Maximum	1.5:1 or 2647.5sqm	No
	Proposed	2.45:1 or 4319 sqm Original approval - 2.45:1 or 4313 sqm	
	Variation	1671.5 sqm or 63% Original approval - 1665.5 sqm or 63%	

Section	Proposed	Compliance
Section 4.5 Calculation of Floor Space Ratio and Site Area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.	Yes
Section 4.6 Exceptions to development standards	<p>The proposed modification is not required to formally submit a written request to vary a development standard having regard to the decision within <i>North Sydney Council v Michael Standley &amp; Associates Pty Ltd</i> [1998] NSWSC 163 that states that Section 96 (now Section 4.55) is a:</p> <p><i>'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application.</i></p> <p>See assessment under Clause 4.4 – Floor Space Ratio and Clause 6.14 – Diverse Housing below in relation to assessment of these breaches.</p>	See discussion below

#### Clause 4.4 – Floor Space Ratio

As a result of the amalgamation of Unit Nos. A.101, A.102 and A.103, there is a minor increase in gross floor area (6m<sup>2</sup>), however, there is no change to the FSR (2.44:1). The minor increase is entirely contained within the approved building footprint as a result of internal modifications.

It is noted that caselaw demonstrates that, for a Section 4.55, a Clause 4.6 Exception to Development Standards is not required.

A Section 4.55 is a 'free-standing provision', such that a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application. A Section 4.55 modification authorises the development to be approved notwithstanding any breach of development standards. Section 4.55 is a broad power to approve, subject to its own stand-alone tests (such as the "substantially the same" test, and a requirement to consider all relevant s.4.15 matters). Section 4.55 does not rely upon having a Clause 4.6 variation in order to enliven that power to approve.

In this instance, the variation of the Floor Space Ratio can be supported for the following reasons:

- The additional breach is minor (6 sqm and FSR remains at 2.45:1 despite the increase of gross floor area)
- The increase of gross floor area is not visible from the public domain and does not add any additional bulk or scale to the approved built form.
- The proposed modification would not result in any adverse amenity impacts to adjoining properties.
- The proposed modification would not result in any adverse impacts to the streetscape or the heritage conservation area.

**Part 5 – Miscellaneous Provisions**

Section	Compliance	Compliance
Section 5.10 Heritage Conservation	<p>The subject site was the site of a heritage-listed row of terraces demolished by a previous owner without consent. Protracted court action ensued. The current owner has been engaged with Council in development of successive revised proposals and more recently Court action. The site remains of heritage interest because of adjacent and proximate heritage items as well as the greater context of the site being the Annandale HCA C01 identified in the former Leichhardt LEP.</p> <p>The proposal achieves the objectives of this section as follows:</p> <ul style="list-style-type: none"> <li>• The proposed modifications to the Level 1 floor plan to create new apartments Unit A102 and A103 should be supported as the internal confirmation and amenity is considered acceptable on urban design grounds.</li> <li>• The development has been designed to respond to the significance of the conservation area and preserve contributory elements and fabric of the existing building</li> </ul> <p>Given the above the proposal preserves the environmental heritage of the Inner West.</p>	Yes
Section 5.21 Flood Planning	The site is located in a flood planning area. The originally approved development is considered to be compatible with the flood function and behaviour on the land now and under future projections. The proposed modifications does not result in additional flood risks and previously imposed conditions will be retained.	Yes, subject to relation of previously imposed conditions

**Part 6 – Additional Local Provisions**

Section	Proposed	Compliance
Section 6.1 Acid Sulfate Soils	The site is identified as containing Class 5 Acid Sulfate Soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable.	Yes
Section 6.2 Earthworks	The proposed earthworks are approved under previous applications and the proposed modifications does not raised any additional issues in this regard.	Yes
Section 6.3 Stormwater Management	The proposed modifications does not result in additional stormwater impacts and previously imposed conditions will be retained.	Yes, subject to relation of previously imposed conditions
Section 6.8 Development in Areas Subject to Aircraft Noise	As the site is identified as located within ANEF 20-25 or greater or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction.	Yes

Section	Proposed	Compliance
	<ul style="list-style-type: none"> <li>A condition has been included in the previous development consent (condition 5) which addresses this and this condition will be retained.</li> </ul>	
Section 6.9 Design excellence	The proposed modifications are minor in nature and does not result in any additional height or bulk. The application was referred to council's urban designer and it was concluded that the proposed modifications to the Level 1 floor plan to create new apartments Unit A102 and A103 should be supported as the internal confirmation and amenity is considered acceptable on urban design grounds and based on consistency with the Apartment Design Guide.	Yes
Section 6.13 Residential accommodation in Zones E1, E2 and MU1	<p>The proposal modifications will result in a mixed-use development that retains a retail premise at ground floor that fronts Parramatta Road which achieves active street frontage. The proposed modifications will also be compatible with the desired future character of the area.</p> <ul style="list-style-type: none"> <li>Therefore the proposal will be satisfactory in this regard.</li> </ul>	Yes
Section 6.14 Diverse housing	<ul style="list-style-type: none"> <li>See discussion below.</li> </ul>	Yes

#### Section 6.14 Diverse Housing

The following controls are applicable in relation to the provision of diverse housing:

- (1) The objective of this clause is to ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development that includes shop top housing.
- (2) This clause applies to the following development involving at least 4 dwellings on land identified as "Area 1" on the Key Sites Map—
  - (a) development for the purposes of residential flat buildings,
  - (b) mixed use development that includes shop top housing.
- (3) Development consent must not be granted to development to which this clause applies unless—
  - (a) at least 25% of the dwellings will be—
    - (i) studio dwellings, or
    - (ii) dwellings containing only 1 bedroom, and
  - (b) no more than 30% of the dwellings will be dwellings containing at least 3 bedrooms.

The subject modification seeks approval for a modified dwelling mix, as follows:

- 1 Bedroom = 8 units (20%)
- 2 Bedroom = 22 units (54%)
- 3 Bedroom = 11 units (26%)

This is a reduction in 3 x studio / 1 bedroom units, and an increase in 2 x 2 bedroom units. The proposed modification results in a non-compliance with Clause 6.14(3)(a) as 1 bedroom units only comprise 20% of the proposed units (i.e. 20% variation), however, does not result in non-compliance with Clause 6.14(3)(b), as the development continues to provide less than 30% of the development as 3 bedroom units.



It is noted that caselaw demonstrates that, for a Section 4.56, a Clause 4.6 Exception to Development Standards is not required.

The applicant has provided the following justification for the variation of Diverse Housing development standard:

- *A Yield Mix Analysis prepared by Hadron Group provides a detailed analysis of the supply and demand for 1-bedroom units in Annandale and other suburbs in Inner West Council LGA and the following findings were reached:*
  - *Annandale suburb has a comparable share of flat or apartment dwelling typologies (28%) to Leichhardt, but a lower share than Camperdown, Stanmore and the Inner West LGA. It has a comparable share of no bedroom (4%) and 1 bedroom dwellings (15%) overall and a higher share of no bedroom (13%) and 1 bedroom units (40%) in its flat or apartment stock than Leichhardt, Stanmore and the Inner West LGA.*
  - *Annandale has a lower share of couple families with no children residing in flats or apartments (22%) than Camperdown (30%), Leichhardt (26%), Stanmore (29%) and the Inner West LGA (27%), but a higher share of lone households (58%), compared to Camperdown (49%), Leichhardt (43%), Stanmore (51%) and the Inner West LGA (45%). The share of couple families with no children in 1 bedroom flats or apartments is also lower in Annandale (17%), compared to Camperdown (30%), Leichhardt (22%), Stanmore (25%) and the Inner West LGA (23%). The household composition in terms of household types and age of persons resident in studio / 1-bedroom flats and apartments in Annandale is broadly comparable to surrounding suburbs. However, there are fewer couple households without children in flats and apartments and a lower share of that household typology in studio / 1-bedroom flats.*
  - *The median weekly rent for 1 bedroom units in Annandale is lower than that in the surrounding suburbs and the Inner West LGA, but the 2 bedroom unit median weekly range is comparable.*
  - *There is a persistent discount for 1 bedroom unit rents compared to 2 bedroom unit rents in Annandale suburb compared to surrounding suburbs.*
  - *There is no evidence of a difference in the financial capacity of households in studio / 1-bedroom units in Annandale compared to surrounding suburbs.*
  - *Annandale has a similar distribution of flats and apartments, including studio and 1-bedroom units to surrounding suburbs. Despite this, Annandale exhibits a distinct rental market dynamic, with 1-bedroom units priced lower than those in surrounding areas, while 2-bedroom unit rents remain comparable. This persistent rent discount for 1-bedroom units in Annandale, despite no evident difference in the financial capacity of households, suggests a lower demand for smaller living spaces in this suburb. Factors contributing to this trend may include a lower proportion of couple households without children in flats and apartments and a possible preference shift towards larger living spaces post-COVID.*

The objectives under Zone E1 - Local Centre applies to these development standards:

## **1 Objectives of zone**

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide employment opportunities and services in locations accessible by active transport.*
- *To provide retail facilities and business services for the local community commensurate with the centre's role in the local centres hierarchy.*
- *To ensure Inner West local centres are the primary location for commercial and retail activities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.*

Having considered the justification provided by the applicant, it is considered that, despite a variation to the development standard in relation to diverse housing, that Annandale has an adequate supply of 1 bedroom units compared to surrounding suburbs, and also a lower demand for 1 bedroom units compared to surrounding suburbs. Despite a non-compliance with the development standard, the proposed modifications would still provide 8 x 1 bedroom units, and the proposed modifications will retain the ability to provide a diverse range of housing to accommodate the varied needs of the community, and thus complies, with objective to enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.

## B. Development Control Plans

LDCP2013	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.7 Site Facilities	Yes, no changes to previous approved.
C1.8 Contamination	Yes, no changes to previous approved.
C1.9 Safety by Design	Yes, no changes to previous approved.

C1.10 Equity of Access and Mobility	Yes, no changes to previous approved.
C1.11 Parking	Yes – see discussion
C1.12 Landscaping	Yes, no changes to previous approved.
C1.13 Open Space Design Within the Public Domain	Yes, no changes to previous approved.
C1.14 Tree Management	Yes, no changes to previous approved.
C1.18 Laneways	Yes
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.1.7 Parramatta Road Commercial Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes, meets Apartment design guide requirements.
C3.3 Elevation and Materials	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes, meets Apartment design guide requirements.
C3.9 Solar Access	Yes, meets Apartment design guide requirements.
C3.10 Views	Yes
C3.11 Visual Privacy	Yes, meets Apartment design guide requirements.
C3.12 Acoustic Privacy	Yes, meets Apartment design guide requirements.
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes, meets Apartment design guide requirements.
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

<b>Part D: Energy</b>	
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
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes, no changes to previous approved.
E1.1.2 Integrated Water Cycle Plan	
E1.1.3 Stormwater Drainage Concept Plan	
E1.1.4 Flood Risk Management Report	
E1.1.5 Foreshore Risk Management Report	
E1.2 Water Management	
E1.2.1 Water Conservation	
E1.2.2 Managing Stormwater within the Site	
E1.2.3 On-Site Detention of Stormwater	
E1.2.4 Stormwater Treatment	
E1.2.5 Water Disposal	
E1.2.6 Building in the vicinity of a Public Drainage System	
E1.2.7 Wastewater Management	

#### C1.11 Parking

It should be noted that there are no changes to the retail premises component, where the Land and Environment Court has previously approved a short fall of car parking spaces in relation to the retail component. The parking spaces associated with retail component will remain as 5 spaces as previously approved.

There are currently 45 spaces proposed that are associated with the residential components and the following parking rates are applicable:

Table C4: General vehicle parking rates

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

The subject modification seeks approval for a modified dwelling mix, as follows:

- 1 Bedroom = 8 units – 2.67 spaces
- 2 Bedroom = 22 units – 11 spaces
- 3 Bedroom = 11 units - 11 spaces
- Visitor parking – 3.7.2 spaces

Total minimum spaces required is 28.4 spaces.

Therefore, the proposed 45 spaces associated with the residential component will comply with the minimum parking requirements.

## C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will/will not have significant adverse environmental, social or economic impacts upon the locality.

## D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential/commercial surrounding and amongst similar uses to that proposed.



## **E. Submissions**

The application was notified in accordance with Council's Community Engagement Strategy between 5 December 2023 to 18 January 2024.

No submissions were received.

## **F. 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.

This has been achieved in this instance.

## **7. Section 7.11 / 7.12 Contributions**

The carrying out of the development would result in an increased demand for public amenities and public services within the area. Section 7.11 contributions are payable for the proposal. M/2019/53 imposed a contribution of that had been capped at \$620,000. The current modification will not result in an increased demand for public amenities compared to the original development and the current application does not seek any changes to condition 22 which will be retained.

## **8. Referrals**

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Urban Design;
- Building Certification

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

## **9. Conclusion**

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* 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. MOD/2023/0393 to modify D/2017/161 as last modified by MOD/2023/0104 seeking various internal and external changes including: removal of external planters; proposed amalgamation of Units A101 and A102; update unit layouts of Units A103 and Unit B402; and fenestration and blade wall changes at 1-13 Parramatta Road, Annandale subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

Modify Condition 1 to read as follows:

### CONDITIONS OF CONSENT

- 1 Development must be carried out in accordance with Development Application No. **D/2017/161** and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Document Title	Prepared By	Dated
Report on Geotechnical Investigation	Taylor Geotechnical Engineering	April 2005
Geotechnical Investigation – Report Revision	Geotechnique Pty Ltd	14 May 2013
Additional Geotechnical Investigation Report	EI Australia	5 December 2017
Social Impact Statement	Mersonn Pty Ltd	April 2017
Review of Previous Environmental Site	EI Australia	22 October 2016
Environmental Site Assessment	Benviron Group	November 2012
Additional Site Contamination Investigation	EI Australia	13 December 2017
Access for People with a Disability Statement of Compliance Rev. A Access Report No: 216267	Accessible Building Solutions	7 March 2017
BCA Capability Report	Vic Lilli	13 March 2017
Flood Risk Management Plan Issue B	Australian Consulting Engineers Pty Ltd	December 2017
Heritage Impact Statement	Urbis	16 November 2017
Waste Management Plan	Elephants Foot	12 December 2017

*As modified by the following:*

<b>Document No. and Revision</b>	<b>Document Title</b>	<b>Prepared By</b>	<b>Dated</b>
DA000 Issue A	Cover Page	PBD Architects	27.01.2021
DA100 Issue FF	B2 Plan	PBD Architects	02.09.22
DA101 Issue D GG	B1 Plan	PBD Architects	02.09.22
DA102 Issue JJ	GF Plan	PBD Architects	14.03.2023
<b>DA103 Issue GG</b>	<b>Level 1 Plan</b>	<b>PBD Architects</b>	<b>14.11.2023</b>
<b>DA104 Issue GG</b>	<b>Level 2-3 Plan</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
<b>DA105 Issue FF</b>	<b>Level 4 Plan</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
DA106 Issue G DD	Roof Plan	PBD Architects	25.08.2022
DA201 Issue B BB	South Elevation	PBD Architects	25.08.2022
DA202 Issue G BB	East Elevation	PBD Architects	25.08.2022
<b>DA203 Issue CC</b>	<b>North Elevation</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
<b>DA204 Issue DD</b>	<b>West Elevation</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
<b>DA301 Issue CC</b>	<b>Section A</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
<b>DA302 Issue CC</b>	<b>Section B</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
DA303 Issue BB	Section C & F	PBD Architects	25.08.2022
DA304 Issue C	Driveway Sections	PBD Architects	25.03.2021
DA401 Issue AA	Material Schedule	PBD Architects	21.03.2023
<b>DA501 Issue CC</b>	<b>GFA Diagram</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
<b>DA510 Issue C</b>	<b>Apartment Mix Diagram</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
<b>DA520 Issue CC</b>	<b>Storage Diagram 01</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
<b>DA521 Issue CC</b>	<b>Storage Diagram 02</b>	<b>PBD Architects</b>	<b>15.11.2023</b>
DA530 Issue B	Private Open Space Diagram	PBD Architects	29.03.2021

DA540 Issue B BB	Communal Open Space Diagram	PBD Architects	25.08.2022
DA701 Issue A	Adaptable Layout Type A	PBD Architects	27.01.2021
DA702 Issue A	Adaptable Layout Type B	PBD Architects	27.01.2021
DA801 Issue C BB	Voluntary Planning Agreement (VPA) Plan	PBD Architects	25.08.2022
DA802 Issue C BB	VPA Elevation & Sections	PBD Architects	25.08.2022
DA803 Issue C	Voluntary Planning Agreement (VPA) Plan	PBD Architects	25.03.2021
DA901 Issue A	Garbage Truck Swept Path (IN)	PBD Architects	30.03.2021
DA902 Issue A	Garbage Truck Swept Path (OUT)	PBD Architects	30.03.2021
000 Issue C F	Coversheet	Site Image Landscape Architects	16.03.2022
1042 Issue D F	Landscape Plan Ground Floor	Site Image Landscape Architects	11.03.2022



1023 Issue G E	Landscape Plan Level 1 & Level 2-3	Site Image Landscape Architects	16.03.2022
1034 Issue G E	Landscape Plan Level 4	Site Image Landscape Architects	16.03.2022
501 Issue G D	Typical Details	Site Image Landscape Architects	11.03.2022
502 Issue G D	Typical Details	Site Image Landscape Architects	11.03.2022
000 Issue L B	Cover Sheet, Notes & Legend	Australian Consulting Engineers Telford Civil	22.03.2022
101 Issue L B	Stormwater Concept Plan Lower Basement Level  Sheet 1 of 2	Australian Consulting Engineers Telford Civil	22.03.2022
102 Issue L B	Stormwater Concept Plan Lower Basement Level  Sheet 2 of 2	Telford Civil	22.03.2022
103 Issue L B	Stormwater Concept Plan Upper Basement Level	Telford Civil	22.03.2022

104 Issue L B	Stormwater Concept Plan Ground Level	Telford Civil	22.03.2022
105 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 1 of 7	Telford Civil	22.03.2022
106 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 2 of 7	Telford Civil	22.03.2022
107 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 3 of 7	Telford Civil	22.03.2022
108 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 4 of 7	Telford Civil	22.03.2022
109 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 5 of 7	Telford Civil	22.03.2022
110 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 6 of 7	Telford Civil	22.03.2022

111 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 7 of 7	Telford Civil	22.03.2022
112 Issue B	Sediment & Erosion Control Plan/Soil & Water Management Plan	Telford Civil	22.03.2022
113 Issue B	Miscellaneous Details Sheet	Telford Civil	22.03.2022
TEL2021314	Flood Impact Assessment Revision B	Telford Consulting Pty Ltd	October 2022
	DVS + SEPP65 Report	PBD Architects	29.03.2021
19095_201219 Revision 0	Noise Impact Assessment	White Noise Acoustics	20.12.2019
16.382r03v01	Traffic Impact Assessment	Traffix	18.03.2022
216267	Statement of Compliance Access for People with Disability	Accessible Building Solutions	12.2.2019

<b><i>BASIX Certificate No 766800M_09</i></b>	<b><i>Basix Certificate</i></b>	<b><i>Intergeco Consulting Pty Ltd</i></b>	<b><i>20 February 2024</i></b>
<i>221-N117</i>	<i>Section J Report</i>	<i>Integreco</i>	<i>23/11/2022</i>
<i>BCA Statement</i>	<i>Proposed Purchaser Changes</i>	<i>Custom Development Certifications</i>	<i>Undated</i>
	<i>Waste Management Plan</i>	<i>Elephants Foot</i>	<i>05.09.2022</i>

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

*Modified by M/2019/53 LEC 2019/358521 – 30 March 2021, modified by MOD/2022/0014 – 17/05/2022 and Modified by MOD/2022/0143 – 16 December 2022 and Modified by MOD/2023/0104 – 06 June 2023 and **Modified by MOD/2023/0393 - date 12 June 2024.***

## Attachment B – Plans of proposed development

**PROJECT INFORMATION**

113 Parramatta Road, Annandale

Total Site Area: 1,760 m<sup>2</sup>

Zoning: B2 Local Centre

Proposed FSR: 4.0

Proposed GFA: 4,319

**UNIT MIX**

Level	Studio	1 Bed	2 Bed	3 Bed	Total
G/F	0	0	1	0	1
LEVEL 1	0	1	2	0	3
LEVEL 2	0	2	6	0	8
LEVEL 3	0	0	0	0	0
LEVEL 4	0	0	0	0	0
LEVEL 5	0	0	0	0	0
LEVEL 6	0	0	0	0	0
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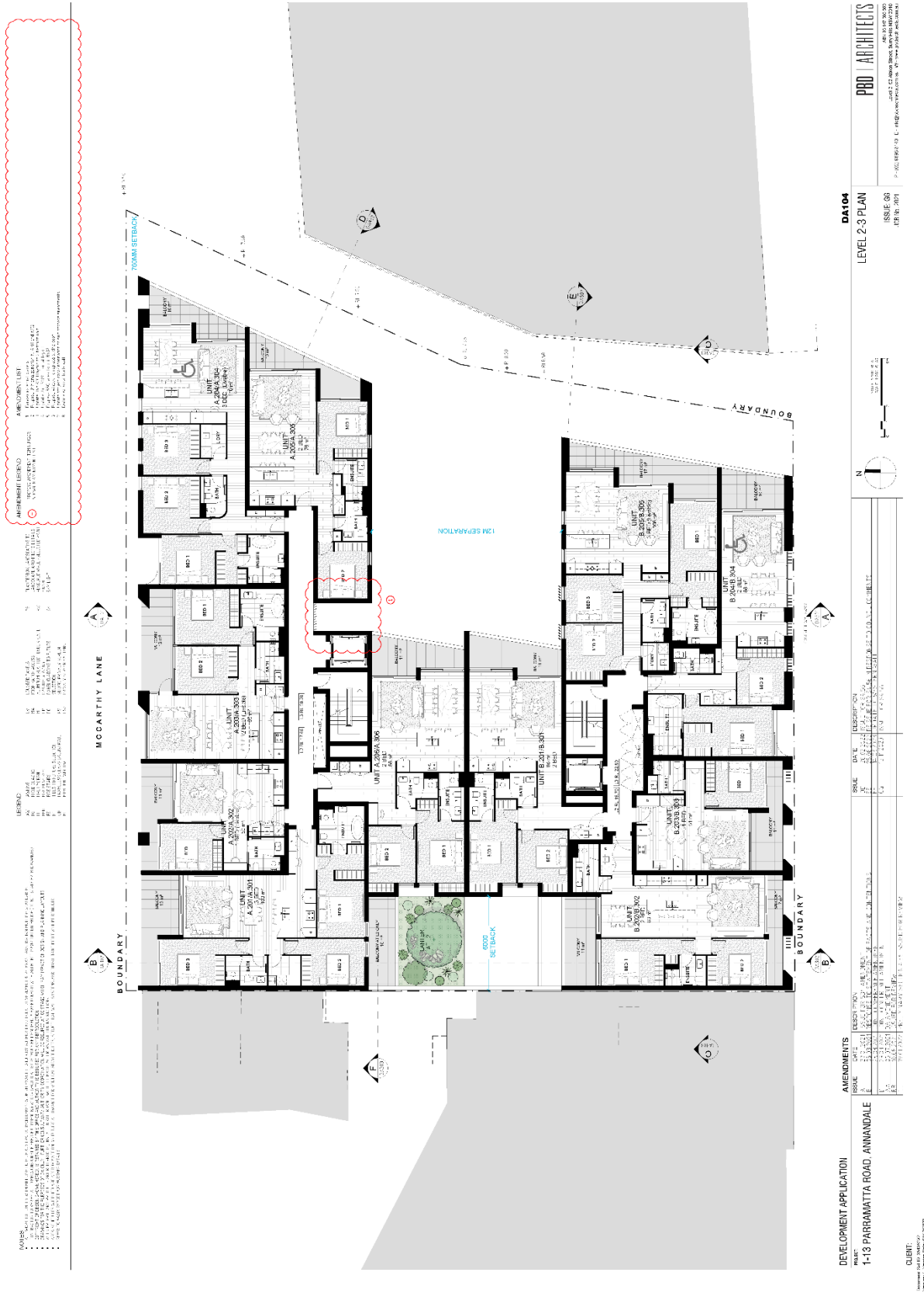
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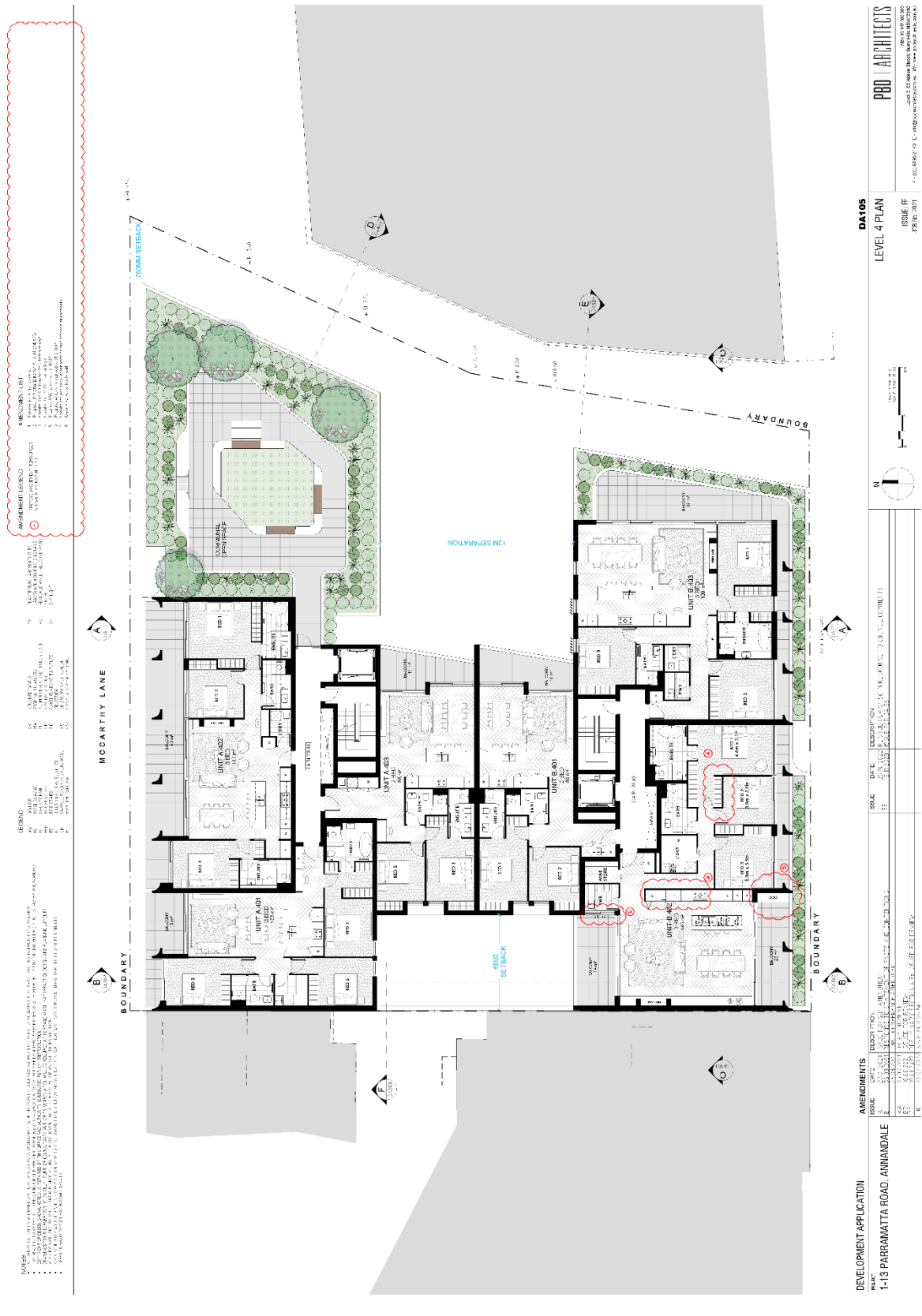
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**UNIT MIX**

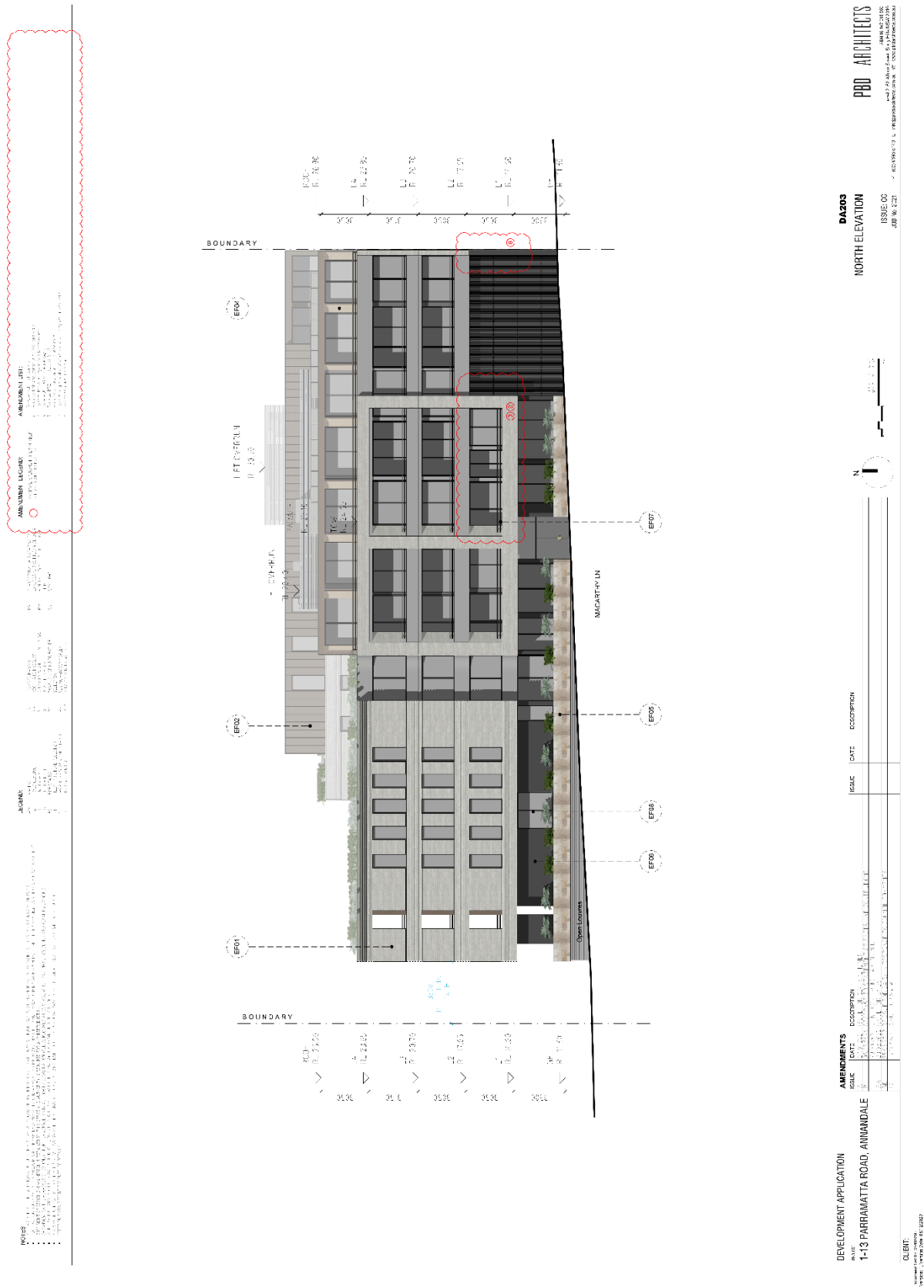
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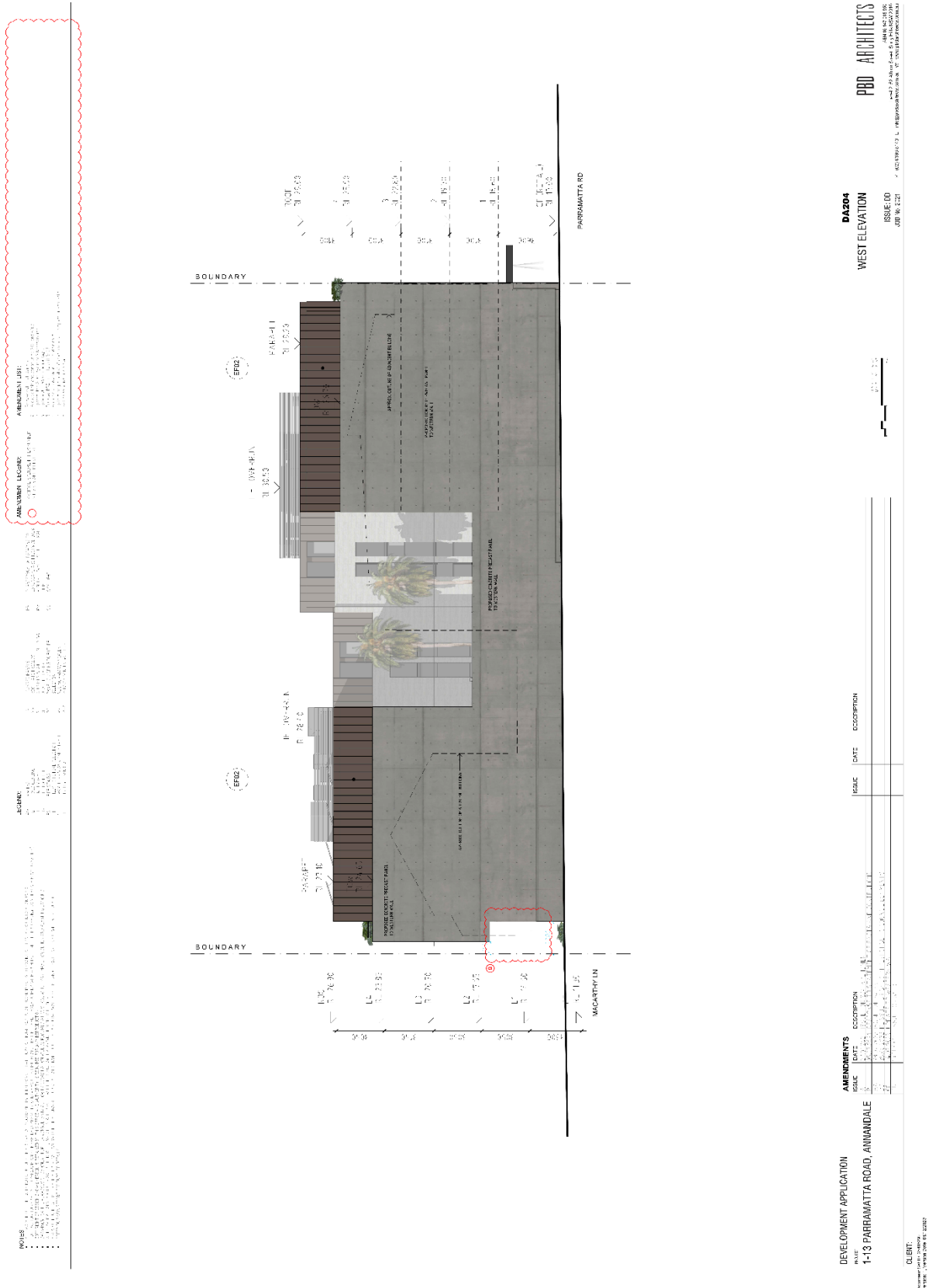


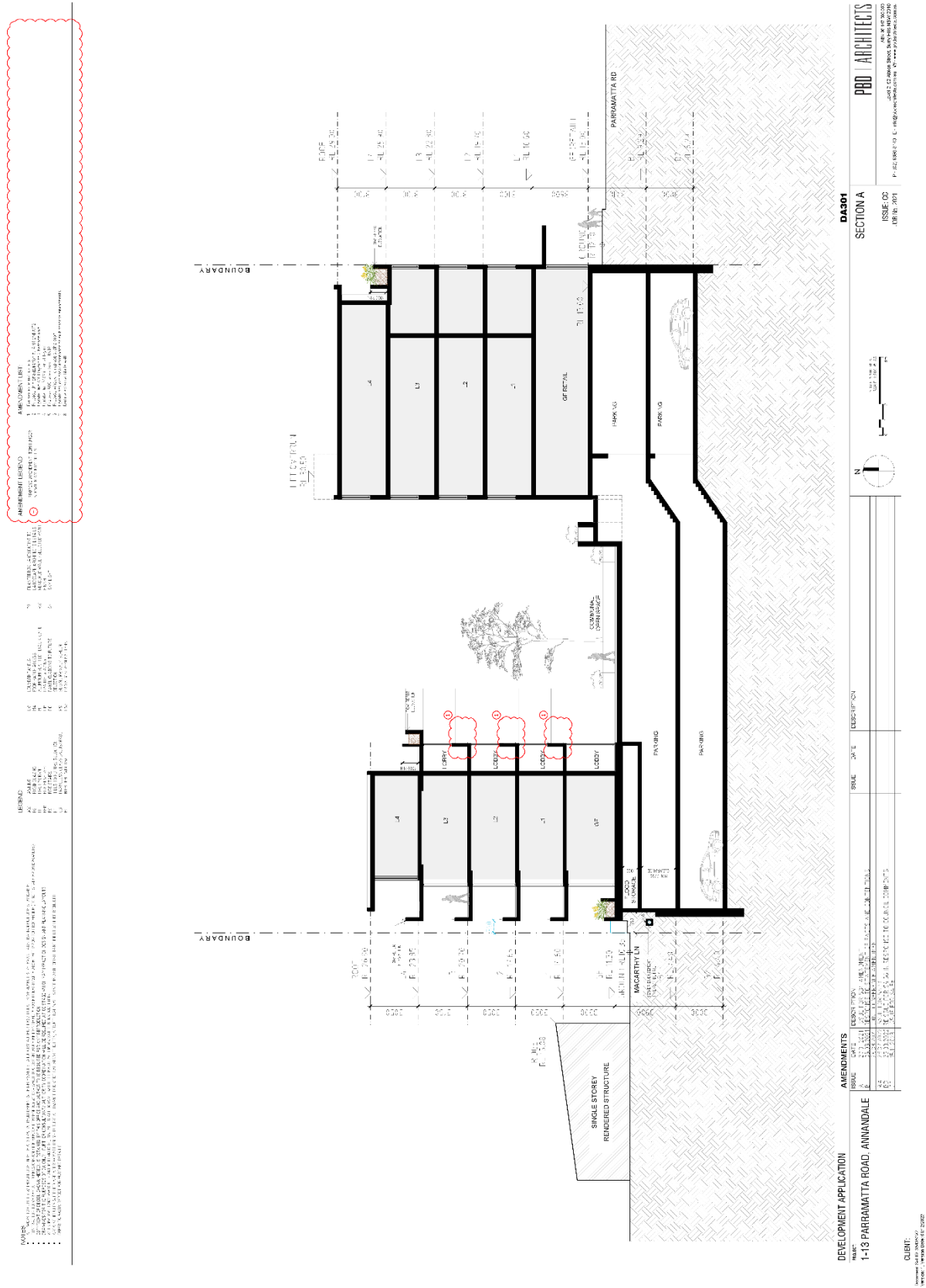


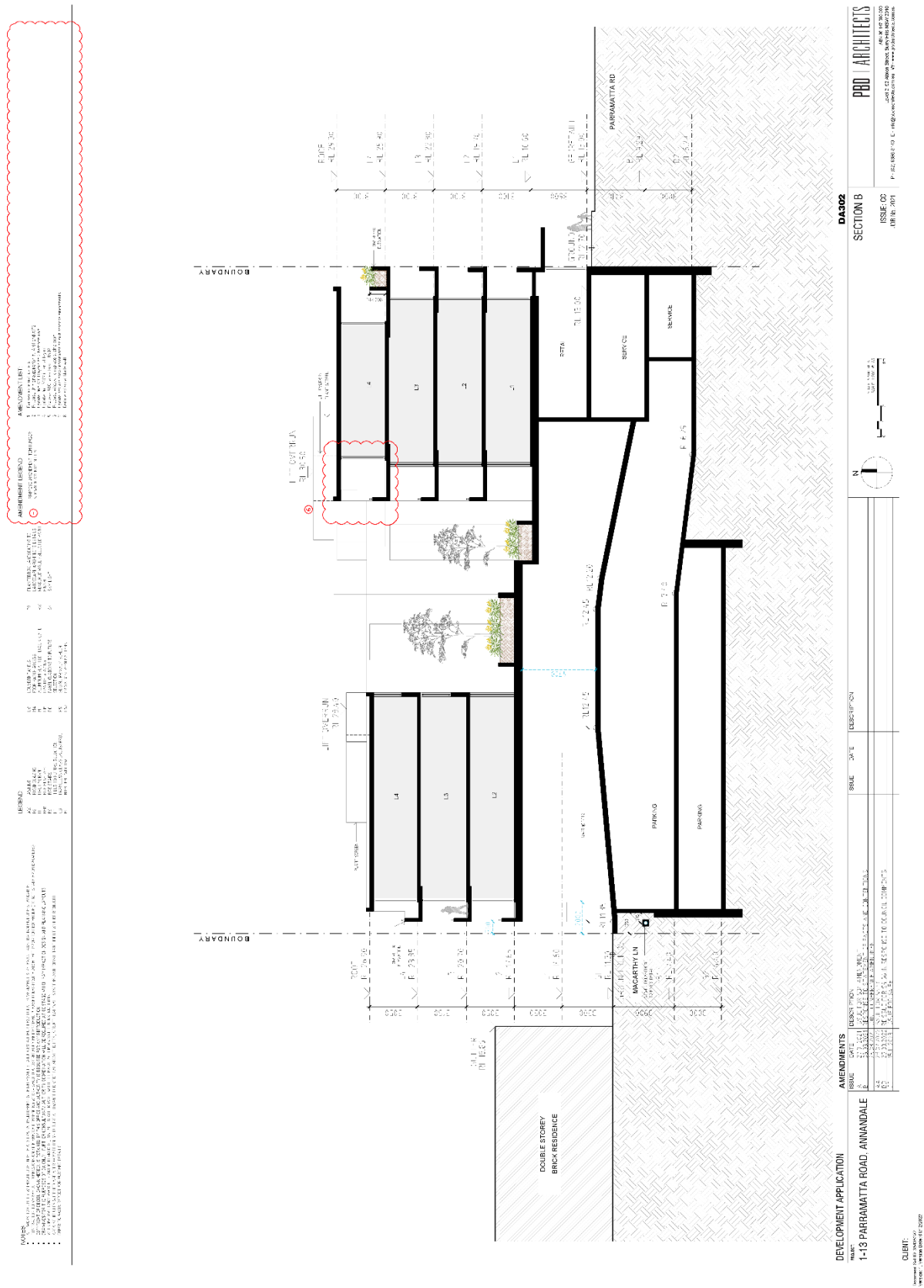


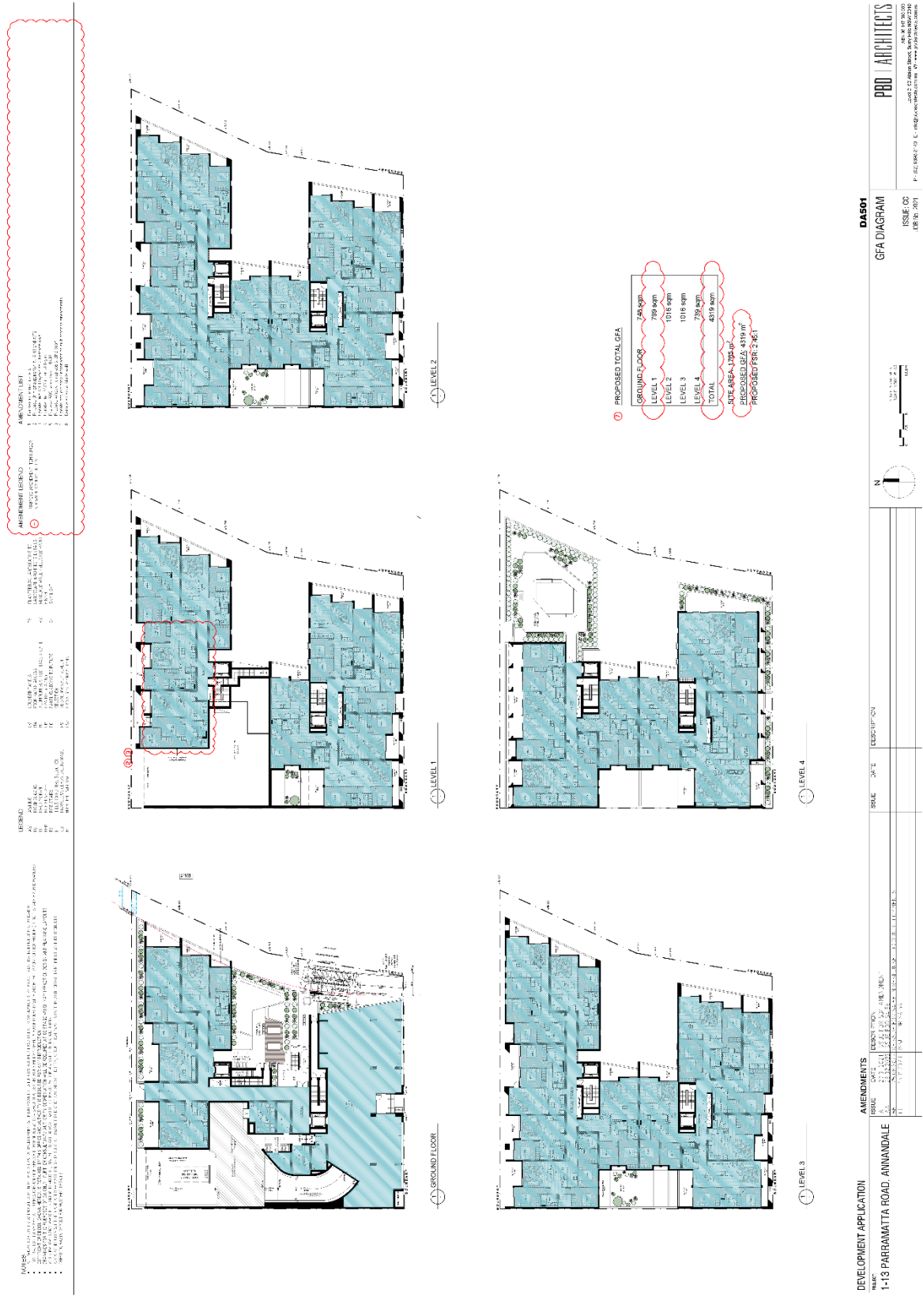




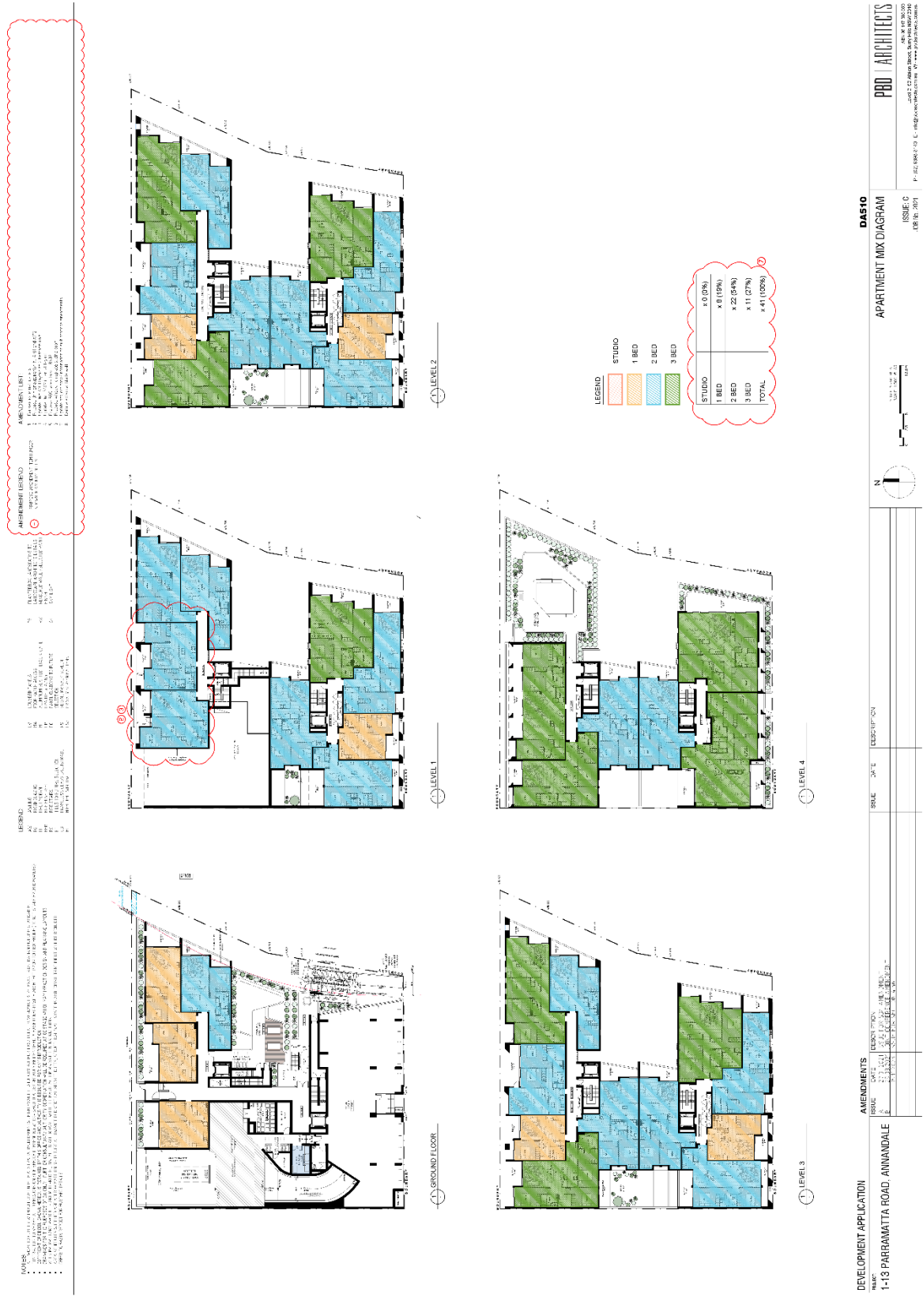








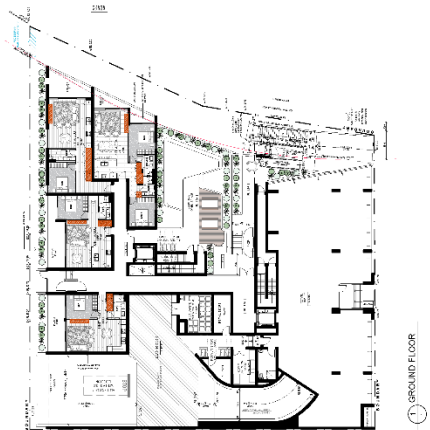
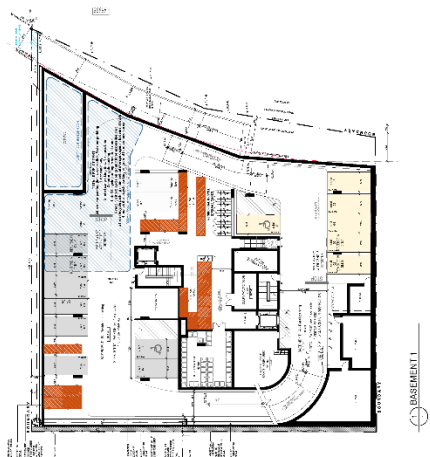




- NOTES:**
- 1. THIS DEVELOPMENT APPLICATION IS FOR THE PROPOSED CONSTRUCTION OF A 10-STOREY BUILDING WITH A TOTAL FLOOR AREA OF 10,000 SQM, INCLUDING A BASEMENT, GROUND FLOOR, AND FLOORS 1 TO 10.
  - 2. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 3. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 4. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 5. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 6. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 7. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 8. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 9. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.
  - 10. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE INNER WEST LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.

- LEGEND:**
- 1. EXISTING BUILDING
  - 2. PROPOSED BUILDING
  - 3. PROPOSED DEVELOPMENT
  - 4. PROPOSED DEVELOPMENT
  - 5. PROPOSED DEVELOPMENT
  - 6. PROPOSED DEVELOPMENT
  - 7. PROPOSED DEVELOPMENT
  - 8. PROPOSED DEVELOPMENT
  - 9. PROPOSED DEVELOPMENT
  - 10. PROPOSED DEVELOPMENT

- AMENDMENT HISTORY:**
- 1. AMENDMENT 01: 15/05/2023
  - 2. AMENDMENT 02: 15/05/2023
  - 3. AMENDMENT 03: 15/05/2023
  - 4. AMENDMENT 04: 15/05/2023
  - 5. AMENDMENT 05: 15/05/2023
  - 6. AMENDMENT 06: 15/05/2023
  - 7. AMENDMENT 07: 15/05/2023
  - 8. AMENDMENT 08: 15/05/2023
  - 9. AMENDMENT 09: 15/05/2023
  - 10. AMENDMENT 10: 15/05/2023



DEVELOPMENT APPLICATION

1-13 PARRAMATTA ROAD, ANNANDALE

AMENDMENTS

NO.	DATE	DESCRIPTION
1	15/05/2023	AMENDMENT 01
2	15/05/2023	AMENDMENT 02
3	15/05/2023	AMENDMENT 03
4	15/05/2023	AMENDMENT 04
5	15/05/2023	AMENDMENT 05
6	15/05/2023	AMENDMENT 06
7	15/05/2023	AMENDMENT 07
8	15/05/2023	AMENDMENT 08
9	15/05/2023	AMENDMENT 09
10	15/05/2023	AMENDMENT 10

DA550

STORAGE DIAGRAM

ISSUE 02

10/05/2023

PBD ARCHITECTS

10/05/2023

10/05/2023

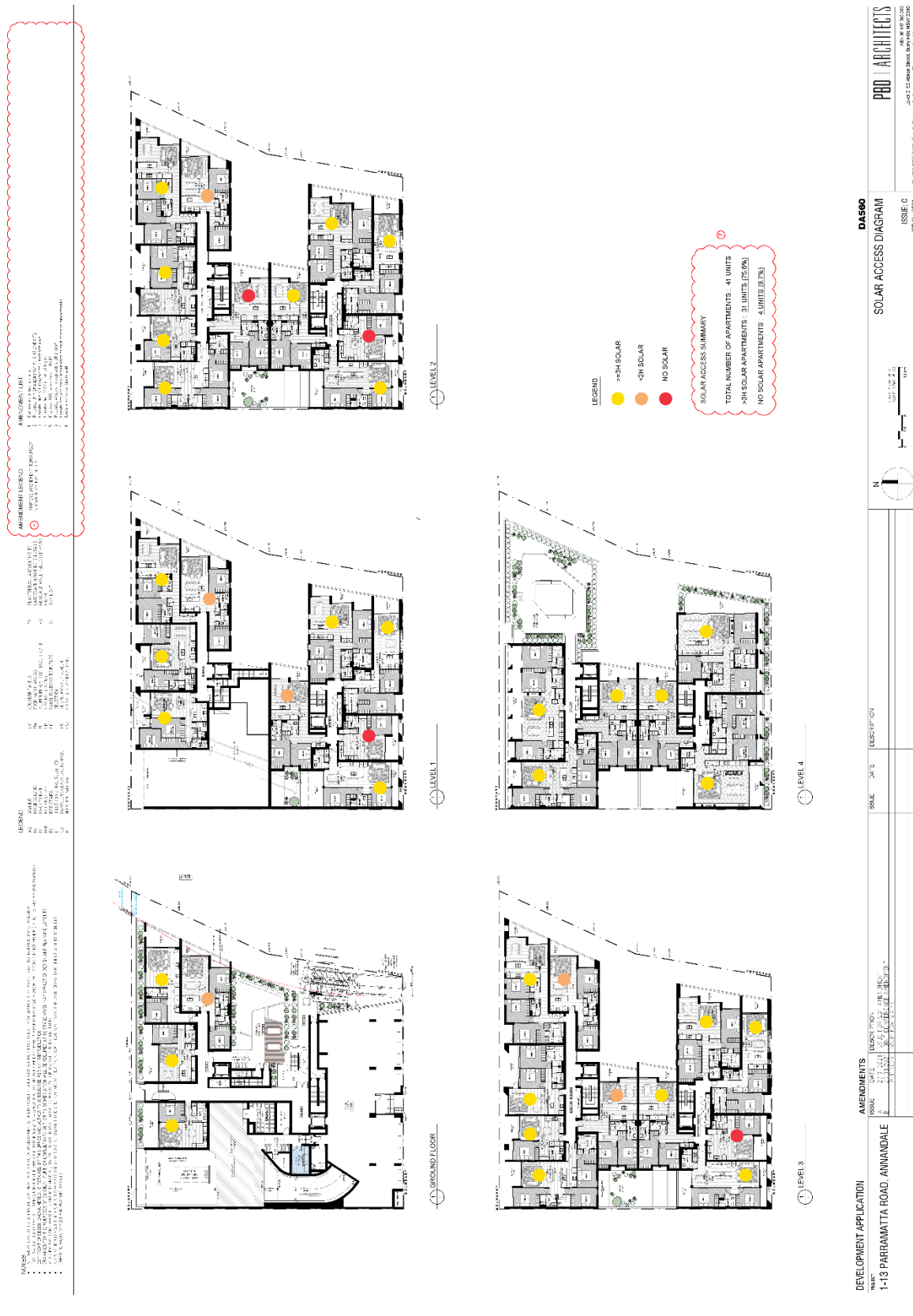


CLIENT:

10/05/2023

[illegible]





## Attachment C – Most recent approved conditions of consent (MOD/2023/104)



### NOTICE OF DETERMINATION - APPROVAL

*Issued under Section S4.56 of the Environmental Planning and Assessment Act 1979*

Development Application No.	D/2017/161
Applicant	ERANNA DEVELOPMENT PTY LIMITED
Land to be developed	1-13 Parramatta Road ANNANDALE NSW 2038
Approved development	Demolition of existing structures and construction of a mixed use strata building with commercial tenancy, 41 residential units and basement parking and the subdivision of the site to dedicate a 1200mm road widening to McCarthy Lane.
Cost of development	\$14,831,225.00
Determination	This S4.56 modification application was determined by Delegation to Staff and was granted consent <b>subject to the conditions attached.</b>
Other Approvals	Before commencing <i>building work</i> or <i>subdivision work</i> , a relevant Construction Certificate must be obtained from Council or an Accredited Certifier. Council must be appointed the Principal Certifier for any <i>subdivision work</i> under the Act.
Date of Development Consent:	3 March 2018
Date of Modification of Consent:	06 June 2023
Modification Number:	MOD/2023/0104

**Inner West Council**  
innerwest.nsw.gov.au  
02 9392 5000

council@innerwest.nsw.gov.au  
PO Box 14, Petersham NSW 2049

**Reasons for conditions**

To protect the environmental amenity of the area and the public interest.

**Right of appeal**

If you are dissatisfied with this decision, Section 8.9 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court in accordance with the timeframes set out in [Section 8.10](#) of the *Environmental Planning and Assessment Act 1979*. In addition to the above, third party appeal rights are set out in the *Environmental Planning and Assessment Act 1979* and may be applicable.

Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides that the applicant may request the Council to review the determination. Section 8.2 does not apply to complying development, designated development, a determination made by Council under Section 4.2 in respect of Crown applications, or a decision that is already subject to a Section 8.2 review.

For further information please contact **Christian Hemsley** on 02 9392 5706 or [christian.hemsley@innerwest.nsw.gov.au](mailto:christian.hemsley@innerwest.nsw.gov.au).



Adele Cowie  
**Team Leader Development Assessment**

## CONDITIONS OF CONSENT

- 1 Development must be carried out in accordance with Development Application No. **D/2017/161** and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Document Title	Prepared By	Dated
<i>Drawings:</i> 16045—DA-110 Rev 2 16045—DA-111 Rev 4 16045—DA-112 Rev 5 16045—DA-113 Rev 4 16045—DA-114 Rev 3 16045—DA-115 Rev 4 16045—DA-116 Rev 4 16045—DA-200 Rev 4 16045—DA-201 Rev 3 16045—DA-202 Rev 3 16045—DA-300 Rev 3 16045—DA-310 Rev 3 16045—DA-311 Rev 2 16045—DA-312 Rev 1 16045—DA-313 Rev 1 16045—DA-710 Rev 4	<i>BKA Architecture</i>	<i>16 January 2018</i>
16045—DA-810 Rev 1 <i>Materials and Finishes</i>	<i>BKA Architecture</i>	<i>4 April 2017</i>
16045—DA-102 Rev 1 <i>Subdivision Plan</i>	<i>BKA Architecture</i>	<i>18 April 2017</i>
000 (Issue I) Coversheet 102 (Issue B) Ground Floor	<i>Landscape Architects</i>	<i>15 December 2017</i>
101 (Issue G) Communal space 103 (Issue B) Roof Plan	<i>Landscape Architects</i>	<i>12 December 2017</i>
501 (Issue D) Typical Details	<i>Landscape Architects</i>	<i>15 December 2017</i>
<i>Basix Report</i>	<i>Outsource Ideas Pty Ltd</i>	
<i>BASIX Certificate No 766800M_04</i>		<i>30 November 2017</i>

<i>Design Verification Statement</i>	<i>BKA Architecture</i>	<i>17 March 2017</i>
<i>Report on Geotechnical Investigation</i>	<i>Taylor Geotechnical Engineering</i>	<i>April 2005</i>
<i>Geotechnical Investigation – Report Revision</i>	<i>Geotechnique Pty Ltd</i>	<i>14 May 2013</i>
<i>Additional Geotechnical Investigation Report</i>	<i>EI Australia</i>	<i>5 December 2017</i>
<i>Social Impact Statement</i>	<i>Mersonn Pty Ltd</i>	<i>April 2017</i>
<i>Review of Previous Environmental Site</i>	<i>EI Australia</i>	<i>22 October 2016</i>
<i>Environmental Site Assessment</i>	<i>Benviron Group</i>	<i>November 2012</i>
<i>Additional Site Contamination Investigation</i>	<i>EI Australia</i>	<i>13 December 2017</i>
<i>Access for People with a Disability Statement of Compliance Rev. A Access Report No: 216267 BCA Capability Report</i>	<i>Accessible Building Solutions</i>	<i>7 March 2017</i>
<i>Flood Risk Management Plan Issue B</i>	<i>Vic Lilli</i>	<i>13 March 2017</i>
<i>Heritage Impact Statement</i>	<i>Australian Consulting Engineers Pty Ltd</i>	<i>December 2017</i>
<i>Noise Impact Assessment</i>	<i>Urbis</i>	<i>16 November 2017</i>
<i>Stormwater Concept Plans Issue C</i>	<i>Acoustic Logic</i>	<i>10 February 2017</i>
<i>Stormwater Quality Management Plan Issue B</i>	<i>Australian Consulting Engineers</i>	<i>14 December 2017</i>
<i>Waste Management Plan</i>	<i>Umbrella Civil Consulting Engineers</i>	<i>March 2017</i>
<i>Assessment of Traffic and Parking Implications</i>	<i>Elephants Foot</i>	<i>12 December 2017</i>
	<i>Transport and Traffic Planning Associates</i>	<i>March 2017</i>

As modified by the following:

<b>Document No. and Revision</b>	<b>Document Title</b>	<b>Prepared By</b>	<b>Dated</b>
DA000 Issue A	Cover Page	PBD Architects	27.01.2021
DA100 Issue D FF	B2 Plan	PBD Architects	<del>29.03.2021</del> 02.09.22
DA101 Issue D GG	B1 Plan	PBD Architects	<del>29.03.2021</del> 02.09.22
<b>DA102 Issue E HH-JJ</b>	<b>GF Plan</b>	<b>PBD Architects</b>	<b><del>30.03.2021</del> <del>11.11.2022</del> 14.03.2023</b>
<del>DA103 Issue D</del> <b>Issue F EE-FF</b>	<b>Level 1 Plan</b>	<b>PBD Architects</b>	<del>29.03.2021</del> <del>08.12.2021</del> <del>25.08.2022</del> 14.03.2023
<del>DA104 Issue D</del> <b>EE-FF</b>	<b>Level 2-3 Plan</b>	<b>PBD Architects</b>	<del>29.03.2021</del> <del>25.08.2022</del> 14.03.2023
DA105 Issue G EE	Level 4 Plan	PBD Architects	<del>25.03.2021</del> 25.08.2022
DA106 Issue G DD	Roof Plan	PBD Architects	<del>25.03.2021</del> 25.08.2022
DA201 Issue B BB	South Elevation	PBD Architects	<del>05.03.2021</del> 25.08.2022
DA202 Issue G BB	East Elevation	PBD Architects	<del>29.03.2021</del> 25.08.2022
DA203 Issue G BB	North Elevation	PBD Architects	<del>29.03.2021</del> 25.08.2022
<b>DA204 Issue B BB-CC</b>	<b>West Elevation</b>	<b>PBD Architects</b>	<b><del>05.03.2021</del> <del>25.08.2022</del> <del>23.03.2023</del> 14.03.2023</b>
DA301 Issue G BB	Section A	PBD Architects	<del>25.03.2021</del> 25.08.2022

DA302 Issue C BB	Section B	PBD Architects	<del>25.03.2021</del> 25.08.2022
DA303 Issue C BB	Section C & F	PBD Architects	<del>25.03.2021</del> 25.08.2022
DA304 Issue C	Driveway Sections	PBD Architects	25.03.2021
<b>DA401 Issue A</b>	<b>Material Schedule</b>	<b>PBD Architects</b>	<b>27.01.2021</b>
<b>DA401 Issue AA</b>	<b>Material Schedule</b>	<b>PBD Architects</b>	<b>21.03.2023</b>
DA510 Issue B	Apartment Mix Diagram	PBD Architects	29.03.2021
DA520 Issue B BB	Storage Diagram 01	PBD Architects	<del>29.03.2021</del> 25.08.2022
DA521 Issue B BB	Storage Diagram 02	PBD Architects	<del>29.03.2021</del> 25.08.2022
DA530 Issue B	Private Open Space Diagram	PBD Architects	29.03.2021
DA540 Issue B BB	Communal Open Space Diagram	PBD Architects	<del>29.03.2021</del> 25.08.2022
DA701 Issue A	Adaptable Layout Type A	PBD Architects	27.01.2021
DA702 Issue A	Adaptable Layout Type B	PBD Architects	27.01.2021
DA801 Issue C BB	Voluntary Planning Agreement (VPA) Plan	PBD Architects	<del>25.03.2021</del> 25.08.2022
DA802 Issue C BB	VPA Elevation & Sections	PBD Architects	<del>25.03.2021</del> 25.08.2022
DA803 Issue C	Voluntary Planning Agreement (VPA) Plan	PBD Architects	25.03.2021
DA901 Issue A	Garbage Truck Swept Path (IN)	PBD Architects	30.03.2021
DA902 Issue A	Garbage Truck Swept Path	PBD Architects	30.03.2021

	(OUT)		
000 Issue G F	Coversheet	Site Image Landscape Architects	11.02.2021 16.03.2022
1012 Issue D F	Landscape Plan Ground Floor	Site Image Landscape Architects	11.02.2021 11.03.2022
1023 Issue G E	Landscape Plan Level 1 & Level 2-3	Site Image Landscape Architects	11.02.2021 16.03.2022
1034 Issue G E	Landscape Plan Level 4	Site Image Landscape Architects	11.02.2021 16.03.2022
501 Issue G D	Typical Details	Site Image Landscape Architects	11.02.2021 11.03.2022
502 Issue G D	Typical Details	Site Image Landscape Architects	11.02.2021 11.03.2022
000 Issue L B	Cover Sheet, Notes & Legend	Australian Consulting Engineers Telford Civil	01.02.2021 22.03.2022
101 Issue L B	Stormwater Concept Plan Lower Basement Level Sheet 1 of 2	Australian Consulting Engineers Telford Civil	01.02.2021 22.03.2022
102 Issue L B	Stormwater Concept Plan Lower Basement Level Sheet 2 of 2	Australian Consulting Engineers Telford Civil	01.02.2021 22.03.2022
103 Issue L B	Stormwater Concept Plan Upper Basement Level	Australian Consulting Engineers Telford Civil	01.02.2021 22.03.2022



104 Issue L B	Stormwater Concept Plan Ground Level	Australian Consulting Engineers Telford Civil	01.02.2021 22.03.2022
105 Issue L	RWT & WSUD Details & Calculation Sheet 1 of 2	Australian Consulting Engineers	01.02.2021
106 Issue L	RWT & WSUD Details & Calculation Sheet 2 of 2	Australian Consulting Engineers	01.02.2021
107 Issue L	Sediment and Erosion Control Plan	Australian Consulting Engineers	01.02.2021
108 Issue L	Miscellaneous Details Sheet	Australian Consulting Engineers	01.02.2021
105 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 1 of 7	Telford Civil	22.03.2022
106 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 2 of 7	Telford Civil	22.03.2022
107 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 3 of 7	Telford Civil	22.03.2022
108 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 4 of 7	Telford Civil	22.03.2022
109 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 5 of 7	Telford Civil	22.03.2022

110 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 6 of 7	Telford Civil	22.03.2022
111 Issue B	OSD/WSUD/RW T Details & Calculation Sheet 7 of 7	Telford Civil	22.03.2022
112 Issue B	Sediment & Erosion Control Plan/Soil & Water Management Plan	Telford Civil	22.03.2022
113 Issue B	Miscellaneous Details Sheet	Telford Civil	22.03.2022
ACE160769	Flood Risk Management Plan Issue J	Australian Consulting Engineers Pty Ltd	January 2021
TEL2021314	Flood Impact Assessment Revision B	Telford Consulting Pty Ltd	October 2022
	DVS + SEPP65 Report	PBD Architects	29.03.2021
19095_201219 Revision 0	Noise Impact Assessment	White Noise Acoustics	20.12.2019
16.382r02v03 16.382r03v01	Traffic Impact Assessment	Traffix	28.01.2021 18.03.2022
216267	Statement of Compliance Access for People with Disability	Accessible Building Solutions	12.2.2019
BASIX Certificate No 766800M_0607	Basix Certificate	Intergeco Consulting Pty Ltd	19.02.2021 23 November 2022
221-N117	Section J Report	Integreco	23.02.2021 23/11/2022

<i>BCA Statement</i>	<i>Proposed Purchaser Changes</i>	<i>Custom Development Certifications</i>	<i>Undated</i>
	<i>Waste Management Plan</i>	<i>Elephants Foot</i>	<i>05.09.2022</i>

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

**Modified by MOD/2023/0104 – 6 June 2023**

2. A Voluntary Planning Agreement is to be entered into in accordance with the Draft Voluntary Planning Agreement attached as “Annexure 1” to this Determination Notice (“VPA”).

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**

#### **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

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

- a) ~~The architectural plans must be amended in accordance with the revised alignment levels to be issued under Condition No. 1011.~~  
(Deleted by MOD/2022/0143 - 16 December 2022)
- b) The ground surface within the basement setback to Johnston Creek must be finished with low maintenance landscaping. The selected landscaping must be appropriate so as to not obstruct the flood overland flowpath.
- c) The proposed works to the public path along the eastern boundary as shown on drawing DA102, DA801 and DA802 must comply with the following:
  - i\_ The access points and adjacent surface levels to the bottom of lift must be not lower than RL 8.80m AHD at McCarthy Lane (lower) level. Freeboard must be achieved in the form of a masonry watertight wall

*whereby the top of wall height is set no less than RL 9.35m AHD adjacent to the lift location along the eastern boundary.*

*ii. The access points and adjacent surface levels to the top of the lift must be not lower than RL 12.65m AHD at Parramatta Road (upper) level.*

*iii. Suitably designed at the upper level between Parramatta Road and the public stairs (e.g. crossfall and open type fencing) to provide an overland flow path to direct flood waters from Parramatta Road to the adjacent Sydney Water lands to the east and to direct surface flows away from the proposed lift.*

*iv. All components of the pathway including lighting, electrical works and the lift should also be suitably flood proofed and incorporate flood compatible materials. The lift must be programmed to return to raised level.*

*v. The Principal Certifying Authority must be provided with written evidence from Council and Sydney Water Corporation that the proposed amended plans for works within the eastern 3.5m setback area comply with the requirements of Council and Sydney Water Corporation.*

- d) The landscape plans are to be amended to be consistent with the architectural.*
- e) All balconies and walls along the northern boundary with McCarthy Lane and the eastern boundary with Johnstons Creek of Unit AG.01, UnitAG02 , Unit AG03 and Unit AG04 which have floor levels at RL11.3m AHD, must be solid and sealed type construction to a minimum level of RL 12.0m to prevent ingress of flood flows as certified by a qualified practicing Civil Engineer.*

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021  
Modified by MOD/2022/0143 - 16 December 2022***

4. 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.
  - d) If the building is located within a heritage conservation area or is a heritage item, any changes required to the external fabric of the building that are *not generally in accordance with* the approved works *shall be the subject of a modification application or* will require additional development consent from the consent authority. If the building is a listed heritage item, any works outside the approved works (external, internal etc) will require development consent from Council.
  - e) Accessible carparking spaces should be provided, where applicable, in accordance with Part D3.5 of Building Code of Australia.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

5. As the site is identified as located within ANEF 20-25 or greater or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction.

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

6. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided prepared prior to the issue of a Construction Certificate. The Plan must be prepared to make provision for the following:
- a) A flood overland flowpath must be accommodated within basement setback to Johnston Creek. Modelling must be undertaken and presented on the Plan, addressing the flood behaviour under pre-development (assuming previous structures in place as per Flood Certificate 533 issued by Inner West Council and dated 26 July 2016) and post-development conditions for the 100 year ARI and Probable Maximum Flood events. The modelling must demonstrate no adverse impacts on flood risk and levels as a result of the development
  - b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions shall include but not be limited to the following:
    - i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
    - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
    - iii) Protection of the public access lift to Johnston Creek
    - iv) Flood warning signs/depth indicators for areas that may be inundated
    - v) A flood evacuation strategy
    - vi) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below.

Building Code of Australia	Development Control Plan 2013
Defined flood level (DFL)	100 year Average Recurrence Interval flood level
Defined flood event (DFE)	100 year Average Recurrence Interval flood
Flood hazard level (FHL)	Flood Planning Level (FPL)

- c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

The Flood Risk Management Plan must be submitted to and approved by Council before the issue of a Construction Certificate.

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**

7. The approved Architectural plans shall be amended to incorporate the recommendations of Flood Risk Management Plan prepared under Condition No 56. The plans addressing the requirements of this condition must be provided prior to the issue of a Construction Certificate. The design must be prepared to make provision for the following:
- Specification of materials
  - Waterproofing works, where applicable.

*Changes which are not generally in accordance with* ~~No changes~~ to the external form or appearance of the development contrary to the approved plans shall occur except as identified by this condition. Any changes to such must be subject to separate *modification application* approval in accordance with Section 96 of the Environmental Planning and Assessment Act.

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

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**

8. Engineering design plans prepared by a qualified practicing Structural Engineer must be prepared and incorporate the following recommendations of the Flood

Risk Management Plan prepared under Condition No 56.

The design must be prepared to make provision for the following:

- a) Structural integrity of all structures from immersion and/or impact of velocity and debris.
- b) Waterproofing works, where applicable.

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

9. A stormwater drainage design, incorporating on site stormwater detention and on site retention/ re-use facilities (OSR/OSD), prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared to make provision for the following:
- a) The design must be generally in accordance with the stormwater drainage concept plan on Project No. ACE1607769.SW.DA Drawings ~~101 – 107 Revision B 101-106 and 108 Revision L prepared by Australian Consulting Engineers dated 1/2/2021 prepared by Australian Consulting Engineers and dated 20 March 2017~~, amended in accordance with the approved floor plans *and the following conditions:*
  - b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity directly into Council's piped drainage system.



- c) Incorporate on-site detention facilities within the development. The design must be supported by calculations demonstrating that the post development flows for the 100 year Average Recurrence Interval (ARI) storm event are restricted to the pre development flows for the 5 year ARI storm event. The on-site detention facilities must be accessible for access for inspection and maintenance from ground surface level and suitably designed to overflow to McCarthy Lane.
- de) A pump-out system for stormwater disposal is permitted for drainage of the basement areas only and must be designed in accordance with the following criteria:
  - i) 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 a one-hour duration 20 year ARI storm event.
  - ii) An overflow, flashing light and audible alarm is to be provided to warn of pump failure.
  - iii) The pump system must discharge to the OSD storage tank(s).
- ed) ~~All external courtyards~~ *All ground floor external courtyards and their associated drainage systems must be designed in accordance with the following criteria:*
  - i) The finished surface level of the courtyard(s) must be not less than 150mm below the adjacent internal floor level(s).
  - ii) For the external courtyards without provision of an overland flowpath, the sag pit(s) and associated pipe drainage system draining the courtyard(s) must be designed to capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlets and 50% blockage of the pipes. The design must cater for any potential overflow from the roof gutters or downpipes in the vicinity of the courtyard.
  - iii) The inlets for the sag pit(s) draining the courtyard(s) must be designed in accordance with Clause 5.4.10.1 of Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage –

Stormwater Drainage to ensure that the maximum ponding level over the sag pit(s) is not less than 150mm below the adjacent internal floor level(s).

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- fe) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2003 *Plumbing and Drainage – Stormwater Drainage*.
- gf) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- hg) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.
- ih) The proposed on-site retention tanks must be connected to a pump system for ~~internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation.~~
- j) a suitable Grease/hydrocarbon capture device must be incorporated into the stormwater design immediately prior to the basement sump.
- k) *All stormwater pipes must be located outside the 3.5m setback to the eastern property boundary other than pipes proposed solely for the purpose of draining the 3.5m setback area.*
- l) *The development must meet the water treatment targets of part E of Leichhardt Development Control Plan 2013.*

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021  
(Modified by MOD/2022/0143 - 16 December 2022)***

10. An engineering design of stormwater drainage and roadworks in Parramatta Road and McCarthy Lane, must be prepared by a qualified practicing Civil Engineer. The design must be prepared to make provision for the following:
- a) Reconstruction of **any damaged or missing sandstone the kerb and concrete** gutter and footpath for the full length of the Parramatta Road frontage in accordance with the Parramatta Road masterplan. All kerb must be constructed in sandstone.
  - b) The eastern end of McCarthy Lane must be reconstructed to provide for safe access to the turning bay by minimising road gradients and transitions. This will require regrading of the surface levels for a distance of at least 30 metres from the Johnston Creek stormwater canal.
  - c) ~~Construction and line marking of 3 parking bays along the southern side of McCarthy Lane within the basement setback and road dedication.~~
  - d) Construction of kerb and gutter, including adjustment of existing inlet pits and installation of a guard rail, at the eastern end of McCarthy Lane.
  - e) Construction of an industrial concrete vehicle crossing at the access to the basement at the McCarthy Lane frontage of the site.
  - f) Construction of a heavy duty vehicle crossing at the access to the turning bay at the McCarthy Lane frontage of the site.
  - g) Construction of the concrete kerb and gutter and concrete footpath for the remainder of the McCarthy Lane frontage of the site.
  - h) Construction of a kerb inlet pit within the kerb and gutter on the southern side of McCarthy Lane at the point of discharge for the private stormwater drainage system. The kerb inlet pit must be connected to Council's drainage system in McCarthy Lane via minimum 375mm pipeline. A junction pit must be constructed over the point of connection with the existing drainage system. The Roadworks Application must be supported by survey details showing the existing pipeline location within McCarthy Lane.
  - i) To address the increased vehicle and pedestrian movements at the

junction of McCarthy Lane and Nelson Street, the intersection must be reconstructed, including footpath, kerb and gutter, and kerb ramps. *These works are to be limited to the eastern footpath, kerb and gutters on Nelson Street and not extend beyond 5 Nelson Street or south of McCarthy Lane (towards Parramatta Road).* The existing inlet pits **within this area** are to be replaced by kerb inlet pits and be connected to the existing pipeline in McCarthy Lane.

- j) The full extent of the road surface within McCarthy Lane is to be resurfaced.
- k) The plans must include design long sections, showing existing and proposed levels along both sides of McCarthy Lane and the road centreline. Cross sections are to be provided at minimum 5 metre intervals and include back of path levels on both side of the laneway.
- l) The plans must show existing and proposed on street parking within McCarthy Lane and Parramatta Road, and all associated street signage.
- m) Video inspection must be carried out of any completed stormwater drainage works and a copy provided to Council to support the certification of the works.
- n) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards.
- o) The applicant must consult with Council's Road Access Manager in relation to the design of all works in the public road reserve.
- p) The design will be required to be submitted to and approved by Council's Local Traffic Committee prior to Council issuing an approval.

Development Consent does NOT give approval to undertake any works on Council property. **An application must be made to Council and a Roadworks Application issued under Section 138 of the Roads Act 1993 prior to the construction of these works.**

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

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

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

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

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

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

~~Note that the levels certificate will be issued concurrently with approved roadworks design and may specify that levels in the adjacent road reserve are required to be changed.~~

*The architectural plans must be amended in accordance with the alignment levels to be issued under Condition 10 of this consent. The alignment levels must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.*

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

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

*Note The Alignment Levels will be issued concurrently with the approved roadworks design and may specify that levels in the adjacent road reserve are required to be changed.*

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12. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standards, including but not limited to AS/NZS 2890.1-2004 *Parking Facilities - Off-Street Car Parking*, AS 2890.2- 2002 *Parking Facilities - Off-Street commercial vehicles facilities*, AS/NZS 2890.6- 2009 *Off-street parking for people with disabilities* and AS 2890.3-1993 *Parking Facilities - Bicycle parking facilities*. The following specific issues must be addressed in the design:
  - a) ~~The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with alignment levels obtained in the Levels Certificate issued by Council. The floor/finished levels~~

*within the property must be adjusted to ensure that the levels at the boundary comply with alignment levels issued with the approved roadworks design.*

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- b) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle.
- c) ~~The gradient of the driveway for the first 6 metres from the property boundary must not exceed 1 in 20 (5%) in accordance with the requirements of Clause 3.3(a) of AS/NZS 2890.1-2004.~~
- d) Minimum headroom of 2200mm must be provided throughout the parking facilities. Minimum headroom of 2500mm must be provided above any dedicated accessible parking space(s) and adjacent Shared Area(s). Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, services, ducts, etc. The headroom at any door opening must be measured to the lowest point of the open door.  
  
Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.
- e) The vehicular access ramp must comply with the ramp grade requirements of Section 3.3 of AS/NZS2890.1-2004.
- f) Longitudinal sections must be provided along each outer edge of all ramps within the parking facilities demonstrating compliance with the above requirements. The longitudinal sections at the entry/exit access ramp(s) must extend to the centreline of the connecting road carriageway.
- g) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1-2004.
- h) Loading / unloading facilities must be provided on-site in accordance with the requirements of AS 2890.2 – 2002.

~~i) The on-site loading facilities must be designed to accommodate a Medium Rigid Vehicle (MRV) and Council's garbage truck, as specified in Appendix D Section 5 of Leichhardt DCP2013.~~

j) Longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a MRV utilising the loading bay.

The sections must demonstrate that minimum headroom of 4500mm is provided.

~~k) Bicycle parking facilities must be provided in accordance with the numerical and dimension requirements of Sections C1.11 Parking and C1.11.3 & C1.11.6 tables within DCP 2013.~~

**k)** Bicycle storage area(s) must be provided to accommodate the numerical requirements of DCP and be designed in accordance with *relevant provisions of AS 2890.3-2015. Minimum bicycle parking provisions should be provided as follows:*

*i. A single staff space in a secured room;*

*ii. Five (5) retail visitor spaces on the ground floor in a publicly accessible area;*

*iii. 21 residential spaces in individual storage cages within the basement levels; and*

*iv. Four (4) residential visitor spaces on the ground floor in a common area.*

*Note: A single retail visitor space can be provided within the Public Domain along the Parramatta Road frontage in the form of a bicycle loop subject to Council approval under s138 of the Roads Act.*

**l)** A 'No Bicycle Access' sign is to be installed at the top of the Ground Floor basement car park ramp.

**m)** Identify the location of waiting bays, vehicle detector system, traffic lights and any other necessary signage/features consistent with Condition 13.



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

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

~~The design must be certified by a suitably qualified Civil Engineer and provided to the Principal Certifying Authority prior to the issue of the issue of a Construction Certificate.~~

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**  
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13. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans and documents for the installation of internal traffic signal and vehicle detection system for the Basement Level 1 and 2 parking facilities that complies with the following:
- a)** *The signals on the Ground, B1 and B2 levels must operate with an automatic return and dwell feature for "green" for ingressing vehicles*
  - b)** *Vehicles entering the WAIT bays on B1 and B2 must be detected by sensors identifying which level is demanded*
  - c)** *The "red" signal on the Ground Level must be displayed and after a pre-set clearance time, the "green" signal on either B1 or B2 whichever is demanded must be displayed. If there is a demand on both levels, the B1 demand must be satisfied first followed by the B2 demand.*
  - d)** *After pre-set clearance times, the signals must revert to "green" for entry and "red" for exit (on B1 and B2).*
  - e)** *Identify the location of waiting bays, vehicle detector system, traffic lights and any other necessary signage/features.*
  - f)** *Waiting bays must located to provide:*
    - a.** *Queuing space for no less than two (2) vehicles at the Ground Floor level between the Loading Dock at McCarthy Lane frontage.*
    - b.** *Passing of B85 design vehicle and a B99 design vehicle at B1 and B2 Levels at the waiting bay location.*
    - c.** *The traffic signal(s) must be visible from the waiting bay.*
  - g)** *A management plan addressing the operation, maintenance and management of the system must be prepared.*

*Purpose: To ensure internal vehicle movements are managed.*

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14. Prior to the issue of a Construction Certificate structural certification prepared by a suitably qualified Structural Engineer must be provided to the Principal Certifying Authority confirming that the internal road/driveway, cross over, kerb and gutter and access pavement have been designed to meet the loading requirements of a 2326 tonne garbage/recycling truck (when loaded) with a turning circle of 25 18.184 metres and length of 9.3 5 metres.

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.

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**

15. Prior to the commencement of works or issue of a Construction Certificate (whichever occurs first), a Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Assessing Vibration: A technical guideline (available [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works. The Plan shall address, but not be limited to, the following matters:

- a. Identification of activities carried out and associated noise sources.
- b. Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment.
- c. Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
- d. Noise and vibration monitoring, reporting and response procedures.

- e. Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles.
- f. Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction.
- g. Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency (consistent with conditions of this consent).
- h. Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration.
- i. Contingency plans to be implemented in the event of non-compliances and/or noise complaints.

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16. The development must be constructed to ensure compliance with the recommendations of the approved acoustic report and to meet the relevant provisions of Australian Standard AS 2107:2000 Recommended design sound levels and reverberation times for building interiors. Compliance with this condition must be achieved within the approved building envelope, form and design. Any variations *which are not generally in accordance with* the approved plans externally to achieve compliance must be the subject of a ~~Section 96~~*modification* application to modify the approved plans. Details of the provisions must be provided on the Construction Certificate plans submitted to the Principal Certifying Authority prior to the release of a Construction Certificate.

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17. Prior to the issue of a Construction Certificate, the applicant must satisfy the Principal Certifying Authority by way of documentary evidence that the residential units achieve the sound amelioration measures required by State Environmental Planning Policy (Infrastructure) 2007 clause 102(3) namely that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
- a. in any bedroom in the building—35 dB(A) at any time between 10 pm

- and 7 am;
- b. anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

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18. Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting.

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

20. A Waste Management Plan is to be provided prior to the issue of a Construction Certificate. The Waste Management Plan is to be prepared in accordance with Section D of Leichhardt DCP2013, including but not limited to:
  - a. The plan must be generally in accordance with the Waste Management Plan prepared by Elephants Foot and dated 12 December 2017, amended in accordance with the approved floor plans.
  - b. Estimated quantities of materials that are reused, recycled, removed from site.

- c. On site material storage areas during construction.
- d. Materials and methods used during construction to minimise waste.
- e. Nomination of end location of all waste generated.

All requirements of the approved Waste Management Plan must be implemented during the construction of the development.

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21. Details of the proposed garbage rooms are to be provided ~~prior to the~~ *the Certifying Authority prior to* the issue of a Construction Certificate. Rooms used for the storage of garbage and rooms used for the washing and storage of garbage receptacles are to be constructed of solid material, cement rendered and trowelled to a smooth even surface and subject to the following requirements:

- a. The floor must be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room.
- b. Garbage rooms must be vented to the external air by natural or mechanical ventilation.

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

Contribution Plan	Contribution
Community Facilities	<del>\$84,332.63</del> \$117,878.75
Open Space	<del>\$529,444.61</del> \$728,689.74
Local Area Traffic Management	<del>\$5,205.24</del> \$1,539.29
Light Rail	<del>\$433.39</del> \$67.91
Bicycle	<del>\$584.13</del> \$755.52
<b>Total</b>	<del>\$620,000.00</del> \$848,931.21

Payment will only be accepted in the form of cash, bank cheque or EFTPOS / Credit Card (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for Section 94 Contributions. Contribution Plans may be inspected on Council's website [www.leichhardt.nsw.gov.au](http://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.

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**

- 23.** Prior to the issue of ~~any Construction Certificate~~ *a Construction Certificate for any construction works located above the basement levels or for any public domain works (whichever is earlier), the Certifying Authority must be provided written evidence, from Council that the VPA has been entered into and that all matters in the VPA that have to be complied with prior to the issue of any Construction Certificate have been complied with.* ~~a dedication of land of 34.2 m<sup>2</sup>, equivalent to a 760mm wide strip of land along the entire northern property boundary, as identified on the following plan must be made to Council for the provision of public road reserve.~~

Plan	Drawn By	Reference/date
Subdivision Plan	Baker Kavanagh	DA102 – 18/04/2017

~~A survey plan prepared by a registered surveyor of the proposed lot to be dedicated and of the remnant land(s) must be submitted to Council, prior to registration at the Lands and Property Information New South Wales.~~

~~Council will not accept the dedication of any land unless it is in a suitable state for its proposed use. A certificate from an accredited site auditor (NSW EPA) that the site is suitable for its proposed use will need to be submitted to Council.~~

~~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.~~

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021.  
Modified by MOD/2022/0143 - 16 December 2022***

24. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued (whichever occurs first), a security deposit as set out below must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.

Works	Security Deposit
Roadworks (ROADWB)	\$ 208,000
<b>Total</b>	<b>\$ 208,000</b>

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

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

25. 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	\$ 24,504.30
Inspection fee	\$ 225.00

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

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

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

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

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

26. 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](http://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:
  - a. Diverts clean run-off around disturbed areas;
  - b. Minimises slope gradient and flow distance within disturbed areas.
  - c. Ensures surface run-off occurs at non erodable velocities;
  - d. 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.
- j) 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

27. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Service Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) see Building Developing and Plumbing then Quick Check or telephone 132092.

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

28. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
- a. A plan view of the entire site and frontage roadways indicating:
    - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
    - ii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
    - iii. The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
    - iv. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road).
    - v. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
    - vi. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
    - vii. An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
    - viii. The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
    - ix. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
    - x. The proposed method of support to any excavation adjacent to

adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors New South Wales Inc. or an accredited certifier.

- b. Noise & Vibration  
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) for guidance and further information. Advice should be obtained from a suitably qualified Geotechnical Engineer.
- c. Occupational Health and Safety  
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d. Toilet Facilities  
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be provided on plan.
- e. Traffic control plan(s) for the site  
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. ~~Applications to Council~~

~~shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.~~

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

29. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Council prior to the issue of a Construction Certificate. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

- a. No. 15 Parramatta Road

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from the Certifying Authority in such circumstances.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

30. A dilapidation report on the visible and structural condition of the following public infrastructure including CCTV survey where applicable, must be provided to the Principal Certifying Authority and Council prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first).

- a. Full width of McCarthy Lane, including road pavement, kerb and

gutter and footpath, between Nelson Street and Johnston Creek

- b. Stormwater drainage pipeline between Nelson Street and Johnston Creek, and associated inlet structures including the existing inlets adjacent to 5 Nelson Street and 17-19 Parramatta Road
- c. The Sydney Water Johnston Creek stormwater canal between Parramatta Road and the northern alignment of McCarthy Lane, including existing inlet structures.

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

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

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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

- 31. A structural engineering report and plans that address the proposed works in the vicinity of the Parramatta Road and McCarthy Lane frontages, prepared by a qualified practicing Structural 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. All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary.
  - b. Any proposed retaining walls that provide support to the road reserve

must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of 50 years.

- c. 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.
- d. Provide relevant geotechnical/ subsurface conditions of the site, as determined by full geotechnical investigation.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

32. A certificate prepared by a qualified Geotechnical Engineer must be provided prior to the issue of the Construction Certificate to the satisfaction of the Certifying Authority. This is to certify that the author of the report has reviewed the conditions of this consent and is aware of the structures that are required to be retained in situ under this consent. The report is to certify the existing rock formations and substrate on the site are capable of:

- a. Withstanding the proposed loads to be imposed.
- b. Withstanding the proposed excavation, including any shoring works that may be required to ensure stability of the excavation.
- c. Providing protection and support of adjoining properties.
- d. The provision of appropriate subsoil drainage during and upon completion of construction works.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

33. Prior to the issue of the a construction certificate the builder should prepare a detailed work method statement including detailed specifications of the proposed method of excavation including the size, weight and power rating of plant and accessories, as well as appropriate hold points to the satisfaction of the Certifying Authority.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

34. Prior to the issue of the construction certificate structural drawings should be prepared and submitted to the satisfaction of the Certifying Authority. The drawings must include full details of all temporary and permanent support to excavation batters. No details should be left to the builder to “provide temporary support as required”. The design should be accompanied by a statement from an experienced chartered geotechnical engineer (CPEng) that the design details are in accordance with good geotechnical practice.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

35. Prior to the commencement of works or issue of a Construction Certificate (whichever occurs first), a Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Assessing Vibration: A technical guideline (available [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works. The Plan shall address, but not be limited to, the following matters:

- a. Identification of activities carried out and associated noise sources.
- b. Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment.
- c. Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
- d. Noise and vibration monitoring, reporting and response

procedures.

- e. Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles.
- f. Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction.
- g. Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency (consistent with conditions of this consent).
- h. Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration.
- i. Contingency plans to be implemented in the event of non-compliances and/or noise complaints.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

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



***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

37. LA10\* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate. Such measures must be in accordance with the approved acoustic report and plans.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

- ~~38. All plant and associated equipment must be located within the approved building envelope and is not to be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.~~

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021  
(Deleted by MOD/2022/0143 - 16 December 2022)***

39. The heights of the building must not exceed the RLs/heights shown on

drawing approved in condition 1 of this consent. Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Certifying Authority.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

40. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
- b. A concrete pump across the roadway/footpath
- c. Mobile crane or any standing plant
- d. Skip bins
- e. Scaffolding/Hoardings (fencing on public land)
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g. Awning or street verandah over footpath
- h. Partial or full road closure
- i. Installation or replacement of private stormwater drain, utility service or water supply

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

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

**PRIOR TO THE COMMENCEMENT OF WORKS**

41. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

42. The site must be secured with temporary fencing prior to any works commencing.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

43. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

44. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

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

The use of the cranes and hoists must comply with the approved hours of construction and/or Roads Act approval.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

46. 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 location of the building with respect to the boundaries of the site.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

47. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

48. 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:
- Unauthorised entry to the work site is prohibited.
  - The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
  - The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

49. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any Workcover approval documents is to be included as part of the documentation.

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

works on site commencing or the issue of the Construction Certificate (whichever occurs first).

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

51. To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the boundaries must be set out by a registered surveyor prior to the commencement of works.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

52. 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 location of the building with respect to the boundaries of the site.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

#### **DURING WORKS**

53. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

54. Excavation, demolition, construction or subdivision work shall only be permitted during the following hours:

- a. 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

Any soil, which fails to meet the criteria, is not to be disposed of off-site unless agreed to in writing by the NSW Environmental Protection Authority (EPA) by an accredited site auditor (NSW EPA). Results of the testing are to be forwarded to Leichhardt Council and the Environmental Protection Authority (EPA) for acknowledgement before any off-site disposal and before proceeding with any construction works.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

56. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

57. The sign/s approved by this Development Consent must be erected in a secure manner to ensure safety. Installation is not to involve measures that would cause irreversible damage to the building.

All existing advertisements not approved under this Development Consent shall be removed. Areas affected by the removal shall be made good to match the finish of the existing building or the materials and finishes approved by this Development Consent.



***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

59. During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to ensure ***either*** dedicated overland flow paths associated with flooding within Johnston Creek are satisfactorily maintained through the site *or, where this cannot be achieved, for example, during excavation, any costs associated with any requirement to pump out water from the site will be borne by the applicant.*

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

60. 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:
- a. A WorkCover licensed contractor must undertake removal of all asbestos.
  - b. 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.
  - c. Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
  - d. All removal of asbestos must comply with the requirements of WorkCover and ~~Leichhardt Council~~.
  - e. An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

61. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

62. 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:

- a. A pre commencement inspection when all the site works are installed on the site and prior to demolition commencing.
- b. 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.

- a. 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.
- b. 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.
- c. The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- d. Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: Demolition of structures.
- e. 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.

- f. 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.
- g. Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- h. 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.
- i. 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.
- j. The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- k. 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](http://www.1100.com.au) should be contacted prior to works commencing.
- l. 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.
- m. 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.

- n. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

63. Building materials and machinery are to be located wholly on site.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

64. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a structural engineer.

If any excavation extends below the level of the ~~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.
- d. The site must be appropriately secured and fenced at all times during works.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

65. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

66. Construction material and vehicles shall not block or impede public use of footpaths or roadways.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

67. Where any works are proposed in the public road reservation, the following applications must be made to Council, as applicable:

- a. For installation or replacement of private stormwater drainage lines or utility services, including water supply, sewerage, gas, electricity, etc. an application must be made for a *Road Opening Permit*.
- b. For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a *Roadworks Permit*.

Private stormwater drainage is the pipeline(s) that provide the direct connection between the development site and Council's stormwater drainage system, or street kerb and gutter.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

69. A second Dilapidation Report including a photographic survey of the adjoining properties must be submitted after the completion of works. A copy of this Dilapidation Report together with the accompanying photographs must be given to the property owners referred to in this Development Consent. A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of any Occupation Certificate.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

70. A second Dilapidation Report addressing the public infrastructure identified in condition/s of this consent, including a CCTV survey, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report *caused by the applicant* must be fully rectified by the applicant or owner at no cost to Council prior the issue of an Occupation Certificate *return of the security deposit referred to in conditions 24 and 25.*

~~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.~~

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

71. All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 *Mailboxes* and to Australia Post's satisfaction. Work is to be completed prior to the issue of any Occupation Certificate.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

72. A street number must be clearly displayed at the ground level frontage of the building prior to the issue of any Occupation Certificate. A separate application must be made to Council if new street numbers or a change to street numbers is required.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

73. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in compliance with the approved Construction Certificate plans and all conditions of this Development Consent.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

74. Prior to the issue of any 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

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

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

77. Prior to the issue of an Occupation Certificate, the Principal Certifying



Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on-site detention facility, *on-site retention/re-use facilities and stormwater treatment devices including filter cartridges and basement grease/oil arrestor device*. The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

78. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the basement pump-out system. The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

79. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the Traffic Signal and Vehicle Detection System. The Plan must set out the following at a minimum:

- a. *The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.*
- b. *The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.*

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

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**

80. Prior to the issue of an Occupation Certificate, a positive covenant **and** restriction of use must be created under Section 88E/88B of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the on-site detention and on- site retention/re-use facilities *and stormwater treatment devices including filter cartridges and basement grease/oil arrestor device* on the property.

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

- a. The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities ("OSD") and on- site retention/re-use facilities ("OSR") *and Stormwater Treatment Devices*.
- b. The Proprietor shall have the OSD and OSR *and Stormwater Treatment Devices* inspected annually by a competent person.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and

other structures in or upon the said land which comprise the OSD and OSR *and Stormwater Treatment Devices* or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.

- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD and OSR *and Stormwater Treatment Devices*, or failure to clean, maintain and repair the OSD and OSR *and Stormwater Treatment Devices*.

The proprietor or successor must bear all costs associated in the preparation of the subject 88E/88B instrument. Proof of registration with the NSW Land and Property Information must be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate / Subdivision 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

81. Prior to the issue of an Occupation Certificate, a positive covenant *and restriction of use* must be created under Section 88E/88B of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to ensure the ongoing maintenance of the flood overland flowpath through the site.

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

- a. The proprietor of the property shall be responsible for maintaining and keeping clear the overland flowpath.
- b. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the overland flowpath; and recover the costs of any such works from the proprietor.

- c. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the overland flowpath, or failure to clean, maintain and repair the overland flowpath.

The proprietor or successor must bear all costs associated in the preparation of the subject 88E/88B instrument. Proof of registration with the NSW Land and Property Information must be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate / Subdivision 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.

**Modified by M/2019/53 LEC 2019/358521 – 30 March 2021**

82. Prior to the issue of an Occupation Certificate, *the Principal Certifying Authority must be provided written evidence from Council that all matters in the executed VPA that have to be complied with prior to the issue of an Occupation Certificate have been complied with.* ~~a positive covenant must be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to ensure the ongoing maintenance of the stairs and lift allowing public foot and bicycle traffic to pass through the land between Parramatta the Johnston Creek; and the ongoing maintenance of the McCarthy Lane parking bays~~

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

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

- ~~a. The proprietor of the property shall be responsible for maintaining and keeping clear the lift and the stairs and the parking bays;~~  
~~b. The proprietor of the property shall be responsible for erecting and~~

~~maintaining all signage for the lift and stairs public access and the parking bays;~~

~~c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the stairs and the lift and the parking bays; and recover the costs of any such works from the proprietor.~~

~~e) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the overland flowpath, or failure to clean, maintain and repair the overland flowpath.~~

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

83. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property, where applicable:

a. The car park has been completed, line marked and all signage relating to car parking erected.

b. ~~A notice has been clearly displayed at the Parramatta Road frontage to indicate that visitor parking is available within the property with access from McCarthy Lane.~~

~~c. Sign(s) have been erected that clearly indicate(s) to the drivers of vehicles both on and off the property which driveway they are to use to enter or leave the subject land.~~

d. ~~Sign(s) have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the~~

~~car parking area(s).~~

**A. b) The Internal Traffic Signal and Vehicle Detection System has been installed and commissioned**

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

Works-as-executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the works have been constructed in accordance with the approved design and relevant Australian Standards, must be provided to Council prior to the issue of an Occupation Certificate.

Video inspection must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works.

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

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

85. 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](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 132092 for assistance.

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

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

86. At the completion of the installation of the mechanical exhaust system, a certificate from the installer shall be submitted to Council or the Principal Certifying Authority indicating the following:

- a. inspection, testing and commissioning details,
- b. date of inspection testing and commissioning,
- c. the name and address of the individual who carried out the test, and
- d. a statement that the service has been designed, installed and is capable of operating in accordance with AS 1668.2-1991/2012 – Mechanical ventilation for acceptable indoor-air quality above standard.

Any discharge to the atmosphere from the subject development shall not result in any **offensive** odour or other air impurity being detected outside the boundaries of the property. The system must be in accordance with the approved plans. Any requirement for the system to be visible from the public domain or adjoining properties and is not consistent with the approved plans will require further consent from Council.

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

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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

87. A report prepared by a suitably qualified Acoustic Consultant shall be submitted to Council certifying that the development complies with the requirements of (as relevant):

- State Environmental Planning Policy (Infrastructure) 2007
- ANEF - the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021— 2000
- Conditions of development consent

The report shall include post construction validation test results.

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 Occupation Certificate.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

88. A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment

Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.

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 Occupation Certificate.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***



89. Car Parking provided shall only be used in conjunction with the units and tenancies contained within the development in the case of Strata subdivision, and shall be individually allocated to residential units as part of their unit entitlement. Visitor parking facilities required by this consent are to be designated as common property on the strata plan, and under no circumstances shall Strata by-laws be created to grant exclusive use of nominated visitors parking spaces to occupants / owners of units or tenancies within the building.

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

90. 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.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

#### **PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

91. Prior to the issue of a Subdivision Certificate, the applicant shall submit an original plan of subdivision plus three (3) copies for Council's endorsement and administration sheet. The following details shall also be submitted:
- Evidence of payment of all relevant fees and contributions.
  - The ~~88E~~88B instrument plus six (6) copies.
  - A copy of the Section 73 Compliance Certificate issued by Sydney Water.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

92. Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided written evidence from Council that all matters in the executed VPA that have to be complied with prior to the issue of a Subdivision Certificate have been complied with.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

#### ONGOING CONDITIONS OF CONSENT

93. All newly planted trees on site must be appropriately maintained on an on-going basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, pruning, fertilizing, pest and disease control and any other operations required to maintain a healthy vigorous tree.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

94. The premises shall not be used for any purpose other than that stated in the Development Application without the prior consent of the Council unless the change to another use is permitted as exempt development under as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes)* 2008.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

95. The Operation and Management Plan for the on-site detention facility, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

96. Annual Fire Safety Statement. The owner of the building must certify to Council every year that the essential fire safety measures installed in the building have

been inspected and are capable of operating to the required minimum standard.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

97. Hours of Operation – Commercial Premises

The commercial premises are only to be open for business and used for the purpose approved within the following hours:

- Monday to Friday 7am to 6pm
- Saturday 7am to 6pm
- Sundays and Public Holidays closed

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

98. The Operation and Management Plan for the on-site detention and on-site retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

99. The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

100. The Operation and Management Plan for the basement pump-out system, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

101. All loading and unloading operations are to be carried out wholly within the site.

The loading dock must be used in connection with the approved use.

All loading and unloading operations must be carried out via the entrance in McCarthy Lane.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

103. *The Operation and Management Plan for the Traffic Signal and Vehicle Detection System, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times. The Internal Traffic Signal and Vehicle Detection System must be maintained in an operational state at all times*

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

104. Any basement car parking space must not be individually enclosed without prior development consent.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

105. Driveways and parking spaces must not be used for manufacture, storage or display of goods, materials and equipment. The spaces must be available at all times, for all vehicles associated with the development.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

106. The parking bays proposed for the commercial / retail component of the development must be easily accessible and be clearly designated, marked, and signed. Access to these bays must not be restricted in any way by

security doors or intercom access during business hours approved for the commercial development.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

107. The parking bays proposed for the residential component of the development must be inaccessible to visitors to the commercial component of the development and shall be clearly designated, marked, and signed. In addition, the parking bays must be appropriately marked or signed to indicate which residential unit they have been allocated to. Car spaces that are stacked must be allocated to the same residential unit.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

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

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

109. All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council Resident Parking Schemes. All occupants and/or employees of this building will be ineligible to obtain Council Resident Parking Scheme parking permits. The owner of the dwelling must advise in writing all intending owners, tenants and occupiers of the dwelling, at the time of entering into a purchase / lease / occupancy agreement, of this prohibition.

Signs reading "all owners, tenants and occupiers of this building are advised that they are not eligible to obtain Resident Parking Scheme parking permits from Council", must be located in prominent places such as at display apartments and on directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to the issue of an Occupation Certificate being issued and must be maintained in good order at all times.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

110. Failure of any tree required to be retained by this consent shall be replaced by the same species tree and be maintained in a healthy and vigorous condition until it attains a height of 6 metres whereby it will be protected by State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. If the tree is found faulty, damaged, dying or dead it shall be replaced with the same species. Failure to retain and maintain a tree may result in the serving of penalty notices or legal action.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

111. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

112. The owner / registered proprietor from time to time of the subject site ("Owner") (which includes but is not limited to the owners corporation of the strata scheme if there is a strata subdivision) must:
- maintain the awnings over the footpath and all supporting and related structures in a good and safe condition and repair which must include all structural and other repairs and maintenance reasonably required by Council; and
  - give to Council on request (but not more than once every ~~12 months~~**5 years**) a certificate from a structural engineer that the awnings over the footpath and all supporting structures are in a good and safe condition and state of repair; and
  - not alter the awnings or any supporting or related structure without Council's prior approval; and
  - not do anything on or around the awnings over the footpath which in Council's reasonable opinion may be annoying, dangerous or

- offensive; and
- e. not put up signs, notices, advertisements (other than as required by law), exterior blinds, antennae or receiving dishes without Council's prior approval.

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

113. The Owner constructs and maintains the awnings over the footpath at its own risk and releases Council from, and agrees that Council is not liable for liability or loss arising from, and costs incurred in connection with damage, loss, injury or death except to the extent that it is contributed to by Council's wrongful act or omission, negligence or default.

~~The Owner is liable for and indemnifies Council against liability or loss arising from, and costs incurred in connection with damage, loss, injury or death occurring on, in, by or in connection with the awnings over the footpath or any supporting or related structure or the Owner's land or improvements thereon or business conducted by the Owner or arising from or in connection with the awnings, any supporting or related structure or the Owner's property or business or caused or contributed to by the Owner's act, omission, negligence or default or the act, omission, negligence or default of any of the Owner's lessees, employees, agents or invitees, except to the extent that it is contributed to by Council's wrongful act or omission, negligence or default. Each indemnity is independent from the Owner's other obligations. Council may enforce an indemnity before incurring expense.~~

***Modified by M/2019/53 LEC 2019/358521 – 30 March 2021***

- ~~114. The Owner must:~~

- ~~i) maintain with insurers and on terms approved by Council, noting the respective interests of the owner and Council, public liability insurance for at least \$20 million (as varied by notice from Council to the Owner from time to time); and~~
- ~~ii) give to Council, every 12 months (commencing from the date of commencement of construction), evidence that the Owner has the required public liability insurance; and~~

- ~~iii) notify Council immediately if the insurance policy is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the awnings or any supporting or related structures.~~

*Modified by M/2019/53 LEC 2019/358521 – 30 March 2021*

## **PRESCRIBED CONDITIONS**

### **A BASIX Commitments**

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

In this condition:

- a Relevant BASIX Certificate means:
  - i a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - i 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 Inner West 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.

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

#### **D Site Sign**

- 1 A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2 Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

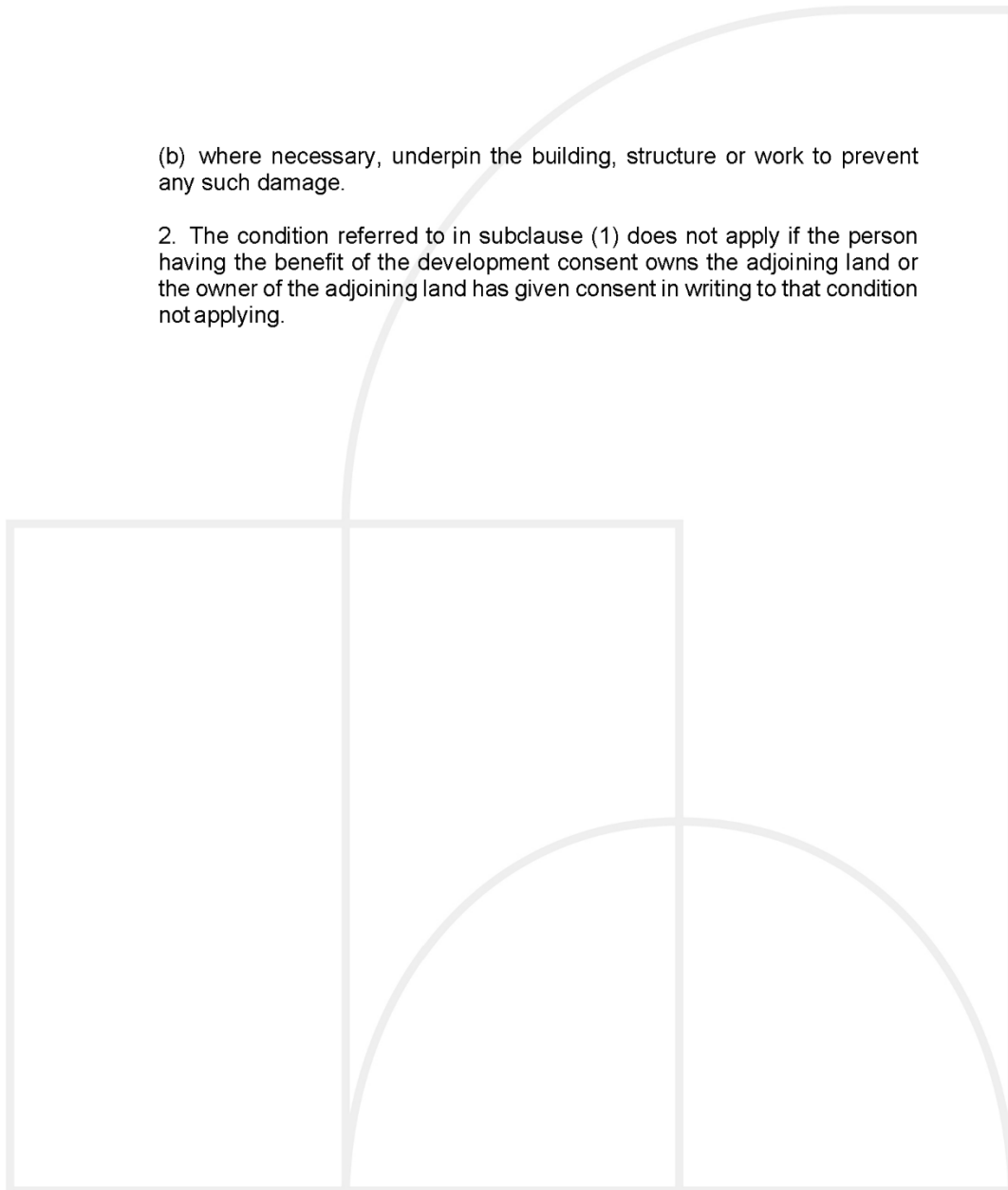
#### **E Condition relating to shoring and adequacy of adjoining property**

1. For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and

(b) where necessary, underpin the building, structure or work 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 – Statement of Heritage Significance of Annandale HCA

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### Area 18 Annandale Conservation Area

#### Landform

A wide ridge of land between Whites Creek and Johnstons Creek running due north to Rozelle Bay, with views from cross streets, and from the northern end of the suburb to the harbour, Anzac Bridge and the city, and west towards Leichhardt.



Figure 18.1 Annandale Conservation Area Map.

#### History

George Johnston, a marine officer of the First Fleet, received a grant of 290 acres on the northern side of Parramatta Road in 1799, an area now known as Annandale, named after Johnston's home town in Dumfriesshire, Scotland where he was born in 1764. Annandale House, designed in the Georgian style, was occupied by the Johnston family from 1800, and despite development closing in on all sides, their Annandale estate remained intact until 1876.

The first subdivision of 1876 reveals a grid of streets and allotments covering the land bounded by Parramatta Road, Johnston, Collins and Nelson Streets. Robert Johnston transferred this portion to his son, George Horatio, in June 1876 who sold off 75 lots to John Young, who then purchased the remainder of the estate for 121,000 pounds in October 1877. Young then sold the land to the Sydney Freehold Land and Building Investment Co Ltd, which he formed in 1878 to subdivide and sell the 280 acre estate. Building contractor and entrepreneur John Young, the company's chairman for the rest of its life, and its second largest shareholder, left an indelible impression on Annandale's development. Other directors of the company were politicians Samuel Gray and Robert Wisdom, developers John North and AW Gillies, soap and candle manufacturer WA Hutchinson and Henry Hudson.

Architect and surveyor Ferdinand Reuss junior won a prize of 150 pounds offered by the company for the best design for the subdivisional layout for Annandale

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and designed many of the houses. Reuss widened Johnston Street, a major design feature which followed the spine of the ridge from 66ft to 100ft and the topography of the estate encouraged the symmetrical street grid pattern.

Annandale Street, 80 feet wide, almost rivalled Johnston Street, but its opposite number, Trafalgar Street, retained the 66ft width determined by the 1876 plan. On the western side, Young Street matched the 66ft wide Nelson Street, which for topographical reasons terminated at Booth Street. The four cross-streets, Collins, Booth, Piper and Rose Streets were also 66ft wide. The centrepiece of the plan was an open space at the junction of Johnston and Piper Streets, which became Hinsby Reserve. The plan also featured two other large reserves and six smaller ones. The company's original policy of 'no back lanes' was an enlightened planning policy: access for night soil collection was to be by side passage from the front street. Terrace housing was therefore not part of their plans, indicating that they were aiming for a middle class market. Even the lesser streets were 50ft wide, still above the standard widths of other suburban streets.

The majority of the building lots were generous, directed again to a middle class market: 66ft frontages with depths of about 90ft, ideal for freestanding houses. Most of the allotments sold up to 1881 were in Johnston and Annandale Streets. Allotments on the slopes above the creeks were largely ignored. Though extension of the tram track along Parramatta Road reached the junction of Annandale's main artery in 1883, the track was not built along Johnston Street. Land sales were sluggish and in 1882 the company was forced to revise its original policy on lot sizes. Though Johnston and Annandale Streets remained typical of the kind of middle class suburb the company originally envisaged, elsewhere a proliferation of small lots were created by resubdivisions. The company began with land on the creek slopes near Parramatta Road, re-subdividing sections 26 and 30 (creating Mayes Street), 34 (Ferris Street) and 37 on the western side, and eastern sections 28 and 33. The smaller lots did attract working class buyers, largely missing before 1882.

Between 1884 and 1886 more sections were resubdivided, increasing the number of sales up to 1889. Section 25, creating Alfred Street, and 35 were resubdivided, and sections 9-11 and 16-19 were halved to create sections 50 and 56 (along the banks of Whites Creek). The company undertook further resubdivisions in 1887 and 1888 involving sections 13, 21, 22, 24, 29, 39 and 40. As land sales reached their peak Annandale ratepayers began petitioning to secede from Leichhardt Council and incorporate the new Borough of Annandale which occurred in 1894. Between 1894 and 1930 Annandale Council was filled with self-employed local businessmen - timber merchants, builders and contractors, printers, grocers, butchers and a long serving carrier. They provided social leadership in their community. Many of the builders of the suburb's physical fabric possessed local addresses. The number of Annandale's builders and contractors rose from one in 1884 to fourteen in 1886 to seventeen in 1889. Apart from John Young, a partnership comprising John Wise, Herbert Bartrop and John Rawson was especially active in 1881/2, making twenty-five separate purchases. Other prominent local builders of Annandale's houses were Robert Shannon, William Nicholls, William Baker, Albert Packer, Owen Ridge,

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George McDonald, George Bates, Hans Christensen, Cornelius Gorton, William Wells and Phillip Newland.

The Sydney Freehold Land and Building Investment Co Ltd, after thirty-eight years of having a controlling interest in Annandale, went into liquidation in 1916. The remaining unsold lots which were, in the main, located at the suburb's northern end, were bought by the Intercolonial Investment Land and Building Co Ltd. Annandale's last major land sales began in 1909 when Young's Kentville Estate was subdivided into ninety allotments.

By 1893, of Annandale's 1,189 residences, 906 were constructed of brick and 250 of weatherboard. The whole process of building up the streets of Annandale stretched over a long time. At the 1901 census there were 1,729 houses increasing to 2,363 by 1911 and reaching 2,825 in 1921. Annandale had 3,265 residences at the 1947 census.

The bubonic plague first appeared in The Rocks in 1901, and led to quarantine areas in Glebe and other inner areas. It affected attitudes to inner city/suburban housing, so that by 1910 those who could afford to were moving out, particularly to the railway suburbs. Inner suburban areas such as Annandale began to be seen as slums. It was at this time, and particularly after World War I, that industry began to appear in peripheral areas, along Johnstons and Whites creeks and in the swampy head of Rozelle Bay (later to be reclaimed).

John Young, with architectural and engineering experience in England including as superintendent for Crystal Palace, purchased the North Annandale land, established the Sydney Freehold Land & Building Investment Co to lay out the subdivision and finance the residential building.

The subdivision in the 1870s was premature, forcing the company to re-subdivide many of the large 'villa' allotments along Annandale Street and Trafalgar Street for smaller scale housing attracting working class residents. Johnston Street for the most part still exhibits the single villa ideals envisaged by the company for the three main streets.

#### Sources

Information provided by Max Solling.

#### Significant Characteristics

- Close relationship between landform and layout of the suburb with widest street along ridge top.
- The highest land has the widest streets and the largest buildings with the deeper setbacks
- Streets, buildings and setbacks diminish in size towards creeks.
- Important civic, ecclesiastical and educational buildings sited on top of the ridge facing Johnston Street, giving spire of Hunter Bailey Church high visibility from wide arch of Sydney suburbs.

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- A notable group of buildings, 'the witches hats' sited on northern edge of Johnston Street ridge as it falls towards Rozelle Bay.
- Tree-lined streets, particularly of brush box, planted within the carriageway.
- Industrial buildings occur randomly, but generally marginalised to creek edges, the northern end of Annandale and round Booth Street.
- Variety of domestic buildings 1880s-1930s including single and double-fronted freestanding, semidetached and terrace houses and pre-World War II flats from one to three storeys.
- Small collection of weatherboard dwellings.
- Victorian Italianate boom period villas generally along southern end of Johnston Street, nearer to Parramatta Road.
- Uninterrupted commercial buildings with attached dwelling along Parramatta Road, with parapets and balconies or suspended awnings and some original shop fronts.
- Group of shops, pub, post office, church at intersection of Booth Street.
- Occasional corner shops throughout suburb.
- Skyline of chimneys, decorative fire wall dividers on terraces, ridge capping and finials.
- Wealth of decorative elements – iron fences, coloured tiles in paths, steps and verandahs, plaster moulding finishes above door and window openings, coloured glass, chimneys, verandah awnings.
- Walls of rendered brick (1870s and 1880s), and dry pressed face brick (available from c1890s).
- Roof cladding of terracotta tiles, slate, and some iron, particularly on verandahs.
- Irregular occurrence of back lanes.
- Iron palisade fences on low sandstone plinth.
- Continuous kerbs and gutters – many of sandstone.
- Rock outcrops within footpath and road alignments.

#### Statement of Significance or Why the Area is Important

- One of a number of conservation areas that 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 as a well planned nineteenth-century suburb, and for illustrating development particularly from 1880s-1890s, aimed initially at the middle class market. The surviving development from this period forms the major element of its identity along with an area of 1910s-1930s development at its northern end.

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- Demonstrates the vision of John Young, architect, engineer and property entrepreneur.
- Demonstrates, arguably, the best and most extensive example of the planning and architectural skills of Ferdinand Reuss, a designer of a number of Sydney's Victorian suburbs, including South Leichhardt (the Excelsior Estate) and Birchgrove.
- Clearly illustrates all the layers of its suburban development from 1878, through the 1880s boom and resubdivision, the 1900 slump and the appearance of industry, and the last subdivision around Kentville/Pritchard Streets to the 1930s, with the early 1880s best illustrated along Johnston and Annandale Streets.
- Demonstrates a close relationship between landform and the physical and social fabric of the suburb.
- In its now rare weatherboard buildings it can continue to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around Rozelle Bay and their effect on the building of the suburbs of Leichhardt.
- Displays a fine collection of large detached Victorian Italianate boom-period villas with most decorative details still intact, set in gardens.
- Displays fine collection of densely developed Victorian commercial buildings.
- Through the absence/presence of back lanes, changes in the subdivision pattern, and the range of existing buildings it illustrates the evolution of the grand plan for Annandale, in response to the market, from a suburb of middle class villas to one of terraces and semis for tradesmen and workers.

#### Management of Heritage Values

##### Generally

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

##### Retain

- All pre-1939 buildings and structures because they are important to understanding the history of the growth of this suburb.
- All weatherboard buildings, their rarity adds to their significance.
- Green garden space to all residential buildings – an important part of the character of Annandale.
- Original plastered walls (generally belonging to pre-1890s buildings).
- Original dry pressed face brick walls (generally belonging to post-1890s buildings).



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- All original architectural details.
- Original iron palisade fences.
- Back lanes in their early configuration.
- Brush box tree planting, replace where necessary in original position within the alignment of the carriageway.
- All sandstone kerbs and gutter uninterrupted by vehicular access.

#### Avoid

- Amalgamation to create any more wider allotments that would further disrupt the Victorian pattern of development.
- Demolition of any pre-1939 building unless it is so compromised that it can no longer contribute to an understanding of the history of the area.
- Plastering or painting of face brick walls.
- Removal of plaster from walls originally sealed with plaster.
- Removal of original architectural details.
- Changes to the form of the original house. Second or third storey additions.
- Posted verandahs over footpaths to commercial premises or former commercial premises where no evidence can be provided to support their reconstruction.
- Additional architectural detail for which there is no evidence.
- High masonry walls or new palisade fences on high brick bases.
- Alteration to back laneways.
- Road chicanes which cut diagonally across the line of the streets.

#### Further Work

Use Water Board Detailed Survey of 1890 to identify which buildings remain from that time.

Compile photographic record of the conservation area from photos available since the late nineteenth century to the present time, as a means of assisting in appropriate reconstruction/'restoration'.