


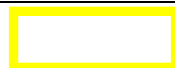



| INNER WEST                                                                          |                                                                                                                                                                                          |            |                                                                                       |     |
|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------------------------------------------------------------------------|-----|
| DEVELOPMENT ASSESSMENT PANEL REPORT                                                 |                                                                                                                                                                                          |            |                                                                                       |     |
| Application No.                                                                     | DA/2024/0942                                                                                                                                                                             |            |                                                                                       |     |
| Address                                                                             | 8 Elswick Street LEICHHARDT NSW 2040                                                                                                                                                     |            |                                                                                       |     |
| Proposal                                                                            | Partial demolition of existing structures and construction of a two storey mixed use building comprising an office premises and a dwelling house and associated works including a garage |            |                                                                                       |     |
| Date of Lodgement                                                                   | 1 November 2024                                                                                                                                                                          |            |                                                                                       |     |
| Applicant                                                                           | GM ARCHITECT PTY LTD                                                                                                                                                                     |            |                                                                                       |     |
| Owner                                                                               | Daymount Pty Ltd                                                                                                                                                                         |            |                                                                                       |     |
| Number of Submissions                                                               | Initial: Five (5)<br>After Renotification: Two (2)                                                                                                                                       |            |                                                                                       |     |
| Cost of works                                                                       | \$628,037.00                                                                                                                                                                             |            |                                                                                       |     |
| Reason for determination at Planning Panel                                          | Section 4.6 variations exceed 10%                                                                                                                                                        |            |                                                                                       |     |
| Key Considerations                                                                  | Non-compliance with FSR development standards; amenity impacts to adjoining properties                                                                                                   |            |                                                                                       |     |
| Recommendation                                                                      | Approved with Conditions                                                                                                                                                                 |            |                                                                                       |     |
| Attachment A                                                                        | Recommended conditions of consent                                                                                                                                                        |            |                                                                                       |     |
| Attachment B                                                                        | Plans of proposed development                                                                                                                                                            |            |                                                                                       |     |
| Attachment C                                                                        | Section 4.6 Exceptions to Development Standards                                                                                                                                          |            |                                                                                       |     |
|  |                                                                                                                                                                                          |            |                                                                                       |     |
| LOCALITY MAP                                                                        |                                                                                                                                                                                          |            |                                                                                       |     |
| Subject Site                                                                        |                                                                                                       | Objectors  |  | ↑ N |
| Notified Area                                                                       |                                                                                                       | Supporters |  |     |
| Note: Due to scale of map, not all objectors could be shown.                        |                                                                                                                                                                                          |            |                                                                                       |     |

## 1. Executive Summary

This report is an assessment of the application submitted to Council for partial demolition of existing structures and construction of a two storey mixed use building comprising an office premises and a dwelling house and associated works including a garage at 8 Elswick Street Leichhardt.

The application was notified to surrounding properties and five (5) submissions were received in response to the initial notification.

Two (2) submissions were received in response to renotification of the application

The main issues that have arisen from the application include:

- Non-compliance with FSR development standard
- Amenity impacts to adjoining properties

The non-compliances are acceptable subject to conditions, and therefore, the application is recommended for approval.

## 2. Proposal

The proposed works include:

- Partial demolition of the existing single storey corner retail building.
- Demolition of the existing rear metal shelter, brick outbuilding and brick/fibro garage.
- Alterations and additions to provide a mixed-use development consisting of a office premises at the south-east portion on the ground floor level and a two storey dwelling with courtyard.
- Construction of a garage at the rear of the site for residential use only.
- The office use will have hours of operation between 9am to 6pm – Monday to Friday.

## 3. Site Description

The subject site is a corner lot located on the northern side of Albert Street and western side of Elswick Street. The site consists of one allotment and is generally rectangular with a total area of 229 sqm and is legally described as DP 3863 in Lot 1, Sec C.

The site has a frontage to Elswick Street of 6.095 metres and a second frontage of approximate 36.575 metres to Albert street.

The site supports a single storey non-residential building that is vacant. The surrounding properties consists of one and two storey residential developments.



*Figure 3: Photo of subject site as viewed from the corner of Elswick Street and Albert Street*



*Figure 2: Photo of subject site as viewed from Albert Street*



Easterly view of the open concreted and metal-roofed area. There is missing roofing and its northern wall is unfinished. The concrete is also in poor condition with considerable vegetation growing through its cracks.



Southerly view of the concreted area.



Westerly view of the concreted area through to the rear brick outbuildings.

*Figure 3: Photos of existing conditions in the dilapidated covered area between the main building and the outbuildings*





Figure 4: Zoning Map (subject site in yellow)

## 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                                                                                 | Date & Decision        |
|-------------|------------------------------------------------------------------------------------------|------------------------|
| DA/193/1998 | Making and bottling of spirits in conjunction with the existing bottle shop at 8 Elswick | 29/07/1998<br>Approved |

### **Surrounding Properties**

| Application | Proposal                                                                                                                                                                              | Date & Decision        |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| D/2003/404  | 10 Elswick Street<br>Alterations and additions to an existing dwelling, new front fence and construction of a double garage at the rear.                                              | 17/12/2003<br>Approved |
| D/2015/338  | 1 Albert Street<br>Alterations and additions to the existing dwelling including construction of a two-storey rear extension. Variation to the Floor Space Ratio development standard. | 07/10/2015<br>Approved |

### Application History

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

| Date       | Discussion / Letter / Additional Information                                         |
|------------|--------------------------------------------------------------------------------------|
| 24/01/2025 | A request for further information was sent to the applicant requiring the following; |

|                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                         | <ul style="list-style-type: none"> <li>• Issues in relation to the design of the mixed use development (potential noise impacts, retention of existing built form at the front)</li> <li>• Issues in relation to non-compliance with development standards</li> <li>• Issues in relation to Bulk and Scale, Siting, Envelope</li> <li>• Issues raised by building certification and Health compliance sections</li> <li>• Issues raised by potential impact to trees on surrounding areas</li> </ul>                                                                 |
| 24/01/2025              | Amended design submitted by applicant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 01/04/2025              | In person meeting held between Council and the applicant to discuss the first amended design which was not acceptable due to bulk and scale impacts and discussed that further amendments are required.                                                                                                                                                                                                                                                                                                                                                              |
| 27/04/2025              | <p>Second set of amended design was submitted by the applicant. The amendments include:</p> <ul style="list-style-type: none"> <li>• Amending the café component to be fully enclosed and located in the east portion of the site.</li> <li>• The existing built form in the east portion of the site is retained.</li> <li>• The proposed rear alignment matches with the rear alignment of No. 10 Elswick Street and the proposed courtyard is only accessible by the residential component.</li> <li>• The carport is altered into an enclosed garage.</li> </ul> |
| 13/05/2025 - 27/05/2025 | The second amended design is renotified for 14 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 27/05/2025              | <p>Second request for further information was sent to the applicant requiring the following;</p> <ul style="list-style-type: none"> <li>• Clause 4.6 Exceptions to Development Standards</li> <li>• Required additional information from health compliance section including amended plans indicating location of mechanical ventilation and details in complying with food premises standards and updated acoustic report that addresses the noises impacts generated from the café and mechanical ventilation.</li> </ul>                                          |
| 16/6/2025               | <p>Amended plans and supporting documentation were received.</p> <ul style="list-style-type: none"> <li>• The amended plans are identical to the set of drawings that were renotified with the exception of some additional annotations on the ground floor plans about ventilation and food premises standards.</li> <li>• Clause 4.6 exceptions for Floor Space Ratio, Site Coverage and Landscaped Area were provided.</li> </ul>                                                                                                                                 |
| 16/07/2025              | Advised applicant that due to lack of details in relation to location and details of the mechanical ventilation that would be associated with a café use, the findings of the acoustic reports provided are not considered to be satisfactory and that the non-residential component should be amended to a business/office use instead.                                                                                                                                                                                                                             |
| 17/07/2025              | <p>Amended plans were received.</p> <ul style="list-style-type: none"> <li>• Amending the proposed café use to become an office use.</li> </ul> <p>Renotification was not required in accordance with Council's Community Engagement Strategy 2025-2029 as the proposed office use would have a lesser impact than the previously notified café use. The amended plans and supporting documentation are the subject of this report.</p>                                                                                                                              |

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A 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 4.6(1) of the *Resilience and Hazards 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.*

In considering the above, a Preliminary Site Investigation report, prepared by NEO consulting and dated 12th December 2023 provided the following conclusions:

*Four (4) soil samples were obtained from the fill layer (0-0.15m) across the site. The samples were submitted to a National Association of Testing Authorities, Australia (NATA) accredited laboratories for analysis of Chemicals of Potential Concern (CoPC) that may have impacted the site during historical or present activities.*

*The soil underling the site consists of a dark brown silty Clay FILL to a depth of 0.4m followed by natural brown-red silty Clay.*

*A review of historical aerial images indicates that the site was contained the existing structures from at least 1943. Based on the information provided by the client the structures appear to remain generally.*

*Analytical results indicate no exceedance of the NEPM Health and Ecological Assessment Criteria for Residential (A) sites.*

*Overall, this site is considered to have a low risk of surface and subsurface contamination. NEO Consulting finds that the site is suitable for proposed development and Residential (A) land use, providing that the recommendations within Section 13 of this report are undertaken.*

The recommendations of the report are as follows:

*Based on the information collected and available during this investigation, the following recommendations have been made:*

- *All structures onsite should have a Hazardous Materials Survey (HMS) conducted by a qualified occupational hygienist and/or environmental consultant for the site prior to any demolition or renovation works in accordance with relevant Australian Standards, SafeWork NSW codes of practice and any other applicable requirements.*
- *If ACM is confirmed by HMS, the following is required:*
  - o *An Asbestos Removal Management Plan (ARMP); The ARMP should address the removal of surface Asbestos contamination near onsite structures.*
  - *The removal works will require a Class B licensed removal contractor;*
  - *Reporting on transport and management of asbestos waste in accordance with EPA Part 7 of the Protection of the Environment Waste Regulation 2017; and*
  - o *A clearance inspection and clearance certificate by a will be required post demolition by a licensed asbestos assessor under clauses 473 & 474 of NSW Work Health and Safety Regulations 2017.*
- *The demolition of structures and excavation activity on site be undertaken in accordance with relevant Australian Standards, SafeWork NSW codes of practice and any other applicable requirements.*
- *Any soils requiring excavation, onsite reuse and/or removal must be classified in accordance with Waste Classification Guidelines Part 1: Classifying waste.*
- *A site specific 'Unexpected Finds Protocol' is to be made available for reference for all occupants and/or site workers in the event unanticipated contamination is discovered.*

On the basis of this report, the consent authority can be satisfied that the land will be suitable for the proposed use and the abovementioned report will be included as a stamped document in the conditions of consent and its recommendations to be carried by the applicant prior and during the construction process.

#### *SEPP (Transport and Infrastructure) 2021*

##### *Chapter 2 Infrastructure - Development likely to affect an electricity transmission or distribution network*

The proposed development meets the criteria for referral to the electricity supply authority under Section 2.48 of the *Transport and Infrastructure SEPP* and was referred for comment.

Ausgrid raised no objection to the proposed development subject to the imposition of conditions which have been included in the recommendation.

Overall, subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice the proposal satisfies the relevant controls and objectives.

#### *SEPP (Biodiversity and Conservation) 2021*

##### *Chapter 2 Vegetation in non-rural areas*

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of Part C1.14 - *Tree Management* of the Leichhardt Development Control Plan 2013 (LDGP 2013).

The proposed development does not seek the removal of any tree existing trees on site, and the amended plans under assessment and Arboricultural Impact Assessment (AIA) report prepared by Redgum Horticultural have been reviewed.



Tree protection conditions relating to the retention and protection of existing *Lophostemon confertus* (Brush Box) trees located in the Albert Street road reserve adjacent to the site are included in the recommendation to ensure these trees will not be adversely impacted upon during the demolition and construction phases.

Overall, the proposal is considered acceptable with regard to the *Biodiversity and Conservation SEPP* and Part C1.14 - *Tree Management* of the LDCP 2013 subject to the imposition of conditions as recommended.

#### *Chapter 6 Water Catchments*

Section 6.6 under Part 6.2 of the *Biodiversity and Conservation SEPP* provides matters for consideration which apply to the proposal. The subject site is located within the designated hydrological catchment of the Sydney Harbour Catchment and is subject to the provisions contained within Chapter 6 of the above *Biodiversity Conservation SEPP*.

The proposal is not in the immediate vicinity of Sydney Harbour or any waterway, and would not have an adverse effect in terms of water quality and quantity, aquatic ecology, flooding, or recreation and public access.

Given the above, the proposal raises no issues that will be contrary to the provisions and objectives of this chapter of the *Biodiversity and Conservation SEPP*.

#### *SEPP (Sustainable Buildings) 2022*

#### Chapter 2 Standards for residential development - BASIX

The application is accompanied by a BASIX Certificate (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EP&A 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<br>Aims of Plan | <p>The proposal, subject to conditions, satisfies the section as follows:</p> <ul style="list-style-type: none"> <li>The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles'</li> <li>The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West; and</li> <li>The proposal prevents adverse social, economic and environmental impacts, including cumulative impacts;.</li> </ul> | Yes, subject to conditions |

#### **Part 2 – Permitted or Prohibited Development**

| Section                               | Proposed  | Compliance          |
|---------------------------------------|-----------|---------------------|
| Section 2.3<br>Zone<br>Objectives and | See below | Yes, as conditioned |

| Section                                             | Proposed                                                                                                                                                                                                                                                                             | Compliance                 |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Land Use Table                                      |                                                                                                                                                                                                                                                                                      |                            |
| Section 2.7 Demolition Requires Development Consent | <p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> <li>• Demolition works are proposed, which are permissible with consent; and</li> <li>• Standard conditions are recommended to manage impacts which may arise during demolition.</li> </ul> | Yes, subject to conditions |

Clause 2.3 - Land Use Table and Zone Objectives and 6.11 Use of existing non-residential buildings in residential zones

*Permissibility*

The site is zoned R1 under the *IWLEP 2022*. The *IWLEP 2022* defines the mixed-use development as:

***Dwelling house*** means a building or place used predominantly as a place of residence

***commercial premises*** means any of the following—

- (a) *business premises,*
- (b) *office premises,*
- (c) *retail premises.*

The non-residential component is proposed to be used as a commercial (office) premises which is permissible in the R1 zone subject to Council being satisfied that the proposal is consistent with Section 6.11 of the *IWLEP 2022* – see below.

**6.11 Use of existing non-residential buildings in residential zones**

(1) *The objective of this clause is to provide for the adaptive reuse of existing buildings for purposes other than residential accommodation.*

(2) *This clause applies to land in the following zones—*

- (a) *Zone R1 General Residential,*
- (b) *Zone R2 Low Density Residential,*
- (c) *Zone R3 Medium Density Residential,*
- (d) *Zone R4 High Density Residential.*

(3) *Development for the purposes of business premises, office premises, restaurants or cafes, shops, small bars or take away food and drink premises is permitted with development consent if—*

- (a) *the development involves a building constructed, wholly or partly, for a purpose other than residential accommodation before the commencement of this Plan, and*
- (b) *the consent authority is satisfied of the following—*
  - (i) *the development will not adversely affect the amenity of the surrounding area,*
  - (ii) *the development will retain the form and fabric of the architectural features of the existing building,*
  - (iii) *the building is suitable for adaptive reuse,*
  - (iv) *the modification of the footprint and facade of the building will be minimal,*

(v) *the gross floor area of the part of the building used for the purposes of restaurants or cafes, small bars or take away food and drink premises will be less than 80m<sup>2</sup>.*

The proposed development introduces a dwelling house use which is permissible in the R1 zone and a office use which is also permissible by virtue of satisfying the provisions of Clause 6.11. The proposal is considered to meet the requirements of 6.11(3) as it will ensure the form and fabric of the architectural features of the existing front portion of the building (which is the most significant part of the existing original built form) is retained and suitable for adaptive reuse. The front commercial portion of the building is being reinstated to a use akin with the original development of the site being for a commercial purpose. The modifications to the front portion of the building which are to be used as an office entail restorative works which improve the presentation of the building to Elswick Street, including the provision of new openings and a new shopfront awning bringing this closer into alignment with its original form as originally constructed.

Having regard to the above, the use of the premises as an office with traditional business hours is unlikely to impact the amenity of surrounding properties and satisfies the provision of Cl6.11 of *IWLEP 2022*.

#### *Zone Objectives*

Further to the above, the proposal is also considered to be consistent with the relevant objectives of the R1 zone which are as follows:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide residential development that maintains the character of built and natural features in the surrounding area.

Given the above, the proposal, as reinforced by standard conditions, is consistent with the provisions and objectives of Section 2.3 of the LEP.

### **Part 4 – Principal Development Standards**

#### Section 4.4 - Floor Space Ratio Development Standard

| Section                                                       | Proposed                                                                                                           |                          | Complies             |
|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------|
| Section 4.3C (3)(a)<br>Landscaped Area                        | Minimum                                                                                                            | 15% (site area < 235sqm) | No                   |
|                                                               | Proposed                                                                                                           | 11.7% (26 sqm)           |                      |
|                                                               | Variation                                                                                                          | 7.4 sqm or 22.2%         |                      |
| Section 4.3C (3)(b)<br>Site Coverage                          | Maximum                                                                                                            | 60% (133.7 sqm)          | No                   |
|                                                               | Proposed                                                                                                           | 88% (196 sqm)            |                      |
|                                                               | Variation                                                                                                          | 62.2 sqm or 46.5%        |                      |
| Section 4.4<br>Floor Space Ratio                              | Maximum                                                                                                            | 0.7:1 or 156 sqm         | No                   |
|                                                               | Proposed                                                                                                           | 1.13:1 or 251.7 7sqm     |                      |
|                                                               | Variation                                                                                                          | 95.7sqm or 61.3%         |                      |
| Section 4.5<br>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                                                   | The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.3C(a)(b) and 4.4. |                          | See discussion below |

| Section                             | Proposed | Complies |
|-------------------------------------|----------|----------|
| Exceptions to Development Standards |          |          |

### Section 4.6 – Exceptions to Development Standards

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022*.

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

A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

#### Landscaped Area

The applicant seeks variations to the Landscaped Area development standard under Section 4.6 of the *IWLEP 2022* by 22.2% or 7.4sqm. It is noted that despite a non-compliance, this is an improvement to the existing site situation as there is nil landscaped area on the property. Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

#### ***Whether compliance with the development standard is unreasonable or unnecessary***

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Landscaped Area development standard are achieved notwithstanding the numeric non-compliance.

The **first objective** of Section 4.3C is "*to provide landscaped area for substantial tree planting and for the use and enjoyment of residents*". The written request is as follows:

- *The proposal introduces landscaped area to a site completely absent of it and in doing so, drastically improves the site's access to green space in preparation for its partial conversion to a residence.*

In consideration of the points above, despite the shortfall, the proposal includes sufficient space for recreational purposes that benefits residents and is an improvement to the existing situation where the entire site is used for non-residential purposes. Accordingly, the breach is consistent with the first objective.

The **second objective** of Section 4.3C is "*to maintain and encourage a landscaped corridor between adjoining properties*". The written request provides several points for demonstrating how the second objective is met notwithstanding the non-compliance. The applicant's written request is as follows:

- *The proposal has located its landscaped area in line with private outdoor space of its neighbours. Whilst the properties immediately to its north completely neglect this objective, the proposed scheme sets a constructive precedent.*

In consideration of the point above, given that the proposed design does not result in any further reduction of Landscaped Area and the proposed Landscaped Area is compatible with the surrounding properties, it is considered to be acceptable in this regard. Accordingly, the proposed breach is consistent with the second objective.

The **third objective** of Section 4.3C is “to ensure that development promotes the desired character of the neighbourhood”. The written request is as follows:

- *The proposal reinstates the corner lot’s former use as a commercial premises serving the local community. It’s original frontage is retained and repaired whilst the new residences second story is set back 8 metres to maintain the visual impression of the commercial premises as the lots primary use*

In consideration of the points above, strict compliance with the Landscaped Area is unreasonable and unnecessary given the unique characteristics of the subject site whereby the commercial period building is being restored and maintained whilst adding the provision of a residence to the rear which would be consistent with surrounding residential development. The proposal seeks to provide a landscape area which currently does not exist on the site thereby bringing it in closer to compatibility with the desired future character of the neighbourhood, whilst also resulting in an increase of Landscaped Area on the site. Overall, the proposed development is consistent with the desired character of the neighbourhood. Accordingly, the proposed breach is consistent with the third objective.

The **fourth objective** of Section 4.3C is “to encourage ecologically sustainable development”. The written request is as follows:

- *The development’s approach to the question of ecological sustainability is manifold. All feasibly retained existing built fabric has been retained, whether it is of heritage significance or not, reducing the proposal’s embodied carbon footprint. Improving the surrounding community’s access to local services reduces their need to travel out of the neighbourhood for basic amenities.*

In consideration of the points above, the objective of encouraging ecologically sustainable development is met through adherence to BASIX and landscape enhancements and retention and reinstatement of the existing built form. Accordingly, the proposed breach is consistent with the fourth objective.

The **fifth objective** of Section 4.3C is “to control site density”. The written request is summarised as follows:

- *The subject site has existed in a state of disuse for over a decade and therefore detracted from the appropriate density of the neighbourhood. The proposal reinstates the site’s contribution to the surrounding area’s low-medium density housing stock.*

The proposed development is located on corner lot and has a rear alignment that matches the rear alignment of the adjoining property and its two storey form is considered to be compatible with the mix of single storey and two storey surrounding properties. Having regard to this, the proposal’s density is somewhat consistent with neighbouring development whilst still ensuring the proposed Landscaped Area is an improvement to the existing situation. Whilst the applicant’s argument in this instance has not been made well, it is considered the proposal

still has merit having regard to this objective. Accordingly, the breach is consistent with the fifth objective.

The **sixth objective** of Section 4.3C is “to provide for landscaped areas and private open space”. The written request provides several points for demonstrating how the fifth objective is met notwithstanding the non-compliance. The applicant’s written request is as follows:

- *“The proposed development increases the private open space of the area from 0-26m<sup>2</sup>. When compared to lots immediately to its north the proposal rivals their private outdoor space and eclipses their landscaped area.”*

In consideration of the points above, the objective of providing Landscaped Areas and private open space (POS) is met through the provision of a modest courtyard with satisfactory landscaping. The compliant POS ensures that the development provides adequate outdoor space for residents and is an improvement on the existing situation. Accordingly, the breach is consistent with the sixth objective.

As the proposal achieves the objectives of the Landscaped Area development standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Section 4.6(3)(b), the Applicant advances four environmental planning grounds to justify contravening the Landscaped Area development standard. Each will be dealt with in turn:

**Environmental Planning Ground 1** – *The numerical non-compliance of the development has directly resulted from design decisions intended to satisfy the relevant planning objectives. The proposed design has been setback 8 metres from the street to avoid any interference the new construction might have on the historically significant frontage. This decision has pushed the built form rearward and consumed space that could otherwise be allocated to landscaped area.*

**Comment** – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area, despite non-compliances with landscaped area.

This environmental planning ground is accepted because, notwithstanding the non-compliance, the proposed Landscaping Area does not inhibit the ability of the site to accommodate adequate areas for tree planting and recreational purposes.

**Environmental Planning Ground 2** – *Much of the existing building’s built fabric has been retained for the purposes of ecological sustainability and historic preservation. The consequence of this decision is that further site area is unsuitable for landscaping, increasing the overall site coverage of the site.*

**Comment** – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area while still providing an appropriate level of Landscaped Area that can be used for recreational purposes, despite the non-compliance with Landscaped Area development standard.

**Environmental Planning Ground 3** – *The proposal provides onsite parking access in line with the objectives of the Leichhardt DCP..... The inclusion of off-street parking ensures that the development does not affect the surrounding community’s access to car parking. The*



*added on-site parking has resulted in an increased covered area and therefore is partly responsible for the proposal's numerical exceedances in landscaped area.*

**Comment** – This environmental planning ground is not accepted because the parking space is associated with the proposed residential dwelling where there is no minimum parking requirement.

**Environmental Planning Ground 4** – *The numerical non-compliance with the control also arises from an existing built condition. The landscaped area at present stands at zero sqm, the proposal improves on this condition, adding 26sqm; a small garden. When compared to its uncompliant northern neighbours, the proposal sets a productive example even without satisfying the numerical controls.*

**Comment** – This planning ground is accepted as the proposal will result in an increase to the amount of Landscaped Area currently existing on the site and is of a sufficient size to be used for recreational purposes and is comparative to neighbouring residential development.

Cumulatively, the grounds 1, 2 and 4 are considered sufficient to justify contravening the development standards.

For the reasons outlined above, it is recommended the Section 4.6 exception be granted.

#### Site Coverage Development Standard

The applicant seeks variations to the Site Coverage development standard under Section 4.6 of the *IWLEP 2022* by 46.5% or 62.2sqm. Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

#### ***Whether compliance with the development standard is unreasonable or unnecessary***

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Site Coverage development standard is achieved notwithstanding the numeric non-compliance.

The **first objective** of Section 4.3C is "*to provide landscaped area for substantial tree planting and for the use and enjoyment of residents*". The written request is as follows:

- *The proposal decreases site coverage by 12%, improving the site's access to green space in preparation for it's partial conversion to residences.*

Noting that the proposal does not result in a reduction of Site Coverage (while the existing site is entirely roof, large portions of are not enclosed and therefore is not considered to contribute to Site Coverage). However, in consideration of the above, despite the shortfall, the proposal includes sufficient space for recreational purposes that benefits future residents and is an improvement to the existing situation whereby the entire site is used for non-residential purposes. Accordingly, the breach is consistent with the first objective.

The **second objective** of Section 4.3C is “*to maintain and encourage a landscaped corridor between adjoining properties*”. The written request provides several points for demonstrating how the second objective is met notwithstanding the non-compliances. The key point in the applicant’s written request is as follows:

- *The proposal has located its landscaped area in line with private outdoor space of its neighbours. Whilst the properties immediately to its north completely neglect this objective, the proposed scheme sets a constructive precedent.*

In consideration of the points above, given that the proposed design does not result in any further reduction of Landscaped Area, and the proposed Landscaped Area is compatible with the surrounding properties, it is considered to be acceptable in this regard. Accordingly, the proposed breach is consistent with the second objective.

The **third objective** of Section 4.3C is “*to ensure that development promotes the desired character of the neighbourhood*”. The written request is as follows:

- *The proposal reinstates the corner lot’s former use as a commercial premises serving the local community. It’s original frontage is retained and repaired whilst the new residences second story is set back 8 metres to maintain the visual impression of the commercial premises as the lots primary use*

In consideration of the points above, strict compliance with the Site Coverage is unreasonable and unnecessary given the unique characteristics of the subject site where a non-residential building is currently existing with a roof area that takes up the entire site and the proposal will result in an increase of Landscaped Area on this site. Overall, the proposed development is consistent with the desired character of the neighbourhood. Accordingly, the proposed breach is consistent with the third objective.

The **fourth objective** of Section 4.3C is “*to encourage ecologically sustainable development*”. The written request is as follows:

- *The development’s approach to the question of ecological sustainability is manifold. All feasibly retained existing built fabric has been retained, whether it is of heritage significance or not, reducing the proposal’s embodied carbon footprint. Improving the surrounding community’s access to local services reduces their need to travel out of the neighbourhood for basic amenities.*

In consideration of the points above, the objective of encouraging ecologically sustainable development is met through adherence to BASIX and landscape enhancements and retention and reinstatement of the existing built form. Accordingly, the proposed breach is consistent with the fourth objective.

The **fifth objective** of Section 4.3C is “*to control site density*”. The written request provides several points for demonstrating how the fifth objective is met notwithstanding the non-compliance. The key points in the applicant’s written request are summarised as follows:

- *The subject site has existed in a state of disuse for over a decade and therefore detracted from the appropriate density of the neighbourhood. The proposal reinstates the site’s contribution to the surrounding area’s low-medium density housing stock.*

The proposed development is located on corner lot and has a rear alignment that matches the rear alignment of the adjoining property and its two storey form is considered to be compatible with the mix of single storey and two storey surrounding properties. Having regard to this, the proposal’s density is somewhat consistent with neighbouring development whilst still ensuring the proposed Site coverage/ Landscaped Area is an improvement to the existing situation.

Whilst the applicant's argument in this instance has not been made well, it is considered the proposal still has merit having regard to this objective. Accordingly, the breach is consistent with the fifth objective.

The **sixth objective** of Section 4.3C is "*to provide for landscaped areas and private open space*". The written request provides several points for demonstrating how the fifth objective is met notwithstanding the non-compliances. The applicant's written request is as follows:

- *"The proposed development increases the private open space of the area from 0-26m<sup>2</sup>. When compared to lots immediately to its north the proposal rivals their private outdoor space and eclipses their landscaped area."*

In consideration of the points above, the objective of providing landscaped areas and private open space (POS) is met through the provision of modest courtyards sufficient landscaping despite the non-compliance with Site Coverage development standard. The compliant POS ensures that the development provides adequate outdoor space for residents and is an improvement on the existing situation. Accordingly, the breach is consistent with the sixth objective.

As the proposal achieves the objectives of the Site Coverage development standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Section 4.6(3)(b), the Applicant advances four environmental planning grounds to justify contravening the landscaped area development standard. Each will be dealt with in turn:

**Environmental Planning Ground 1** – *The numerical non-compliance of the development has directly resulted from design decisions intended to satisfy the relevant planning objectives. The proposed design has been setback 8 metres from the street to avoid any interference the new construction might have on the historically significant frontage. This decision has pushed the built form rearward and consumed space that could otherwise be allocated to landscaped area.*

**Comment** – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area, despite non-compliance with Site Coverage.

This environmental planning ground is accepted because, notwithstanding the non-compliance, the proposed Site Coverage does not inhibit the ability of the site to accommodate adequate areas for tree planting and recreational purposes.

**Environmental Planning Ground 2** – *Much of the existing building's built fabric has been retained for the purposes of ecological sustainability and historic preservation. The consequence of this decision is that further site area is unsuitable for landscaping, increasing the overall site coverage of the site.*

**Comment** – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area and still provides an appropriate area of Landscaped Area that can be used for recreational purposes, despite non-compliance with Site Coverage development standard.

**Environmental Planning Ground 3** – *The proposal provides onsite parking access in line with the objectives of the Leichhardt DCP's Equity of Access and Mobility. The inclusion of offstreet parking ensures that the development does not affect the surrounding community's access to car parking. The added on-site parking has resulted in an increased covered area*

*and therefore is partly responsible for the proposal's numerical exceedances in landscaped area.*

**Comment** – This environmental planning ground is not accepted because the parking space is associated with the proposed residential dwelling where there is no minimum parking requirement.

**Environmental Planning Ground 4** – *The numerical non-compliance with the control also arises from an existing built condition. The structure which adorns the site currently covers 100% of it's site area; the proposal improves on this condition, reducing that number to 88%. When compared to its uncompliant northern neighbours, the proposal sets a productive example even without satisfying the numerical controls.*

**Comment** – This planning ground is accepted as the proposal will result in an increase to the amount of Landscaped Area currently existing on the site and is of a sufficient size to be used for recreational purposes. Despite the shortfall, the proposal includes sufficient Landscaped Area and the proposed site coverage is compatible with the adjoining properties.

Cumulatively, the grounds 1, 2 and 4 are considered sufficient to justify contravening the development standards.

For the reasons outlined above, it is recommended the Section 4.6 exception be granted.

#### Floor Space Ratio Development Standard

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022* by 61.3% or 95.7sqm. Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

#### ***Whether compliance with the development standard is unreasonable or unnecessary***

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Floor Space Ratio (FSR) standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4** is "*to establish a maximum floor space ratio to enable appropriate development density*". The written request is as follows:

- The proposed shop-top dwelling's FSR is 0.63:1. Which satisfies the control and therefore is of appropriate residential density.

This is an incorrect statement, as the FSR development standard is applicable for the entire development, not just the residential component. However, as the proposed bulk and scale is compatible with the two storey developments that are located within the locality and the proposed form will unlikely result in amenity impacts to the adjoining properties, the proposed form and density is considered to be acceptable despite the non-compliance. The FSR

afforded to residential development adjoining the site is greater and thereby the proposed development would be contextually appropriate and compatible.

The **second objective of Section 4.4** is “*to ensure development density reflects its locality*”. The written request states that:

- *The proposed development’s residential density exists in the same range of housing densities as its surrounding neighbours.*

The proposed development is compatible with regard to the development density and building bulk and scale patterns found in this part of Leichhardt, with a mix of single and two storey developments in the locality including the two storey town house development on the opposite side of Albert Street. This justification is accepted, given the scale of proposed additions and existing form on surrounding properties. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4** is “*to provide an appropriate transition between development of different densities*”. The written request states:

- *There is no transition between densities occurring when the density of the site and its surrounding lots are identical. Therefore this clause is not applicable.*

The subject and surrounding properties are all zoned R1 general residential and with the exception of 2 Elswick Street, all the surrounding properties are similar in size, and therefore, will have similar densities. The proposal is of an appropriate scale having regard to adjoining development.

The **fourth objective of Section 4.4** is “*to minimise adverse impacts on local amenity*”. The written request states:

- *The development improves local amenity through integrating local commercial services and housing stock into a singular proposal which is sympathetic to the architectural scale of the area. It also incorporates private parking to prevent the development impacting parking availability in the local area.*

The proposed bulk and scale will not result in any undue or adverse impacts in relation to view loss, visual privacy or solar access. Therefore, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4** is “*to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain*”. The written request states:

- *The development incorporates the planting of a tree and therefore increases tree canopy within the area. Private properties and the public domain are not negatively affected by the proposal.*

No vegetation is proposed to be removed as part of this application and additional tree planting will be provided. Accordingly, the breach is consistent with the fifth objective.

As the proposal achieves the objectives of the FSR standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Section 4.6(3)(b), the Applicant advances four environmental planning grounds to justify contravening the FSR development standard. Each will be dealt with in turn:

#### **Environmental Planning Ground 1 –**

*In an R1 General Residential land use zone, the objective of the FSR control is to ensure that 'development density reflects its locality'. Were the proposal to apply the numerical control whilst also satisfying the planning objectives regarding architectural character, it would be unable to reflect the locality's density (and unable to satisfy each and every planning objective).*

*This is because the proposal incorporates two permitted uses into a single lot. Both use examples are conventional when compared to their singular neighbouring equivalents. Though when combined in a permitted use they are unable to jointly satisfy the numerical controls.*

**Comment** – This environmental planning ground is accepted because, notwithstanding the non-compliance, given the existing building form and the front portion of the building is preserved, the proposal is compatible to the existing streetscape and allows additional residential accommodation while maintaining a non-residential use on a corner lot that historically had been used for non-residential purposes.

**Environmental Planning Ground 2 –** *Between the years 2021 and 2023 (the most recent available data on the matter) the inner west council approved at least 126 development applications involving FSR exceedances. 21 of those variations occurred in the Leichhardt suburb with many citing the proposal's reflection of the area's character as justification. Across the entire sample of FSR variations there are many cases where it has been varied by over 50% for a single residential use.*

*If the council can justify variation for a situation without explicit contribution to the local amenity of its surrounding suburb, it follows that a mixed use development such as the proposal in question, should be acceptable.*

**Comment** – Each application and each variation to a development standard is assessed on its own merits, and therefore, quoting a number of variations generally over a time period without going in-depth on how these variations are directly applicable to the subject application is not a suitable justification for the proposed breach and therefore this environment planning ground is not accepted.

**Environmental Planning Ground 3 –** *The proposal satisfies ecological sustainability through a variety of methods in addition to its landscape plan. Built fabric is retained to reduce the structure's embodied carbon whilst the proposal's mixed uses increase locally accessible services and housing stock.*

**Comment** – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area, despite non-compliance with the FSR development standard.

**Environmental Planning Ground 4 –** *The true extent of the variation is less than the council claims. The proposal provides onsite parking access in line with the objectives of the Leichhardt DCP..... This decision is not without precedence; there are numerous examples of private parking spaces available locally with almost every frontage to Elswick Lane functioning as a garage. In spite of this, the council is still insisting that the garage should be included in the FSR component of the proposal, adding a further 24.5% exceedance to the reality of the situation.*



**Comment** – The Leichhardt DCP 2013 does not require any parking for single residential dwellings and therefore it is included in the FSR calculation. Notwithstanding this, it is agreed that the garage component contributes to the non-compliance of Floor Space Ratio and that the proposed bulk and scale associated with the proposed mixed use building is considered to be compatible with the existing streetscape and surrounding developments, and the proposed bulk and scale will not result in any adverse amenity impacts to surrounding properties.

Cumulatively, the grounds 1, and 3 are considered sufficient to justify contravening the development standards.

***Whether the proposed development meets the objectives of the development standard, and of the zone***

The objectives of the R1 General Residential zone have been identified previously in this report under Section 2.3 of the IWLEP 2022 and in the assessment of the Landscaped Area and Site Coverage development standard breaches.

Council accepts the Applicant's submissions in the written request that the relevant objectives of the R1 General Residential zone are met. The variation will result in new development that provides new housing to meet the needs of the community without adversely impacting upon the built or natural features of the surrounding area. As indicated above, Council is also satisfied that, subject to conditions, the development meets the objectives of the FSR development standard. As the proposal is consistent with both the objectives of the zone and the standard, the proposed variation of the Floor Space Ratio standard is considered in the public interest and is supported.

For the reasons outlined above, it is recommended the Section 4.6 exception be granted.

**Part 5 – Miscellaneous Provisions**

| Section                                  | Compliance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Compliance |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Section 5.10<br>Heritage<br>Conservation | <p>The site is located adjacent to, however, is not within the Albert Street Heritage Conservation Area (this Heritage Conservation Area commencing to the south-west of the site across Albert Street and to the west of the site across Elswick Lane). The site is not heritage listed, however, is located adjacent and / or within the vicinity of the following heritage items:</p> <ul style="list-style-type: none"> <li>• Avenue of Bruck Boxes in Albert Street road reserve and located adjacent to No 8 Elswick Street – local significance (I1082); and</li> <li>• No. 15 Elswick Street – former corner shop and residence, including interiors – local significance (I1108).</li> </ul> <p>An assessment of the revised proposal against the relevant streetscape and heritage controls of this part of the LEP and those contained in the LDCP 2013 (see assessment later in this report) has been carried out, and it is considered that the proposed alterations and additions, as amended, and will not detract from any adjoining or nearby environmental heritage or the streetscape - see LDCP 2013 assessment, including under <i>Alterations and Additions</i> and <i>Corner Sites</i>, later in this report for further details.</p> | Yes        |

**Part 6 – Additional Local Provisions**

| Section     | Proposed                                                                                                                          | Compliance |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------|------------|
| Section 6.1 | The site is identified as containing Class 5 Acid Sulfate Soils. The proposal is considered to adequately satisfy this section as | Yes        |

| Section                                                             | Proposed                                                                                                                                                                                                                                                                                                                                                                                                                                                | Compliance          |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Acid Sulfate Soils                                                  | the application does not propose any works that would result in any significant adverse impacts to the watertable.                                                                                                                                                                                                                                                                                                                                      |                     |
| Section 6.2 Earthworks                                              | Any proposed earthworks are not significant and are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.                                                                                                                                                                                                                                                                      | Yes, as conditioned |
| Section 6.3 Stormwater Management                                   | The development maximises the use of permeable surfaces, includes on site retention as an alternative supply. and subject to standard conditions, would not result in any significant runoff to adjoining properties or the environment.                                                                                                                                                                                                                | Yes, as conditioned |
| Section 6.8 Development in Areas Subject to Aircraft Noise          | The site is located within the ANEF 20-25 contour. The proposal is capable of satisfying this section as conditions have been included in the recommendation to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of Section 6.8 of the <i>IWLEP 2022</i> . | Yes, as conditioned |
| 6.11 Use of Existing Non-residential Buildings in Residential Zones | See discussion regarding use Clause 2.3 - Land Use Table and Zone Objectives and 6.11. The proposed office premise complies with the requirements under this part.                                                                                                                                                                                                                                                                                      | Yes                 |

### Leichhardt Development Control Plan 2013 (LDCP 2013)

#### Summary

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

| LDCP 2013                                | Compliance / Acceptable    |
|------------------------------------------|----------------------------|
| <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                        |
| <b>Part C</b>                            |                            |
| C1.0 General Provisions                  | Yes                        |
| C1.1 Site and Context Analysis           | Yes                        |
| C1.2 Demolition                          | Yes                        |
| C1.3 – Alterations and Additions         | Yes – see discussion below |
| C1.5 Corner Lots                         | Yes – see discussion below |
| C1.6 Subdivision                         | Yes                        |
| C1.7 Site Facilities                     | Yes – see discussion below |
| C1.8 Contamination                       | Yes                        |
| C1.9 Safety by Design                    | Yes                        |
| C1.10 Equity of Access and Mobility      | Yes                        |

|                                                                                         |                            |
|-----------------------------------------------------------------------------------------|----------------------------|
| C1.11 Parking                                                                           | Yes – see discussion below |
| C1.12 Landscaping                                                                       | Yes – see discussion below |
| C1.14 Tree Management                                                                   | Yes – see discussion above |
| C1.16 Structures In Or Over The Public Domain: Balconies, Verandahs and Awnings         | Yes – see discussion below |
| C1.18 Laneways                                                                          | Yes                        |
| <b>Part C: Place – Section 2 Urban Character</b>                                        |                            |
| C2.2.3.2 West Leichhardt Distinctive Neighbourhood<br>C2.2.3.2(d) Hampton Farm Sub Area | Yes – see discussion below |
| <b>Part C: Place – Section 3 – Residential Provisions</b>                               |                            |
| C3.1 Residential General Provisions                                                     | Yes                        |
| C3.2 Site Layout and Building Design                                                    | Yes – see discussion below |
| C3.3 Elevation and Materials                                                            | Yes – see discussion below |
| C3.5 Front Gardens and Dwelling Entries                                                 | Yes                        |
| C3.6 Fences                                                                             | Yes                        |
| C3.7 Environmental Performance                                                          | Yes                        |
| C3.8 Private Open Space                                                                 | Yes                        |
| C3.9 Solar Access                                                                       | Yes                        |
| C3.10 Views                                                                             | Yes                        |
| C3.11 Visual Privacy                                                                    | Yes                        |
| C3.12 Acoustic Privacy                                                                  | Yes                        |
| <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                        |
| C4.3 Ecologically Sustainable Development                                               | Yes                        |
| C4.4 Elevation and Materials                                                            | Yes – see discussion below |
| C4.5 Interface Amenity                                                                  | Yes – see discussion below |
| <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                        |
| D2.3 Residential Development                                                            | Yes                        |
| D2.4 Non-residential 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 |
| E1.1.2 Integrated Water Cycle Plan         | Yes |
| E1.1.3 Stormwater Drainage Concept Plan    | Yes |
| E1.2 Water Management                      | Yes |
| E1.2.1 Water Conservation                  | Yes |
| E1.2.2 Managing Stormwater within the Site | Yes |
| E1.2.3 On-Site Detention of Stormwater     | Yes |
| E1.2.4 Stormwater Treatment                | Yes |
|                                            |     |

C1.3 Alterations and Additions, C1.5 Corner Lots, C1.16 Structures In Or Over The Public Domain: Balconies, Verandahs and Awnings, C2.2.3.2 West Leichhardt Distinctive Neighbourhood/ C2.2.3.2(d) Hampton Farm Sub Area, C3.3 Elevation and Materials and C4.4 Elevation and Materials

The proposed development is considered to be of a form that complies with the objectives under Parts C.3.1 and C1.5 as the proposal:

- Retains and adapts the contributory front building form on the Elswick Street and Albert Street corners;
- Proposes a two storey addition towards the rear that respects the visually prominent role of corner sites where corner buildings in the vicinity and the addition can clearly be recognised from the original structure to be retained at the front of the property; and
- Proposes roof forms, proportions to openings and finishes and materials that will be compatible with the existing building or the streetscape; and
- Proposes a street awning to the Elswick and Albert Street corner of the existing front portion of the building to be retained that will enhance public use and amenity, and private use and amenity of the occupants of the building in which the permanent protective structure is attached, including shade, shelter, comfort, egress and safety and will enhance the appearance of the building and streetscape.

While the proposed development is not consistent with the 3.6 metre wall height under Control C10 of C2.2.3.2 of Leichhardt DCP 2013, it is noted that the corner lots on Elswick Street within the vicinity of the subject site all exceed this wall height requirement. (see images below)



Figure 6: Buildings on the corner of Elswick Street and Jarret Street



*Figure 7: Buildings on the corner of Elswick Street and Albert Street (opposite the subject site)*

Therefore, the proposed form is considered to be compatible with existing corner lot developments in this section of Elswick Street and is considered to be compatible with the existing streetscape and the desired future character of the area, and will satisfy the provisions and objectives of Parts C1.3, C1.5, C1.16, C2.2.3.2, C3.3 and C4.4 of the LDCP 2013.

#### C1.7 Site Facilities

Waste facilities are nominated on the plans associated with the residential and non-residential components of the development, and will be appropriately separated and screened from the street and will have acceptable connection to the collection point on Albert Street.

#### C1.11 Parking and C1.18 Laneways

##### *Parking*

For offices, the minimum parking requirement is 1 space for 100sqm and as the proposed GFA for the office is 78.5 sqm, one parking space is required. For single dwellings, there is no minimum requirement for parking, so the total requirement for carparking for the proposed mixed use development is one space, however, it is noted that the proposed car parking for this proposal is allocated to the residential component. It is further noted that the previous approved non-residential development on this site (DA/193/1998) was approved without any on-site parking (the report in DA/193/1998 clearly indicates the outbuildings were used for storage purposes only and that the shortfall in parking was acceptable). Therefore, there will be no additional parking shortfall on the site beyond existing.

A Traffic and Parking impact assessment, prepared by Motion Traffic Engineers Pty Ltd was provided to support the application which concluded that the short fall of one car parking space can be absorbed by the existing available on-street parking in the locality, and additional trips can be accommodated in the nearby intersections without significantly affecting the performance of any turn movement, approach arm or the overall intersection. Council's Engineering Section have reviewed the traffic report and conclude that the proposal is acceptable subject to standard conditions which are included in the recommendation.

### *Laneways*

The proposal garage on the corner of Albert Street and Elswick Lane will be single storey and will comply with the 3.6m wall height control applicable to the site and laneway and will be compatible with other laneway structures characteristic of the area in terms of design, finishes and materials and general appearance.

The proposal, as conditioned, satisfies the provisions and objectives of these parts of the LDCP 2013.

### C1.12 Landscaping

As previously noted, the proposal increases Landscaped Area provision on the site, and one tree is required in accordance with Control C12 of Part C1.12 of the LDCP 2013, and a condition is included in the recommendation to this effect.

The proposal, as conditioned, will satisfy the provisions and objectives of this part of the LDCP 2013.

### C3.2 Site Layout and Building Design

#### *Building Location Zone (BLZ)*

The proposal does not result in any changes to the front alignment and proposes a rear alignment that matches the rear alignment of 10 Elswick Street, and therefore, complies with the BLZ at ground floor level as there is no southern-adjointing property as the subject site is a corner lot. As No.10 Elswick Street is single storey, the proposal will establish a new BLZ at first floor level.

Pursuant to Control C6 under this Part of the LDCP 2013, where a proposal seeks a variance, or the establishment of a new BLZ, such as at first floor in this instance, various tests need to be met. These tests are assessed below:

| Merit Test                     | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Amenity (solar access/privacy) | Due to the orientation of the site, the additional shadows will be cast on the road/street and there are no additional impacts to any surrounding properties with respect to solar access. As the proposed living area associated with the proposed dwelling house is located at ground floor level, the proposed works will not result in any undue or adverse visual or acoustic privacy impacts. Therefore, the amenity impacts of the proposal on adjoining properties will be acceptable. |
| Streetscape & scale            | The front portion of the existing building is retained and the proposed built form is considered to be compatible to the streetscape.                                                                                                                                                                                                                                                                                                                                                          |
| Private open space             | The proposed dwelling house will have a compliant amount of private open space located at ground level in terms of access and dimensions.                                                                                                                                                                                                                                                                                                                                                      |
| Significant vegetation         | There is no significant vegetation currently on site and the proposal will allow for tree planting.                                                                                                                                                                                                                                                                                                                                                                                            |
| Visual bulk & height           | The proposed development will not extend beyond the rear alignment of No.10 Elswick Street, ensuring that the visual bulk and height when viewed from the private open spaces of the adjoining properties will be acceptable.                                                                                                                                                                                                                                                                  |

Accordingly, the variation of the BLZ at first floor level is acceptable

#### *Side Setbacks*

The subject site is a corner lot, therefore the only variation to setback controls will occur on the northern elevation and therefore is non-compliant to the side setback controls as follow:



## Proposed main building

| Wall  | Height    | Required Setback | Proposed Setback |
|-------|-----------|------------------|------------------|
| North | 6.9 – 7.5 | 2.4 – 2.7        | Nil              |

## Proposed Garage

| Wall  | Height     | Required Setback | Proposed Setback |
|-------|------------|------------------|------------------|
| North | 2.6 – 3.65 | 0 – 0.4.9        | Nil              |

Pursuant to Clause C3.2 of the LDCP 2013, where a proposal seeks a variation of the side setback control graph, various tests need to be met. These tests are assessed below:

| Merit Test                          | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building Typology                   | The proposed built form is considered to be consistent with the relevant building typology.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Pattern of Development              | The existing building, being a non-residential building, is not a typical development in the immediate context. However, the proposed development is considered to be of a form that will be compatible with the pattern of development in the locality.                                                                                                                                                                                                                                                                                                                                                              |
| Bulk and Scale                      | <p>The proposed main building will match the rear alignment of 10 Elswick and it is considered that the bulk and scale impacts will be acceptable when viewed from the private open space at 10 Elswick Street.</p> <p>However, with regard to the proposed garage at the rear, it appears from the proposed sections that a 400mm parapet is proposed above the proposed skillion roof of the garage structure - to minimise the bulk and scale impacts, a condition is included in the recommendation requiring the parapet to be reduced to be a maximum 200mm above the proposed skillion roof of the garage.</p> |
| Amenity Impacts                     | Due to the orientation of the site, the additional shadows will be cast on the road/street and there are no additional impacts to any surrounding properties with regard to solar access. As the proposed living area associated with the proposed dwelling is located at ground floor level, the proposed works will not result in any visual privacy impacts. Therefore, there are no adverse amenity impacts to adjoining properties.                                                                                                                                                                              |
| Maintenance of Adjoining Properties | The proposed development will not result in adverse impacts in this regard as the southern wall of 10 Elswick Street also has nil setback and is a brick wall and not a lightweight wall.                                                                                                                                                                                                                                                                                                                                                                                                                             |

Accordingly, subject to conditions, the proposed variation to side setback controls is acceptable.

C3.6 Fences

The amended proposal seeks to provide a new fence on Albert Street between the proposed residential component and the garage structure. The proposed height of this fence is between 1m to 1.3m (when scaled from the drawings) and while there is a small component of the proposed fencing that exceeds 1.2m (as required by C4), this is mainly due to the slope of the site. As the subject site is a corner lot and the fence is associated with the private open space of the residential component, C7 would be applicable and would allow a fence up to 1.8 metres in height. Therefore the proposed fencing complies with the controls until this part.

However, the drawings are ambiguous with regard to what is proposed to the dividing fence shared with 10 Elswick Street. It is noted that the site survey indicates that the existing paling fence (which is attached to a pier) is located on the land of the adjoining property at 10 Elswick Street. Therefore, a condition is included in the recommendation that requires the plans to be amended to clearly show that this dividing fence and the pier it is attached to is being retained. It can be noted that if owner's consent/agreement from 10 Elswick Street is obtained in the

future, the demolition/reconstruction of this boundary fence would likely be exempt development that would not require Council approval.

### C3.9 Solar Access

#### **New Dwellings**

As the proposal includes a new dwelling, C2, C4 (Private Open Space) and C9 (Main Living room) of the LDCP 2013 are applicable.

*C2 Where site orientation permits, new dwellings must be designed to maximise direct sunlight to the main living room and private open space.*

*C4 Private open space is to receive a minimum three hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.*

*C9 New residential dwellings are to obtain a minimum of three (3) hours of direct sunlight to the main living room between 9am and 3pm during the winter solstice.*

The proposed private open space at ground floor level will not receive the prescribed amount of solar access. However, as the existing building is a non-residential building, and the proposed development will reduce the amount of roofed area (the existing site is almost entirely roofed, it is considered that the ground floor private open space has been sensitively designed and has maximised the opportunity to receive solar access in the summer months and is considered to be acceptable in this instance.

The proposed development provides west-facing glazing associated with the living area that opens to the courtyard space which maximises the amount of solar access and will receive solar access between 12pm and 3pm during winter solstice and is considered to be acceptable.

#### **Minimise impact to neighbouring properties**

Due to the orientation of the site, the additional shadows will be cast on the road/street and there are no additional impacts to any surrounding properties with regard to solar access.

### C3.11 Visual Privacy

The following controls are applicable in C3.11 Visual Privacy

- *C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.*
- *C5 The provision of landscaping may be used to complement other screening methods but cannot be solely relied upon as a privacy measure.*
- *C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).*
- *C9 Balconies at first floor or above at the rear of residential dwellings will have a maximum depth of 1.2m and length of 2m unless it can be demonstrated that due to*

*the location of the balcony there will be no adverse privacy impacts on surrounding residential properties with the provision of a larger balcony.*

- *C10 Living areas are to be provided at ground floor level to minimise opportunities for overlooking of surrounding residential properties.*

The proposed living areas are located at ground floor level and as the first floor windows are not associated with a living area and not within a 9 metre 45 degree sightline of windows of adjoining properties, the proposed development complies with the controls under this part.

#### C4.5 Interface Amenity

DA/193/1998 (approved 29/07/1998) for use of the building as a business/retail premise that sells alcohol and also enables the making and bottling of spirits on site, but it appears that the building had been vacant for a period of time. The previously approved hours of operation are between 9am and 6pm Monday to Friday, 9am to 5pm on Saturday and no trading on Sundays and public holidays.

The proposal originally involved a café, but due to concerns relating to inadequate information, now seeks an office with the hours of operation between 9am and 6pm – Monday to Friday. As the office use will be operating in the same hours of operation as the previous approval and is consistent with standard office hours, it is considered that the proposed office use will not result in adverse amenity impacts to the surrounding residential properties, as reinforced by standard conditions, including relating to the control of noise.

## **B. 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 and commercial surrounding and the proposed mixed use development will be compatible to surrounding uses.

## **C. Submissions**

The application was notified in accordance with Council's Community Engagement Strategy between 07 November 2024 to 05 December 2024 and the amended design was renotified between 13 May 2025 and 27 May 2025.

A total of five (5) submissions were received in the first notification and two (2) submissions were received for the renotification of the amended design.

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

- Zoning Incompatibility – refer to assessment in relevant sections under Section 2.3/6.11 under section 5 – Inner West LEP 2022.
- Floor Space Ratio exceedance– refer to assessment in relevant sections under Section 4.4 – Floor space ratio under section 5 – Inner West LEP 2022.
- Traffic and Parking – refer to assessment in C1.11 Parking under section 5 – Leichhardt DCP 2013
- Potential noise impacts/Hours of Operation and Patron Capacity - refer to assessment in C4.5 Interface Amenity under section 5 – Leichhardt DCP 2013

Issues raised in the submissions received are further discussed below:

| Concern                                              | Comment                                                                                                                              |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Zoning Incompatibility/ Non-Permissible Use Under R1 | As discussed in an earlier section of the report, Section 6.11 of IWLEP 2022 allows certain types of non-residential uses within the |

|                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Residential Zoning                                                                                                                                                                                                                                                                                      | R1 Zoning. The application has been amended to be an office use at the front of the property and is a permissible use.                                                                                                                                                                                                                                                               |
| Noise Pollution and Disturbance                                                                                                                                                                                                                                                                         | The amended design now proposes an office use at the front portion of the building with residence at the rear and above and there will be no undue adverse noise pollution or disturbance as reinforced by standard conditions                                                                                                                                                       |
| Environmental Concerns                                                                                                                                                                                                                                                                                  | Issues in relation to contamination is discussed in detail under SEPP (Resilience and Hazards) 2021 in Section 5 of the report. Council's waste section had reviewed the application and considers the amended design to be acceptable subject to conditions. Potential increase in usage in water and electricity are not reasons that would warrant the application to be refused. |
| Waste/odour impacts from Commercial Kitchen                                                                                                                                                                                                                                                             | This objection related to the café use previously proposed on the site. The proposal has been amended to be an office use with dwelling house with no commercial kitchen.                                                                                                                                                                                                            |
| Disturbs quiet character of the street/ do not need a café in a residential area/ unnecessary and counterproductive to the community's well-being. There are many other cafes within walking distance of this location and we do not need another café, especially in the middle of a residential area. | This objection related to the café use previously proposed on the site. The proposal has been amended to be an office use with dwelling house, being uses that will have acceptable amenity impacts as reinforced by standard conditions of consent as recommended.                                                                                                                  |
| Inappropriate and Disruptive Operating Hours/Lack of clarity of what is "Architectural cafe"                                                                                                                                                                                                            | This objection related to the café use previously proposed on the site. The proposal has been amended to be an office use with hours of operation of 9am – 6pm (Monday to Friday) and this use will unlikely have amenity impacts particularly when reinforced by standard conditions as recommended.                                                                                |
| Pedestrian and cyclist safety                                                                                                                                                                                                                                                                           | Given the subject site was previously approved as a retail premise that sold alcohol, the proposed office use will not impact the safety of pedestrians and cyclists in the area.                                                                                                                                                                                                    |
| Unwanted Precedent and Cumulative Impact                                                                                                                                                                                                                                                                | Non-residential uses are permitted uses under 6.11 of the <i>IWLEP 2022</i> , and therefore, mixed-used developments that include non-residential components, such as the office use now proposed, does not necessarily result in unwanted precedents.                                                                                                                               |

## D. 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.

## 6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$26,718.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

## 7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of \$10,119.99 would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EP&A Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

## 8. Referrals

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

- Development Engineer;
- Waste;
- Environmental Health; and
- Building Certification

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

- Ausgrid.

## 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. In relation to the proposal in Development Application No. DA/2024/0942 to contravene the Landscaped Area, Site Coverage and Floor Space Ratio development standards in section 4.3C and 4.4 of *Inner West Local Environmental Plan 2022* the Inner West Local Planning Panel are satisfied that the Applicant has demonstrated that:
  - (a) compliance with the development standards is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standards.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2024/0942 for partial demolition of existing structures and construction of a two storey mixed use building comprising an office premises and a dwelling house and associated works including a garage at the rear of the site at 8 Elswick Street, LEICHHARDT subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

## CONDITIONS OF CONSENT

## GENERAL CONDITIONS

|    | Condition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>Bin Storage</b></p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2. | <p><b>Boundary Alignment Levels</b></p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary unless levels are otherwise approved by Council via a S138 approval.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 3. | <p><b>Permits</b></p> <p>Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must 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:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• A concrete pump across the roadway/footpath;</li> <li>• Mobile crane or any standing plant;</li> <li>• Skip Bins;</li> <li>• Scaffolding/Hoardings (fencing on public land);</li> <li>• Public domain works including vehicle crossing, kerb &amp; guttering, footpath, stormwater, etc.;</li> <li>• Awning or street veranda over the footpath;</li> <li>• Partial or full road closure; and</li> <li>• Installation or replacement of private stormwater drain, utility service or water supply.</li> </ul> <p>If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p> |
| 4. | <p><b>Insurances</b></p> <p>Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to 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</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



|                              | <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                      |             |                              |           |                      |             |  |  |  |  |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------|------------------------------|-----------|----------------------|-------------|--|--|--|--|
| 5.                           | <p><b>Public Domain and Vehicular Crossings</b></p> <p>The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for Design of Vehicle Crossing and Public Domain Works – Step 1 form and Construction of Vehicle Crossing and Public Domain Works – Step 2 form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.</p> <p>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 must be at no cost to Council.</p> <p>Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.</p> <p>Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.</p> <p>No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p> |                      |             |                              |           |                      |             |  |  |  |  |
| 6.                           | <p><b>Separation of Commercial and Residential Waste and Recycling</b></p> <p>The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from commercial premises) are to be separate and self-contained. Commercial tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.</p> <p>Reason: Commercial/retail premises and residential properties pay separate charges for waste and recycling collection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                      |             |                              |           |                      |             |  |  |  |  |
| 7.                           | <p><b>Documents related to the consent</b></p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1"> <thead> <tr> <th>Plan, Revision and Issue No.</th><th>Plan Name</th><th>Date Issued/Received</th><th>Prepared by</th></tr> </thead> <tbody> <tr> <td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                      |             | Plan, Revision and Issue No. | Plan Name | Date Issued/Received | Prepared by |  |  |  |  |
| Plan, Revision and Issue No. | Plan Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Date Issued/Received | Prepared by |                              |           |                      |             |  |  |  |  |
|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                      |             |                              |           |                      |             |  |  |  |  |

|    |                                                                                                                                                                                                                                                                                               |                                          |                    |                      |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|--------------------|----------------------|
|    | a006, Issue 5                                                                                                                                                                                                                                                                                 | existing demolition erosion construction | 20250716           | gmarchitects         |
|    | a101, Issue 5                                                                                                                                                                                                                                                                                 | proposed first floor                     | 20250716           | gmarchitects         |
|    | a102, Issue 5                                                                                                                                                                                                                                                                                 | proposed roof plan                       | 20250716           | gmarchitects         |
|    | a201, Issue 5                                                                                                                                                                                                                                                                                 | proposed elevations                      | 20250716           | gmarchitects         |
|    | a301, Issue 5                                                                                                                                                                                                                                                                                 | proposed sections                        | 20250716           | gmarchitects         |
|    | 1805291S_02                                                                                                                                                                                                                                                                                   | BASIX Certificate                        | 23 July 2025       | Michael Khoury       |
|    | Report No: N9588                                                                                                                                                                                                                                                                              | PRELIMINARY SITE INVESTIGATION           | 12th December 2023 | NEO Consulting       |
|    | 25223                                                                                                                                                                                                                                                                                         | Arboricultural Impact Assessment         | 21 February 2025   | Redgum Horticultural |
|    | As amended by the conditions of consent.                                                                                                                                                                                                                                                      |                                          |                    |                      |
|    | Reason: To ensure development is carried out in accordance with the approved documents.                                                                                                                                                                                                       |                                          |                    |                      |
| 8. | <b>Works Outside the Property Boundary</b>                                                                                                                                                                                                                                                    |                                          |                    |                      |
|    | This development consent does not authorise works outside the property boundaries on adjoining lands.                                                                                                                                                                                         |                                          |                    |                      |
|    | Reason: To ensure works are in accordance with the consent.                                                                                                                                                                                                                                   |                                          |                    |                      |
| 9. | <b>Storage of materials on public property</b>                                                                                                                                                                                                                                                |                                          |                    |                      |
|    | The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.                                                                                                                                                                            |                                          |                    |                      |
|    | Reason: To protect pedestrian safety.                                                                                                                                                                                                                                                         |                                          |                    |                      |
| 10 | <b>Other works</b>                                                                                                                                                                                                                                                                            |                                          |                    |                      |
|    | Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the <i>Environmental Planning and Assessment Act 1979</i> .                              |                                          |                    |                      |
|    | Reason: To ensure compliance with legislative requirements.                                                                                                                                                                                                                                   |                                          |                    |                      |
| 11 | <b>National Construction Code (Building Code of Australia)</b>                                                                                                                                                                                                                                |                                          |                    |                      |
|    | A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code. |                                          |                    |                      |
|    | An updated BCA report and Access Report that reflects the stamped architectural drawings must be provided to the satisfaction of the Principle Certifying Authority prior to the issue of a construction certificate.                                                                         |                                          |                    |                      |
|    | Reason: To ensure compliance with legislative requirements.                                                                                                                                                                                                                                   |                                          |                    |                      |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12 | <p align="center"><b>Notification of commencement of works</b></p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:</p> <ul style="list-style-type: none"> <li>a. In the case of work for which a principal contractor is required to be appointed:             <ul style="list-style-type: none"> <li>i. The name and licence number of the principal contractor; and</li> <li>ii. The name of the insurer by which the work is insured under Part 6 of that Act.</li> </ul> </li> <li>b. In the case of work to be done by an owner-builder:             <ul style="list-style-type: none"> <li>i. The name of the owner-builder; and</li> <li>ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.</li> </ul> </li> </ul> <p>Reason: To ensure compliance with legislative requirements.</p> |
| 13 | <p align="center"><b>Dividing Fences Act</b></p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 14 | <p align="center"><b>Lead-based Paint</b></p> <p>Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.</p> <p>Reason: To protect human health.</p>                                                                                                                                                                                                                        |
| 15 | <p align="center"><b>Dial Before You Dig</b></p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 16 | <p align="center"><b>Ausgrid Underground Cables are in the vicinity of the development</b></p> <p>Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).</p> <p>In addition to DBYD the proponent should refer to the following documents to support safety in design and construction: SafeWork Australia – Excavation Code of Practice.</p> <p>Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.</p>                                                                                                                                        |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|    | <p>The following points should also be taken into consideration.</p> <p>Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.</p> <p>Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.</p> <p>Reason: To satisfy Ausgrid requirements</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 17 | <p><b>Ausgrid Overhead Powerlines are in the vicinity of the development</b></p> <p>The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.</p> <p>Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The 'as constructed' minimum clearances to the mains must also be maintained.</p> <p>These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at <a href="http://www.ausgrid.com.au">www.ausgrid.com.au</a>. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.</p> <p>Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances".</p> <p>This document can be found by visiting the following Ausgrid website: <a href="http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries">www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries</a></p> <p>For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <a href="https://www.ausgrid.com.au/Connections/Get-connect">https://www.ausgrid.com.au/Connections/Get-connect</a></p> <p>Reason: To satisfy Ausgrid requirements</p> |

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

|                   | Condition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                   |            |                 |          |
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| 18.               | <p><b>Security Deposit - Custom</b></p> <p>Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been 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 and as surety for the proper completion of any road, footpath and drainage works required by this consent.</p> <table border="1"> <tr> <td>Security Deposit:</td><td>\$6,238.00</td></tr> <tr> <td>Inspection Fee:</td><td>\$389.00</td></tr> </table> <p>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.</p> <p>The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.</p> <p>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, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p> <p>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.</p> <p>The amount nominated is only current for the financial year in which the initial 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.</p> <p>Reason: To ensure required security deposits are paid.</p> | Security Deposit: | \$6,238.00 | Inspection Fee: | \$389.00 |
| Security Deposit: | \$6,238.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                   |            |                 |          |
| Inspection Fee:   | \$389.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |            |                 |          |
| 19.               | <p><b>Splays - Dedication of Land</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the land owner has dedicated a splay that is registered at NSW Land Registry Services to provide for sight-distance for vehicles and pedestrians at intersections splays must be created at property corners. The size of the splay(s) must be:</p> <p>a. 2m x 2m at street and lane corner;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                   |            |                 |          |

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|     | b. Reason: To maintain and promote vehicular and pedestrian safety.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 20. | <p><b>Dilapidation Report – Pre-Development – Minor</b></p> <p>Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.</p> <p>Reason: To ensure Council assets are protected.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 21. | <p><b>Stormwater Drainage System – Minor Developments (OSD is not required)</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <ol style="list-style-type: none"> <li>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 overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road.</li> <li>Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.</li> <li>Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks.</li> <li>The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes.</li> <li>The proposed 90 degrees bends over drainage pipes must be replaced with 2X45 degrees bends.</li> <li>An overland flow path must be provided to the Elswick lane and grated drains must be designed at the vehicular crossing in Elswick lane. The outlet pipe from the grated drain shall be connected to stormwater pit installed inside the property, adjacent to the boundary.</li> <li>A 150mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal room unless a reduced step is permitted by Part 3.3.3. of the National Construction Code for Class 1 buildings.</li> <li>No nuisance or concentration of flows to other properties.</li> <li>The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.</li> <li>Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.</li> </ol> |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|     | <ul style="list-style-type: none"> <li>k. A stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.</li> <li>l. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.</li> <li>m. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm.</li> <li>n. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.</li> <li>o. No impact to street tree(s).</li> </ul> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 22. | <p><b>Public Domain Works – Prior to Construction Certificate</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:</p> <ul style="list-style-type: none"> <li>a. The construction of light duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site.</li> <li>b. The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template for a B85 vehicle using dynamic ground clearance software. A long section, along both sides of the vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be provided for review. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section shall show both existing and proposed surface levels including information including chainages.</li> <li>c. Installation of a stormwater outlet to the kerb and gutter.</li> </ul> <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards</p> |
| 23. | <p><b>Changes to Levels</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans incorporating the following amendments:</p> <p>A 150mm step down must be provided between the finished floor level of the internal room and the finished surface level of the external area unless a reduced step is permitted by Part 3.3.3. of the National Construction Code</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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|            | Reason: To protect buildings from overland flow.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>24.</b> | <p><b>Parking Facilities - Domestic</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:</p> <ol style="list-style-type: none"> <li>The internal vehicle hardstand area must be redesigned such that the level at the boundary must match the invert level of the adjacent gutter plus 110mm [rear lane only] at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels.</li> <li>The garage slab or driveway must then rise within the property to be a minimum of 170mm (as quickly as possible) above the adjacent road gutter level and/or higher than the street kerb and footpath across the full width of the vehicle crossing.</li> <li>The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B85 vehicle. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.</li> <li>A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.</li> <li>The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 3000 mm (length x width) and a door opening width of 3000 mm at the street frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.</li> <li>The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004 unless otherwise approved.</li> <li>The external form and height of the approved structures must not be altered from the approved plans.</li> </ol> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.</p> |
| <b>25.</b> | <p><b>Resource Recovery and Waste Management Plan - Demolition and Construction</b></p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |



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|     | <p>Management Plan - Demolition and Construction* in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 26. | <p><b>Bin Storage Area</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan.</p> <p>The submitted Waste and Recycling Management Plan must demonstrate that that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale. The number of bins required must be calculated based on a fortnightly collection of garbage, a weekly collection of organics which includes food and garden organics (FOGO), and a fortnightly collection of mixed recycling.</p> <p>The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.</p> <p>The bin storage area is to meet the design requirements detailed in the Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p> |
| 27. | <p><b>Waste Transfer Route</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point has a minimum 1200mm wall-to-wall clearance, is slip-proof with a hard surface, free of obstructions and at no point has a gradient exceeding 1:14 for 240L bins, and 1:40 for 660L bins.</p> <p>Reason: To require details of measures that will protect residents and staff or tenants during the operational phase of the development.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 28. | <p><b>Street Numbering</b></p> <p>For property development of a two-storey mixed use building on the Lot 1 Section C DP 3863, current address 8 Elswick Street LEICHHARDT NSW 2040, the approved addresses will be:</p> <ol style="list-style-type: none"> <li>Ground floor commercial space will keep an address of 8 Elswick Street LEICHHARDT NSW 2040.</li> <li>Residential accommodation above on a first floor will receive an address of 8A Elswick Street LEICHHARDT NSW 2040.</li> </ol> <p>These numbers ensure clarity from the surrounding properties and are allocated in accordance with the NSW Government Address Policy and NSW Addressing User</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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|     | <p>Manual. The new proposed addresses will be valid from the date of the DA and OC approvals.</p> <p>Please display the street numbers on the property frontage and letterboxes.</p> <p>If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to <a href="#">Street Numbering Application</a></p> <p>Reason: To ensure occupancies are appropriately numbered.</p>                                                                                  |
| 29. | <p><b>Hazardous Materials Survey</b></p> <p>Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.</p> <p>A copy of any SafeWork NSW approval documents is to be included as part of the documentation.</p> <p>Reason: To ensure compliance with the requirements of SafeWork NSW.</p> |
| 30. | <p><b>Long Service Levy</b></p> <p>Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>                                                                                                |
| 31. | <p><b>Amended Plans and Documents</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans and supporting documentation demonstrating the following:</p> <ol style="list-style-type: none"> <li>The dividing fence shared with 10 Elswick and the pier it is attached to is to be retained.</li> <li>The parapet associated with the proposed garage to be reduced to be a maximum 200mm above the proposed skillion roof of the garage.</li> </ol> <p>Reason: To ensure that the design changes protect the amenity of the neighbourhood.</p>                |
| 32. | <p><b>Structural Certificate for retained elements of the building</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in</p>                                                                                                 |

|                         | <p>construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.</p> <p>Reason: To ensure the structural adequacy of the works.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
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| 33.                     | <p><b>Sydney Water – Tap In</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program 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.</p> <p>Note: Please refer to the web site <a href="http://www.sydnewwater.com.au/tapin/index.htm">http://www.sydnewwater.com.au/tapin/index.htm</a> for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service providers requirements are provided to the certifier.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| 34.                     | <p><b>Acoustic Report – Aircraft Noise</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| 35.                     | <p><b>Section 7.11 Contribution</b></p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1"> <thead> <tr> <th>Contribution Category</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Open Space &amp; Recreation</td><td>\$15,810.00</td></tr> <tr> <td>Community Facilities</td><td>\$2,650.00</td></tr> <tr> <td>Transport</td><td>\$5,852.00</td></tr> <tr> <td>Drainage</td><td>\$2,026.00</td></tr> <tr> <td>Plan Administration</td><td>\$379.00</td></tr> <tr> <td><b>TOTAL</b></td><td><b>\$26,718.00</b></td></tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> <p><math>C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} + CPI_{\text{consent}})</math></p> | Contribution Category | Amount | Open Space & Recreation | \$15,810.00 | Community Facilities | \$2,650.00 | Transport | \$5,852.00 | Drainage | \$2,026.00 | Plan Administration | \$379.00 | <b>TOTAL</b> | <b>\$26,718.00</b> |
| Contribution Category   | Amount                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| Open Space & Recreation | \$15,810.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| Community Facilities    | \$2,650.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| Transport               | \$5,852.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| Drainage                | \$2,026.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| Plan Administration     | \$379.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |
| <b>TOTAL</b>            | <b>\$26,718.00</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                       |        |                         |             |                      |            |           |            |          |            |                     |          |              |                    |

|                      | <p>Where:</p> <p>C<sub>payment</sub> = is the contribution at time of payment</p> <p>C<sub>consent</sub> = is the contribution at the time of consent, as shown above</p> <p>CPI<sub>consent</sub> = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 140.9 for the April 2025 quarter.</p> <p>CPI<sub>payment</sub> = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at <a href="http://www.innerwest.nsw.gov.au">www.innerwest.nsw.gov.au</a> or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at <a href="mailto:council@innerwest.nsw.gov.au">council@innerwest.nsw.gov.au</a> or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to <a href="http://www.innerwest.nsw.gov.au/invoice">www.innerwest.nsw.gov.au/invoice</a>; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p> |                      |        |              |        |  |  |  |  |
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| 36.                  | <p><b>Housing and Productivity Contribution</b></p> <p>a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b), is required to be made</p> <table><tr><th>Housing contribution</th><th>and</th><th>productivity</th><th>Amount</th></tr><tr><td></td><td></td><td></td><td></td></tr></table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Housing contribution | and    | productivity | Amount |  |  |  |  |
| Housing contribution | and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | productivity         | Amount |              |        |  |  |  |  |
|                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                      |        |              |        |  |  |  |  |

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|--|--------------------------------------------------------|-------------|
|  | Housing and productivity contribution (base component) | \$10,119.99 |
|  | Transport project component                            | \$0.0       |
|  | Total housing and productivity contribution            | \$10,119.99 |

b. The amount payable at the time of payment is the amount shown in condition (a) as the total housing and productivity contribution adjusted by multiplying it by:

**Highest PPI number**  
**Consent PPI number**

Where:

*highest PPI number* is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2<sup>nd</sup> last quarter before the quarter in which the payment is made, and

*consent PPI number* is the PPI number last used to adjust HPC rates when consent was granted, and

*June quarter 2023 and PPI* have the meanings given in clause 22 (4) of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

| Development                                                                                                                                                                                  | Time by which HPC must be paid                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Development consisting only of residential subdivision within the meaning of the HPC Order                                                                                                   | Before the issue of the first subdivision certificate |
| High-density residential development within the meaning of the HPC Order for which no construction certificate is required                                                                   | Before the issue of the first strata certificate      |
| Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building | Before the issue of the first strata certificate      |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>Manufactured home estate for which no construction certificate is required</p> <p>Before the installation of the first manufactured home</p> <p>In the Table, HPC Order means the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>d. The HPC must be paid using the NSW planning portal (<a href="http://pp.planningportal.nsw.gov.au/">http://pp.planningportal.nsw.gov.au/</a>).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ol style="list-style-type: none"> <li>the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,</li> <li>the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.</li> </ol> <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p> <p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p> |
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### BEFORE BUILDING WORK COMMENCES

|     | Condition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| 37. | <p><b>Hoardings</b></p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands 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. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> |

|             | Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |              |           |          |      |                                   |              |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------|----------|------|-----------------------------------|--------------|
| 38.         | <p><b>Tree Protection</b></p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any tree with the potential to be impacted by the development must be protected in accordance with AS4970—Protection of trees on development sites and Council's Development Fact Sheet—Trees on Development Sites. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>The existing trees detailed in the table below must be retained and protected throughout construction and development in accordance with all relevant conditions of consent.</p> <p>NOTE: Reference should be made to the Arboricultural Impact Assessment Report prepared by Redgum Horticultural dated 21 February 2025 for tree numbering and locations.</p> <table><tr><th>Tree Number</th><th>Species )</th><th>Location</th></tr><tr><td>1, 2</td><td>Lophostemon confertus (Brush Box)</td><td>Street trees</td></tr></table> <p>Reason: To ensure that trees to be retained are protected.</p> | Tree Number  | Species ) | Location | 1, 2 | Lophostemon confertus (Brush Box) | Street trees |
| Tree Number | Species )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Location     |           |          |      |                                   |              |
| 1, 2        | Lophostemon confertus (Brush Box)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Street trees |           |          |      |                                   |              |
| 39.         | <p><b>Project Arborist</b></p> <p>Prior to the commencement of any demolition or construction works within the Tree Protection Zone of protected trees, a Project Arborist (AQF Level 5 qualification) must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.</p> <p>Reason: To retain and protect trees.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |              |           |          |      |                                   |              |
| 40.         | <p><b>Erosion and Sediment Control</b></p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |              |           |          |      |                                   |              |
| 41.         | <p><b>Standard Street Tree Protection</b></p> <p>Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |              |           |          |      |                                   |              |

|            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|            | Reason: To protect and retain trees.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>42.</b> | <b>Verification of Levels and Location</b><br>Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.<br>Reason: To ensure works are in accordance with the consent.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>43.</b> | <b>Dilapidation Report</b><br>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the property at 10 Elswick Street to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.<br>Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report. |
| <b>44.</b> | <b>Construction Fencing</b><br>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.<br>Reason: To protect the built environment from construction works.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

#### DURING BUILDING WORK

|            | Condition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>45.</b> | <b>Tree Protection</b><br>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any tree with the potential to be impacted by the development must be protected in accordance with AS4970— <i>Protection of trees on development sites</i> and Council's Development Fact Sheet— <i>Trees on Development Sites</i> . No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time. |



|             | <p>The existing trees detailed in the table below must be retained and protected throughout construction and development in accordance with all relevant conditions of consent.</p> <p>NOTE: Reference should be made to the Arboricultural Impact Assessment Report prepared by Redgum Horticultural dated 21 February 2025 for tree numbering and locations.</p> <table><tr><th>Tree Number</th><th>Species )</th><th>Location</th></tr><tr><td>1, 2</td><td>Lophostemon confertus (Brush Box)</td><td>Street trees</td></tr></table> <p>Reason: To ensure that trees to be retained are protected.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Tree Number  | Species ) | Location | 1, 2 | Lophostemon confertus (Brush Box) | Street trees |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------|----------|------|-----------------------------------|--------------|
| Tree Number | Species )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Location     |           |          |      |                                   |              |
| 1, 2        | Lophostemon confertus (Brush Box)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Street trees |           |          |      |                                   |              |
| 46.         | <p><b>Inspections by Project Arborist</b></p> <p>An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone (TPZ - see Arboricultural Impact Assessment prepared by Redgum Horticultural dated 21 February 2025 for TPZ dimensions) of any tree listed for retention including street trees. The Arborist must certify compliance with each key milestone detailed below:</p> <ul style="list-style-type: none"><li>a. The installation of tree protection measures prior to the commencement of any demolition or construction works;</li><li>b. During demolition of any subterranean structures, ground surface materials (pavers, concrete, grass etc.) within the TPZ of any tree to be retained;</li><li>c. During installation of scaffolding, where the location is in conflict with the canopy of a tree to be retained. Note - canopy pruning for scaffolding or hoarding is not approved - these must be designed and installed to protect tree canopies;</li><li>d. During installation of the reinstated kerb, gutter and verge;</li><li>e. During any excavation and trenching (including for any services) within the TPZ;</li><li>f. Tree planting requirements as specified in accordance with the conditions of consent.</li></ul> <p>An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of tree/s must be submitted to and acknowledged by PCA at each hold-point listed below:</p> <ul style="list-style-type: none"><li>a. Certification that tree protection measures have been installed in accordance with these consent conditions.</li><li>b. Certification of compliance with each key milestone listed above within 48 hours of completion.</li><li>c. Details of any other works undertaken on any tree to be retained or any works within the TPZ which has been approved by Council.</li><li>d. A final compliance report must be submitted to and approved by PCA prior to the issue of any Occupation Certificate.</li></ul> <p>Reason: To protect and retain trees.</p> |              |           |          |      |                                   |              |

| 47.     | <p><b>Canopy Pruning</b></p> <p>Canopy pruning of the following tree if necessary to accommodate the awning must be undertaken by, or directly supervised by, the Project Arborist.</p> <p><b>Tree No. Botanical/Common Name</b></p> <p>1      <i>Lophostemon confertus</i> (Brush Box)</p> <p>Pruning is limited to those branches that will come into direct contact the built structure and where branch diameter (at its point of attachment) does not exceed 40mm. Note - Awning design to be amended accordingly if required.</p> <p>Reason: To protect and retain trees.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                  |                       |                  |      |                                          |    |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------------|------------------|------|------------------------------------------|----|
| 48.     | <p><b>Limited Root Pruning</b></p> <p>No tree roots of 40mm or greater in diameter located within the specified radius of the trunks of the following tree/s may be severed or injured in the process of any works (including removal of existing vehicular crossover and reinstatement of kerb, gutter and verge levels) during the construction period.</p> <table><tr><th>Tree No</th><th>Botanical/Common Name</th><th>Radius in metres</th></tr><tr><td>1, 2</td><td><i>Lophostemon confertus</i> (Brush Box)</td><td>6m</td></tr></table> <p>All excavation within the specified radius of the trunks being hand dug or undertaken using tree-sensitive techniques, as specified by the Project Arborist. If tree roots less than 40mm in diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and fit for purpose tool. The root pruning must be supervised by the Project Arborist. Where techniques employing pressurised air or water are used, equipment must be carefully calibrated to ensure tree roots will not be damaged.</p> <p>Excavation for the installation of services, such as storm water/sewer, electrical/data, water, gas, etc., must be undertaken in accordance with this condition.</p> <p>Reason: To retain and protect trees.</p> | Tree No          | Botanical/Common Name | Radius in metres | 1, 2 | <i>Lophostemon confertus</i> (Brush Box) | 6m |
| Tree No | Botanical/Common Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Radius in metres |                       |                  |      |                                          |    |
| 1, 2    | <i>Lophostemon confertus</i> (Brush Box)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 6m               |                       |                  |      |                                          |    |
| 49.     | <p><b>Arborists standards</b></p> <p>All tree work must be undertaken by a qualified Arborist. The work must be undertaken in accordance with AS4373—<i>Pruning of amenity trees</i> and the Safe Work Australia's <i>Guide to Managing Risks of Tree Trimming and Removal Work</i>. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.</p> <p>Reason: To ensure compliance with legislative requirements.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                  |                       |                  |      |                                          |    |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 50. | <p><b>Tree Protection Works</b></p> <p>All tree protection for the site must be undertaken in accordance with Council's Development Fact Sheet—Trees on Development Sites and AS4970—<i>Protection of trees on development sites</i>.</p> <p>Reason: To protect and retain trees.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 51. | <p><b>Advising Neighbours Prior to Excavation</b></p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 52. | <p><b>Construction Hours – Class 2-9</b></p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p> <p>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.</p> <p>In the case that a standing plant or special out of hours 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.</p> <p>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.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>The person acting on this consent must not undertake such activities for more than three continuous hours and must 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.</p> <p>Reason: To protect the amenity of the neighbourhood.</p> |
| 53. | <p><b>Survey Prior to Footings</b></p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

|  |                                                             |
|--|-------------------------------------------------------------|
|  | Reason: To ensure works are in accordance with the consent. |
|--|-------------------------------------------------------------|

### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

|                                        | Condition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>54. Public Domain Works</b>         | <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the Roads Act 1993 including:</p> <ul style="list-style-type: none"> <li>a. Light duty concrete vehicle crossing(s) at the vehicular access location(s);</li> <li>b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.</li> </ul> <p>All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2- "Roadworks Specifications".</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p> |
| <b>55. No Encroachments</b>            | <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>56. Protect Sandstone Kerb</b>      | <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent has been replaced.</p> <p>Reason: To ensure Council assets are protected.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>57. Light Duty Vehicle Crossing</b> | <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2- "Roadworks Specifications" have been constructed at the vehicular access locations.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| 58. | <p><b>Redundant Vehicle Crossing</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site in Albert Street have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 59. | <p><b>Parking Signoff – Minor Developments</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 60. | <p><b>Notice to Council to deliver Residential Bins</b></p> <p>Council is to be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 61. | <p><b>Certification of Tree Planting</b></p> <p>New tree planting is required as part of the development. Prior to the issue of any Occupation Certificate, the Certifying Authority is to be provided with evidence in the form of an image and a purchase invoice to confirm that:</p> <p>A minimum of 1 x 75 litre size tree, which will attain a minimum mature height of 5 metres, and a minimum mature canopy spread of 3 metres, has been planted in a suitable location within the property where there is:</p> <ul style="list-style-type: none"> <li>• at least 1 metre from any boundary and 1.5 metres from any structure;</li> <li>• clear of the canopy of existing trees; and</li> <li>• sufficient above and below ground space to allow for future tree growth.</li> </ul> <p>The tree must meet the requirements of AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Development Control Plan and species recognised to have a short life span, will not be accepted.</p> <p>Trees required by this condition must be maintained and protected until they reach the dimensions that are subject to Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month.</p> <p>Reason: To ensure appropriate landscaping is undertaken.</p> |

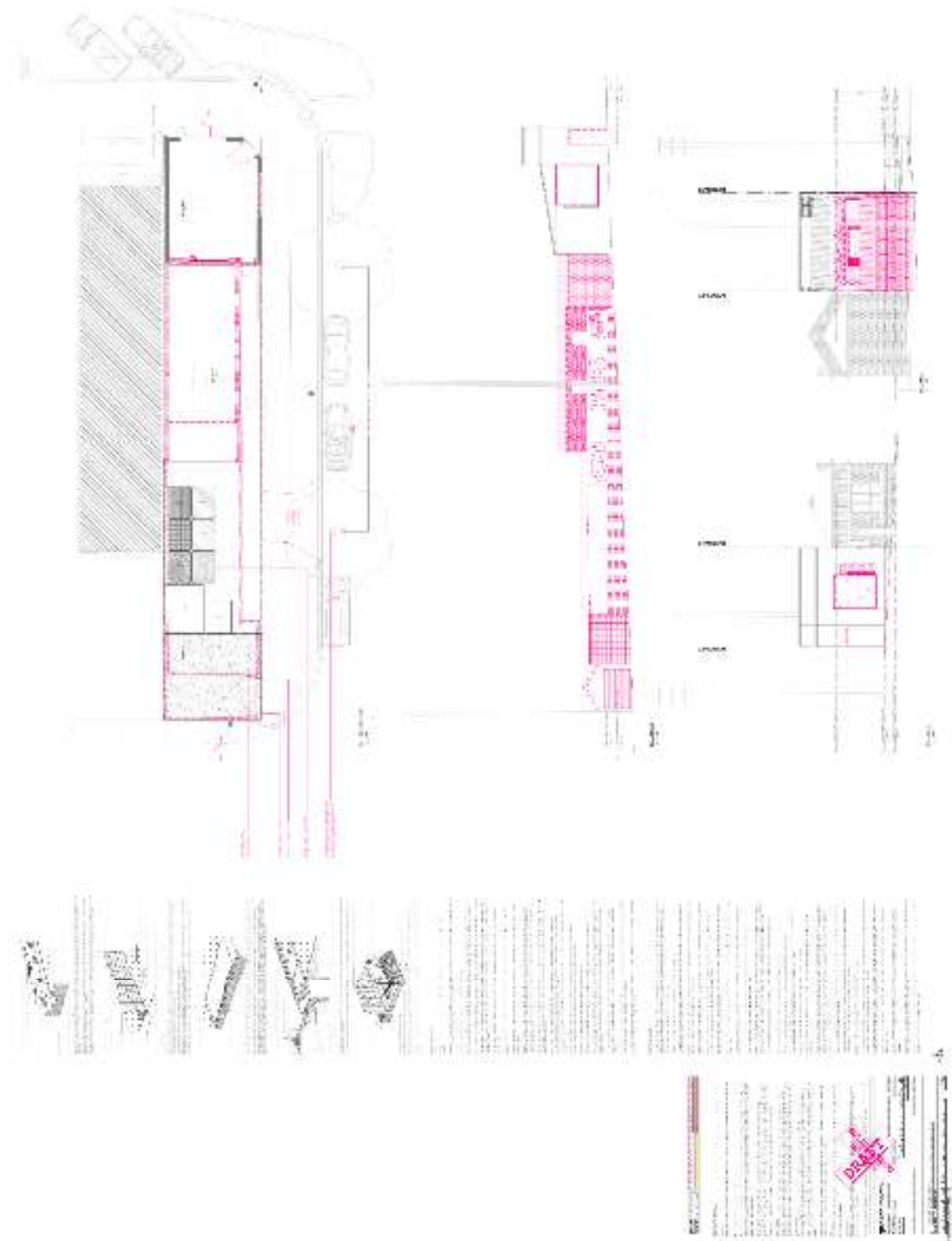
|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 62. | <p><b>Project Arborist Certification</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier is to be provided with certification from the Project Arborist that the requirements of the conditions of consent related to the landscape plan/approved tree planting plan/required tree planting and the role of the Project Arborist have been complied with.</p> <p>Reason: To ensure the protection and ongoing health of trees to be retained.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 63. | <p><b>Aircraft Noise</b></p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.</p> <p>Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p> |
| 64. | <p><b>Dilapidation Report</b></p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority and owners of identified properties must be provided with a second colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of 10 Elswick Street to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To determine potential construction impacts.</p>                                                                                                                                                                                                                                                                                                                    |

### OCCUPATION AND ONGOING USE

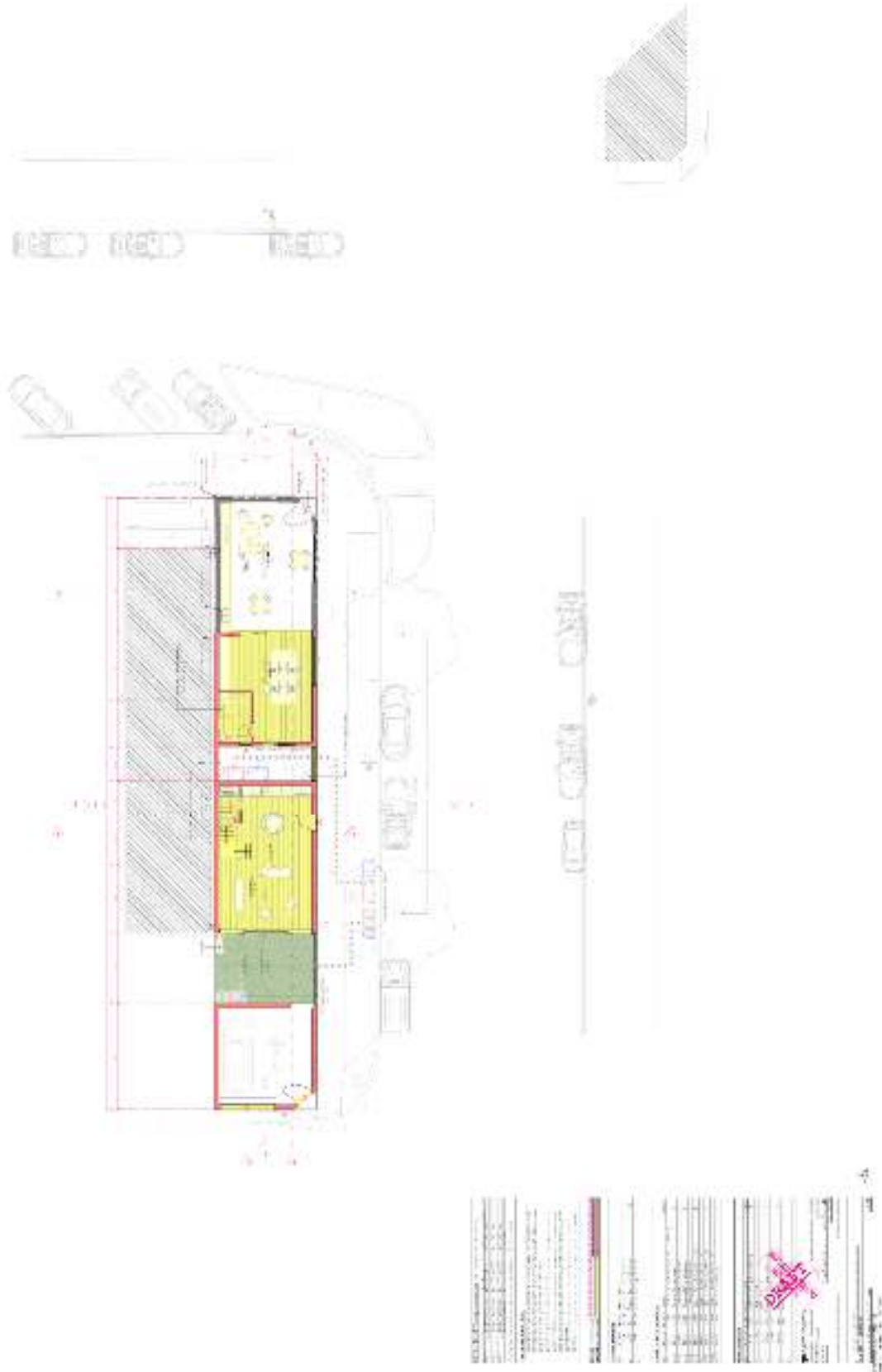
| Condition        |                                                                                                                                                                                                                                                                                                                                              |     |       |                  |           |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------|------------------|-----------|
| 65.              | <p><b>Hours of Operation</b></p> <p>a. The hours of operation of the office premises must not exceed the following:</p> <table border="1"> <thead> <tr> <th>Day</th><th>Hours</th></tr> </thead> <tbody> <tr> <td>Monday to Friday</td><td>9am - 6pm</td></tr> </tbody> </table> <p>Reason: To protect the amenity of the neighbourhood.</p> | Day | Hours | Monday to Friday | 9am - 6pm |
| Day              | Hours                                                                                                                                                                                                                                                                                                                                        |     |       |                  |           |
| Monday to Friday | 9am - 6pm                                                                                                                                                                                                                                                                                                                                    |     |       |                  |           |

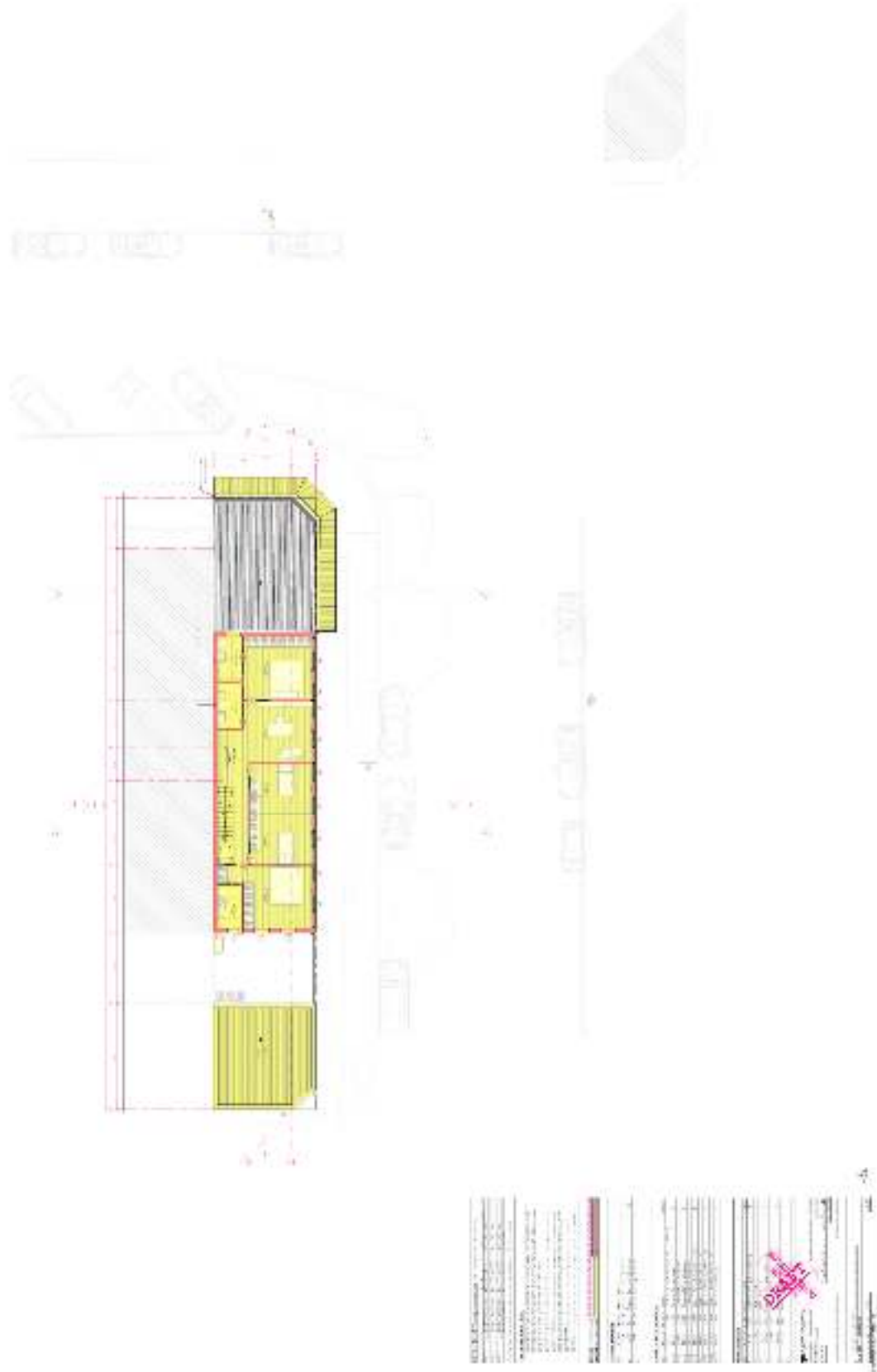
|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 66. | <p data-bbox="437 331 592 358"><b>Noise General</b></p> <p data-bbox="437 360 1276 461">The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i> and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.</p> <p data-bbox="437 479 970 506">Reason: To protect the amenity of the neighbourhood.</p> |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

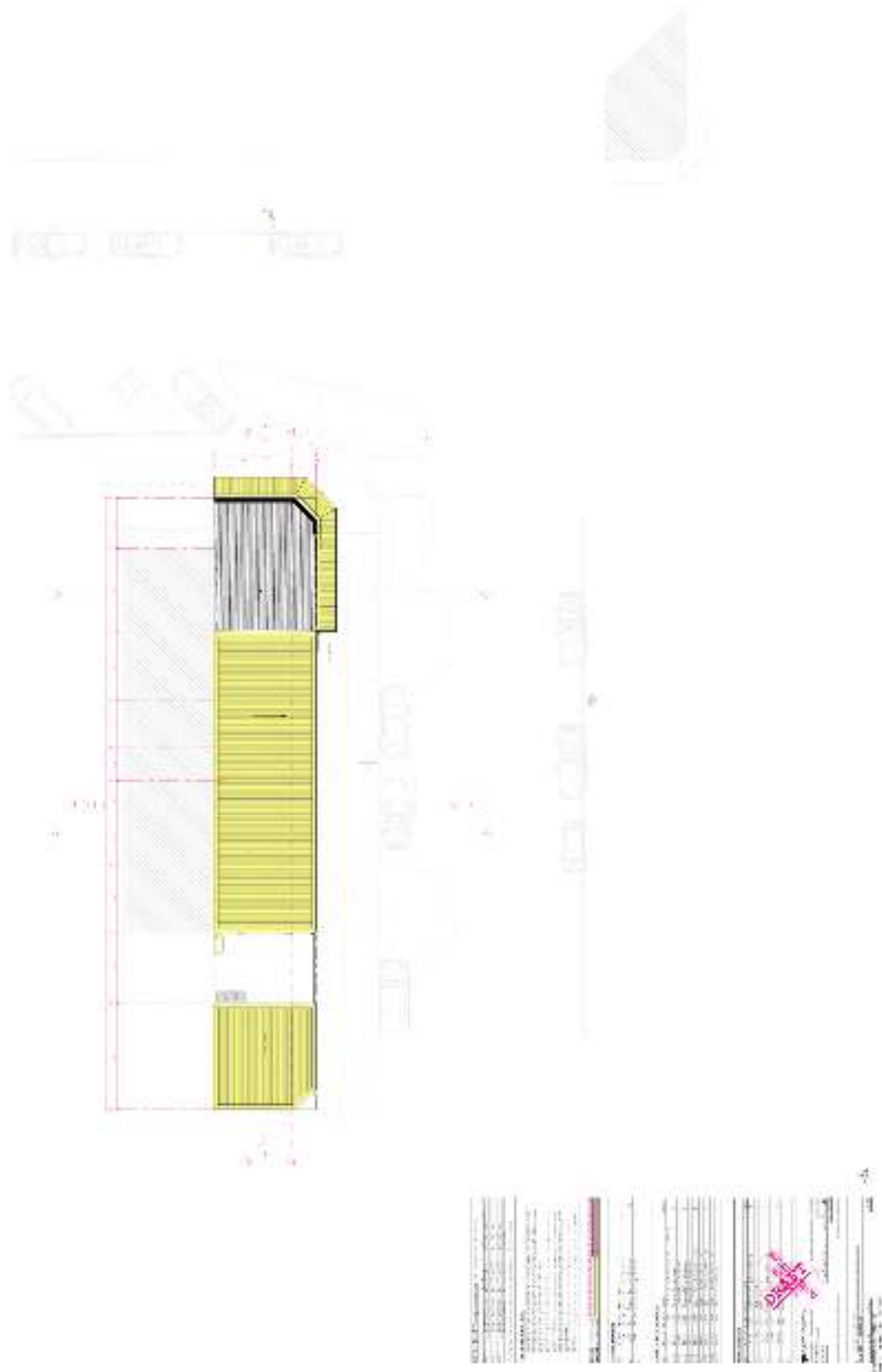
## Attachment B – Plans of proposed development

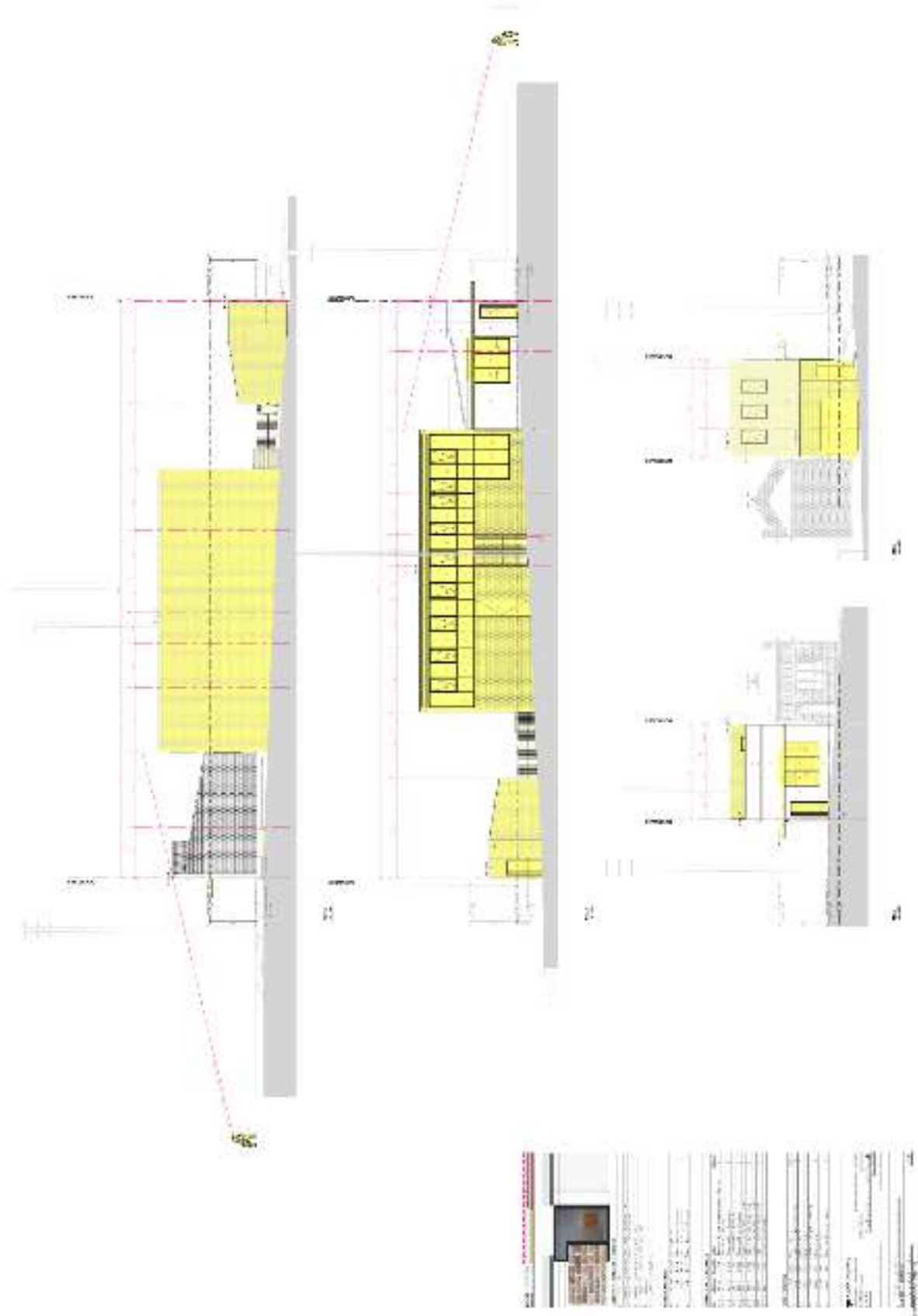














**Attachment C – Section 4.6 Exception to Development Standards**



**CRACKNELL  
&  
LONERAGAN**

**ARCHITECTS PTY LTD**

ABN 55 100 940 501  
National Trusted Relationship  
NSW Architects Registration No. 1985

13 June 25

**Attn: The General Manager**  
Inner West Council

The NSW Planning Portal (Online).

Dear Sir/Madam,

**RE: Clause 4.6 Variation Request – Cl4.3C Landscaped Areas for Residential  
Accommodation in Zone R1 General Residential.**

**No. 8 Elswick Street, Rozelle**

#### **1.0 Introduction**

- 1.1 The following statement has been prepared to assist the council in reviewing the request for a Clause 4.6 Variation to the Landscaped Areas for Residential Accommodation in Zone R1 General Residential Development Standard under cl4.3C of the Inner West Local Environmental Plan (IWLEP) for the proposed alterations and additions at No. 8 Elswick Street, Leichhardt.
- 1.2 The following request has been structured in accordance with the requirements of Clause 4.6 of the IWLEP, which permits the Consent Authority to grant consent for development even though the development may depart from the numerical control for the site coverage of a development standard imposed within the LEP. The clause aims to provide a degree of flexibility in the application of numerical controls provided three matters have been adequately addressed pursuant to Cl.4.6:
  - 1.2.1 That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - 1.2.2 That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and,

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

1.3 The aforementioned items will unpackage why flexibility in the application site coverage is justified in this case in terms of the three matters described above. This report also addresses, where relevant and useful, additional matters that a consent authority may be required to be satisfied of when exercising their discretion in the application of Clause 4.6.

## 2.0 The Site & Context

2.1 The subject site is known as No. 8 Elswick Street, Leichhardt. It is situated on the corner of Elswick and Albert Street, 2 blocks from Parramatta Road.

2.2 The site (deposited plan) has a total area of 222.9 sqm.

2.3 The subject site is currently occupied by a single building which has previously seen commercial use, site coverage of the site as it stands is 100%.



### 3.0 Development Standard & Proposed Variation

3.1 Pursuant to Cl.4.6 of the Inner West LEP 2022 (IWLEP2022), this objection seeks to vary the Site Coverage standard stipulated in Clause 4.3C(3)(b) which states that:

*(3) Development consent must not be granted to development to which this clause applies unless –*

*(a) ...*

*(b) the site coverage does not exceed 60% of the site area.*

3.2 It is noted from the areas schedule that the proposal decreases the total site coverage by 12% through integrating a planted rear garden. The previous calculated site coverage for the property is 222.9sqm.

3.3 The site coverage variation may be summarized broadly as follows:

|                                     | (%)           | SQM              |
|-------------------------------------|---------------|------------------|
| <b>Site Area</b>                    |               | 222.9 sqm        |
| <b>Max. Permissible</b>             | 60%           | 133.75 sqm       |
| <b>Coverage in Current Proposal</b> | 88.33%        | 196.9 sqm        |
| <b>Extent of Variation</b>          | <u>47.22%</u> | <u>63.15 sqm</u> |

#### 4.0 Justification for Exception & Matters for Consideration

4.1 The following table provides for an assessment of the proposed variation request against the requirements of Clause 4.6.

| Clause                                                                                                                          | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) <i>The objectives of this clause are as follows:</i>                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| (a) <i>To provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> | <p>The non-complying element of the proposed is a result of integrating two approved uses in a single lot of R1 General residential zoned land.</p> <p>The corner store is a valuable local asset and a use type which must be protected and encouraged. It is a use that existed and thrived in the past but has seen considerable decline of late, due to a number of factors. This decline is in part the result of it falling between the cracks of the modern planning system, which cannot always afford sufficient accommodations to older, nuanced building typologies. The R1 zoning of such a building holds the development against the same standards as the neighbouring 3-4 bedroom lots; a type traditionally accommodated by such a zone.</p> <p>In reality a business of this kind requires the planning controls afforded to it by zones E1 or B1. The requirements of running an essential local business are usually greater than one located in a local hub. They are often low turnover for the majority of the week when the service they provide to the community is invaluable.</p> <p>The ability for the business operator to live in or rent out a shoptop residence would help alleviate some of the issues inherent with running such a business and could mean the difference between a transient commercial space routinely changing hands and one which is firmly embedded in the community.</p> |

| Clause                                                                                                                                                                                                                                                              | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                     | It can therefore be concluded that requiring a permitted development of this kind to satisfy the planning objectives whilst also satisfying the numerical controls, would undermine the success of the planning outcome.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <i>(b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>                                                                                                                                                 | <p>Flexibility in the application of the standard is considered appropriate in the circumstances of this case for the following reasons:</p> <ul style="list-style-type: none"> <li>- The proposal improves the current site coverage situation from 100% to 88%</li> <li>- The proposal reinstates the lot's original use whilst integrating a single residence improving the flexibility of the site. In doing so it contributes to the surrounding neighbourhood's amenity as well as its residential density.</li> <li>- An 8m setback distinguishes the proposed elements from the primary façade maintaining the historical character of the area. This increases the overall site coverage of the proposal but results in a positive planning outcome.</li> <li>- Much of the existing has been retained for both ecological and historic preservation reasons. This increases the overall site coverage of the proposal but results in a positive planning outcome.</li> </ul> |
| <i>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a</i> | Site coverage is not excluded from the operation of Cl.4.6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

| Clause                                                                                                                                                                                                                                                                                                                                                                                                                      | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>development standard that is expressly excluded from the operation of this clause.</i>                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| (3) <i>Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:</i><br><br>(a) <i>That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i> | This report provides for the necessary written request for consideration by the consent authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                                                                                                                                                                                                                                                                                                                                                                                                             | This report provides for a justification for the case that strict compliance with the 60% maximum site coverage requirement in the IWLEP is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravention of the development standard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| (b) <i>That there are sufficient environmental planning grounds to justify contravening the development standard.</i>                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>The following is an outline of the environmental planning instruments which support the flexible application of the maximum site coverage and demonstrate that the proposal's variation of 47.22% is an acceptable design outcome in the specific circumstances of this case.</p> <p>The numerical non-compliance of the development has directly resulted from design decisions intended to satisfy the relevant planning objectives.</p> <p>The proposed design has been setback 8 metres from the street to avoid any interference the new construction might have on the historically significant frontage. This decision has pushed the built form rearward and consumed space that could otherwise be allocated to landscaped area.</p> <p>Much of the existing building's built fabric has been retained for the purposes of ecological sustainability and historical preservation. The consequence of this decision is that further site area is unsuitable for landscaped area; increasing the overall site coverage.</p> <p>Onsite carparking has been included in the proposal to prevent the additional residence diminishing the available neighborhood parking.</p> <p>The numerical non-compliance with the control also arises from an existing built condition. The structure which adorns the site currently covers 100% of it's site area; the proposal</p> |

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| Clause                                                                                                                                                                                                                                                     | Comment                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| improves on this condition, reducing that number to 88%. When compared to its uncompliant northern neighbours, the proposal sets a productive example even without satisfying the numerical controls.                                                      |                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(4) Development consent must not be granted for development that contravenes a development standard unless -</i>                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(a) The consent authority is satisfied that -</i>                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i>                                                                                                                          | The responses in sub-clause 3 have been adequately addressed above, and further reinforced by the compliance with other matters notwithstanding the numerical variation from the standard as discussed within the Statement of Environmental Effects.                                                                                                                              |
| <i>(ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</i> | Please refer to section 4.2 of this statement for a review of the objectives of the standard, section 4.3 for the review of the objectives of the land zone and refer to section 5.0 for a review of the public interest matters.                                                                                                                                                  |
| <i>(b) The concurrence of the Planning Secretary has been obtained.</i>                                                                                                                                                                                    | The proposed variation has a percentage exceedance greater than 10%, meaning that concurrence is required. The secretary has empowered consideration of such matters to the local council's Local Planning Panel. Consequently, this application is required to be referred to a LPP for determination. Further concurrence of the planning secretary is not known to be required. |
| <i>(5) – Not Applicable -</i>                                                                                                                                                                                                                              | Not applicable.                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(6) – Not Applicable -</i>                                                                                                                                                                                                                              | Not applicable.                                                                                                                                                                                                                                                                                                                                                                    |

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4.2 The following table provides for an assessment of the proposed variation request against the objectives of the landscaped areas for residential accommodation standard.

| Objective                                                                                                        | Comment                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(a) to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,</i> | Complies<br>The proposal decreases site coverage by 12%, improving the site's access to green space in preparation for its partial conversion to residences.                                                                                                                                                                                                                                                |
| <i>(b) to maintain and encourage a landscaped corridor between adjoining properties,</i>                         | Complies<br>The proposal has located its landscaped area in line with private outdoor space of its neighbours. Whilst the properties immediately to its north completely neglect this objective, the proposed scheme sets a constructive precedent.                                                                                                                                                         |
| <i>(c) to ensure that development promotes the desired character of the neighbourhood,</i>                       | Complies<br>The proposal reinstates the corner lot's former use as a commercial premises which serves the local community. Its original frontage is retained and repaired whilst the new residence's second story is set back 8 metres to maintain the visual impression of the commercial premises as the lot's primary use.                                                                               |
| <i>(d) to encourage ecologically sustainable development,</i>                                                    | Complies<br>The development's approach to the question of ecological sustainability is manifold. All feasibly retained existing built fabric has been retained, whether it is of heritage significance or not, reducing the proposal's embodied carbon footprint. Improving the surrounding community's access to local services reduces their need to travel out of the neighbourhood for basic amenities. |
| <i>(e) to control site density,</i>                                                                              | Complies<br>The subject site has existed in a state of disuse for over a decade and therefore detracted from the appropriate density of the neighbourhood. The proposal integrates a single dwelling into the lot, and in doing so reinstates the site's contribution to the surrounding area's low-medium density housing stock.                                                                           |
| <i>(f) to provide for landscaped areas and private open space,</i>                                               | Complies<br>The proposed development increases the private open space of the area from 0-26m <sup>2</sup> . When                                                                                                                                                                                                                                                                                            |

|  |                                                                                                                                |
|--|--------------------------------------------------------------------------------------------------------------------------------|
|  | compared to lots immediately to its north the proposal rivals their private outdoor space and improves on their site coverage. |
|--|--------------------------------------------------------------------------------------------------------------------------------|

4.3 The following table provides for an assessment of the proposed variation request against the objectives of the land zone.

| Objective                                                                                                                                                                | Comment                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>To provide for the housing needs of the community.</li> </ul>                                                                     | <p>Complies</p> <p>The proposal integrates shop-top housing into a previously solely commercial lot. This enables the site to contribute to the surrounding neighbourhood's housing stock.</p>                                                                                               |
| <ul style="list-style-type: none"> <li>To provide for a variety of housing types and densities.</li> </ul>                                                               | <p>Complies</p> <p>Shop-top housing is a house typology seldom seen in the surrounding suburb. Additionally, the prevailing cadastral pattern enables a house size between 2 and 3 bedrooms, the proposal therefore contributes a novel variety of housing to the surrounding area</p>       |
| <ul style="list-style-type: none"> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>               | <p>Complies</p> <p>The mix of uses proposed incorporates a residence and commercial premises within a single lot. This efficient use of space contributes to the local services accessible to the surrounding community.</p>                                                                 |
| <ul style="list-style-type: none"> <li>To provide residential development that maintains the character of built and natural features in the surrounding area.</li> </ul> | <p>Complies</p> <p>The proposed development retains the existing facade of the neighbourhood store, whilst reinstating its previous function as a local commercial premises. Its landscape plan contributes 26m<sup>2</sup> of additional greenspace to the lot including an olive tree.</p> |

### 5.0 Public Interest Comment

5.1 Clause 4.6 Exceptions to Development Standards are required to consider the public interest as part of the written request. A summary of the considered items and why the proposed development in its current form would be in the public interest is considered here.

- 5.1.1 The numerical non-compliance of the development has directly resulted from design decisions intended to satisfy the relevant planning objectives. The proposed design has been setback 8 metres from the street to avoid any interference the new construction might have on the historically significant frontage. This decision has pushed the built form rearward and consumed space that could otherwise be allocated to landscaped area.
- 5.1.2 Much of the existing building's built fabric has been retained for the purposes of ecological sustainability and historic preservation. The consequence of this decision is that further site area is unsuitable for landscaped area; increasing the overall site coverage of the site.
- 5.1.3 The proposal provides onsite parking access in line with the objectives of the Leichhardt DCP's *Equity of Access and Mobility*. The inclusion of offstreet parking ensures that the development does not affect the local area's access to car parking. The added on-site parking has resulted in an increased covered area and therefore is partly responsible for the proposal's numerical insufficiencies in site coverage.
- 5.1.4 The numerical non-compliance with the control also arises from an existing built condition. The structure which adorns the site currently covers 100% of it's site area; the proposal improves on this condition, reducing that number to 88%. When compared to its uncompliant northern neighbours, the proposal sets a productive example even without satisfying the numerical controls.



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**6.0 Conclusion**

- 6.1 In summary, it is believed that strict compliance with the numerical control of site coverage within the circumstances of this case is unnecessary.
- 6.2 The proposal achieves a positive environmental outcome through combined improvements to local housing stock and amenity.
- 6.3 The proposal maintains the availability of off-street parking for the property, without increasing the burden of street parking in the surrounding area
- 6.4 The proposal accomplishes the existing objectives of the clause, which is to reflect the density of it's neighbourhood and promote local amenity, notwithstanding the numerical variation.
- 6.5 Consequently, it is believed that the Clause 4.6 Exception to Development Standards for this project are considered appropriate and acceptable in the circumstances of the site.

Regards,

**Peter Lonergan**

Director | Cracknell & Lonergan Architects Pty Limited  
Notified Architect: Peter J Lonergan | Registration No. 50803



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&  
LONERAGAN**

**ARCHITECTS PTY LTD**

ABN 55 100 940 501  
National Trusted Relationship  
NSW Architects Registration No. 1985

13 June 25

**Attn: The General Manager**  
Inner West Council

The NSW Planning Portal (Online).

Dear Sir/Madam,

**RE: Clause 4.6 Variation Request – Cl4.3C Landscaped Areas for Residential  
Accommodation in Zone R1 General Residential.**

**No. 8 Elswick Street, Rozelle**

#### **1.0 Introduction**

- 1.1 The following statement has been prepared to assist the council in reviewing the request for a Clause 4.6 Variation to the Landscaped Areas for Residential Accommodation in Zone R1 General Residential Development Standard under cl4.3C of the Inner West Local Environmental Plan (IWLEP) for the proposed alterations and additions at No. 8 Elswick Street, Leichhardt.
- 1.2 The following request has been structured in accordance with the requirements of Clause 4.6 of the IWLEP, which permits the Consent Authority to grant consent for development even though the development may depart from the numerical control for the landscaped area development standard imposed within the LEP. The clause aims to provide a degree of flexibility in the application of numerical controls provided three matters have been adequately addressed pursuant to Cl.4.6:
  - 1.2.1 That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - 1.2.2 That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and,

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

1.3 The aforementioned items will unpackage why flexibility in the application site coverage is justified in this case in terms of the three matters described above. This report also addresses, where relevant and useful, additional matters that a consent authority may be required to be satisfied of when exercising their discretion in the application of Clause 4.6.

## 2.0 The Site & Context

2.1 The subject site is known as No. 8 Elswick Street, Leichhardt. It is situated on the corner of Elswick and Albert Street, 2 blocks from Parramatta Road.

2.2 The site (deposited plan) has a total area of 222.9 sqm.

2.3 The subject site is currently occupied by a single building which has previously seen commercial use, at present there is no landscaped area on the site.

### 3.0 Development Standard & Proposed Variation

3.1 Pursuant to Cl.4.6 of the Inner West LEP 2022 (IWLEP2022), this objection seeks to vary the Landscaped Area standard stipulated in Clause 4.3C(3)(b) which states that:

*(3) Development consent must not be granted to development to which this clause applies unless –*

*a) the development will result in a landscaped area comprising at least—*

*(i) if the lot size is 235m<sup>2</sup> or less—15% of the site area, or*

*(ii) otherwise—20% of the site area, and*

*(b) ...*

3.2 It is noted from the areas schedule that the proposal increases the landscaped areas from zero to 26m<sup>2</sup>, by integrating a planted rear garden.

3.3 The landscaped area variation may be summarized broadly as follows:

|                                     | (%)           | SQM             |
|-------------------------------------|---------------|-----------------|
| <b>Site Area</b>                    |               | 222.9 sqm       |
| <b>Min. Permissible</b>             | 15%           | 33.44 sqm       |
| <b>Coverage in Current Proposal</b> | 12%           | 26 sqm          |
| <b>Extent of Variation</b>          | <u>22.24%</u> | <u>7.44 sqm</u> |

#### 4.0 Justification for Exception & Matters for Consideration

4.1 The following table provides for an assessment of the proposed variation request against the requirements of Clause 4.6.

| Clause                                                                                                                          | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) <i>The objectives of this clause are as follows:</i>                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| (a) <i>To provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> | <p>The non-complying element of the proposed is a result of integrating two approved uses on a single lot of R1 General residential zoned land.</p> <p>The corner store is a valuable local asset and a use type which must be protected and encouraged. It is a use that existed and thrived in the past but has seen considerable decline of late, due to several factors. This decline is in part the result of it falling between the cracks of the modern planning system, which cannot always afford sufficient accommodations to older, more nuanced building typologies. The R1 zoning of such a building holds the development against the same standards as the neighbouring 3-4bedroom lots; a type traditionally accommodated by such a zone.</p> <p>A business of this kind requires the planning controls afforded to it by zones E1 or B1. The requirements of running an essential local business are usually greater than one located in a local hub. They are often low turnover for the majority of the week when the service they provide to the community is invaluable.</p> <p>The ability for the business operator to live in or rent out a shop top residence would help alleviate some of the issues inherent with running such a business and could mean the difference between a transient commercial space routinely changing hands and one which is firmly embedded in the community.</p> <p>It can therefore be concluded that while a development of this kind satisfies the</p> |

| Clause                                                                                                                                                                                                                                                                                                                                                 | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                        | planning objectives, it requires a more lenient application of planning controls.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <i>(b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>                                                                                                                                                                                                                                    | <p>Flexibility in the application of the standard is considered appropriate due to the following positive planning outcomes:</p> <ul style="list-style-type: none"> <li>- The proposal improves the current landscaped area situation from 0m<sup>2</sup> to 26m<sup>2</sup></li> <li>- The proposal reinstates the lot's original use whilst integrating a single residence improving the flexibility of the site. In doing so it contributes to the surrounding neighbourhood's amenity as well as its residential density.</li> <li>- An 8m setback distinguishes the proposed elements from the primary façade maintaining the historical character of the area. This rules out much of the site area from being landscaped but results in a positive planning outcome.</li> <li>- Much of the existing has been retained for both ecological and historic preservation reasons. This rules out further site area from being landscaped but results in a positive planning outcome.</li> </ul> |
| <i>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i> | Landscaped area is not excluded from the operation of Cl.4.6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Clause                                                                                                                                                                                                                                                                                 | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:</i> | This report provides for the necessary written request for consideration by the consent authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i>                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                        | This report provides for a justification for the case that strict compliance with the 15% minimum landscaped area requirement in the IWLEP is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravention of the development standard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <i>(b) That there are sufficient environmental planning grounds to justify contravening the development standard.</i>                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                        | <p>The following is an outline of the environmental planning instruments which support the flexible application of the maximum site coverage and demonstrate that the proposal's variation of 22.24% is an acceptable design outcome in the specific circumstances of this proposal.</p> <p>The numerical non-compliance of the development has directly resulted from design decisions intended to satisfy the relevant planning objectives.</p> <p>The proposed design has been setback 8 metres from the street to avoid any interference the new construction might have on the historically significant frontage. This decision has pushed the built form rearward and consumed space that would otherwise be allocated to landscaped area.</p> <p>Much of the existing building's built fabric has been retained for the purposes of ecological sustainability and historic preservation. The consequence of this decision is that further site area is unsuitable for landscaped area; increasing the overall site coverage.</p> <p>Onsite carparking has been included in the proposal to prevent the additional residence diminishing the available neighborhood parking.</p> <p>The numerical non-compliance with the control also arises from an existing built condition. The subject site at present contains zero landscaped area, the proposal increases this by 26m. When compared to its uncompliant northern neighbours, the proposal sets a productive example even without satisfying the numerical controls.</p> |

| Clause                                                                                                                                                                                                                                                     | Comment                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(4) Development consent must not be granted for development that contravenes a development standard unless -</i>                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(a) The consent authority is satisfied that -</i>                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i>                                                                                                                          | The responses in sub-clause 3 have been adequately addressed above, and further reinforced by the compliance with other matters notwithstanding the numerical variation from the standard as discussed within the Statement of Environmental Effects.                                                                                                                              |
| <i>(ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</i> | Please refer to section 4.2 of this statement for a review of the objectives of the standard, section 4.3 for the review of the objectives of the land zone and refer to section 5.0 for a review of the public interest matters.                                                                                                                                                  |
| <i>(b) The concurrence of the Planning Secretary has been obtained.</i>                                                                                                                                                                                    | The proposed variation has a percentage exceedance greater than 10%, meaning that concurrence is required. The secretary has empowered consideration of such matters to the local council's Local Planning Panel. Consequently, this application is required to be referred to a LPP for determination. Further concurrence of the planning secretary is not known to be required. |
| <i>(5) – Not Applicable -</i>                                                                                                                                                                                                                              | Not applicable.                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(6) – Not Applicable -</i>                                                                                                                                                                                                                              | Not applicable.                                                                                                                                                                                                                                                                                                                                                                    |



4.2 The following table provides for an assessment of the proposed variation request against the objectives of the landscaped areas for residential accommodation standard.

| Objective                                                                                                        | Comment                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(a) to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,</i> | Complies<br><br>The proposal introduces landscaped area to a site completely absent of it and in doing so, drastically improves the site's access to green space in preparation for its partial conversion to residences.                                                                                                                                                                                       |
| <i>(b) to maintain and encourage a landscaped corridor between adjoining properties,</i>                         | Complies<br><br>The proposal has located its landscaped area in line with private outdoor space of its neighbours. Whilst the properties immediately to its north completely neglect this objective, the proposed scheme sets a constructive precedent.                                                                                                                                                         |
| <i>(c) to ensure that development promotes the desired character of the neighbourhood,</i>                       | Complies<br><br>The proposal reinstates the corner lot's former use as a commercial premises serving the local community. It's original frontage is retained and repaired whilst the new residences second story is set back 8 metres to maintain the visual impression of the commercial premises as the lot's primary use.                                                                                    |
| <i>(d) to encourage ecologically sustainable development,</i>                                                    | Complies<br><br>The development's approach to the question of ecological sustainability is manifold. All feasibly retained existing built fabric has been retained, whether it is of heritage significance or not, reducing the proposal's embodied carbon footprint. Improving the surrounding community's access to local services reduces their need to travel out of the neighbourhood for basic amenities. |
| <i>(e) to control site density,</i>                                                                              | Complies<br><br>The subject site has existed in a state of disuse for over a decade and therefore detracted from the appropriate density of the neighbourhood.                                                                                                                                                                                                                                                  |

|                                                                    |                                                                                                                                                                                                                                                    |
|--------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                    | The proposal reinstates the site's contribution to the surrounding area's low-medium density housing stock.                                                                                                                                        |
| <i>(f) to provide for landscaped areas and private open space.</i> | Complies<br><br>The proposed development increases the private open space of the area from 0-26m <sup>2</sup> . When compared to lots immediately to its north the proposal rivals their private outdoor space and eclipses their landscaped area. |

4.3 The following table provides for an assessment of the proposed variation request against the objectives of the land zone.

| Objective                                                                                                                                                                | Comment                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>To provide for the housing needs of the community.</li> </ul>                                                                     | Complies<br><br>The proposal integrates shop-top housing into a previously solely commercial lot. This enables the site to contribute to the surrounding neighbourhood's housing stock.                                                                                           |
| <ul style="list-style-type: none"> <li>To provide for a variety of housing types and densities.</li> </ul>                                                               | Complies<br><br>Shop-top housing is a typology seldom seen in the surrounding suburb. In addition to this, the prevailing cadastral pattern enables a house size between 2 and 3 bedrooms. The proposal therefore contributes a novel variety of housing to the surrounding area. |
| <ul style="list-style-type: none"> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>               | Complies<br><br>The proposal incorporates two uses into the subject site. This efficient use of space contributes to the local services and housing stock accessible to the surrounding community.                                                                                |
| <ul style="list-style-type: none"> <li>To provide residential development that maintains the character of built and natural features in the surrounding area.</li> </ul> | Complies<br><br>The proposed development retains the existing facade of the neighbourhood store, whilst reinstating it's previous function as a local commercial premises.                                                                                                        |

### 5.0 Public Interest Comment

5.1 Clause 4.6 Exceptions to Development Standards are required to consider the public interest as part of the written request. A summary of the considered items and why the proposed development in its current form would be in the public interest is considered here.

- 5.1.1 The numerical non-compliance of the development has directly resulted from design decisions intended to satisfy the relevant planning objectives. The proposed design has been setback 8 metres from the street to avoid any interference the new construction might have on the historically significant frontage. This decision has pushed the built form rearward and consumed space that could otherwise be allocated to landscaped area.
- 5.1.2 Much of the existing building's built fabric has been retained for the purposes of ecological sustainability and historic preservation. The consequence of this decision is that further site area is unsuitable for landscaping, increasing the overall site coverage of the site.
- 5.1.3 The proposal provides onsite parking access in line with the objectives of the Leichhardt DCP's *Equity of Access and Mobility*. The inclusion of offstreet parking ensures that the development does not affect the surrounding community's access to car parking. The added on-site parking has resulted in an increased covered area and therefore is partly responsible for the proposal's numerical exceedances in landscaped area.
- 5.1.4 The numerical non-compliance with the control also arises from an existing built condition. The landscaped area at present stands at zero m<sup>2</sup>, the proposal improves on this condition, adding 26m<sup>2</sup>; a small garden. When compared to its uncompliant northern neighbours, the proposal sets a productive example even without satisfying the numerical controls.

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**6.0 Conclusion**

- 6.1 In summary, it is believed that strict compliance with the numerical control of site coverage within the circumstances of this case is unnecessary.
- 6.2 The proposal achieves a positive environmental outcome through combined improvements to local housing stock and amenity.
- 6.3 The proposal maintains the availability of off-street parking for the property, without increasing the burden of street parking in the surrounding area
- 6.4 The existing objectives of the clause, which is to maintain a degree of landscaping and ensure that the proposal is complementary to the desired character of the neighbourhood is achieved, notwithstanding the numerical variation.
- 6.5 Consequently, it is believed that the Clause 4.6 Exception to Development Standards for this project are considered appropriate and acceptable in the circumstances of the site.

Regards,

**Peter Loneragan**

Director | Cracknell & Loneragan Architects Pty Limited  
Notarised Architect: Peter J Loneragan | Registration No. 50803



**CRACKNELL  
&  
LONERAGAN**

ARCHITECTS PTY LTD

ABN 55 100 940 501  
National Trusted Relationship  
NSW Architects Registration No. 1485

13 June 25

Attn: The General Manager  
Inner West Council

The NSW Planning Portal (Online).

Dear Sir/Madam,

**RE: Clause 4.6 Variation Request – Cl4.4C Floor Space Ratio for Residential  
Accommodation in Zone R1 General Residential.**

**No. 8 Elswick Street, Rozelle**

#### 1.0 Introduction

- 1.1 The following statement has been prepared to assist the council in reviewing the request for a Clause 4.6 Variation to the Floor Space Ratio for Residential Accommodation in Zone R1 General Residential Development Standard under cl4.4 of the Inner West Local Environmental Plan (IWLEP) for the proposed alterations and additions at No. 8 Elswick Street, Leichhardt.
- 1.2 The following request has been structured in accordance with the requirements of Clause 4.6 of the IWLEP, which permits the Consent Authority to grant consent for development even though the development may depart from the numerical control for the floor space ratio of a development standard imposed within the LEP. The clause aims to provide a degree of flexibility in the application of numerical controls provided three matters have been adequately addressed pursuant to Cl4.6:
  - 1.2.1 That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - 1.2.2 That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and,

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

1.3 The aforementioned items will unpackage why flexibility in the application site coverage is justified in this case in terms of the three matters described above. This report also addresses, where relevant and useful, additional matters that a consent authority may be required to be satisfied of when exercising their discretion in the application of Clause 4.6.

## 2.0 The Site & Context

2.1 The subject site is known as No. 8 Elswick Street, Leichhardt. It is situated on the corner of Elswick and Albert Street, 2 blocks from Parramatta Road.

2.2 The site (deposited plan) has a total area of 222.9 sqm.

2.3 The subject site is currently occupied by a single building which has previously seen commercial use, and at present has an FSR of 1:1.

### 3.0 Development Standard & Proposed Variation

3.1 Pursuant to Cl.4.6 of the Inner West LEP 2022 (IWLEP2022), this objection seeks to vary the Floor Space Ratio standard stipulated in Clause 4.4C(2) which states that:

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. (permissible max 0.7:1)

3.2 It is noted from the areas schedule that the existing FSR of the subject site is a non-compliant 1:1.

3.3 The floorspace variation may be summarized broadly as follows:

|                              | (%)           | SQM              |
|------------------------------|---------------|------------------|
| Site Area                    |               | 222.9 sqm        |
| Max. Permissible             | 0.7:1         | 156.03 sqm       |
| Coverage in Current Proposal | 1:13:1        | 253.14 sqm       |
| Extent of Variation          | <u>62.24%</u> | <u>97.11 sqm</u> |

#### 4.0 Justification for Exception & Matters for Consideration

4.1 The following table provides for an assessment of the proposed variation request against the requirements of Clause 4.6.

| Clause                                                                                                                   | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) The objectives of this clause are as follows:                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (a) To provide an appropriate degree of flexibility in applying certain development standards to particular development, | <p>The non-complying element of the proposed is a result of integrating two approved uses in a single lot of R1 General residential zoned land.</p> <p>The corner store is a valuable local asset and a use type which must be protected and encouraged. It is a use that existed and thrived in the past but has seen considerable decline of late, due to several factors. This decline is in part the result of it falling between the cracks of the modern planning system, which cannot always afford sufficient accommodations to older, more nuanced building typologies. The R1 zoning of such a building holds the development against the same standards as the neighbouring 3–4 bedroom lots; a type traditionally accommodated by such a zone.</p> <p>A business of this kind requires the planning controls afforded to it by zones E1 or B1. The requirements of running an essential local business are usually greater than one located in a local hub. They are often low turnover for the majority of the week when the service they provide to the community is invaluable.</p> <p>The ability for the business operator to live in or rent out a shop top residence would help alleviate some of the issues inherent with running such a business and could mean the difference between a transient commercial space routinely changing hands and one which is firmly embedded in the community.</p> |



| Clause                                                                                                                                                                                                                                                                                                                                                 | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                        | It can therefore be concluded that while a development of this kind satisfies the planning objectives, it requires a more lenient application of planning controls.                                                                                                                                                                                                                                                                                                                                                |
| <i>(b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>                                                                                                                                                                                                                                    | <p>Flexibility in the application of the standard is considered appropriate in the circumstances of this case for the following reasons:</p> <ul style="list-style-type: none"> <li>- The proposal sets a productive example for the future character of the suburb by maintaining historically significant built fabric</li> <li>- The proposal contributes to the areas ecological sustainability through moderately increasing the housing density and improving local access to essential services.</li> </ul> |
| <i>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i> | Floor Space Ratio is not excluded from the operation of Cl.4.6                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <i>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:</i>                                                                 | This report provides for the necessary written request for consideration by the consent authority.                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <i>(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i>                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| Clause | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        | This report provides for a justification for the case that strict compliance with the 0.7:1 maximum Floor Space Ratio in the IWLEP is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravention of the development standard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|        | <i>(b) That there are sufficient environmental planning grounds to justify contravening the development standard.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|        | <p>The Land use objectives would not be satisfied were the proposal to meet an FSR numerical control.</p> <p>In an R1 General Residential land use zone, the objective of the FSR control is to ensure that 'development density reflects its locality'. Were the proposal to apply the numerical control whilst also satisfying the planning objectives regarding architectural character, it would be unable to reflect the locality's density (and unable to satisfy each and every planning objective).</p> <p>This is because the proposal incorporates two permitted uses into a single lot. Both use examples are conventional when compared to their singular neighbouring equivalents. Though when combined in a permitted use, they are unable to jointly satisfy the numerical controls. Lots with comparable examples of land use within the local area are zoned for FSRs of 1.4:1 and 1.5:1.</p> <p>Between the years 2021 and 2023 (the most recent available data on the matter) the inner west council approved at least 126 development applications involving FSR exceedances. 21 of those variations occurred in the leichhardt suburb with many citing the proposal's reflection of the area's character as justification. Across the entire sample of FSR variations there are many cases where the FSR has been varied by over 50% for a single residential use.</p> <p>If the council can justify variation for a situation without explicit contribution to the local amenity of its surrounding suburb, it follows that a mixed use development such as the proposal in question, should be acceptable. <i>See Appendix A for a matrix of DA approvals which involved FSR variations from 2020-2023.</i></p> <p>It is extremely unusual for onsite parking to be included within a proposal's FSR. The proposal provides onsite parking access in line with the objectives of the Leichhardt DCP's Equity of Access and Mobility, yet it makes up 24.5% of the total FSR exceedance. This incorporation of a garage is not without precedence, there are numerous examples of private parking spaces available locally with almost every frontage to Elswick Lane functioning as a garage.</p> |
|        | <i>(4) Development consent must not be granted for development that contravenes a development standard unless -</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|        | <i>(a) The consent authority is satisfied that -</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| Clause                                                                                                                                                                                                                                                     | Comment                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i) <i>The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i>                                                                                                                          | The responses in sub-clause 3 have been adequately addressed above, and further reinforced by the compliance with other matters notwithstanding the numerical variation from the standard as discussed within the Statement of Environmental Effects.                                                                                                                              |
| (ii) <i>The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</i> | Please refer to section 4.2 of this statement for a review of the objectives of the standard, section 4.3 for the review of the objectives of the land zone and refer to section 5.0 for a review of the public interest matters.                                                                                                                                                  |
| (b) <i>The concurrence of the Planning Secretary has been obtained.</i>                                                                                                                                                                                    | The proposed variation has a percentage exceedance greater than 10%, meaning that concurrence is required. The secretary has empowered consideration of such matters to the local council's Local Planning Panel. Consequently, this application is required to be referred to a LPP for determination. Further concurrence of the planning secretary is not known to be required. |
| (5) – Not Applicable -                                                                                                                                                                                                                                     | Not applicable.                                                                                                                                                                                                                                                                                                                                                                    |
| (6) – Not Applicable -                                                                                                                                                                                                                                     | Not applicable.                                                                                                                                                                                                                                                                                                                                                                    |

4.2 The following table provides for an assessment of the proposed variation request against the objectives of the Floor Space Ratio for residential accommodation standard.

| Objective                                                                                                         | Comment                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) to establish a maximum floor space ratio to enable appropriate development density,                           | Complies<br><br>The proposed shop-top dwelling's FSR is 0.63:1. Which satisfies the control and therefore is of appropriate residential density.                                                                                                                                                                               |
| (b) to ensure development density reflects its locality,                                                          | Complies<br><br>The proposed development's residential density exists in the same range of housing densities as its surrounding neighbours.                                                                                                                                                                                    |
| (c) to provide an appropriate transition between development of different densities,                              | Not Applicable<br><br>There is no transition between densities occurring when the density of the site and its surrounding lots are identical. Therefore this clause is not applicable.                                                                                                                                         |
| (d) to minimise adverse impacts on local amenity,                                                                 | Complies<br><br>The development improves local amenity through integrating local commercial services and housing stock into a singular proposal which is sympathetic to the architectural scale of the area. It also incorporates private parking to prevent the development impacting parking availability in the local area. |
| (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain. | Complies<br><br>The development incorporates the planting of a tree and therefore increases tree canopy within the area. Private properties and the public domain are not negatively affected by the proposal.                                                                                                                 |

4.3 The following table provides for an assessment of the proposed variation request against the objectives of the land zone.

| Objective                                                                                                                                                                                                                    | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>To provide for the housing needs of the community.</li> </ul>                                                                                                                         | <p>Complies</p> <p>The proposal integrates shop top housing into a previously commercial lot. This enables the site to contribute to the surrounding neighbourhood's housing stock.</p>                                                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>To provide for a variety of housing types and densities.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul> | <p>Complies</p> <p>Shop top housing is a house typology seldom seen in the surrounding suburb. Additionally, the prevailing cadastral pattern enables a house size between 2 and 3 bedroom. The proposal therefore contributes a novel variety of housing to the surrounding area.</p> <p>Complies</p> <p>The mix of uses proposed incorporates a residence and commercial premises within a single lot. This efficient use of space contributes to the area's amenity.</p> |
| <ul style="list-style-type: none"> <li>To provide residential development that maintains the character of built and natural features in the surrounding area.</li> </ul>                                                     | <p>Complies</p> <p>The proposed development retains the existing facade of the neighbourhood store, whilst reinstating it's previous function as a local commercial premises.</p>                                                                                                                                                                                                                                                                                           |

## 5.0 Public Interest Comment

5.1 Clause 4.6 Exceptions to Development Standards are required to consider the public interest as part of the written request. A summary of the considered items and why the proposed development in its current form would be in the public interest is considered here.

- 5.1.1 The Land use objectives would not be satisfied were the proposal to meet an FSR numerical control.  
In an R1 General Residential land use zone, the objective of the FSR control is to ensure that 'development density reflects its locality'. Were the proposal to apply the numerical control whilst also satisfying the planning objectives regarding architectural character, it would be unable to reflect the locality's density (and unable to satisfy each and every planning objective).  
This is because the proposal incorporates two permitted uses into a single lot. Both use examples are conventional when compared to their singular neighbouring equivalents. Though when combined in a permitted use they are unable to jointly satisfy the numerical controls.
- 5.1.2 Between the years 2021 and 2023 (the most recent available data on the matter) the Inner West Council approved at least 126 development applications involving FSR exceedances. 21 of those variations occurred in the Leichhardt suburb with many citing the proposal's reflection of the area's character as justification. Across the entire sample of FSR variations there are many cases where it has been varied by over 50% for a single residential use.  
If the council can justify variation for a situation without explicit contribution to the local amenity of its surrounding suburb, it follows that a mixed use development such as the proposal in question, should be acceptable. See Appendix A for table of variations.
- 5.1.3 The proposal satisfies ecological sustainability through a variety of methods in addition to its landscape plan. Built fabric is retained to reduce the structure's embodied carbon whilst the proposal's mixed uses increase locally accessible services and housing stock.
- 5.1.4 The true extent of the variation is less than the council claims. The proposal provides onsite parking access in line with the objectives of the Leichhardt DCP's Equity of Access and Mobility. This decision is not without precedence; there are numerous examples of private parking spaces available locally with almost every frontage to Elswick Lane functioning as a garage. In spite of this, the council is still insisting that the garage should be included in the FSR component of the proposal, adding a further 24.5% exceedance to the reality of the situation.

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**6.0 Conclusion**

- 6.1 In summary, it is believed that strict compliance with the numerical control of site coverage within the circumstances of this case is unnecessary.
- 6.2 The proposal achieves a positive environmental outcome through combined improvements to local housing stock and amenity.
- 6.3 The proposal maintains the availability of off-street parking for the property, without increasing the burden of street parking in the surrounding area
- 6.4 The existing objectives of the clause, maintain the prescribed level of density,
- 6.5 Consequently, it is believed that the Clause 4.6 Exception to Development Standards for this project are considered appropriate and acceptable in the circumstances of the site.

Regards,

**Peter Lonergan**

Director | Cracknell & Lonergan Architects Pty Limited  
Nominated Architect: Peter J Lonergan | Registration No. 5980

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Appendix A

| Case/DL reference | DL number | DL number | DL | Owner          | Subject        | Description/Note | Area | Cost of service |
|-------------------|-----------|-----------|----|----------------|----------------|------------------|------|-----------------|
| 150-1000-0000     | 1         | 2000      | 45 | Trinity Street | 1000-1000-0000 |                  | PS   | 2000            |
| 150-1000-0001     | 11        | 1000      | 45 | Trinity Street | 1000-1000-0001 |                  | PS   | 2000            |
| 150-1000-0002     | 21        | 1000-0002 | 45 | Trinity Street | 1000-1000-0002 |                  | PS   | 2000            |
| 150-1000-0003     | 31        | 2000      | 45 | Trinity Street | 1000-1000-0003 |                  | PS   | 2000            |
| 150-1000-0004     | 41        | 1000-0004 | 45 | Trinity Street | 1000-1000-0004 |                  | PS   | 2000            |
| 150-1000-0005     | 51        | 2000      | 45 | Trinity Street | 1000-1000-0005 |                  | PS   | 2000            |
| 150-1000-0006     | 61        | 1000-0006 | 45 | Trinity Street | 1000-1000-0006 |                  | PS   | 2000            |
| 150-1000-0007     | 71        | 2000      | 45 | Trinity Street | 1000-1000-0007 |                  | PS   | 2000            |
| 150-1000-0008     | 81        | 1000-0008 | 45 | Trinity Street | 1000-1000-0008 |                  | PS   | 2000            |
| 150-1000-0009     | 91        | 2000      | 45 | Trinity Street | 1000-1000-0009 |                  | PS   | 2000            |
| 150-1000-0010     | 101       | 1000-0010 | 45 | Trinity Street | 1000-1000-0010 |                  | PS   | 2000            |
| 150-1000-0011     | 111       | 2000      | 45 | Trinity Street | 1000-1000-0011 |                  | PS   | 2000            |
| 150-1000-0012     | 121       | 1000-0012 | 45 | Trinity Street | 1000-1000-0012 |                  | PS   | 2000            |
| 150-1000-0013     | 131       | 2000      | 45 | Trinity Street | 1000-1000-0013 |                  | PS   | 2000            |
| 150-1000-0014     | 141       | 1000-0014 | 45 | Trinity Street | 1000-1000-0014 |                  | PS   | 2000            |
| 150-1000-0015     | 151       | 2000      | 45 | Trinity Street | 1000-1000-0015 |                  | PS   | 2000            |
| 150-1000-0016     | 161       | 1000-0016 | 45 | Trinity Street | 1000-1000-0016 |                  | PS   | 2000            |
| 150-1000-0017     | 171       | 2000      | 45 | Trinity Street | 1000-1000-0017 |                  | PS   | 2000            |
| 150-1000-0018     | 181       | 1000-0018 | 45 | Trinity Street | 1000-1000-0018 |                  | PS   | 2000            |
| 150-1000-0019     | 191       | 2000      | 45 | Trinity Street | 1000-1000-0019 |                  | PS   | 2000            |
| 150-1000-0020     | 201       | 1000-0020 | 45 | Trinity Street | 1000-1000-0020 |                  | PS   | 2000            |
| 150-1000-0021     | 211       | 2000      | 45 | Trinity Street | 1000-1000-0021 |                  | PS   | 2000            |
| 150-1000-0022     | 221       | 1000-0022 | 45 | Trinity Street | 1000-1000-0022 |                  | PS   | 2000            |
| 150-1000-0023     | 231       | 2000      | 45 | Trinity Street | 1000-1000-0023 |                  | PS   | 2000            |
| 150-1000-0024     | 241       | 1000-0024 | 45 | Trinity Street | 1000-1000-0024 |                  | PS   | 2000            |
| 150-1000-0025     | 251       | 2000      | 45 | Trinity Street | 1000-1000-0025 |                  | PS   | 2000            |
| 150-1000-0026     | 261       | 1000-0026 | 45 | Trinity Street | 1000-1000-0026 |                  | PS   | 2000            |
| 150-1000-0027     | 271       | 2000      | 45 | Trinity Street | 1000-1000-0027 |                  | PS   | 2000            |
| 150-1000-0028     | 281       | 1000-0028 | 45 | Trinity Street | 1000-1000-0028 |                  | PS   | 2000            |
| 150-1000-0029     | 291       | 2000      | 45 | Trinity Street | 1000-1000-0029 |                  | PS   | 2000            |
| 150-1000-0030     | 301       | 1000-0030 | 45 | Trinity Street | 1000-1000-0030 |                  | PS   | 2000            |
| 150-1000-0031     | 311       | 2000      | 45 | Trinity Street | 1000-1000-0031 |                  | PS   | 2000            |
| 150-1000-0032     | 321       | 1000-0032 | 45 | Trinity Street | 1000-1000-0032 |                  | PS   | 2000            |
| 150-1000-0033     | 331       | 2000      | 45 | Trinity Street | 1000-1000-0033 |                  | PS   | 2000            |
| 150-1000-0034     | 341       | 1000-0034 | 45 | Trinity Street | 1000-1000-0034 |                  | PS   | 2000            |
| 150-1000-0035     | 351       | 2000      | 45 | Trinity Street | 1000-1000-0035 |                  | PS   | 2000            |
| 150-1000-0036     | 361       | 1000-0036 | 45 | Trinity Street | 1000-1000-0036 |                  | PS   | 2000            |
| 150-1000-0037     | 371       | 2000      | 45 | Trinity Street | 1000-1000-0037 |                  | PS   | 2000            |
| 150-1000-0038     | 381       | 1000-0038 | 45 | Trinity Street | 1000-1000-0038 |                  | PS   | 2000            |
| 150-1000-0039     | 391       | 2000      | 45 | Trinity Street | 1000-1000-0039 |                  | PS   | 2000            |
| 150-1000-0040     | 401       | 1000-0040 | 45 | Trinity Street | 1000-1000-0040 |                  | PS   | 2000            |
| 150-1000-0041     | 411       | 2000      | 45 | Trinity Street | 1000-1000-0041 |                  | PS   | 2000            |
| 150-1000-0042     | 421       | 1000-0042 | 45 | Trinity Street | 1000-1000-0042 |                  | PS   | 2000            |
| 150-1000-0043     | 431       | 2000      | 45 | Trinity Street | 1000-1000-0043 |                  | PS   | 2000            |
| 150-1000-0044     | 441       | 1000-0044 | 45 | Trinity Street | 1000-1000-0044 |                  | PS   | 2000            |
| 150-1000-0045     | 451       | 2000      | 45 | Trinity Street | 1000-1000-0045 |                  | PS   | 2000            |
| 150-1000-0046     | 461       | 1000-0046 | 45 | Trinity Street | 1000-1000-0046 |                  | PS   | 2000            |
| 150-1000-0047     | 471       | 2000      | 45 | Trinity Street | 1000-1000-0047 |                  | PS   | 2000            |
| 150-1000-0048     | 481       | 1000-0048 | 45 | Trinity Street | 1000-1000-0048 |                  | PS   | 2000            |
| 150-1000-0049     | 491       | 2000      | 45 | Trinity Street | 1000-1000-0049 |                  | PS   | 2000            |
| 150-1000-0050     | 501       | 1000-0050 | 45 | Trinity Street | 1000-1000-0050 |                  | PS   | 2000            |
| 150-1000-0051     | 511       | 2000      | 45 | Trinity Street | 1000-1000-0051 |                  | PS   | 2000            |
| 150-1000-0052     | 521       | 1000-0052 | 45 | Trinity Street | 1000-1000-0052 |                  | PS   | 2000            |
| 150-1000-0053     | 531       | 2000      | 45 | Trinity Street | 1000-1000-0053 |                  | PS   | 2000            |
| 150-1000-0054     | 541       | 1000-0054 | 45 | Trinity Street | 1000-1000-0054 |                  | PS   | 2000            |
| 150-1000-0055     | 551       | 2000      | 45 | Trinity Street | 1000-1000-0055 |                  | PS   | 2000            |
| 150-1000-0056     | 561       | 1000-0056 | 45 | Trinity Street | 1000-1000-0056 |                  | PS   | 2000            |
| 150-1000-0057     | 571       | 2000      | 45 | Trinity Street | 1000-1000-0057 |                  | PS   | 2000            |
| 150-1000-0058     | 581       | 1000-0058 | 45 | Trinity Street | 1000-1000-0058 |                  | PS   | 2000            |
| 150-1000-0059     | 591       | 2000      | 45 | Trinity Street | 1000-1000-0059 |                  | PS   | 2000            |
| 150-1000-0060     | 601       | 1000-0060 | 45 | Trinity Street | 1000-1000-0060 |                  | PS   | 2000            |
| 150-1000-0061     | 611       | 2000      | 45 | Trinity Street | 1000-1000-0061 |                  | PS   | 2000            |
| 150-1000-0062     | 621       | 1000-0062 | 45 | Trinity Street | 1000-1000-0062 |                  | PS   | 2000            |
| 150-1000-0063     | 631       | 2000      | 45 | Trinity Street | 1000-1000-0063 |                  | PS   | 2000            |
| 150-1000-0064     | 641       | 1000-0064 | 45 | Trinity Street | 1000-1000-0064 |                  | PS   | 2000            |
| 150-1000-0065     | 651       | 2000      | 45 | Trinity Street | 1000-1000-0065 |                  | PS   | 2000            |
| 150-1000-0066     | 661       | 1000-0066 | 45 | Trinity Street | 1000-1000-0066 |                  | PS   | 2000            |
| 150-1000-0067     | 671       | 2000      | 45 | Trinity Street | 1000-1000-0067 |                  | PS   | 2000            |
| 150-1000-0068     | 681       | 1000-0068 | 45 | Trinity Street | 1000-1000-0068 |                  | PS   | 2000            |
| 150-1000-0069     | 691       | 2000      | 45 | Trinity Street | 1000-1000-0069 |                  | PS   | 2000            |
| 150-1000-0070     | 701       | 1000-0070 | 45 | Trinity Street | 1000-1000-0070 |                  | PS   | 2000            |
| 150-1000-0071     | 711       | 2000      | 45 | Trinity Street | 1000-1000-0071 |                  | PS   | 2000            |
| 150-1000-0072     | 721       | 1000-0072 | 45 | Trinity Street | 1000-1000-0072 |                  | PS   | 2000            |
| 150-1000-0073     | 731       | 2000      | 45 | Trinity Street | 1000-1000-0073 |                  | PS   | 2000            |
| 150-1000-0074     | 741       | 1000-0074 | 45 | Trinity Street | 1000-1000-0074 |                  | PS   | 2000            |
| 150-1000-0075     | 751       | 2000      | 45 | Trinity Street | 1000-1000-0075 |                  | PS   | 2000            |
| 150-1000-0076     | 761       | 1000-0076 | 45 | Trinity Street | 1000-1000-0076 |                  | PS   | 2000            |
| 150-1000-0077     | 771       | 2000      | 45 | Trinity Street | 1000-1000-0077 |                  | PS   | 2000            |
| 150-1000-0078     | 781       | 1000-0078 | 45 | Trinity Street | 1000-1000-0078 |                  | PS   | 2000            |
| 150-1000-0079     | 791       | 2000      | 45 | Trinity Street | 1000-1000-0079 |                  | PS   | 2000            |
| 150-1000-0080     | 801       | 1000-0080 | 45 | Trinity Street | 1000-1000-0080 |                  | PS   | 2000            |
| 150-1000-0081     | 811       | 2000      | 45 | Trinity Street | 1000-1000-0081 |                  | PS   | 2000            |
| 150-1000-0082     | 821       | 1000-0082 | 45 | Trinity Street | 1000-1000-0082 |                  | PS   | 2000            |
| 150-1000-0083     | 831       | 2000      | 45 | Trinity Street | 1000-1000-0083 |                  | PS   | 2000            |
| 150-1000-0084     | 841       | 1000-0084 | 45 | Trinity Street | 1000-1000-0084 |                  | PS   | 2000            |
| 150-1000-0085     | 851       | 2000      | 45 | Trinity Street | 1000-1000-0085 |                  | PS   | 2000            |
| 150-1000-0086     | 861       | 1000-0086 | 45 | Trinity Street | 1000-1000-0086 |                  | PS   | 2000            |
| 150-1000-0087     | 871       | 2000      | 45 | Trinity Street | 1000-1000-0087 |                  | PS   | 2000            |
| 150-1000-0088     | 881       | 1000-0088 | 45 | Trinity Street | 1000-1000-0088 |                  | PS   | 2000            |
| 150-1000-0089     | 891       | 2000      | 45 | Trinity Street | 1000-1000-0089 |                  | PS   | 2000            |
| 150-1000-0090     | 901       | 1000-0090 | 45 | Trinity Street | 1000-1000-0090 |                  | PS   | 2000            |
| 150-1000-0091     | 911       | 2000      | 45 | Trinity Street | 1000-1000-0091 |                  | PS   | 2000            |
| 150-1000-0092     | 921       | 1000-0092 | 45 | Trinity Street | 1000-1000-0092 |                  | PS   | 2000            |
| 150-1000-0093     | 931       | 2000      | 45 | Trinity Street | 1000-1000-0093 |                  | PS   | 2000            |
| 150-1000-0094     | 941       | 1000-0094 | 45 | Trinity Street | 1000-1000-0094 |                  | PS   | 2000            |
| 150-1000-0095     | 951       | 2000      | 45 | Trinity Street | 1000-1000-0095 |                  | PS   | 2000            |
| 150-1000-0096     | 961       | 1000-0096 | 45 | Trinity Street | 1000-1000-0096 |                  | PS   | 2000            |
| 150-1000-0097     | 971       | 2000      | 45 | Trinity Street | 1000-1000-0097 |                  | PS   | 2000            |
| 150-1000-0098     | 981       | 1000-0098 | 45 | Trinity Street | 1000-1000-0098 |                  | PS   | 2000            |
| 150-1000-0099     | 991       | 2000      | 45 | Trinity Street | 1000-1000-0099 |                  | PS   | 2000            |
| 150-1000-0100     | 1001      | 1000-0100 | 45 | Trinity Street | 1000-1000-0100 |                  | PS   | 2000            |



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Appendix A

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