



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2018/97
<b>Address</b>	332A Young Street, Annandale
<b>Proposal</b>	Construction of a single garage to rear of site known as 332A Young Street and associated works.
<b>Date of Lodgement</b>	27 February 2018
<b>Applicant</b>	Chapman Planning
<b>Owner</b>	Mr F M Cain and Mrs E B Cain
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$40,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation to development standards exceeds officer delegations
<b>Main Issues</b>	Nil
<b>Recommendation</b>	Consent subject to conditions



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for the construction of a single garage to the rear of site known as 332A Young Street and associated works at 330 Young Street, Annandale. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Non-compliance with development standards relating to floor space ratio, landscaped area and site coverage.

The non-compliances are acceptable given the precedent set by the recent approval of the adjacent site at 332B Young Street, Annandale and the pattern of development in the immediate locality, and therefore the application is recommended for approval.

## 2. Proposal

The proposal involves demolition of the existing brick fence and gate on the rear boundary and construction of a single garage at the rear of the site accessed from Smith Street, Annandale. The south-western wall of the garage will include the existing brick wall built on the boundary with 330 Young Street, thus the garage and its roof will partially encroach this boundary. Written owners consent from that property for this encroachment was submitted with the application.

The proposal is effectively identical to the garage approved under M/2017/177 of D/2017/131 at 332B Young Street, Annandale. That property includes a setback on the north-eastern boundary whereas the subject dwelling is built to both side boundaries; hence the non-compliances with the applicable development standards are larger in this instance.

## 3. Site Description

The subject site is located on the western side of Young Street, between Piper Street and Gillies Street, Annandale. The site consists of one allotment and is generally rectangular with a total area of 153.4 m<sup>2</sup>. It is legally described as Lot 61 in DP1155568.

The site has a frontage to Young Street of 5.055 metres and a secondary frontage of approximate 5.025 metres to Smith Street at the rear

The site supports a modern two storey attached dwelling. The dwelling is one of a pair of mirror image semi-detached dwellings which present as single storey with dormer windows to Young Street. The adjoining property to the south is a heritage masonry single storey dwelling with slate roof built to both side boundaries.

The property is located within a conservation area.

## 4. Background

### 4(a) Site history

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

**Subject Site**

Application	Proposal	Decision & Date
D/1999/1174 D/1999/1175	To construct two storey terrace houses on previously subdivided lot and garages to rear lane.	Approved – 13/3/2001
PREDA/2011/20	New garage and rooftop terrace at rear of the site.	Issued – 13/4/2011

**Surrounding properties – 332B Young Street, Annandale**

Application	Proposal	Decision & Date
D/2017/131	New carport at rear of site fronting Smith Street and associated demolition and alterations and works to rear of dwelling.	Approved – 21/6/2017
M/2017/177	Amend or delete various conditions to facilitate the provision of a garage in lieu of car port at rear of site.	Approved – 18/10/2017

**5. Assessment**

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

**5(a) Environmental Planning Instruments**

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

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The proposal satisfies the above Environmental Planning Instruments. The following provides further discussion of relevant issues pertaining to the Leichhardt Local Environmental Plan 2013:

**- Leichhardt Local Environment Plan 2013 (LLEP 2013)**

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise

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

Standard	Proposal	% of non-compliance	Compliances
<b>Floor Space Ratio</b> 0.8:1 max. / 122.7 sqm	0.94:1 / 114.5 sqm	17.8	No
<b>Landscape Area</b> 15% min. / 23 sqm	10.82%/ 16.6 sqm	27.9	No
<b>Site Coverage</b> 60% max. / 92 sqm	71.98% / 110.4 sqm	20	No

The following provides further discussion of the relevant issues:

#### Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standards:

- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

*Comment:* The application requests that development consent be granted for the development even though the proposal will contravene the maximum FSR and Landscaped area development standards prescribed under Part 4 of Leichhardt Local Environmental Plan 2013.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Written request has been submitted by the applicant raising the following key issues seeking to justify the contravention of the standards:

#### Clause 4.3A(3) – Landscaped Area for residential development in Zone R1

- The proposed form and scale of the building is consistent with the planning controls for residential development contained in Leichhardt Development Control Plan 2013, noting the garage covers existing hard surface area and the proposed new landscaping contributes to the landscape setting.
- The increase in site coverage does not impact how the dwelling is viewed from the Young Street public domain. The site retains existing landscaped areas within the front setback and ensures that the dwelling house achieves good residential amenity with the inclusion of new landscaped area at the rear of the site.
- The additional site coverage is confined rear of the subject site, noting the development proposal presents a landscaped front setback to Young Street consistent with the development controls for residential development within the Young Street Distinctive Neighbourhood.
- The development proposal presents a form and scale of development that is consistent with planning controls for the built form in the secondary street – Smith Street and provides for on-site parking.

#### Clause 4.4 – Floor Space Ratio

- The garage – car parking space meets the on-site parking rates contained in Part C1.11.1 General Vehicle Parking Rates of Leichhardt Development Control Plan 2013. When including the garage floor area in the floor area calculation, flexibility should be applied to the application of clause 4.6 as there is no change to the existing dwelling floor area.
  - The proposed garage is a compatible built form with existing rear garage structures located within the streetscape of Smith Street.
  - The proposal provides on-site parking, meeting the needs of the dwelling by reducing the demand for on-street car parking.
  - The proposal does not impact the amenity of adjoining properties in terms of privacy, overshadowing and view loss.
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and the submission is well founded in this instance. The proposal will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standards and General Residential zoning as demonstrated below:

- As previously noted, the proposal is effectively identical to the garage approved under M/2017/177 of D/2017/131 at 332B Young Street, Annandale;
- The proposal is compatible with the desired future character of the area in relation to building bulk, form and scale;
- The siting of the building is within the building location zone established by neighbouring garage structures where it can be reasonably assumed development can occur.
- The proposal does not result in any undue adverse amenity impacts to the surrounding properties.

Clause 5.10 – Heritage Conservation

It is proposed to use dark colours for the roller door and roof which do not complement the colours of traditional weathered roofs or similar structures within the Leichhardt District. A condition has been imposed to modify the colour-scheme, consistent with that which was placed on the consent for the adjoining dwelling at 332B Young Street, Annandale.

**5(b) Draft Environmental Planning Instruments**

There are no relevant Draft Environmental Planning Instruments.

**5(c) Development Control Plans**

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

<b>Part</b>	<b>Compliance</b>
<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	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Not applicable
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Yes
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Not applicable
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not applicable
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable
<b>Part C: Place – Section 2 Urban Character</b>	
Suburb Profile	
C2.2.1.1 Young Street Distinctive Neighbourhood	Yes

<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Not applicable
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	Not applicable
<b>Part D: Energy</b>	
Section 1 – Energy Management	Not applicable
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Not applicable
<b>Part E: Water</b>	Yes
<b>Part F: Food</b>	Not applicable
<b>Part G: Site Specific Controls</b>	Not applicable

The following provides discussion of the relevant issues:

#### C3.9 Solar Access

The proposal results in additional overshadowing of the private open space of the subject property in the afternoon. This is considered acceptable in this instance as the owners have chosen to prioritise on-site car parking over solar access, the overshadowing does not extend to neighbouring properties and the private open space still receives solar access for more than 3 hours during winter.

#### 5(d) The Likely Impacts

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

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

The site is zoned R1 – General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

### 5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. No submissions were received.

### 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Heritage Officer
- Development Engineer

## 7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

## 8. Conclusion

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

## 9. Recommendation

- A. The variation to Clause 4.3A(3)(a) Landscape Area, 4.3A(3)(b) Site Coverage and 4.4 Floor Space Ratio of Leichhardt Local Environmental Plan 2013 be supported under the provisions of Clause 4.6 exceptions to development standards.
- B. That Council, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: D/2018/97 for Construction of a single garage to rear of site known as 332A Young Street and associated works at 332A Young Street, Annandale subject to the conditions listed in Attachment A below.

**Attachment A – Recommended conditions of consent**

**CONDITIONS OF CONSENT**

1. Development must be carried out in accordance with Development Application No. D/201897 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Proposed Garage Plan DA.210-E	Design & Drafting	03.02.18
Proposed Roof Plan DA.211-D	Design & Drafting	03.02.18
Proposed Elevation DA.214C	Design & Drafting	03.02.18
Proposed Sections DA213.C	Design & Drafting	03.02.18

Document Title	Prepared By	Dated
Survey Plan	Bill & Hume Consulting Surveyors	8/3/2017
Waste Management Plan	Adriane Whiley	28/11/2017

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

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

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

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

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

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

Elements
Brick wall and gate on rear boundary

Excluding the following elements which must be retained:

Elements to be retained
Existing dwelling

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.

- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
- i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
  - ii) A *final* inspection when the demolition works have been completed.

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.

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

**PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE**

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

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

4. Amended plans are to be submitted incorporating the following amendments:
- a) The colour of the roller door to the garage is to match that of the adjacent wall colour of the parking structure.
  - b) The roof, fascia and gutters are to be colours equivalent to “Windspray” or “Wallaby” which complement the colours of traditional weathered roofs within the Leichhardt District.

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

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

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

6. The approved plans must be checked online with Sydney Water Tap In to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

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

7. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
  - a) A plan view of the entire site and frontage roadways indicating:
    - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
    - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
    - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
    - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
    - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
  - b) Noise and vibration  
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) for guidance and further information.
  - c) Occupational Health and Safety  
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
  - d) Toilet Facilities  
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
  - e) Traffic control plan(s) for the site  
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

8. A stormwater drainage design prepared by a Licensed Plumber or qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
  - a) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. 15075-D1 to 15075-D4 Issue A prepared by Eze Drainage Solutions and dated 12.12.17
  - b) Charged or pump-out stormwater drainage systems are not permitted.
  - c) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
  - d) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
  - e) An overland flowpath must be provided within the setback to the northern boundary between the rear of the dwelling and Smith Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
  - f) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage*
  - g) 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.
  - h) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets
  - i) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
  - j) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.

- k) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

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

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

- 9. The design of the vehicular access and off street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 *Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:

- a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
- b) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- c) The garage must have minimum clear internal dimensions of 6000 x 3000mm (length x width).
- d) The external form & height of the approved structures must not be altered from that depicted on the approved plans.

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

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

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

- 10. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
  - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath

- c) Mobile crane or any standing plant
- d) Skip bins
- e) Scaffolding/Hoardings (fencing on public land)
- f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

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

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

- 11. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
- 12. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2,200.00
Inspection fee (FOOTI)	\$225.00

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

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

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, 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.

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

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

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

### **PRIOR TO THE COMMENCEMENT OF WORKS**

13. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site (with the exception of the garage wall/roof on the southern boundary). Only the proposed garage wall/roof on the southern boundary shall encroach onto adjoining properties). No portion of the proposed structure, including gates and doors during opening and closing operations shall encroach upon public property or the adjoining property at 332B Young Street, Annandale.

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

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

- a) Location of the building with respect to the boundaries of the site;

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

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or

fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

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

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

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

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

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

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

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

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

16. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
17. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
18. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.

19. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
  - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
  - c) The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

#### **DURING WORKS**

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

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

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

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

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

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

Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

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

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

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

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

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

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

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

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

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

24. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.

25. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
26. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
  - a) after excavation for, and prior to the placement of, any footings, and
  - b) prior to pouring any in-situ reinforced concrete building element, and
  - c) prior to covering of the framework for any floor, wall, roof or other building element, and
  - d) prior to covering waterproofing in any wet areas, and
  - e) prior to covering any stormwater drainage connections, and
  - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
27. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
28. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

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

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.
29. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

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

30. Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. For vehicular access off rear laneways the level at the boundary shall match the invert level of the adjacent gutter plus 180mm at both sides of the vehicle entry.

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

31. The following works must be constructed:
- a) Light duty concrete vehicle crossing(s) at the vehicular access location(s).
  - b) The redundant vehicular crossing to the site shall 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 shall also be in stone.

All works shall be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council.

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

32. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
33. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.

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

Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards must be provided

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

35. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
36. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
37. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

Proof of actual destination of demolition and construction waste shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

38. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
  - the approved plans;
  - BASIX certificate (where relevant),
  - approved documentation (as referenced in this consent); and
  - conditions of this consent.

## **ONGOING CONDITIONS OF CONSENT**

39. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
40. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.

## **PRESCRIBED CONDITIONS**

### **A. BASIX Commitments**

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The

Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

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

## **B. Building Code of Australia**

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

## **C. Home Building Act**

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

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

insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

#### **D. Site Sign**

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

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

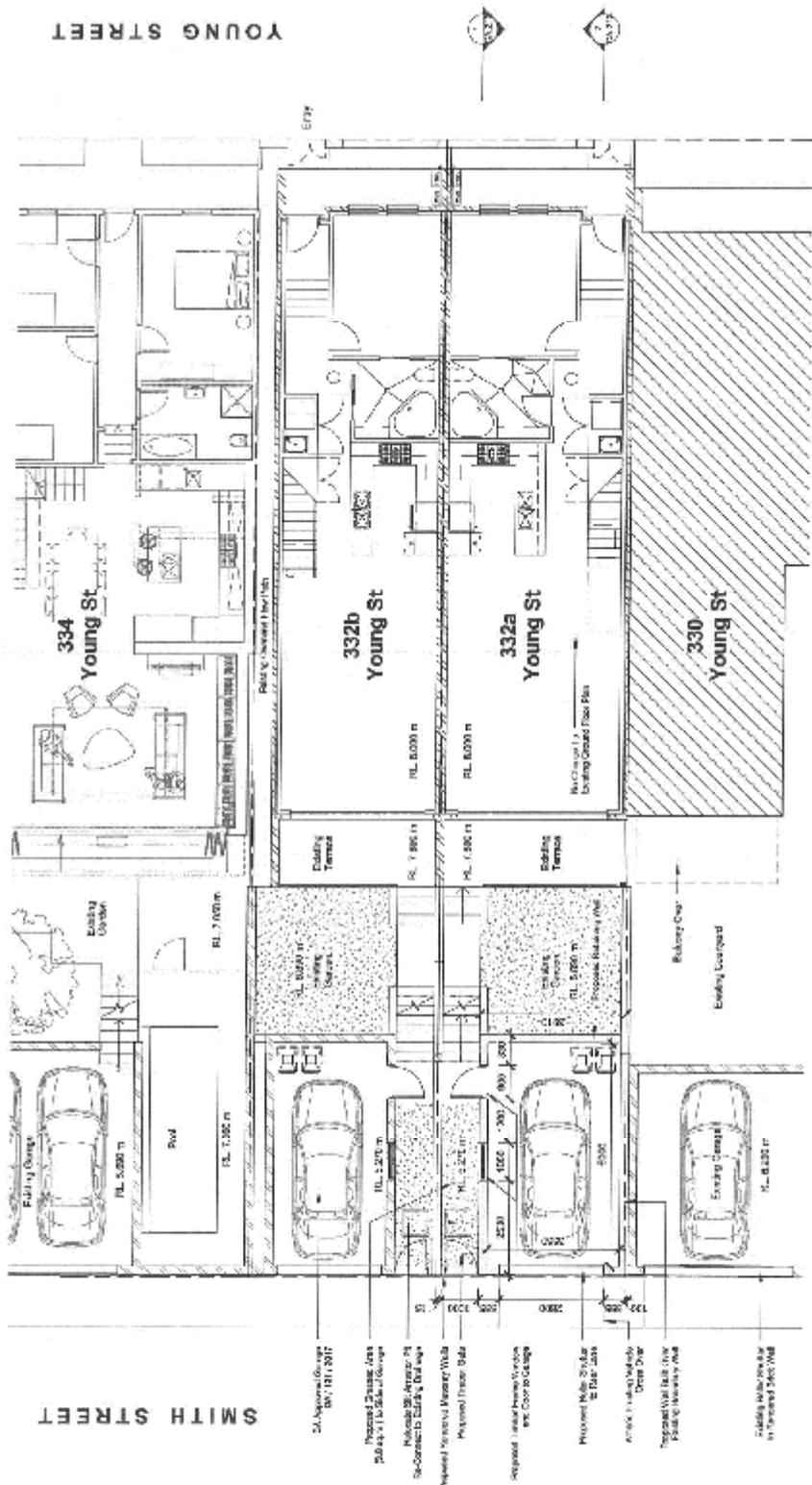
- 1) For the purposes of section 4.17(11) of [the Act](#), it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent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

#### **NOTES**

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power

- to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of *the Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
  4. Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
  5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
  6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
  7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
    - a) Application for any activity under that Act, including any erection of a hoarding.
    - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
    - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
    - d) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
  8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.
  9. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.





**DESIGN & DRAFTING**  
 J Elbow & Partners, Architects NSW 2132  
 mob: 0405 751 043  
 web: [www.jelbow.com.au](http://www.jelbow.com.au)

DA Application Drawings  
 332a Young Street, Aranda  
 1. Proposed Garage  
 2. Proposed Carport  
 3. Proposed Driveway  
 4. Proposed Carport  
 5. Proposed Driveway

NOT FOR CONSTRUCTION

Scale: 1:100  
 Date: 10/11/2017

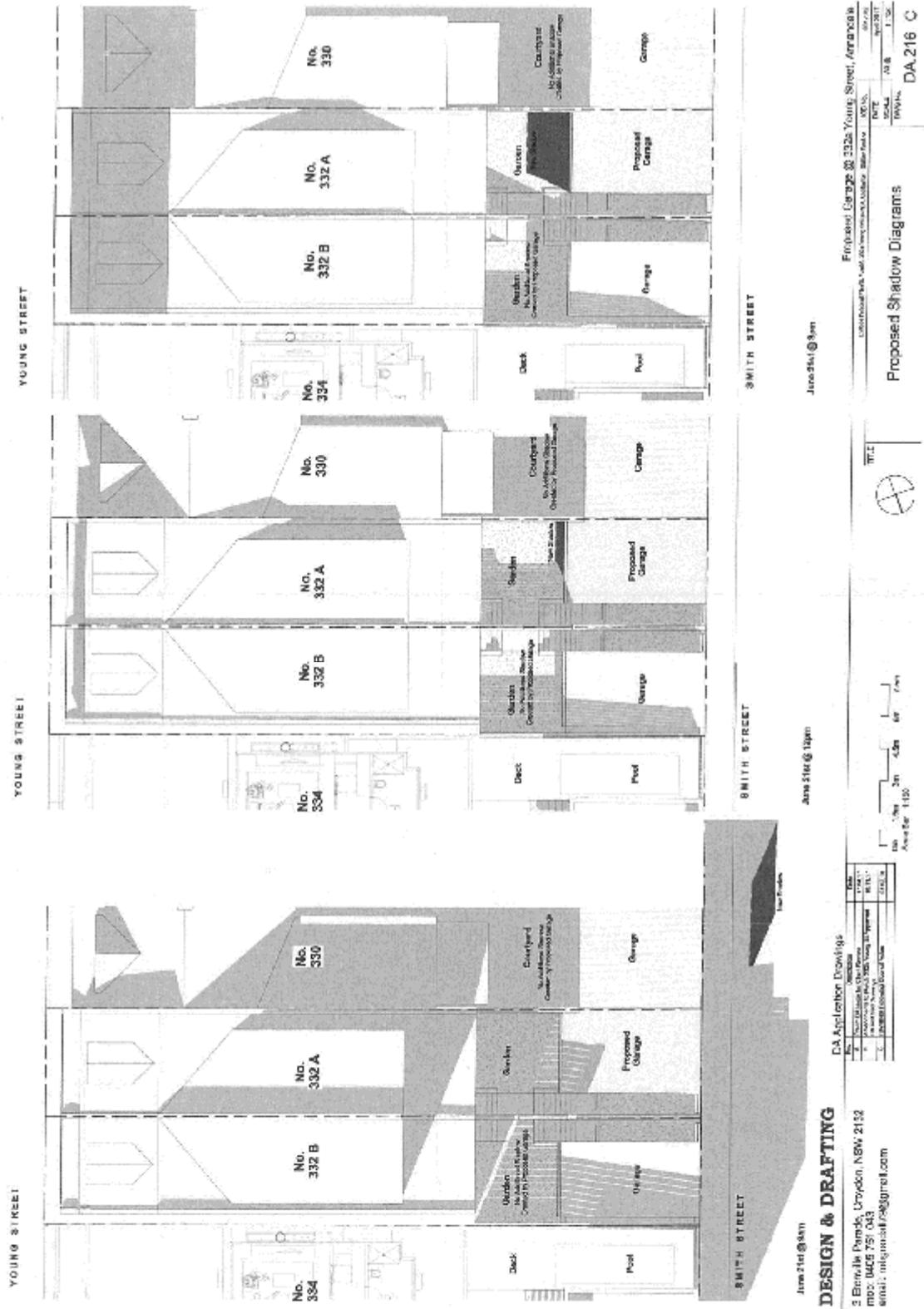
Proposed Garage Plan  
 DA.210 E













## Attachment C – Exceptions to Development Standards

### **Chapman Planning Pty Ltd**

Suite 5/ 187 Marlon Street  
LEICHHARDT NSW 2040

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Mobile: 0415 746 800  
Facsimile: 9564 5753  
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#### **Clause 4.6 Variation to Development Standard**

**Property Description:** 332A Young Street, Annandale  
**Development:** Alterations and Additions to Dwelling House  
**Development Standard:** Landscaped Area and Site Coverage

#### **Introduction**

This clause 4.6 variation has been prepared to support the amended plans for the proposed alterations and additions to the dwelling house at 332B Young Street, Annandale (Inner West Council Development Application D/2017/131). The proposed additions to the dwelling seek variation to the landscaped area development standard contained in clause 4.3A(a) and (b) of the Leichhardt LEP 2013.

The landscaped area control under clause 4.3A of the Leichhardt LEP 2013 is 15% for lots less than 235m<sup>2</sup> and site coverage does not exceed 60% of site area.

The application to vary the development standard – landscaped area incorporates the relevant principles in the following judgements:

1. *Winten Property Group Limited v North Sydney Council*
2. *Wehbe v Pittwater Council, and*
3. *Four2Five Pty Ltd v Ashfield Council.*

The proposed development has a site area of 153.4m<sup>2</sup> and a landscaped area of 17.92m<sup>2</sup> and 11.7% and a site coverage of 122.4m<sup>2</sup> and 79.8%. The minimum landscaped area for the site is 23.01m<sup>2</sup> and 15%. The maximum site coverage is 92.04m<sup>2</sup> and 60%.

#### **What are the objectives of Clause 4.6?**

The objectives of clause 4.6 – Exceptions to development standards are:

1 Clause.4.6Variation.LandscapedAreaAndSiteCoverage.332AYoungStreet.Annandale.docx

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*  
*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The proposed variation to the landscaped area and site coverage development standard is consistent with the objectives of clause 4.6 as follows:

**Objective (a):** The proposed design confirms an appropriate degree of flexibility can be applied based on the following assessment:

- The proposed form and scale of the building is consistent with the planning controls for residential development contained in the Leichhardt DCP, noting the garage covers existing hard surface area and the proposed new landscaping contributes to the landscape setting, contributing to the sites landscape setting.

**Objective (b):** The proposed variation to the site coverage control achieves a better outcome for and from the development in the application of flexibility based on the following:

- The proposal retains the sites landscaped character to Young Street. The additional site coverage is confined to the rear of the subject site, noting the development proposal includes a garage fronting Smith Street, consistent with the development controls for residential development within the Young Street Distinctive Neighbourhood.

In my opinion the variation to the landscaped area and site coverage development standard is acceptable for the subject site allowing for flexibility to be applied to the development control recognizing the landscape setting to Young Street- public domain is retained. The increase in site coverage does not impact how the dwelling is viewed from the Young Street public domain. The site retains existing landscaped areas within the front setback and ensures that the dwelling house achieves good residential amenity with the inclusion of new landscaped area at the rear of the site.

The addition of an on-site car parking spaces reduces the reliance and demand for on-street parking.

**What are the objectives of the development standard?**

The objectives of the development standard are at clause 4.3A(1) of the Leichhardt LEP 2013 as follows:

2. Clause.4.6Variation.LandscapedAreaAndSiteCoverage.332AYoungStreet,Annandale.docx

- (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
- (b) to maintain and encourage a landscaped corridor between adjoining properties,
- (c) to ensure that development promotes the desired future character of the neighbourhood,
- (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
- (e) to control site density,
- (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

The proposed alterations and additions to the dwelling house meet the objectives of the landscaped area and site coverage development standard based on the following assessment:

- **Objective (a):** The development proposal retains existing primary landscaping and provides new landscaped area. The proposal includes 17.92m<sup>2</sup> & 11.7% of landscaped area.
- **Objective (b):** The level of landscaped area provided at the subject site is consistent with the adjoining development forms within the Young Street Distinctive Neighbourhood.
- **Objective (c):** The proposed works maintains the setting of the residential dwelling when viewed from the Young Street public domain.
- **Objective (d):** The proposal maintains primary landscaped areas, retaining the retention and absorption of surface drainage water on site.
- **Objective (e):** The proposal does result in an overdevelopment of the site with the additional site area located at the rear of the site, not viable from the Young Street Public Domain and consistent with adjoining development.
- **Objective (f):** The proposal meets the private open space requirements. The proposal presents an appropriate building form to the Young Street public domain, consistent with adjoining development.

**Compliance with the development standard is unreasonable or unnecessary in this particular case?**

Pursuant to clause 4.6(3)(a) and (b) of the LEP the variation to the landscape area and site coverage development standard is acceptable in the circumstances of this case and compliance with the development standard is considered unreasonable

and unnecessary because it meets the objective of the landscaped area and site coverage development standard even though it does not strictly comply and based on the following:

- The proposed form and scale of the building is consistent with the planning controls for residential development contained in the Leichhardt DCP and the proposal retains existing landscape setting of the dwelling to Young Street, noting the increase in site coverage is not visible from the Young Street public domain.
- The development proposal presents a form and scale of development that is consistent with planning controls for the built form in the secondary street – Smith Street and provides for on-site parking.
- The development proposal complies with the building height development standards contained within the Leichhardt LEP 2013 and presents an appropriate building form to the Young Street public domain, consistent with adjoining development.
- The additional site coverage is confined rear of the subject site, noting the development proposal presents a landscaped front setback to Young Street consistent with the development controls for residential development within the Young Street Distinctive Neighbourhood.

**Are there sufficient environmental planning grounds to justify contravening the development standard?**

Pursuant to clause 4.6(3)(a) and (b) of the LEP the grounds for variation to the landscaped area and site coverage control contained in this application confirms the variation is acceptable. The development proposal includes a garage over existing hard surface with the provision of new landscaping provided on-site. Further, the garage provides on-site parking being a compatible form of development to Smith Street and reduces the reliance and demand for on-street parking.

**Is the proposed development in the public interest?**

Clause 4.6(4)(ii) of the LEP states:

*Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

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

*(b) the concurrence of the Secretary has been obtained.*

The variation to landscaped area and site coverage control will not impact on the public interest noting the garage covers existing hard surface area, and the proposal includes new landscaped area at the subject site. Further, the proposal includes on-site car parking reducing the reliance and demand for on-street parking.

Further, the form and scale of the proposed garage is consistent with the planning controls for residential development contained in the Leichhardt DCP. The retention of the existing dwelling and the proposed additional rear landscaped area improves the setting of the residential dwelling when viewed from the Smith Street public domain.

#### **Conclusion**

The development proposal has sufficient grounds to vary the landscaped area and site coverage development standard contained in Clause 4.3A(a) and (b) of the Leichhardt LEP 2013. The form and scale of the building is consistent with the planning controls for residential development contained in the Leichhardt DCP and the proposal does not alter the sites landscape setting to Young Street, Annandale.

In our opinion the application to vary the landscaped area and site coverage development standard is well founded and as addressed the proposed landscaped area for the dwelling house meets the objectives of the landscaped area development standard and achieves an acceptable development outcome for the subject site that is in the public interest. In accordance with the environmental planning grounds addressed in this clause 4.6 variation the landscape area and site coverage can be supported.

Chapman Planning Pty Ltd

