

JRPP No.	2011SYE022
DA No.	218/2010
Proposed Development	Subdivision of land into two lots, one lot to remain a public purpose lot to be retained by Sydney Water and one lot for future residential development, 35 Edna Street Lilyfield
Applicant:	Sydney Water Corporation
Report By:	PANEL SECRETARIAT

Review Report and Recommendation

Referred to the Joint Regional Planning Panel pursuant to section 89(2)(b) of the Environmental Planning and Assessment Act 1979.

16 March 2011

1. EXECUTIVE SUMMARY

The Panel Secretariat has reviewed this application for the Regional Panel's consideration, including a consideration of the views of Council and the applicant.

The application proposes a subdivision of land that is surplus to the needs of Sydney Water. The application proposes a two lot subdivision, one lot to be retained by Sydney Water and the other lot for future residential development.

The application has been recommended for conditional approval by Council staff and Sydney Water accepts the draft conditions of consent. Council's Building and Development Committee resolved to refer the DA to the JRPP for refusal with the recommendation that a positive covenant be placed on the title seeking to retain the site as affordable housing.

The Panel Secretariat found the Committee's request to place a positive covenant on the title unreasonable as the current development application is for subdivision of the site into two lots. One of the lots will be suitable for residential development. In future, when a development application for residential development is lodged with Council, it will have to meet Council's housing objectives including housing diversity and affordability.

Therefore the Panel Secretariat supports the recommendation to approve the subdivision with conditions as contained in Council's assessment report.

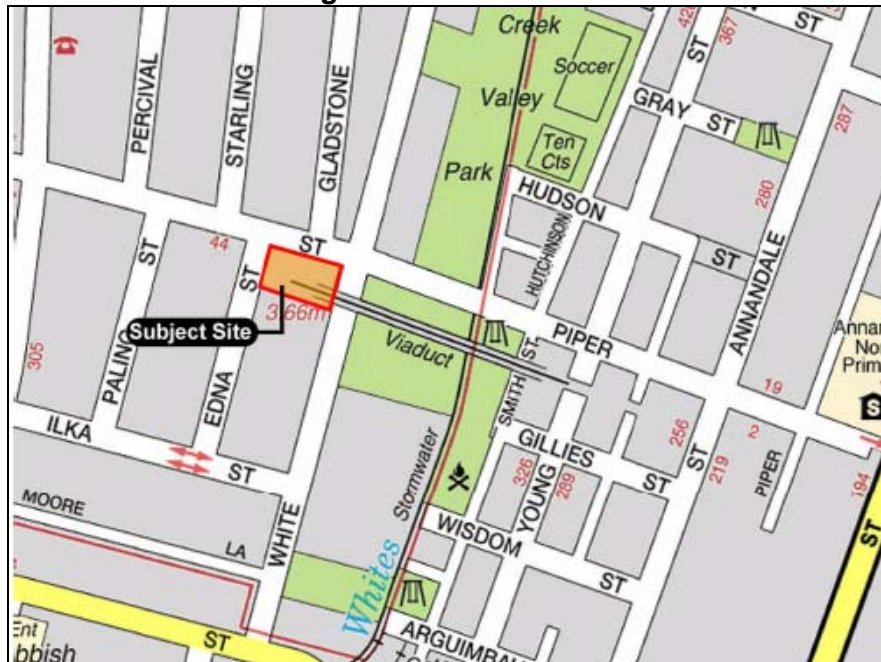
2. SITE DESCRIPTION

The site is identified as 35 Edna Street, Lilyfield. It is located on the southern side of Piper Street and extends between Edna and White Streets. The site has a frontage of 55.63m to Piper Street, 32.75m to White Street and 32.38m to Edna Street. The total site area is 2,179 sqm.

The site presently accommodates a works depot and associated buildings used by Sydney Water. It also contains the Annandale/ Leichhardt aqueduct, a heritage listed item. The site is located within the distinctive neighbourhood of Leichhardt – Catherine Street, as detailed in Leichhardt DCP.

The site is surrounded by detached dwellings of one and two storeys in height. On the eastern side of White Street is the Whites Creek open space corridor.

Figure 1: Site location



Source: Statement of Environmental Effects, 35 Edna St, Lilyfield – April 2010

3. PROPOSAL

The application seeks consent for subdivision of the site into two lots, one to remain a public purpose lot to be retained by Sydney Water and one lot for future residential development.

Lot 1 is to remain a public purpose lot for Sydney Water with a land area of 956.1 sqm. This lot has frontage to both Edna and White Streets. The site currently contains part of the two storey brick building that spans into Lot 2, a brick shed and part of the aqueduct.

Lot 2 is intended as a residential land parcel and has a total area of 1,224 sqm. It is located at the northern end of the site and has frontage to Edna Street, Piper Street and White Street.

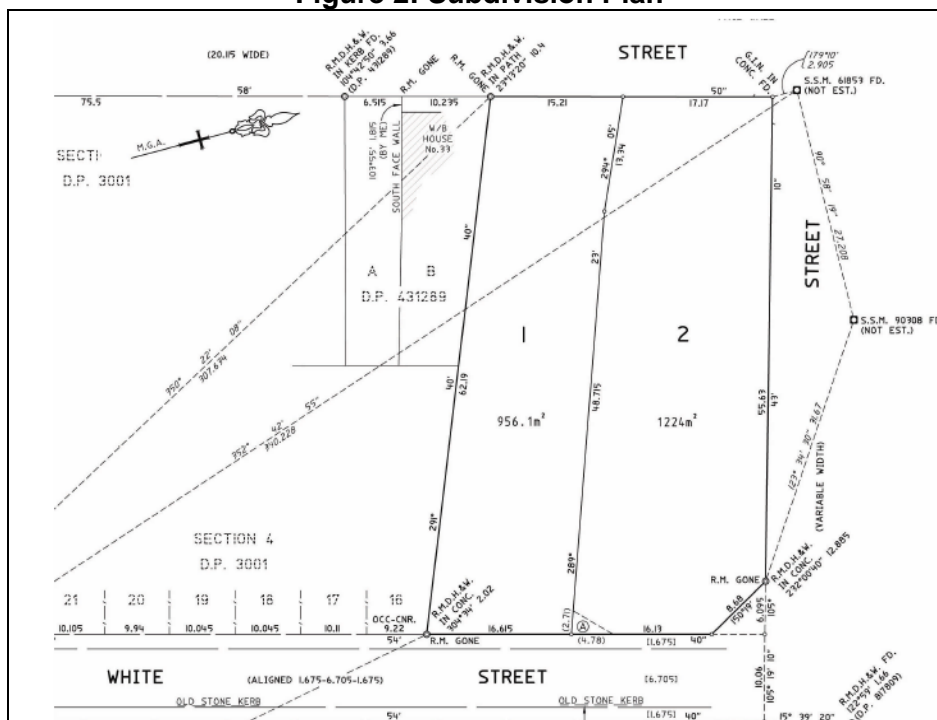
It is anticipated that structures on the site will be demolished by Sydney Water to allow future development of Lot 2. Under Clause 77 of the Infrastructure SEPP demolition of public administration buildings may be undertaken by the Crown with consent.

The application has been lodged with a Site Compatibility Certificate issued by the Director General of the Department of Planning, dated 18 November 2008 (attachment ii) which permits the use of Lot 2 for residential purposes.

Also submitted with the application is an 'Indicative Development Outcome' plan that shows four east-west lots (two fronting Edna Street and two fronting White Street) that

are capable of containing dwellings that are compatible with the surrounding area. As this is an indicative plan for Lot 2 it does not form any part of the subject application.

Figure 2: Subdivision Plan



Source: Statement of Environmental Effects, 35 Edna St, Lilyfield – April 2010

Figure 3: Indicative Development Outcome Plan



Source: Statement of Environmental Effects, 35 Edna St, Lilyfield – April 2010

4. BACKGROUND SUMMARY

- 18 November 2008: Site Compatibility Certificate issued;
- 2 March 2009: Pre Development application meeting held;
- 7 May 2010: DA 2010/218 lodged with Leichhardt Council;
- 18 May – 1 June 2010: DA was exhibited for a period of 14 days. No objections were received;
- 12 October 2010: Building and Development Council Meeting resolved to refer DA 2010/218 to the JRPP for refusal;
- 25 October 2010: Sydney Water advised of the resolution of Leichhardt Councils Building and Development Council Meeting;
- 12 November 2010: Leichhardt Council wrote to the Minister for Planning and the Minister for Water to propose ways to use the site for affordable and/or supported housing;
- 15 November 2010: Sydney Water advised Leichhardt Council it was referring DA 2010/218 to the JRPP for determination;
- 18 February 2011: Sydney Water referred DA 2010/218 to the JRPP as the DA had not been determined pursuant to Section 89 (2) of the EP & A Act.

5. ENVIRONMENTAL PLANNING INSTRUMENTS

Under the Leichhardt Local Environmental Plan (LLEP) 2000 the subject site is currently zoned 'Public Purpose', however Lot 2 is permitted to take on the additional uses of the surrounding 'Residential' zone due to the issue of a Site Compatibility Certificate.

LLEP 2000 requires subdivisions to be a minimum of 200m². The application satisfies this requirement with Lot 1 having an area of 956 m² and Lot 2 an area of 1224 m².

Lot 2 is shown in the Indicative Development Outcome Plan to be able to contain four lots, each being in excess of 200 m² that can contain a dwelling that is compatible with the surrounding locality.

The site contains an item listed on the State heritage register known as the Annandale/Leichhardt aqueduct. A visual easement has been incorporated into the subdivision plan for Lot 2 with a setback from White Street to permit a line of sight to the aqueduct. No building will be permitted over this easement. The southern boundary of Lot 2 is located 3 metres from the edge of the aqueduct to ensure there is no encroachment on the curtilage of the Aqueduct.

A Section 60 consent has been issued by the Heritage Branch of the Department of Planning for the works and a Conservation Management Plan has been submitted for the item which identifies the importance of the heritage fabric and appropriate measures for its protection.

Under SEPP No. 55 – Remediation of Land, the site is required to be remediated before residential land use can be carried out, however the remediation is Category 2 and does not require separate development consent. A condition of consent has been suggested requiring that the subdivision certificate cannot be registered until the site has been remediated and a site audit clearance certificate issued.

The proposed development is generally consistent with:

- SEPP No. 1 – Development Standards
- SEPP (Infrastructure) 2007
- SREP (Sydney Harbour catchment) 2005

- Leichhardt Development Control Plans

6. CONSULTATION AND PUBLIC EXHIBITION

The proposal was notified for a period of 14 days from 18 May 2010 to 1 June 2010 and letters were sent to 30 properties. No objections were received during the advertising period.

7 CONSIDERATION OF SECTION 79C(1) OF THE EP&A ACT

Council's officer has undertaken an assessment of the application with regard to the provisions of the EP&A Act and all matters specified under section 79C(1). The assessment report considers the application to be acceptable and recommends the DA be approved. The Panel Secretariat's review does not alter this finding.

8. JRPP's STATUTORY ROLE

Section 89(1)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that a consent authority must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

Section 89(2)(b) of the Act provides that if a consent authority fails to determine a Crown DA within the prescribed time limit it may be referred by either the applicant or the consent authority to a JRPP.

As Council has not determined the application (DA 2010/218) and it is more than 70 days since lodgement Sydney Water has referred the application to the JRPP for determination.

9. POSITION OF EACH PARTY

The views of Council and the applicant are summarised as follows:

Leichhardt Council

Assessment staff

- The assessment report recommends that the application, to subdivide the site into two lots, be approved as it satisfies the objective of LLEP 2000 and would not result in any significant adverse impacts on the locality.

Elected Council

- The Building and Development Council Meeting resolved on 12 October 2010:

'That the application be referred to the JRPP for refusal and at a minimum a positive covenant be placed on the title seeking to retain the site as affordable housing and to write to the Minister of Planning and Minister of Water.'

Applicant – Sydney Water Corporation

- Sydney Water as the owner of the site does not consent to the imposition of a condition that requires a positive covenant to be attached to the proposed Lot 2, which only allows the use of that site for affordable housing.
- Sydney Water note that as Council's resolution did not determine the DA and Council has exceeded the time allowed under the EP & A Act for determination of a Crown DA, Sydney Water has referred the DA to the JRPP for determination.
- Sydney Water accepts the conditions of consent as presented in the Council Assessment Report October 2010.

10. DISCUSSION

The Panel Secretariat has reviewed the development application, the Council Officer's assessment report, the views of the Council and the applicant.

The application satisfies the objectives of the LLEP 2000 and will not have any significant adverse impacts on the locality. The indicative development outcome plan indicates that the residential lot is capable of providing dwellings that will maintain the characteristics of the surrounding locality.

The application is supported on heritage grounds by Council's Heritage Officer, as the subdivision proposes no works to the Annandale/ Leichhardt aqueduct and a line of sight easement has been incorporated into the subdivision plan.

Council's resolution to seek the site be used for affordable housing is not considered a reasonable request as the application is for subdivision only, and does not involve development for any dwellings. The Panel Secretariat notes the objectives of Part 4 - Housing of the LLEP 2000, clause 17 (d), *'to provide a diverse range of housing in terms of size, type, form, layout, location, affordability, and adaptability to accommodate the varied needs of the community, including persons with special needs'*.

Additionally Clause 19(6) states that *'consent must not be granted for development that will provide 4 or more dwellings, unless it provides a mix of dwelling types in accordance with the following table, to the nearest whole number of dwellings.'*

Dwelling Type	Percentage to be Provided
Bedsitter or one bedroom dwelling	Minimum 25%
Three or more bedroom dwelling	Maximum 30%

The current development application is for subdivision of the land into two lots. One of the lots will be suitable for residential development. However, it is unknown at this stage as to what type or form of residential development will be proposed on the site. When a future development application for residential development is lodged with Council, it will have to meet the statutory requirements and be consistent with Council's policies. Based on the indicative plan, the site is capable of providing a minimum of 4 dwellings; hence it will have to meet Council's housing objectives of providing a diverse range of housing which in turn will meet the affordable objective.

In the circumstances, the Panel Secretariat found Council's request to put a positive covenant on the title unreasonable.

The Panel Secretariat considers that the development application to sub-divide the site into two lots, one lot to be retained by Sydney Water and the other lot for future

residential development should be approved with conditions as recommended by the assessment officer.

11. RECOMMENDATION

It is recommended that the JRPP:

- (A) **consider** all relevant matters prescribed under the *Environmental Planning and Assessment Act 1979*, as contained in the findings and recommendations of this report;
- (B) **approve** the development application, subject to conditions set out in Schedule 1, pursuant to section 80(1)(a) and section 89 of the *Environmental Planning and Assessment Act 1979*, having considered all relevant matters in accordance with (A) above;

Prepared by:

Emily Dickson
Panel Secretariat

Endorsed by:

Paula Poon
Panel Secretariat

12. ATTACHMENTS

- i) Schedule 1 – Draft Conditions of Consent;
- ii) Site Compatibility Certificate dated 18 November 2008;
- iii) Development Assessment Report, prepared by Leichhardt Council Assessment Officer October 2010;
- iv) Building and Development Council Meeting Resolution dated 12 October 2010;
- v) Council correspondence to Sydney Water dated 25 October 2010;
- vi) Sydney Water correspondence to Council dated 15 November 2010.

SCHEDULE 1

DRAFT CONDITIONS OF CONSENT

01. Development must be carried out in accordance with Development Application No. D/2010/218 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Plan of subdivision of Lot 1 DP 343175 – surveyors ref. 30408DP-2	Degotardi, Smith & Partners	September 2009
Concept Site Stormwater Management Plan DA01 issue 2 and Concept Overland flow Management Plan DA02 issue 1	Northrop	30/09/09 22/08/09

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

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

All demolition works which are necessary to ensure the new lots comply with the Building Code of Australia, and all remediation works necessary to allow for future residential use with direct access to soil, are to have taken place prior to the registration of the subdivision certificate.

PRIOR TO THE COMMENCEMENT OF WORKS REQUIRED FOR THE ISSUE OF A SUBDIVISION CERTIFICATE OR REGISTRATION OF ANY SUBDIVISION CERTIFICATE

02. A notice of proposed work form must be given to Council in accordance with State Environmental Planning Policy No. 55 – Remediation of Land, Clause 16. At least thirty (30) days notice is required, except in the case of work required to be carried out immediately under the terms of remediation order (in which case at least one (1) day notice is required).

Clause 16 of State Environmental Planning Policy No. 55 – Remediation of Land, requires that the notice must:

- Be in writing.
- Provide the name, address and telephone number of the person who has the duty of ensuring that the notice is given.
- Briefly describe the remediation work.
- Show why the person considers that the work is category 2 remediation work by reference to Clause 9, 14 and (if it applies) 15(1).
- Specify, by reference to its property description and street address (if any), the land on which the work is to be carried out.

- f) Provide a map of the location of the land.
- g) Provide estimates of the dates for the commencement and completion of the work.

The following additional information must be submitted with the notice to Council:

- h) Copies of any preliminary investigation, detailed investigation and remediation action plan for the site.
 - i) Contact details for the remediation contractor and any other party responsible for ensuring compliance of remediation work with regulatory requirements.
03. Prior to the REGISTRATION OF ANY Subdivision Certificate, the site is to be remediated in accordance with:
- a) A Remedial Action Plan, and
 - b) Development Control Plan No. 42 – Contaminated Land Management, and
 - c) State Environmental Planning Policy No. 55 – Remediation of Land and
 - d) The guidelines in force under the Contaminated Land Management Act.

Within thirty (30) days after the completion of the remediation works, a notice of completion, including validation and/or monitoring report is to be provided to Council. This notice must be consistent with Clause 18 of State Environmental Planning Policy No. 55 – Remediation of Land.

Council reserves the right to request the validation and or/monitoring report, submitted in satisfaction of this condition, be the subject of a Site Audit Report and Site Audit Statement in accordance with the Contaminated Land management Act 1997.

Should the Site Audit Statement conclude that the site is not suitable in its current state, following the implementation of the approved remediation action plan, or that the Site Audit Statement imposes impractical or unwieldy conditions, the construction certificate will not be issued.

04. Consent is granted for the demolition of part of the buildings currently existing on the property, subject to strict compliance with the following conditions:
- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence 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 Council / 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 Council / 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: Council requires 24 hours notice to carry out inspections. Arrangement for inspections can be made by phoning 93679222.

- 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 Office, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the plans will be stamped indicating that no further requirements are necessary.
- 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 5.30pm 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 Department of Environment and Climate Change NSW.
- 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.

- 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 Council / 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 / Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.
05. Prior to the commencement of demolition works on the subject site a security deposit to the value of \$10 300 must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.
- Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. A request for release of the security may be made to the Council after all construction work has been completed. 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.
- Video inspection must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of the works.
06. 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 0.0035 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.
07. The applicant must bear the cost of construction of the following works prior to release of the Subdivision Certificate:
- a) Construction of a concrete vehicle crossing at the Edna Street frontage of the site.

Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council for a Roadworks Permit under Section 138 of the *Roads Act 1993* and Section 68 of the *Local Government Act 1993* for approval to construct these works.

The Roadworks Permit must be obtained from Council and the works constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of a Subdivision Certificate.

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

08. A Soil and Water Management Plan must be provided prior to the commencement of demolition, remediation or other works required for the issue or registration of the Subdivision Certificate. The Soil and Water Management plan must be compatible with the Construction Management and Traffic Management Plan referred to in this Development Consent and must address, but is not limited to the following issues:
- a) Minimise the area of soils exposed at any one time.
 - b) Conservation of top soil.
 - c) Identify and protect proposed stockpile locations.
 - d) Preserve existing vegetation. Identify revegetation technique and materials.
 - e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
 - f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodible velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
 - g) Sediment and erosion control measures in place before work commences.
 - h) Materials are not tracked onto the road by vehicles entering or leaving the site.
 - i) Details of drainage to protect and drain the site during works.
 - j) A durable sign, available from Council must be erected during the works in a prominent location on site, warning of penalties should appropriate measures required by the Soil and Water Management Plan not be maintained.
09. Prior to the commencement of demolition, remediation or other works required for the issue or registration of the Subdivision Certificate the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan as relevant:
- a) A plan view of the entire site and frontage roadways indicating:

- i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with “preliminary accreditation” from the Institution of Surveyors New South Wales Inc. or an accredited certifier.
- b) **Construction Noise**
During demolition, remediation or other works required for the issue or registration of the Subdivision Certificate, , noise generated from the site must be controlled.
- 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 demolition, remediation or other works required for the issue or registration of the Subdivision Certificate , 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.
- e) **Traffic control plan(s) for the site**
All traffic control plans must be in accordance with the Roads and Traffic Authority publication “Traffic Control Worksite Manual” and prepared by a suitably qualified person (minimum ‘red card’ qualification). The main stages of the development

requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

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

10. A Waste Management Plan is to be provided prior to the commencement of demolition, remediation or other works required for the issue or registration of the Subdivision Certificate. The Waste Management Plan is to be prepared in accordance with Council's Development Control Plan No 38 – Avoid, Reuse, Recycle. The plan must address all issues identified in Development Control Plan No 38 including but not limited to:
 - a) Estimated quantities of materials that are reused, recycled, removed from site.
 - b) On site material storage areas during construction.
 - c) Materials and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste generated.

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

11. The site must be secured and fenced prior to demolition, remediation or other works required for the issue or registration of the Subdivision Certificate commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

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.

Separate approval is required to erect a hoarding or temporary fence 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.

12. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
13. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form and details of the appointed Principal Certifying Authority shall be submitted to Council.
14. Prior to the commencement of works, a sign must be erected in a prominent position on the site 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 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.

DURING DEMOLITION, REMEDIATION OR OTHER WORKS REQUIRED FOR THE ISSUE OR REGISTRATION OF THE SUBDIVISION CERTIFICATE

- 15. Building materials and machinery are to be located wholly on site.
- 16. The site must be appropriately secured and fenced at all times during works.
- 17. Excavation, building or subdivision work must be restricted to the hours of 7:00am to 5:30pm Monday to Friday inclusive, 7:00am to 1:00pm Saturday. Work is not be carried out on Sunday or Public Holidays.
- 18. The development site must be inspected at the following stages during construction:
 - a) At the commencement of the building work, and
 - b) Prior to covering any stormwater drainage connections, and
 - c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- 19. During all phases of demolition, remediation or other works required for the issue or registration of the Subdivision Certificate , it is the full responsibility of the applicant and their contractors to:
 - a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works.
 - a) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
 - b) Ensure dedicate overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities must be sited fully clear of Councils stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed and at no cost to Council.

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

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

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

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

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

Any soil, which fails to meet the criteria, is not to be disposed of off-site unless agreed to in writing by the Department of Environment and Conservation. Results of the testing are to be forwarded to Leichhardt Council and the Department of Environment and Conservation for acknowledgement before any off-site disposal and before proceeding with any construction works.

23. The requirements of the Soil and Water Management Plan must be maintained at all times during the demolition, remediation or other works required for the issue or registration of the Subdivision Certificate works and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

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

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

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

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

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

25. An easement in favour of Council must be obtained over the Council stormwater drainage pipeline located within the proposed southern lot. The easement width must be 2400mm and the pipeline should be generally located central to the easement.

The easement must be registered on the title of the relevant lot(s) and lodged with the Lands and Property Information NSW. The easement plan must be approved by Council prior to lodgement at the Lands and Property Information NSW.

Proof of lodgement of the easement with Lands and Property Information NSW must be provided to the Principle Certifying Authority prior to the issue of a Subdivision Certificate.

26. Prior to the issue of a Subdivision Certificate, the applicant shall submit an original plan of subdivision plus six (6) copies for Council's endorsement. The following details shall also be submitted:
- a) Evidence that all conditions of Development Consent have been satisfied.
 - b) Evidence of payment of all relevant fees.
 - c) The 88B instrument (if required) plus six (6) copies.
 - d) A copy of the final Occupation Certificate (if required) issued for the development.
 - e) All surveyor's or engineer's certification required by the Development Consent.
 - f) A copy of the Section 73 Compliance Certificate (if required) issued by Sydney Water.
27. A contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 for the services detailed in column A and for the amount detailed in column B shall be made to Council prior to the issue of a Subdivision Certificate:

COLUMN A	COLUMN B
Open space and recreation	\$17200
Community facilities and services	\$2650
Local area traffic management	\$110
Light rail access works	\$25
Bicycle works	\$15

The total contribution is: \$20 000

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

NOTES

- A. This Determination Notice operates or becomes effective from the endorsed date of consent.
- B. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated development

or a complying development certificate. The request for review must be made within twelve (12) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. A decision on a review may not be further reviewed under Section 82A.

- C. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within twelve (12) months of the determination date.
- D. 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.
- E. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
- F. 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 Place of Public Entertainment. Further building work may be required for this use in order to comply with the Building Code of Australia.
 - c) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - e) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - f) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - g) Development Application for demolition if demolition is not approved by this consent.
 - h) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - i) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
- G. 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.

PRESCRIBED CONDITIONS

A. BASIX Commitments

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

In this condition:

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

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

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

E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building 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.

Have you made a political donation?

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