



NSW GOVERNMENT  
**Department of Planning**

**COPY**

**Office of the Director General**

Ms Carolina De Wolff  
Sydney Water Corporation  
PO Box A53  
SOUTH SYDNEY NSW 1232

Y08/2888

Dear Ms De Wolff,

**Subject: Determination of application for a site compatibility certificate, State Environmental Planning Policy (Infrastructure) 2007**

I refer to your application of 10 October 2008 for a site compatibility certificate under clause 19(1) of State Environmental Planning Policy (Infrastructure) 2007 ('the SEPP') in relation to the proposal to use the land for residential purposes at Lot 1 DP 343175, 35 Edna Street, Lilyfield, Leichhardt LGA.

I have made the determination to issue the site compatibility certificate under clause 19(5) of the SEPP on the basis that the site of the proposed development is compatible with surrounding land uses, having had regard to the matters in clause 19(6).

Should you have any further enquiries about this matter, I have arranged for Anthony Witherdin, to assist you. Anthony may be contacted at the Department's Bridge Street Office on telephone number (02) 9228 6173.

Yours sincerely

*SHaddad*

Sam Haddad  
**Director General**

18/11/2008.

**Additional Uses on State Land**  
**Determination of Certificate of Site Compatibility**  
Division 2 Part 2 of *State Environmental Planning Policy (Infrastructure) 2007*

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I, the Director-General of the Department of Planning, pursuant to clause 19(5) of the *State Environmental Planning Policy (Infrastructure) 2007*, determine the application (108\_022) made by Sydney Water Corporation on 10 October 2008 by issuing this certificate.

For the purposes of obtaining consent to development referred in clause 18(3), I certify that in my opinion, the development of the site described in Schedule 1:

- is compatible with the surrounding land uses, having had regard to the matters specified in clause 19(6); and
- is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land.

  
**Sam Haddad**  
Director-General  
Department of Planning

Date certificate issued: 18 November 2008.

**Please note:** This certificate will remain current for 5 years from the date of issue.

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**SCHEDULE 1**

**Site description:** Lot 1 DP 343175, 35 Edna Street, Lilyfield

**Application made by:** Sydney Water Corporation

**Project description:** Use of allotment for residential purposes.

**SCHEDULE 2**

**Requirements imposed on determination:** N/A

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**BUILDING AND DEVELOPMENT COUNCIL****OCTOBER 2010**

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<b>Development Application No.</b>	Ø D/2010/218
<b>Address</b>	Ø 35 Edna Street, LILYFIELD NSW 2040
<b>Description of Development</b>	Ø Subdivision of the site into two (2) lots, one (1) lot to remain a public purpose lot to be retained by Sydney Water and one (1) lot for future residential development.
<b>Date of Receipt</b>	Ø 7 May 2010
<b>Value of Works</b>	Ø Nil
<b>Applicant's Details</b>	Ø Sydney Water Corporation Charter Link Suite 406 1-3 Gladstone St NEWTOWN NSW 2042
<b>Owner's Details</b>	Ø Sydney Water C/- Property Group PO BOX 399 PARRAMATTA NSW 2124
<b>Notification Dates</b>	Ø 18 May 2010 to 1 June 2010.
<b>Number of Submissions</b>	Ø Nil
<b>Building Classification</b>	Ø N.A
<b>Integrated Development</b>	Ø No

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<b>Main Issues</b>	Ø Potential for future development, site contamination, stormwater management
<b>Recommendation</b>	Ø Approval

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<b>Attachment A</b>	Ø Plans of proposal
<b>Attachment B</b>	Ø Draft conditions of consent

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LOCALITY MAP

Subject Site



Objectors



Notified Area



Supporters



## 1. PROPOSAL

This application seeks consent for subdivision of the site into two (2) lots, one (1) lot to remain a public purpose lot to be retained by Sydney Water and one (1) lot for future residential development, at 35 Edna Street, LILYFIELD NSW 2040. All existing buildings (bar the aquaduct) on the site will be demolished. This demolition is Exempt work under Clause 77 of *State Environmental Planning Policy (Infrastructure) 2007*, and does not require the approval of Council.

The application is made by on behalf of Sydney Water and hence Section 89(1) of the *Environmental Planning and Assessment Act 1979* applies:

### 89 Determination of Crown development applications

- (1) A consent authority (other than the Minister) must not:
- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or
  - (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

Recent amendments to the Act require that if Council wishes to refuse or impose conditions not agreed to by the Crown, the application must in the first instance be referred to the Joint Regional Planning Panel (JRPP) for consideration, rather than the Minister. Notably, the JRPP appears to have no authority to refuse any Crown application unless so directed by the Minister.

The Minister can direct the JRPP to approve the DA with or without conditions or to refuse the DA. If the JRPP fails to comply with the Ministers direction within the time specified, the application is automatically determined in accordance with the Minister's direction.

Sydney Water have reviewed Council's draft conditions and raise no objection.

## 2. SITE DESCRIPTION

The site is approximately 2180.1m<sup>2</sup> in area and has a frontage of 32.745m to White Street, 55.63m to Piper Street and 32.38m to Edna Street, and also has an 8.68m splay between White Street and Piper Street. The site is located on the western side of White Street, running east-west along Piper Street.

The site presently accommodates a works depot and associated buildings used by Sydney Water. The adjoining properties consist of the heritage listed Annandale/Leichhardt aquaduct, with residential dwellings to the south.

The site is located within the distinctive neighbourhood of Leichhardt – Catherine Street.

The subject site contains a heritage item known as the Annandale/Leichhardt aquaduct, however it is not located within a conservation area. The site is identified as a flood control lot.

### 3. SITE HISTORY

The following table outlines the development history of the subject site.

Date	Application Details
2008	Site Compatibility Certificate issued by Department of Planning to “adopt” adjoining residential zoning.
2009	Pre DA for subdivision and residential development

### 4. ASSESSMENT

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning & Assessment Act 1979.

#### (a)(i) Environmental Planning Instruments

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

- State Environmental Planning Policy No.1 – Development Standards
- State Environmental Planning Policy No.55 –Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Leichhardt Local Environmental Plan 2000
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The following summarises the assessment of the proposal against the development standards and lists the other relevant clauses of the Leichhardt Local Environmental Plan 2000.

Development Standard	LEP 2000 Requirement	Proposal m <sup>2</sup>	Proposal ratio / %	Compliance	% of Non-compliance
Subdivision	200m <sup>2</sup>	1224m <sup>2</sup> & 956m <sup>2</sup>	Complies	Yes	0%

The application satisfies the provisions of the above Environmental Planning Instruments.

The application does not, at this stage, propose new buildings or further development. Lot 1, being 956m<sup>2</sup> will be retained by Sydney Water. Lot 2, being 1224m<sup>2</sup> will be remediated and on-sold to a future developer for, presumably, residential purposes. Lot 2 is large enough to accommodate four Torrens title lots each being in excess of 200m<sup>2</sup>, and of a size and dimensions consistent with the prevailing subdivision pattern in this area, or six lots also in excess of 200m<sup>2</sup>, but of dimensions not characteristic of the area. However, it will also be open to a future applicant to apply to develop the site more intensively than strict compliance with the planning controls of LEP and DCP 2000 would allow. Any such application will be addressed on its merits.

### Clause 16 – Heritage Items.

The site contains an Item of Environmental Heritage listed under LEP 2000 as having State significance and is listed on the State Heritage Register, and known as the Annandale/Leichhardt aquaduct. At the preDA stage Council requested that the plans allow for a setback from White Street to permit a line of sight to the aquaduct. This setback has been incorporated into the proposed subdivision plan by way of an easement across part of lot 2, over which no building will be permitted.

There are no works proposed to the aquaduct, which will be encompassed within lot 1, retained by Sydney Water.

A Section 60 consent has already been issued by the Heritage Branch of the Department of Planning for the works.

Clause 16 of the LEP also requires that any development application pertaining to an Item of Heritage having State significance be assessed having regard to a Conservation Management Plan for the Item. The applicant has submitted such a Plan, which identifies the importance of the heritage fabric, and appropriate measures for its protection.

### Clause 30 – Subdivision of land

This clause requires that:

*Before consenting to a subdivision of land, the consent authority must consider whether the subdivision will:*

- (a) provide an appropriate setting for development in terms of site areas, dimensions and amenity to satisfy the needs of future residents and businesses, and*
- (b) protect the urban form, scale and density of the locality.*

The proposed site areas and dimensions are satisfactory in this regard. The applicant has lodged indicative plans which demonstrate that a dwelling could be constructed on the anticipated lots, in accord with the planning controls of LEP and DCP 2000.

### State Environmental Planning Policy 55 – Remediation of land

See discussion later in this report under DCP 42 heading.

### State Environmental Planning Policy (Infrastructure) 2007

The site is currently zoned Public Purpose under LEP 2000, and residential development is not permitted. However, on 18 November 2008 the site was issued with a Site Compatibility Certificate (SCC) pursuant to clause 19 of the Infrastructure SEPP which permits the site to be developed in accordance with the adjoining residential zoning.

### **(a)(ii) Draft Environmental Planning Instruments**

There are no Draft Environmental Planning Instruments applicable to the subject application.

### **(a)(iii) Development Control Plans**

The application has been assessed against the relevant Development Control Plans listed below:

- Leichhardt Development Control Plan 2000
- Leichhardt Development Control Plan 36 – Notifications
- Leichhardt Development Control Plan 38 – Avoid, Reuse, Recycle (Waste Management)
- Leichhardt Development Control Plan 42 – Contaminated Land Management

More specifically, the application has been assessed against the following clauses of Development Control Plan 2000.

#### **Part B1.1 Demolition, site layout, subdivision and design**

Whilst the proposal does not formally include an application for new buildings, the information submitted has demonstrated that residential development could take place on Lot 2 in a manner wholly consistent with the statutory and policy controls of LEP and DCP 2000.

The application satisfies the provisions of the above Development Control Plans.

#### **Leichhardt Development Control Plan No.42 – Contaminated Land Management**

The site is required to be remediated before residential land use can be carried out, however the remediation itself is Category 2 under State Environmental Planning Policy 55, and does not require separate development consent.

A condition of consent shall be imposed requiring that the subdivision certificate cannot be registered until the site has been remediated and a site audit clearance certificate issued.

### **(a)(iv) Environmental Planning and Assessment Regulation 2000**

The Development Application has been assessed against the relevant clauses of the Environmental Planning and Assessment Regulation 2000. The Development Application fully complies with the Environmental Planning and Assessment Regulation 2000.



Clause 92(1)(b) of the Regulation Council to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. The demolition of the existing structures is to be carried out in accordance with a construction/demolition management plan, which is to be submitted prior to the issue of a Construction Certificate. Conditions to this effect are included in the recommendation section of this report.

**(b) The likely environmental both natural and built environment, social and economic impacts in the locality**

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

**(c) The suitability of the site for the development**

The site is zoned Residential (pursuant to Cl. 19 Infrastructure SEPP – SCC issued). 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.

**(d) Any submissions made in accordance with the Act or the regulations**

The Development Application was notified for a period of 14 days.

The notification period was from 18 May 2010 to 1 June 2010.

The notification of the application included:

- § Letters sent to 30 properties.
- § A yellow site notice placed on the site.
- § Listing under the notification section on Council's website.

No objections were received during the advertising period.

**(e) 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.

## **5. SECTION 94 CONTRIBUTIONS**

Section 94 contributions are payable for the proposal. The lot, at 1224m<sup>2</sup>, will be subject to the State Government's \$20 000 cap – see calculation below. However, when a future development application is lodged for further intensification of the residential yield on the site (by way of subdivision or residential buildings) then that

future development application will also be levied as relevant. A credit of the \$20 000 as above will be apportioned to each future site (eg if there a four lots proposed on future then each one would be given a credit of \$5000).

Council levy:

Open Space Contribution	\$39 971.00
Community Services	\$6109.00
Transport & Access	\$280.35 (\$227.32 = LATM, \$18.90 = Light rail, \$34.14 = bicycles)

As indicated above, the actual levy is capped at \$20 000 by the State Government. Consequently, the actual levy for each of the three totals above should be proportionally reduced for each of those totals, equalling \$20 000.

This means that the actual levies will be as follows:

Open space and recreation	\$17200
Community facilities and services	\$2650
Local area traffic management	\$110
Light rail access works	\$25
Bicycle works	\$15
<b>TOTAL</b>	<b>\$20,000</b>

## 6. INTERNAL REFERRALS

The Development Application was referred to the following Council Officers:

### Drainage Engineer

A drainage easement is required over the existing Council stormwater drainage pipeline.

All redundant vehicle crossings must be closed prior to subdivision certificate.

Clarification of proposed demolition should be provided prior to determination, noting that an existing building extends across the common boundary between lots.

### Heritage Advisor

The application is supported on heritage grounds

### Environmental Officer

The following issues are raised in response to the proposal:

- A Remediation Action Plan (RAP) is to be produced in accordance with the recommendations of the Stage 1 and 2 ESA and SAS.

Response: The above matters have been addressed, or will be imposed as conditions of consent where applicable.

## **7. EXTERNAL REFERRALS**

The Development Application was not required to be referred to any external body for comment.

## **8. CONCLUSION**

The Development Application has been assessed in accordance with Section 79C(1) of the Environmental Planning & Assessment Act 1979 and all relevant instruments and policies. The proposal satisfies the objectives of Leichhardt Local Environmental Plan 2000 and will not result in significant adverse impacts for locality. Accordingly the application is recommended for approval, subject to the conditions listed below.

## **9. RECOMMENDATION**

That Council as the consent authority pursuant to s80 of the Environmental Planning & Assessment Act 1979 grant consent to Development Application No: D/2010/218 for Subdivision of the site into two (2) lots, one (1) lot to remain a public a public purpose lot to be retained by Sydney Water and one (1) lot for future residential development at 35 Edna Street, LILYFIELD NSW 2040 subject to Council's standard conditions.

1. 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.

<b>Plan Reference</b>	<b>Drawn By</b>	<b>Dated</b>
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**

2. 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:

- a) Be in writing.
- b) Provide the name, address and telephone number of the person who has the duty of ensuring that the notice is given.
- c) Briefly describe the remediation work.
- d) 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).
- e) 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.
3. 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.

4. 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.
5. 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.

6. 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.
7. 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.

8. 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.
9. 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 to 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.

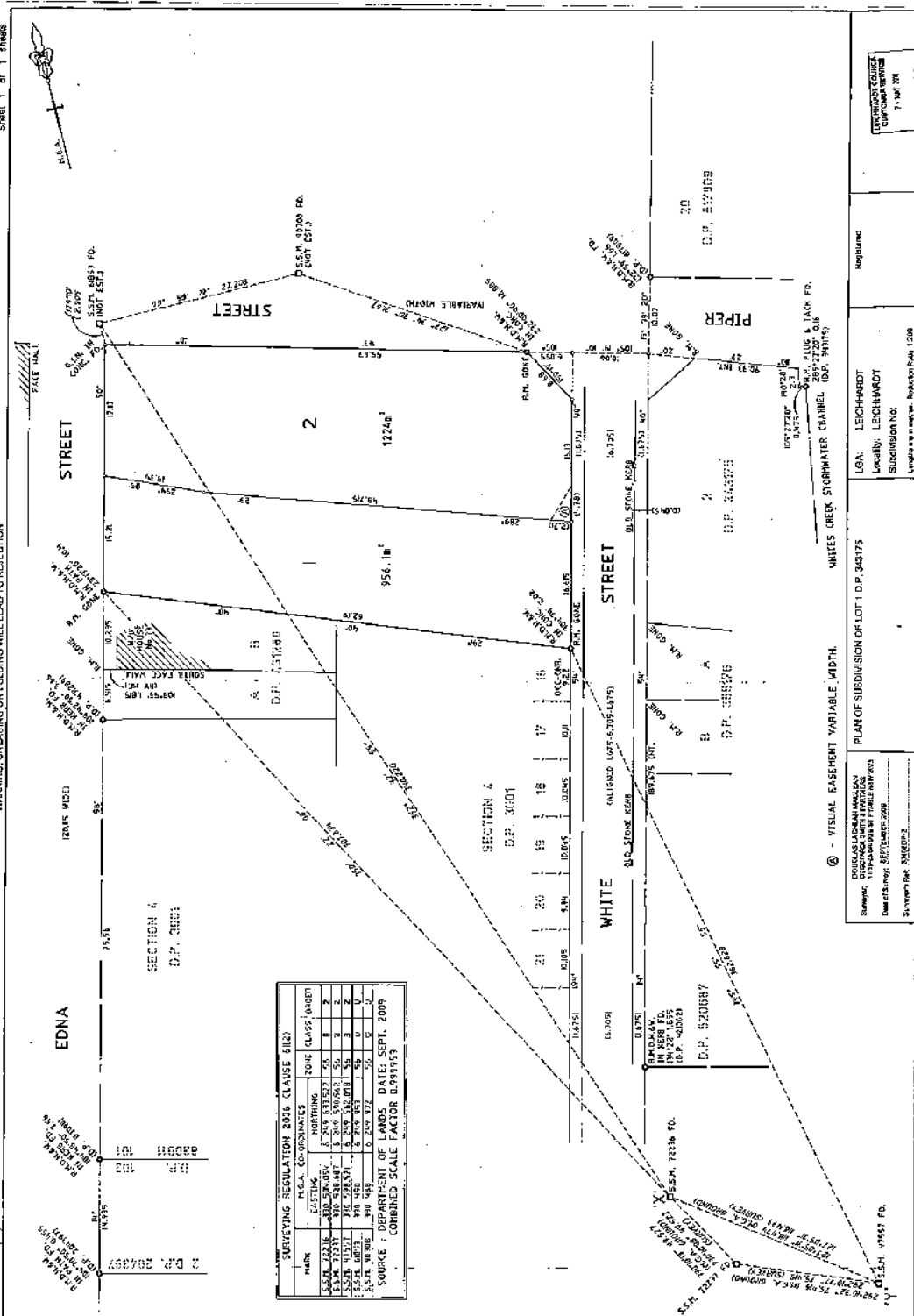
Proof of lodgement of the easement with Lands and Property Information NSW must be provided to the Principle Certifying Authority prior to the issue of a Subdivision Certificate.

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:

<b>COLUMN A</b>	<b>COLUMN B</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](http://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.





## 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).

- e) 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:

- b) 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.
  - b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
  - c) 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 Council's 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.

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  - 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](http://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 the 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.

**Agenda Item 15**     **D/2010/218**  
**Address:**         35 Edna Street, LILYFIELD  
**Description:**     Subdivision of the site into two (2) lots, one (1) lot to remain a public a public purpose lot to be retained by Sydney Water and one (1) lot for future residential development.  
**Applicant:**         Sydney Water Corporation  
**BDC162/10**         **RESOLVED**             **PORTEOUS/KOGOY**

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.

### **CARRIED UNANIMOUSLY**

### **RECOMMENDATION**

That Council as the consent authority pursuant to s80 of the Environmental Planning & Assessment Act 1979 grant consent to Development Application No: D/2010/218 for Subdivision of the site into two (2) lots, one (1) lot to remain a public a public purpose lot to be retained by Sydney Water and one (1) lot for future residential development at 35 Edna Street, LILYFIELD NSW 2040 subject to Council's standard conditions.

### **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.

<b>Plan Reference</b>	<b>Drawn By</b>	<b>Dated</b>
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.





25 October 2010

Sydney Water Corporation  
Charter Link Suite 406  
1-3 Gladstone St  
NEWTOWN NSW 2042

ABN: 92 379 942 845  
7-15 Wetherill Street, Leichhardt NSW 2040  
PO Box 45, Leichhardt NSW 2040  
Phone: (02) 9367 9222 Fax: (02) 9367 9111  
TTY: 9568 6758  
Email: leichhardt@lmc.nsw.gov.au  
www.leichhardt.nsw.gov.au

Contact: Adele Cowie

Phone: 9367 9085

Dear Sir/Madam

**RE: DEVELOPMENT APPLICATION  
PROPERTY: 35 EDNA STREET, LILYFIELD NSW 2040  
REFERENCE: D/2010/218**

I refer to the above development application, which was considered by Council at the meeting of 12 October 2010.

At that meeting Councillors expressed their preference that the site, being surplus public land, be used solely for the purposes of affordable housing.

Council therefore wishes to know whether Sydney Water, as owner and applicant, would consent to the imposition of a condition that requires a positive covenant to be attached to the title of the newly subdivided lot (in the event of approval) which only allows for use of the new site as affordable housing.

In the event that no such agreement is forthcoming I must advise that the meeting then resolved that the application be referred to the relevant Joint Regional Planning Panel recommending refusal. The meeting also resolved that correspondence be entered into with the Minister for Planning, and the Minister for Water regarding the desirability of using the site for affordable housing. Council will forward this correspondence once we have received your reply to the aforementioned.

Should you wish to discuss any aspect of the application, please contact me between 8:30am to 10:00am Monday to Friday on 9367 9085.

Alternatively, an appointment can be made or a message can be left and I will contact you as soon as possible.

Yours faithfully

Adele Cowie

**Acting Team Leader, Assessments**

15 November 2010

The General Manager  
Leichhardt Council  
PO Box 45  
LEICHHARDT NSW 2040

Attention; Adele Cowie  
Acting Team Leader, Assessments

Dear Ms Cowie

**Crown Development Application D/2010/218 – 35 Edna Street, Lilyfield.**

We refer to your letter of 25 October, 2010.

Sydney Water as 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.

Council has the ability to impose an affordable housing condition upon a development application for residential development of the site by a future owner. As an alternative, Council could purchase the site from Sydney Water at full, unaffected value and develop the site for affordable housing.

As Council has now exceeded the time allowed under the EP& A Act for determination of a Crown DA, the application should be referred to the Joint Regional Planning Panel (JRPP). Please confirm that Council is to be the applicant to the JRPP as indicated in your letter.

We note that Council intends to write to the Minister for Planning and the Minister for Water about this application. We ask that Council provide copies of such correspondence to Sydney Water.

If you require further information please contact Carolina de Wolff on 8849 6321.

Yours sincerely



Gary Inberg  
Manager Property

c.c. Geoff Fitzsimmons, Charterlink