

JRPP No.	2011SYE023
DA No.	217/2010
Proposed Development	Subdivision into 2 lots and remediation of the site, 250 Annandale Street, Annandale
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 the existing land into two lots and remediation of the site. Lot 1 is intended for future residential use and Lot 2 is to be retained by Sydney Water.

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 deferred the application to pursue a Voluntary Planning Agreement to meet Council's housing and open space objectives, and subsequently refused the DA when Sydney Water advised it was referring the DA to the JRPP.

The Panel Secretariat found the request to use the site to meet Council's open space objectives not justified. The subdivided Lot 1 will be just over 5 meters wide which would contribute little as usable open space for the locality. There are 3 existing parks in the neighbourhood. The land is not identified as open space for acquisition in the LEP. There is no supporting information that demonstrates there is a shortage of public open space in the area. Hence the refusal on this ground is unreasonable and not supported.

In terms of meeting Council's housing objectives, Council's LEP requires lots containing 4 or more dwellings to provide a diverse mix of dwellings. The proposed Lot 1 can only accommodate a single dwelling and it is unreasonable to require the dwelling to be affordable.

As such 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 250 Annandale Street, Annandale and is located on the western side of Annandale Street and extends to Collins Lane to the west. It is located within the Annandale Street neighbourhood under the Leichhardt DCP 2000, which is an established residential precinct.

The site is L shaped and has a frontage of 18.7 m to Annandale Street, 11.43m to Collins Lane, is 45.72m deep and has an area of approximately 719.5 m².

The site presently accommodates a single storey brick building used for storage purposes and the Annandale/ Leichhardt Aqueduct, a heritage listed item.

The site is surrounded by residential properties of one and two storeys.

Figure 1: Site location



Source: Statement of Environmental Effects, 250 Annandale St, Annandale – April 2010

3. PROPOSAL

The application seeks consent for subdivision of the site into two lots and associated works.

Lot 1 is located at the southern portion of the site and is intended for future residential development. The lot has a frontage of 5.3 metres to Annandale Street and 3.75 metres to Collins Lane at the rear. The lot is rectangular in shape and has a total area of 223.9 m².

Lot 2 is located on the remaining portion of the site and is to be retained by Sydney Water. The lot has a frontage of 13.445 metres to Annandale Street and a total area of 495.6 m².

The proposal includes an extension to Collins Lane to the north to improve access for Sydney Water vehicles to Lot 2 and also resident's vehicle access to Lot 1. The proposed extension of the lane is 52.4 m² in area and includes 27.1 m² of land on the western area of the site.

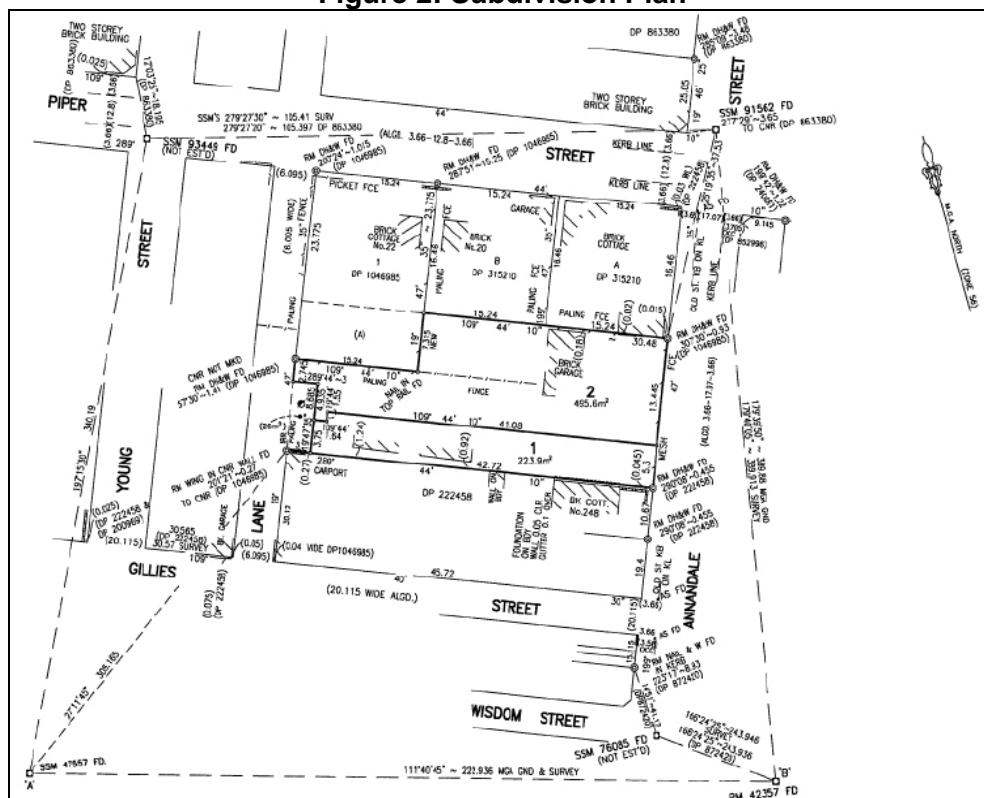
Remediation works are also proposed for Lot 1, to make the land suitable for residential purposes.

All structures on Lot 2 are proposed to be demolished as part of the application. 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 26 November 2008 (attachment ii) which permits the use of Lot 1 for residential purposes.

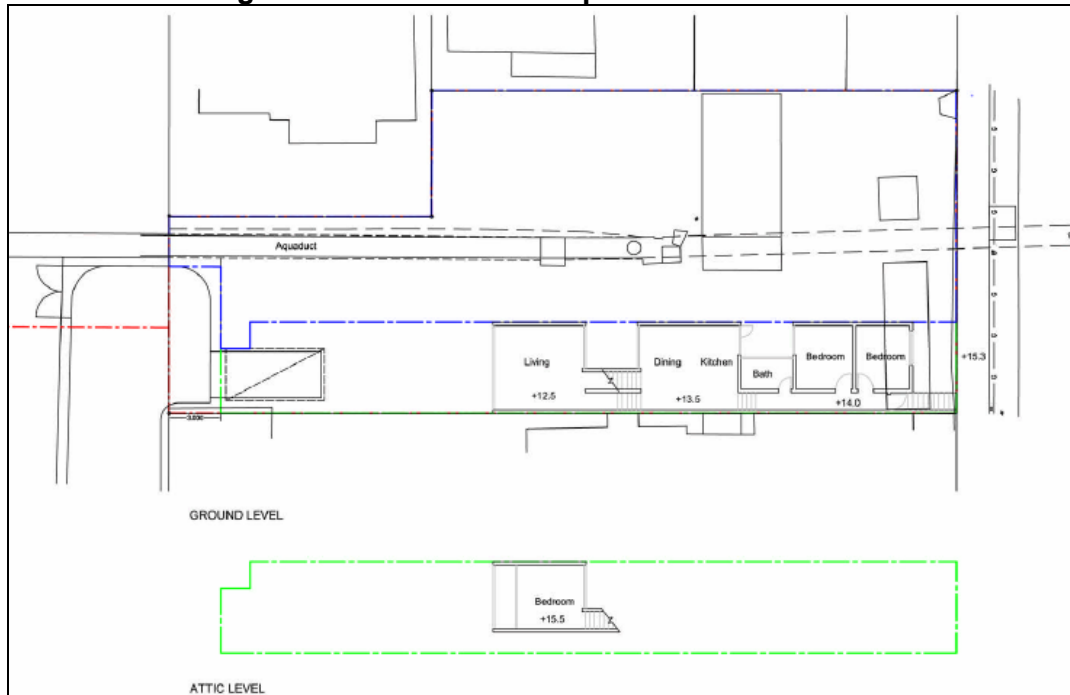
Submitted with the application is an 'Indicative Development Outcome' plan that shows Lot 1 can accommodate a single dwelling house which is compatible to the scale and form of development in the locality. As this is an indicative plan for Lot 1 it does not form any part of the subject application.

Figure 2: Subdivision Plan



Source: Statement of Environmental Effects, 250 Annandale St, Annandale – April 2010

Figure 3: Indicative Development Outcome Plan



Source: Statement of Environmental Effects, 250 Annandale St, Annandale – April 2010

4. BACKGROUND SUMMARY

- 26 November 2008: Site Compatibility Certificate issued;
- 11 March 2009: Pre Development application meeting held;
- 7 May 2010: DA 2010/217 lodged with Leichhardt Council;
- 24 May – 23 June 2010: DA was exhibited for a period of 30 days. Two objections were received;
- 9 November 2010: Building and Development Council Meeting resolved to defer the DA for Council to pursue a VPA;
- 16 November 2010: Sydney Water advised of Building and Development Council resolution;
- 15 December 2010: Sydney Water advised Leichhardt Council it was referring DA 2010/217 to the JRPP for determination;
- 8 February 2011: Building and Development Council Meeting resolved to refuse the DA;
- 18 February 2000: Sydney Water referred DA 2010/217 to the JRPP as the DA had been refused by Leichhardt Council.

5. ENVIRONMENTAL PLANNING INSTRUMENTS

Under the Leichhardt Local Environmental Plan (LLEP) 2000 the subject site has two zonings, with the northern portion of the site zoned 'Residential' and the southern portion zoned "Public Purpose". The southern portion (Lot 1) 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 have a minimum area of 200m². The application satisfies this requirement with Lot 1 having an area of 223.9 m² and Lot 2 an area of 495.6 m².

Lot 1 is shown in the Indicative development outcome plan to be able to contain a single dwelling house that can meet the local planning controls, guidelines and character of the surrounding area.

The site contains the Annandale/ Leichhardt aqueduct, an item listed on the State heritage register. There are no works proposed to the aqueduct and it will be encompassed wholly within Lot 2, to be retained by Sydney Water.

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. The applicant has also submitted a Heritage Impact Statement as required by clause 16(2) of LLEP 2000.

Under SEPP No. 55 – Remediation of Land, the site is required to be remediated before residential land use can be carried out and consent must be granted for the remediation as the site is located within a Heritage Conservation Area. A Remediation Action Plan has been submitted with the application and states that Lot 1 can be remediated so it is suitable for residential use.

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 30 days from 24 May 2010 to 23 June 2010 and letters were sent to 37 properties. Two objections were received during the advertising period.

Concerns raised in the submissions include reduction in aesthetics, privacy and feel of the area, increase in car numbers, increase in activity on Collins Lane, impact of dust from remediation, small size of Lot 1, negative impact on adjoining neighbours and impact on heritage item. Council's Assessment Report has addressed the concerns raised in the submissions and the application is not contrary to the public interest.

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)(a) of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that a consent authority must not refuse its consent to a Crown development application, except with the approval of 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 resolved to refuse the application (DA 2010/217) 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 9 November 2010:

'That the application be deferred in order for Council to pursue a Voluntary Planning Agreement to meet Councils housing and open space objectives.

That a valuation of the proposed allotment be done.'

- The DA went before the Building and Development Council Meeting again on 8 February 2011 and it was resolved:

'That the application be refused.'

Applicant – Sydney Water Corporation

- Sydney Water is required to gain the highest value for its surplus land and agreeing to a Voluntary Planning Agreement (VPA) for affordable housing or open space would not achieve the highest value.
- As Council resolved to refuse the DA on 8 February 2011, 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 November 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 frontage of Lot 1, intended for future residential use, is only 5.3 metres, however the area of Lot 1 is 223.9 m², which meets the minimum lot size under LLEP 2000. It has been shown via the Indicative Development Outcome Plan that Lot 1 can contain a single dwelling house that is consistent with the statutory and policy controls of LLEP and DCP 2000. Narrow lots are characteristics of the locality and houses in the vicinity of Lot 1 have similar frontages.

The application is not contrary to the public interest and will provide land for residential use in an area well served by public transport, services and amenities.

The application is supported on heritage grounds by Council's Heritage Officer, as the subdivision proposes no works to the Annandale/ Leichhardt aqueduct.

Council's resolution to seek a VPA for affordable housing or open space is not considered a reasonable request or justified.

Part 6 of LLEP 2000 'Open Space, Recreation and Leisure' outlines Council's objectives in regards to open space. The relevant objectives are

'24 (a) to maximise the provision of open space in order to provide a diverse range of settings and recreational opportunities to meet the needs of the community

24 (b) to ensure the equitable distribution of, and access, to open space and recreation facilities'

It is considered that the site would contribute little as usable public open space for recreational use given the size and shape of the proposed Lot 1. Also, the subject site is in close proximity to Whites Creek Valley Park, Hinsby Park and a small play area to its north at Gray Street.

Additionally Council has identified in its LEP land for acquisition. The subject site is not included in this table. Therefore Council's request is not consistent with the plan or justified.

Council's objectives in relation to housing are outlined in Part 4 of LLEP 2000 'Housing' that is:

'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'

Due to the size of the Lot, only one dwelling house is expected to be developed on the site as shown in the Indicative Development Outcome Plan. The LLEP requires lots containing 4 or more dwellings to provide a diverse mix of dwellings. The site does not meet the requirement. As such the Panel Secretariat considers the request unreasonable and does not support this request.

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 26 November 2008
- iii) Development Assessment Report, prepared by Leichhardt Council Assessment Officer November 2010;
- iv) Building and Development Council Meeting Resolution, 9 November 2010;
- v) Council correspondence to Sydney Water, 16 November 2010;
- vi) Sydney Water correspondence to Council, 15 December 2010;
- vii) Development Assessment Supplementary Report, February 2011;
- viii) Building and Development Council Meeting Resolution, 8 February 2011;
- ix) Copies of Submissions received.

SCHEDULE 1

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2010/217 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Plan of subdivision 091015	Peter Frederick Moss	Undated
Document Title	Prepared By	Dated
Remediation Action Plan	GHD	June 2006

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.

PRIOR TO THE COMMENCEMENT OF WORKS

2. Consent is granted for the demolition of 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 Council.

- 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.

3. Prior to the commencement of demolition works on the subject site approved by this development consent, a security deposit to the value of \$7,500 must be paid to Council to cover the costs associated with the road and footpath 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.

4. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Council prior to the commencement of works associated with this consent. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

- a) 248 Annandale Street, Annandale.

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

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

5. An engineering design of roadworks in the rear lane, prepared by a qualified practicing Civil Engineer, must be provided for the approval of Council, then the works constructed prior to the issue of a Subdivision Certificate. The design must be prepared/ amended to make provision for the following:
 - a) Construction of the kerb and gutter for the full extent of the proposed turning head extension in the rear laneway.
 - b) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards and Council’s specifications.

The design and construction must be certified by a suitably qualified Civil Engineer.

The design must be submitted to and approved by Council in writing in accordance with Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993 prior to commencement of construction of the works.

The applicant must consult with Council's Manager – Assets in relation to the design of all road works in the rear lane. .

6. The site must be secured and fenced prior to works 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.

7. 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.
8. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
9. 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.
10. 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 WORKS

11. Building materials and machinery are to be located wholly on site.
12. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a structural engineer.

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

- a) Preserve and protect the building from damage.
 - b) If necessary, underpin and support the building in an approved manner.
 - c) Give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate.
13. The site must be appropriately secured and fenced at all times during works.
 14. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphate ores or soils.
 15. 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.
 16. Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.
 17. A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.
 18. Construction material and vehicles shall not block or impede public use of footpaths or roadways.
 19. Where any works are proposed in the rear lane, 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.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

20. Prior to the issue of a Subdivision Certificate for D/2010/217, the site is to be remediated in accordance with:

- a) The relevant approved 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 subdivision certificate will not be issued.

21. Prior to the issue of a Subdivision Certificate, the Principle Certifying Authority must ensure that all approved road and footpath works have been completed in the rear lane 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 Principle Certifying Authority prior to the issue of an Occupation Certificate.

22. 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 plus six (6) copies.
- d) All surveyor's or engineer's certification required by the Development Consent.

All parking spaces and common property, including visitor car parking spaces and on-site detention facilities must be included on the final plans of subdivision.

23. 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.

24. A Registered Surveyor shall provide certification that all services (eg drainage, stormwater, water supply, gas, electricity, telephone) as constructed are contained within each lot or within appropriate easements to accommodate such services. The certification is to be provided prior to the issue of a Subdivision Certificate.
25. Prior to the issue of a Subdivision Certificate a dedication of proposed turning head extension at the rear lane frontage must be made to Council as public road.

A survey plan prepared by a registered surveyor of the proposed lot to be dedicated and one of the remnant lands must be submitted to Council, prior to registration at the New South Wales Department of Lands.

Council will not accept the dedication of any land unless it is in a suitable state for its proposed use. A certificate from a register auditor to this effect will need to be submitted to Council if the land has been used for any purpose that may lead to contamination.

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 decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
- G 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 a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- H 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 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.

Rachel Josey
Acting Manager Assessments