

## **APPENDIX 2 – DRAFT CONDITIONS OF CONSENT**

### **DEFERRED COMMENCEMENT**

The following deferred commencement conditions must be complied with to the satisfaction of Council, prior to the issue of an operational Development Consent.

1. An engineering design of roadworks and stormwater drainage in Elliott Street, Broderick Street and the intersection of Elliott Street and Glassop Street/ Terry Street, must be prepared by a qualified practicing Civil Engineer. The design must be prepared/ amended to make provision for the following:
  - a) Construction of a turning circle at the western end of Elliott Street including road adjustments to the existing kerb, gutter and footpath alignments, stormwater drainage and relocation of power pole(s) as required.
  - b) Construction of a hammer head turning facility at the western end of Broderick Street, and a 1.5m wide concrete footpath around this facility. Note that the above hammer head and footpath facility will encroach on the area of land to be dedicated to Council and referred to in '**Deferred Commencement' Consent Condition 4** of this consent.
  - c) Construction of kerb, gutter and footpath at the Broderick Street frontage on the southern boundary of the site. The plans must show the provision of adjacent concrete footpath within the subject property for the full Broderick Street frontage, east of the hammerhead referenced in **Deferred Commencement Condition 1(b)**. This footpath shall be a minimum of 1.5m width and shall be referenced on the plans as a public Right of Way burdening the allotments currently known as No. 100 Elliott Street, Balmain and No. 102 Elliott Street, Balmain and benefiting Leichhardt Council and all persons authorised by it. Note: See condition 82 for the required terms of the right of way.
  - d) Closure of the redundant vehicle crossing(s) at the Elliott Street frontage of the site
  - e) Construction of vehicle crossings at the Elliott Street frontage of the site.
  - f) Reconstruction of the sandstone kerb and concrete gutter and footpath and grass verge for the remainder of the Elliott Street frontage of the site.
  - g) Construction of kerb ramps as required.
  - h) Installation/ relocation of parking/ traffic signs as required.
  - i) The plans must show existing and proposed on street parking.

- j) The plans must show the location of retaining walls adjacent to the Elliott Street and Broderick Street boundaries.
- k) The design must be accompanied by detailed engineering drawings including relevant long and cross sections and location of utility services.
- l) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards.
- m) The applicant must consult with Council's Manager Assets in relation to the design of all works in the public road reserve.

The design must be provided to the satisfaction of Council and all works within the road reserve must be approved by Council as roads authority under Section 138 of the Roads Act 1993.

2. The design of the vehicular access and off street parking facilities to the lower ground floor car park must be amended to address the following issues:
  - a) The residential carpark and loading dock must be redesigned to address the following issues:
    - i) A clear separation must be provided between the residential access and the loading dock facilities. All manoeuvring associated with the loading dock must be clear of the residential access with the possible exception of manoeuvring associated with a medium rigid vehicle (MRV) for garbage collection.
    - ii) The loading dock must make provision for loading/unloading of a minimum of two service vehicles at any one time. The loading bays must accommodate a small rigid vehicle (SRV) and a medium rigid vehicle (MRV) and both vehicles must be able to manoeuvre into and out of each loading bay while the other vehicle is parked.
    - iii) Provision must be made for clear and convenient access between the loading dock and all commercial components of the development. In this regard, the following issues must be addressed:
      - § Lift access must be provided for delivery of bulky goods to the Ground and Upper Ground floor commercial areas of the development.
      - § The proposed delivery access route to the Upper Ground floor passes through the residential carpark. This is not acceptable and a separate delivery path must be provided.
    - iv) Provision for safe access to the Residential Bike Room, clear of the loading dock facilities.
    - v) Provision of:
      - § Twelve (12) Commercial/Retail parking spaces. These parking spaces must be limited to staff parking; and
      - § Residential parking to all the dwellings in Buildings, C, D, E and F in accordance with the minimum parking provisions

contained in Part A8.0 of the Leichhardt Development Control Plan 2000.

The above amendments are likely to require relocation of the Commercial and Residential Garbage rooms, Residential Bike room, Car Wash bays, Electric Charge bays, Storage Cages and Residential parking spaces. The loss of residential parking spaces must be minimised to address these amendments, all amended storage provision is required to meet the requirements of State Environmental Planning Policy No. 65 and any Car Wash Bays must be separated from the Electric Charge Bay areas must be separated.

- b) The commercial, retail and associated visitor parking must be redesigned to address the following issues:
  - i) Provision of a loading bay for vans and similar delivery/ service vehicles.
  - ii) Provision must be made for ten (10) unallocated visitor parking spaces in close proximity to the carpark entry. A dedicated turning bay must be provided at the end of the visitor parking spaces.
  - iii) An accessible path of travel must be provided between the accessible parking space and the Commercial areas of Buildings A and B

The design must be certified by a suitably qualified Civil Engineer and the architectural plans amended to the satisfaction of Council prior to the consent being operable.

- 3. The Site Drainage Plan on Sheet No DA02/ B, DA03/ B and DA6/ B prepared by RGH Consulting Group dated 18 January 2012 and the Integrated Water Cycle Plan (amended) prepared by RGH Consulting Group dated January 2012 must be amended to address the following issues:
  - a) Provision of on site retention (OSR) facilities with a minimum total volume of 200kL supplying water to all residential and commercial units for laundry purposes, the flushing of all toilets, car wash bays and outdoor usage such as irrigation.
  - b) The OSR facilities must collect runoff from all roof and hard stand areas and landscaped areas where practical.
  - c) Appropriate plans and sections must be provided showing the above.

The architectural plans must be amended to show the location of the storage tank(s) to the satisfaction of Council prior to the consent being operable.

- 4. Detailed plans and landscape plans, these plans being in plan, elevation and section, and supporting documents are to be submitted to Leichhardt Council for approval by Council's Director Infrastructure and Service Delivery,

Council's Manager Parks & Streetscapes, and Council's Manager Assessments, incorporating the following:

- a) An open space / foreshore land dedication to Leichhardt Council as identified on the Land Dedication Plan listed in **Condition 7** of this consent, except where modified by engineering and roadworks conditions listed in this consent. With respect to the open space land to be dedicated to Council:
  - i) Detailed plans and landscape plans as required by this condition are to be provided depicting both the built and unbuilt features, contours and site levels (including recommended finished levels) of the site, proposed landscape features, existing trees to be removed or retained, lawn, and new trees and shrub plantings.
  - ii) Detailed plans and landscape plans as required by this condition are to be provided showing the connection from Broderick Street to the foreshore being coordinated to achieve successful integration in regard to grade and the width of the foreshore link.
  - iii) All areas of land to be dedicated as public open space must not, by design cues or any other means, appear to be private land at any part or appear in any part to belong to the development rather than as public open space.
  - iv) With the aim of mitigating adverse view lines between the development / the area of land to be dedicated to Council and No. 2 Broderick Street, the detailed plans and landscape plans in plan, elevations and sections required by this condition shall show / comply with the following:
    - § A 1.8m timber paling fence shall be provided along the southern boundary shared with No. 2 Broderick Street in the location of the existing chain wire fence;
    - § Suitable native screen planting to appropriate height shall be provided between Building B and the boundary shared with No. 2 Broderick Street; and
    - § A 1.8m high privacy screen, 75% obscure and of complimentary materials, is to be provided to the southern end of the viewing platform.
  - v) The two Coral trees identified as Trees T28 and T31, which are located within the area of land to be dedicated to Council, are to be removed and replaced by suitable native species as nominated by the landscape architect preparing the landscape plans for the site. Details of this tree removal shall be provided on the detailed plans and landscape plans required by this condition.
  - vi) All existing trees within the area of land to be dedicated to Council that are required to be retained by this consent must be identified

on the detailed plans and landscape plans required by this condition, along with a detail of the appropriate protection methods which will be instituted to preserve these specimens during the construction period. All trees required to be retained as part of this consent are to be clearly tagged, and protected during the construction by fences, hoardings or any other measures as recommended by a Level 5 AQF Qualified Arborist with a minimum of 5 years experience with trees on development sites.

- vii) The location of all trees which are permitted to be removed within the area of land to be dedicated to Council must be clearly identified on the detailed plans and landscape plans required by this condition.
- viii) All detailed plans and landscape plans required by this condition showing existing trees to be retained and trees to be removed within the area of land to be dedicated must show the following details:
  - § Tree location;
  - § Trees to be numbered;
  - § Species (predominantly native) with both botanical and common names;
  - § Container size and mature height;
  - § Planting details, mulching types and depth, soil cultivation and/or remediation details, edge treatments and irrigation details; and
  - § Typical details for all landscape treatments including new stone retaining walls, access stairs and viewing platforms are to be submitted to Council for approval.
- ix) A maintenance plan with respect to all on-site landscaping work is to be provided.
- x) Paving proposals for the path network are to be clearly identified on the detailed plans and landscape plans required by this condition.
- xi) Open Space furniture is to be clearly identified on the detailed plans and landscape plans required by this condition. Such plans must also show, detail and / or outline type and the fixing method for each item. Provision of park furniture is to include seats, litter bins, dog tidy bins, bollard lighting (pathways), signage, and provision of a water bubbler.
- xii) Lighting within the open space dedication shall be limited to bollard lighting along pathways to be shown on the detailed plans and landscape plans required by this condition. This is to include the incorporation of an energy efficient lighting system.

- xiii) The existing wharf is to be shown as being demolished as part of the landscape scheme and removed from the harbour.

Note: The consent of Roads and Maritime Services will be required in this regard.

- xiv) The retention of the pontoon within the Parramatta River is subject to agreement between Council and Roads and Maritime Services that such use can continue. Plans and supporting documentation, in accordance with agreed terms and conditions, shall be provided for Council's prior approval.

Note: It may be difficult if the pontoon can only be accessed from the land to be dedicated as public open space. See (iii) above. The Local Government Act, 1993 restricts the types of licences and other rights that Council may grant over community land once it has been dedicated.

- xv) A detailed drainage design prepared by a qualified and practising Civil Engineer for the open space dedication which incorporates a subsoil drainage line at the top of the rock escarpment to pick up seepage is to be identified on the detailed plans and landscape plans required by this condition.
- xvi) All works within the area of land to be dedicated to Council must comply with all relevant provisions of the Building Code of Australia (BCA).

All plans shall be generally consistent with the architectural and landscape plans listed in **Condition 7** of this consent, except where modified by conditions of this consent.

- b) Detailed engineering plans, prepared by a qualified and practicing Civil Engineer, in relation to the boardwalk and public viewing platform in the south-western corner of the site, as well as existing (to be retained) and proposed retaining walls adjacent to the area of land to be dedicated.
- c) A report by a qualified and practising engineer with experience of seawalls of his/her independent assessment and review of the condition of all the seawalls bounding the land to be dedicated, including a Foreshore Risk Management Report, and details of the work required to be done in order to satisfy **Condition 79(b)**.
- d) Maintenance on all landscaped areas within the area of land to be dedicated to Council, including fixtures and fittings, plant material, irrigation components and paths, will be the responsibility of the developer for a period of 12 months from the issuing of a final Occupation Certificate.

5. Amended plans are to be submitted incorporating the following amendments:

- a) Dwellings 3.12, 3.13 and 3.14 within the third level of Building E which front Broderick Street, and their associated open space areas / terraces and lift access and entry foyers, shall be deleted. As a consequence of this amendment:
    - i) The front wall and general roof height (the roof height above the dwellings on the second floor) of Building E on Broderick Street shall not exceed RL25.78AHD;
    - ii) The built form, elevational detailing and materials and general design of Building E on Broderick Street below RL25.78AHD shall not alter from that depicted on the architectural plans listed in **Condition 7** of this consent;
    - iii) To facilitate access to Dwelling 3.11, a reconfiguration of Dwellings 3.10 and 3.11 will be required to permit access from the northern entry foyer of Building E; and
    - iv) The location of the southern wall of Dwelling 3.11 is to remain in its proposed location and amended to detail finishes consistent with the external finishes detailed within the development.
  - b) Dwelling UG.15 and the associated open space / terrace on the Upper Ground Floor of Building B shall be deleted. As a consequence of this amendment, the southern, steeply pitching roof to Dwelling 1.14 shall extend down to a parapet roof to be provided over Dwelling G.15 that does not exceed RL14.64AHD.
6. A Lighting Plan for the development shall be submitted detailing the following:
- a) The lighting arrangements for the communal areas and public accessways;
  - b) The lighting arrangements for all pedestrian entries and exits from the street frontages of the site;
  - c) The lighting arrangements for all internal pedestrian walkways, including those that lead to the residential and non-residential lobbies of the development; and
  - d) The lighting associated with signage (to be externally illuminated) across the site.

As per Condition 4, lighting within the open space dedication shall be limited to bollard lighting along pathways.

All lighting is to be designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard AS 1158.3:2005 *Pedestrian area (Category P) lighting – Performance and design requirements* and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.

The following conditions of consent including any other conditions that may arise from resolution of matters listed in the above condition, will be included in an operational Development Consent. The operational Development Consent will be issued by Council after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

## **GENERAL CONDITIONS OF CONSENT**

7. Development must be carried out in accordance with Development Application No. D/2011/529 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

<b>Drawing Number</b>	<b>Plans Of / Drawn By</b>	<b>Dated</b>
A1.01 / B	Site Analysis Plan prepared by Roche Group P/L	N/A
A1.02 / C	Site Plan prepared by Roche Group P/L	6/1/12
A2.01 / D A2.02 / D A2.03 / D A2.04 / D A2.05 / D A2.06 / D A2.07 / D	Floor Plans prepared by Roche Group P/L	January 2012
A2.08 / D	Roof Plan prepared by Roche Group P/L	January 2012
A3.01 / D A3.02 / D A3.03 / D A3.04 / D	Elevational and Section Drawings prepared by Roche Group P/L	January 2012
A4.01 / C	Ramp Sections prepared by Roche Group P/L	6/1/12
A5.01 / C	Signage Plan prepared by Roche Group P/L	6/1/12
DA00 / B DA01 / B DA02 / B DA03 / B DA04 / C DA05 / C DA06 / B DA07 / A	Stormwater Management Plans prepared by RGH Consulting Group	18/1/12
1121-01 / E 1121-02 / E 1121-03 / E 1121-04 / E 1121-05 / E 1121-06 / E	Landscape Plans prepared by Peter Glass & Associates	10/2/12



1121-07 / E		
1121-07 / E	Landscape Plan prepared by Peter Glass & Associates	23/2/12
1121-05 / E	Land Dedication Plan / Foreshore Link Precinct prepared by Peter Glass & Associates	10/2/12
DA04 / B DA05 / B	Ramp sections prepared by RGH Consulting Group	14/12/11
A1.02 / C	Deep Soil Zone prepared by Roche Group P/L	6/1/12
<b>Document Title</b>	<b>Prepared By</b>	<b>Dated</b>
Phase 2 Contamination Assessment	Douglas Partners	October 2011
Addendum to Phase 2 Contamination Report	Douglas Partners	17/1/12
Remediation Action Plan	Douglas Partners	October 2011
Arborist Report	Tree Wise Men	August 2011
Addendum to Arborist Report	Tree Wise Men	19/1/12
BCA Report	Steve Watson & Partners	August 2011
Addendum to BCA Assessment Report	Steve Watson & Partners	12/1/12
Section J BCA Report Report# 20C-11-0068-TRP-464152-6	Vipac Engineers and Scientists Ltd	19/1/12
BASIX Assessment	Vipac Engineers and Scientists Ltd	19/1/12
BASIX Certificates Certificate#: § 387755M_05; § 387760M_05; § 387761M_05	NSW Planning and Infrastructure	19/1/12
Thermal Performance Specifications and ABSA Stamped Plans Assr#: 20754; Cert#:41055329	Roche Group P/L	19/1/12
Waste Management Plan	The MACK Group	19/1/12
Addendum to Social Impact Assessment	Elton Consulting	18/1/12
Market Assessment and Economic Impact Study Final Report	SGS Economics & Planning	January 2012
Acoustic Report Revision 3	Acoustic Logic	22/7/11 (Document Date: 20/1/12)
Geotechnical Report	Douglas Partners	July 2011
Addendum to Geotechnical	Douglas Partners	18/1/12

Report		
Social Impact Assessment	Elton Consulting	12/8/11
Addendum to Social Impact Assessment	Elton Consulting	18/1/12
Access Report	Accessibility Solutions P/L	19/1/12
Integrated Water Cycle Plan Ref. 20110066_R01, Revision 06	RGH Consulting Group	January 2012
Integrated Retaining Wall, Structural and Geotechnical Engineering Report	RGH Consulting Group	February 2012
Flood Risk Management Report	RGH Consulting Group	January 2012
Foreshore Risk Management Report	RGH Consulting Group	January 2012
Heritage Impact Statement	NBR+S Partners	11/8/11
Addendum to Heritage Impact Statement	NBR+S Partners	18/1/12
Materials and Samples Foamboard	Applicant	N/A
Indicative Ceiling Heights Diagrams	Mijollo International	N/A
Unit Schedule	Applicant	5/1/12

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

8. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:

- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Certifying Authority."
- b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
- c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions, the Building Code of Australia and the relevant Australian Standards.

9. The demolition works approved by this consent must strictly comply 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 (02) 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water 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.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR EXCAVATION AND REMEDIATION OF THE SITE**

10. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan to Council for approval by Council's Traffic Manager. The following matters should be addressed in the plan:

- 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.
  - ix) 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.
  - x) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
  - xi) 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) Truck and Construction Vehicle Movements

A Management Plan for heavy vehicle / truck movements shall be submitted addressing, but not limited to, the following:

- i) The number of trucks anticipated on any given day;
- ii) Heavy vehicles / trucks must to enter Balmain via Darling Street and exit Balmain via Terry Street; and
- iii) Construction related vehicles must enter and exit the site via Elliott Street.

c) Construction Noise

During excavation, demolition and construction phases, noise generated from the site must be controlled.

d) Occupational Health and Safety

All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.

e) Toilet Facilities

During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.

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.

11. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must be compatible with the Construction Management and Traffic Management Plan relevant to this 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 erodable 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.
12. A structural engineering report and plans that address the proposed works in the vicinity of the Elliott Street and Broderick Street boundaries, prepared by a qualified practicing Structural Engineer, must be provided prior to the issue of a Construction Certificate. The report and plans must be prepared/ amended to make provision for the following:
- a) All existing retaining walls must be reconstructed. All components of the new retaining walls, including subsoil drainage, must be located entirely inside the property boundary.
  - b) The retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of 50 years.
  - c) The retaining walls must be entirely self supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.
  - d) Provide relevant geotechnical/ subsurface conditions of the site, as determined by full geotechnical investigation.

13. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
- a) Must preserve and protect the adjoining building from damage
  - b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this condition, the allotment of land includes public property.

14. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit to the value of \$229,000 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.

15. The applicant must bear the cost of construction of the stormwater drainage and roadworks in Broderick Street and Elliott Street and roundabout construction at the Elliott Street and Glassop Street/ Terry Street intersection in accordance with the plans approved under **Deferred Commencement Condition No 1**.

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 provided prior to the issue of a Construction Certificate.



These works must be constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of an Occupation 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.

16. 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 for excavation and remediation of the site.
17. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Council prior to the issue of a Construction Certificate. 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) The dwelling at No. 2 Broderick Street, Balmain;

The dilapidation report is to be prepared by a practising Structural Engineer agreed to by both the applicant and the owners of the relevant adjoining properties. 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.

18. Prior to the issue of a Construction Certificate, a site plan shall be provided clearly detailing the retention of Trees Numbered 1, 2, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 26, 27, 32, 33, 35, 36, 38, 43, 44, 46, 47, 48, 59, 62, 63, 64, 66, 86, 87, 91, 92, 95 and 99, and the measures necessary to ensure their future health and stability in accordance with the Arborist advice identified in **Condition 7** of this consent and as required by any Arborist advice complying with the requirements of **Condition 23(e)** of this consent.
19. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and plumbing section on the web site

[www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 132092 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS**

20. Prior to the issue of a Construction Certificate for building works, 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.

In respect of all the land to be dedicated to Council for public open space, a Site Audit Statement under the *Contaminated Land Management Act, 1997* certifying that all the land to be dedicated as public open space does not contain contaminants higher than recommended for and is suitable for use as park, recreational open space or playing field, must be submitted to Council and found satisfactory prior to the issue of a Construction Certificate for building works.

In respect of the balance of the site, 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 for building works will not be issued.

21. Documentation demonstrating compliance with **Conditions 10-19** inclusive shall be submitted with the Construction Certificate for building works.

22. Amended plans are to be submitted incorporating the following amendments:

- a) All pedestrian and vehicular access points adjacent to Elliott Street and Broderick Street must be in accordance with the design levels as specified in the plans approved under **Deferred Commencement Condition No 1**.
- b) Provision of a kerb, gutter and footpath at the Broderick Street frontage in accordance with Deferred Commencement Consent **Condition 1(c)**.
- c) Showers and changing rooms shall be provided within the development to be available for use by all commercial tenants.
- d) A 3 bedroom adaptable unit shall be provided in-lieu of one of the two bedroom adaptable units. This unit shall be designed to meet the requirements of Council's Development Control Plan No. 32 – Design for Equity of Access, AS1428.1 - AS1428.1 – Design for Access and Mobility and the Disability (Access to Premises-Buildings ) Standard 2010.
- e) The main living space of Dwelling 3.03 shall be widened to 4m, which will involve the internal wall separating Dwellings 3.02 and 3.03 being shifted approximately 1m to the north-west, with a subsequent reconfiguration of adjoining Dwelling 3.02.
- f) The fencing / gates to the entry between Buildings A and C on Elliott Street, and the fencing between Buildings B and D and Buildings D and E shall be a steel palisade design that is a minimum of 75% open.
- g) A secure garden / maintenance store shall be located in an appropriate location within the development and shall not be visible from the public domain.
- h) With respect to storage spaces to dwellings:
  - i) Spare storage spaces identified as S41 or S42 in the lower ground floor basement shall be allocate as additional storage space for Unit UG.24; and
  - ii) One of the spare storage spaces identified as S07 to S12 at lower ground floor shall be allocated as additional storage space for Unit U1.01.

The amendments are to be provided prior to the issue of a Construction Certificate.

23. Prior to the issue of a Construction Certificate, the landscape plans listed in **Condition 7** of this consent must be amended to comply with the following:

- a) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity.

- b) Location of all proposed and existing planting delineating existing trees to be retained, removed or transplanted.
- c) Demonstrating compliance with **'Deferred Commencement' Consent Condition 4** of this consent.
- d) Showing the retention of Trees Numbered 1, 2, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 26, 27, 32, 33, 35, 36, 38, 43, 44, 46, 47, 48, 59, 62, 63, 64, 66, 86, 87, 91, 92, 95 and 99.
- e) In order to facilitate the retention of Trees Numbered 46, 47 and 48, the pool between Buildings A and B shall be either:
  - Re-sited between Buildings A and B an appropriate distance away from Trees Numbered 46, 47 and 48 as well as the large fig tree in the vicinity to the east of Building B, and reconfigured and reduced in size, in accordance with Arborist advice, the Arborist having a Level 5 AQF Qualified Arborist with a minimum of 5 years experience with trees on development sites; OR
  - Deleted from the plans.
- f) Trees Numbered 3 and 4 are to be replaced with suitable native species.
- g) 85% of new plantings shall be native species. Native plantings shall be provided along the Broderick and Elliott Street frontages.
- h) Street tree planting along Elliot Street throughout the development shall be sited on the footpaths and not in the roadways and be provided in pits which will be designed to sustain trees at their mature height. The trees used must be native species and be in a minimum twenty-five (25) litre container size.
- i) The following soil depths shall be provided:
  - Minimum soil depth of 1m to all landscaped areas within the front setback on Broderick Street; over the commercial basement car park;
  - Minimum soil depth of 800mm to the planter between Buildings C and D (Section F-F also required to be consistent with the landscape plan);
  - Minimum soil depth of 800mm to the planter between Buildings A and C;
  - Minimum soil depth of 500-600mm for plantings between Building A and the FBL that are located above the lower level basement.
- j) Details of planting procedure.
- k) Details of earthworks including mounding, retaining walls, and planter boxes.

- l) A landscape maintenance strategy for the owner / occupier to administer over a twelve (12) month establishment period.
  - m) An Active Landscape Management contract for the maintenance of the Landscaping.
  - n) Details of drainage and watering systems.
24. Should the report referred to in **Deferred Commencement Condition 4(c)** indicate that work is required to the seawall adjacent to the land to be dedicated before the engineer can provide the certificate referred to in **Condition 79(b)**, detailed plans and specifications, prepared by the qualified and experienced practising engineer, of the work required to be carried out to render the seawall satisfactory shall be submitted to, and approved by Council, prior the Principal Certifying Authority issuing a Construction Certificate for building work. This shall be accompanied by land owner's consent by Roads and Maritime Services.
25. In addition to the public land dedication required by this consent, a monetary 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 must be paid to Council prior to the issue of a Construction Certificate:

Column A	Column B
Open space and recreation	\$936,054
Community facilities and services	\$343,628
Local area traffic management	\$14,390
Access to Balmain peninsula	\$73,985
Bicycle works	\$2,759

**The total monetary contribution is: \$1,370,816**

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.

26. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standards, including but not limited to *AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking*, *AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities*, *AS/NZS 2890.6-2009 Off-street parking for people with disabilities* and *AS 2890.3-1993 Parking Facilities - Bicycle parking facilities*. The following specific issues must be addressed in the design:

- a) The design must be generally in accordance with the plans approved under **Deferred Commencement Condition No 2**.
- b) Longitudinal sections must be provided along each outer edge of the vehicular ramps accessing Elliott Street to demonstrate that the:
  - i) Levels at the boundary are 200mm above the adjacent road gutter invert for the full width of both vehicle crossings.
  - ii) Gradient of all driveways for the first 6 metres from the property boundary must not exceed 1 in 20 (5%) in accordance with the requirements of Clause 3.3(a) of AS/NZS 2890.1-2004.
  - iii) The loading dock and access ramp must have a minimum headroom clearance of 4500mm, measured perpendicular to the chord of the truck.
- c) Longitudinal sections must be provided along each outer edge of all internal ramps to demonstrate that the longitudinal profiles comply with the Ground Clearance and grade requirements of AS/NZS 2890.1-2004 for a B99 design vehicle.
- d) Minimum Headroom of 2200mm must be provided throughout the access and parking facilities associated with the Commercial and Residential Parking Areas. Minimum Headroom of 2500mm must be provided above accessible parking spaces. Note that the Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.

Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.

- e) The vehicular access ramps must comply with the ramp grade requirements of Section 3.3 of AS/NZS 2890.1-2004.
- f) Accessible parking spaces must comply with the dimensional requirements of Figure 2.1 of AS/NZS 2890.6-2009 Off-street parking for people with disabilities, including the provision of a shared area.
- g) Compliance of the proposed access and parking facilities with the size, grade, ground clearance, manoeuvrability and headroom requirements of the applicable Standards.
- h) The vehicular access must provide clear sight lines (triangles) to pedestrians in Elliott Street in accordance with the requirements of Clause 3.2.4(b) of AS/NZS 2890.1-2004.
- i) Parking aisles must comply with the Blind Aisle requirements of the Standard, as defined by Clause 2.4.2(c) of AS/NZS 2890.1-2004.

- j) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS 2890.1-2004.
- k) Basement car parking spaces must not be individually enclosed.
- l) The bicycle storage area must be provided to accommodate the numerical requirements of DCP 2000 and be designed in accordance with relevant provisions of AS 2890.3-1993.

The design must be certified by a suitably qualified Civil Engineer and be provided prior to the issue of a Construction Certificate.

- 27. Prior to the issue of a Construction Certificate, Engineer's certification is required confirming that the driveway and loading bay within the basement car park can accommodate waste / recycling collection vehicles with a gross vehicle mass (GVM) of 26tonne.
- 28. A stormwater drainage design, incorporating on site stormwater retention and detention facilities (OSR/OSD) and Integrated Water Cycle Plan, both prepared by a qualified practicing Civil Engineer, must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
  - a) The Site Drainage Plan and Integrated Water Cycle Plan must be in accordance with **Deferred Commencement Condition No 3**.
  - b) Provision of an overland flow path beneath both proposed Open Terraces on Building A.
  - c) Provision of an overland flow path between Broderick Street and Sydney Harbour generally in accordance with the Overflow Concept Plan prepared by A J Griffiths Drawing No 20110066/ DA07/A dated 18 January 2012.
  - d) The ground, lower ground floor and basement car parks must be sufficiently set back from the property boundaries to allow for sub soil drainage to be contained within the property.
  - e) All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage.
  - f) The OSR facilities must supply water to all residential and commercial units for laundry purposes, the flushing of all toilets, car wash bays and outdoor usage such as irrigation.
- 29. The design of the roof drainage gutter system must comply with the Building Code of Australia and the Australian Standard AS/NZS3500.3:2003 Plumbing and Drainage: Stormwater Drainage. Details demonstrating compliance are to

be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:

- a) To comply with the Performance requirement of P2.21(c) of the Building Code of Australia, the drainage system for the disposal of surface water must:
    - i) convey surface water to an appropriate outfall; and
    - ii) avoid the entry of water into a building; and
    - iii) avoid water damaging the building.
  - b) The roof drainage system is designed so that any overflow during heavy rain periods is prevented from flowing back into the building. Even in heavy rain downpours a slotted gutter may be inadequate. A spring-clip gutter system may not be a suitable method. Installation in accordance with the manufacturer's specification may not meet the Building Code of Australia requirements. This is to ensure that the roof drainage system complies with Part 3.5.2.4(d) of the Building Code of Australia.
  - c) The roof drainage system must comply with the continuous overflow measures for eaves and gutters as set out in Clause 3.5 and Appendix G of Australian Standard AS/NZS3500.3:2003 Plumbing and Drainage: Stormwater Drainage.
30. NSW Roads and Maritime approval for any proposed stormwater connect to Sydney Harbour/Parramatta River must be obtained prior to the issue of a Construction Certificate. Any requirements of NSW Roads and Maritime are to be complied with.
31. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The Plan must be prepared/ amended to make provision for the following:
- a) The Plan must be generally in accordance with the recommendations of the Flood Risk Management Report prepared by RGH Consulting Group dated January 2012.
32. Prior to the issue of a Construction Certificate, plans and documentation demonstrating compliance with the Building Code of Australia (BCA) and relevant disabled access provisions and legislation shall be provided to the Principal Certifying Authority. This includes, but is not limited to:
- a) Access to and within the building at the main points of entry, car parking and sanitary compartments detailing compliance with Part D of the Building Code of Australia, AS1428.1 – Design for Access and Mobility and the Disability (Access to Premises-Buildings ) Standard 2010.
- This includes Braille & tactile design, signage, access, finishes and fittings, including passageways, ramps, step ramps or kerb ramps, signs, doorways and other parts of the building.



The Building Code of Australia clause D3.2 requires:

- a) *an accessway must be provided to a building required to be accessible*
  - i) *from the main points of pedestrian entry at the allotment boundary; and*
  - ii) *from another accessible building connected by an accessible link.*

The proposed design must have an accessible link between buildings over the podium levels. Persons with a disability (including visitors) must be able to travel via a continuous accessway between buildings without having to go through the car park of which they may or may not have access.

- b) Compliance with the performance provisions of the BCA by way of either:
  - i) the *deem-to-satisfy* provisions; or
  - ii) an *alternative solution*; or
  - iii) a combination of (a) & (b) above.
- c) Vertical separation of openings in walls to all building to comply with Clause C2.6 of the BCA.
- d) The fire isolated stairs serving Buildings C, D and E must have separation of rising and descending stair flights in accordance with Clause D2.4 of the BCA.
- e) Egress distances to Building E must comply with Clause D1.4 of the BCA.
- f) Building “E” must comply with the requirements for “Bounding Construction” in accordance with clause C3.11 to the walls and doors between the commercial and residential units.
- g) Bounding construction is required to the meeting room on the ground floor of Building “B” in accordance with clause C3.11.
- h) The doors to the spa area on the lower ground floor of Building B must comply with the requirements of AS1926.
- i) Travel distances within the development must comply with Clause D1.4 of the BCA.

Notwithstanding the items as identified above, full compliance with the requirements of the Building Code of Australia - Volume One and the relevant Australian Standards will be required throughout.

33. Prior to the issue of a Construction Certificate, an interpretive strategy shall be prepared for the development site by a suitably qualified and experienced heritage consultant, archaeologist or the like which details and interprets all of the former significant uses of the site including the use of the property by the traditional owners of the land prior to any consent for this development application becoming operational.

Accordingly, any recommended interpretive signage which forms part of this strategy, in addition to the use of the site by its traditional owners, shall also provide details of the early large residential estates in the locality and associated large homes, subsequent early industrial uses and later Nutri-Metals land use. In this regard, the interpretive signage shall occur on the site in the vicinity of the foreshore as well as within the commercial plaza near the corner of Elliott and Broderick Streets.

All costs associated with the implementation of the strategy shall be borne by the applicant.

34. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997. Domestic air conditioners must not be audible in nearby dwellings between 10:00pm to 7:00am on Monday to Saturday and 10:00pm to 8:00am on Sundays and Public Holidays.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate.

35. Prior to the issue of the Construction Certificate, an additional acoustic report is to be provided indicating the size, type and location of all mechanical plant and method of compliance with established noise criteria for residential receivers. All plant to be considered including A/C units, refrigeration, mechanical extraction equipment and any other plant which may cause the emission of nuisance noise.

The additional acoustic report to reference "Offensive Noise" as defined in the *Protection of the Environment Operations Act 1997* and "Intrusive Noise" as defined within the *NSW EPA Industrial Noise Policy* as additional criteria for compliance.

36. The operating noise level of all aspects of the development, including all plant and equipment, shall not give rise to intrusive noise of background + 5dB(A) as defined in the NSW EPA Industrial Noise Policy.

The intrusiveness criterion is summarised as follows:

§ LAeq, 15 minute  $\leq$  rating background level + 5

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate.

37. Rooms used for the storage of garbage and rooms used for the washing and storage of garbage receptacles are to be constructed of solid material, cement rendered and trowelled to a smooth even surface and subject to the following requirements:
- a) The floor must be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room.
  - b) Garbage rooms must be vented to the external air by natural or mechanical ventilation.

Details are to be provided prior to the issue of a Construction Certificate.

38. Details of any proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the Building Code of Australia and Australian Standard 1668 Parts 1 and 2 (including exhaust air quantities and discharge location points) are to be submitted to Council or the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.
39. A statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* must be provided prior to the issue of a Construction Certificate.
40. The entry to the basement and lower ground floor car park shall be provided with an intercom system and each ground level entry area to the building must have an intercom system. Details of the intercom systems must be provided prior to the issue of a Construction Certificate.
41. Materials, finishes and colours to the external fabric of the development shall be as detailed on the architectural plans, and the Materials Board listed in **Condition 7** of this consent. Materials and colours are required to be complementary to the character and streetscape of the area, and highly reflective roofing materials must not be used.

Details of finished external surface materials, including colours and texture, must be provided prior to the issue of a Construction Certificate to the satisfaction of the Certifying Authority.

42. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be provided prior to the issue of a Construction Certificate.
43. All shop front glazing must be clear and untinted. Any security grille must be open grille and see through and not a solid material. Details are to be provided prior to the issue of a Construction Certificate.

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

44. Sediment and erosion controls must be provided before demolition/excavation/ construction is commenced on the site to protect the existing stormwater system from sediment inflow and prevent the off-site migration of soil into neighbouring streets or Parramatta River. The control strategies must be consistent with the requirements of Part A3a.0 of the Leichhardt Development Control Plan 2000 - Sustainable Water and Risk Management and the Erosion and Sedimentation Control Plan required by this consent.
45. A Management Plan for Dust Suppression on the site is to be formulated and approved by Council prior to commencing with any works on the site. The plan is to be implemented upon commencement of any works on the site. This condition is to ensure the protection of the environment.
46. Prior to the commencement of any works on the site, a Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works. The Plan shall address, but not be limited to, the following matters:

- a) Identification of activities carried out and associated noise sources.
- b) Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment.
- c) Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
- d) Noise and vibration monitoring, reporting and response procedures.
- e) Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles.
- f) Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction.
- g) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency.
- h) Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration.

- i) Contingency plans to be implemented in the event of non-compliance and/or noise complaints.

47. Site cranes and hoists may be erected within the boundaries of the site subject to compliance with the relevant provisions of Australian Standard AS 1418:2005 *Crane, hoists and winches*, Australian Standard AS 2549:1996 *Cranes (including hoists and winches)* and Australian Standard AS 2550:2002 *Cranes, hoists and winches*.

Cranes must not swing or hoist over any public property unless the relevant approval under Local Government Act 1993, Crown Lands Act 1989, or the Roads Act 1993 has been obtained prior to the commencement of works.

The use of the cranes and hoists must comply with the approved hours of construction. The cranes must not be illuminated outside approved working hours other than safety beacons required by the Civil Aviation Safety Authority. No illuminated signs are to be erected upon or displayed upon any crane.

48. The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment. No portion of the proposed structure, including fences, gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

To ensure that the locations of the buildings / structures satisfy the provision of the approval, the footings and walls within one (1) metre of the boundaries must be set out by a registered surveyor prior to the commencement of works.

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

- a) Locations of the buildings / structures with respect to the boundaries of the site;
  - b) Level of each floor level in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
  - c) Site coverage of the buildings on the site.
49. 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.

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

If Council is nominated as the Principal Certifying Authority then a copy of the certificate of insurance must be submitted to Council prior to the works commencing.

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

In all other cases, written notice must be given to Council of:

- a) The name and licence number of the principal contractor and
- b) The name of the insurer by which the work is insured under Part 6 of the Home Building Act 1989.

If arrangements for doing the residential work are changed while the work is in progress, further work must not be carried out unless the Certifying Authority has given Council written notice of the updated information.

This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

51. 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.
52. 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.
53. 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.

54. 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.

55. The location and facilities for the collection, storage and disposal of waste generated within the premises shall be submitted to and approved by Council prior to the commencement of works.
56. Prior to commencement of any excavation or building work on the site, the protection measures with respect to trees to be retained on the site, and adjacent to the site, as stipulated in the Arborist advice listed in **Condition 7** of this consent, and as required by any Arborist advice complying with the requirements of **Condition 23(e)** of this consent, shall be in place.

## **DURING WORKS**

57. A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.
58. The site must be appropriately secured and fenced at all times during works.
59. Construction material and vehicles shall not block or impede public use of any footpaths or roadways. Unless it is unsafe to do so, vehicles must enter the site before stopping.
60. All construction related vehicles must enter and exit the site via Elliott Street.
- All trucks / heavy vehicles must enter and exit the site via Elliott Street from Darling Street.
61. All trucks / heavy vehicles must exit Balmain via Terry Street.
62. Building materials and machinery are to be located wholly on site.
63. Demolition or construction work, or any remediation activities associated with the proposed open space development shall be carried out only between the hours of 7.00 a.m. and 5.30 p.m. Monday to Friday inclusive, 7.00 a.m. and 1.00 p.m. Saturday and must not be carried out on Sunday or Public Holidays unless in the

case of emergencies arising from unforeseen circumstances. *Should out of hours work be necessitated for emergency purposes the applicant is to advise Council in writing within 48 hours of the work occurring of the nature of the work and the reasons for the work occurring during that time.*

64. 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.
65. 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 waterproofing in any wet areas, and
  - c) Prior to covering any stormwater drainage connections, and
  - d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.
66. 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.
67. 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 Environment 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.

68. 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.
69. 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.
70. A copy of the following documentation shall be maintained on-site during works:
- a) The plans and supporting documentation listed in **Condition 7** of this consent.
  - b) Construction and Traffic Management Plan;
  - c) Soil and Water Management Plan / Erosion and Drainage Control Plan;
  - d) Management Plan for Dust Suppression; and
  - e) Noise and Vibration Monitoring Report.

Compliance with the requirements of these plans will be required during works.

71. The requirements of the Soil and Water Management Plan must be maintained at all times during the 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.

72. 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.

73. During all phases of demolition, excavation and construction, 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 between Broderick Street and Sydney Harbour in the vicinity of the works.
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
- c) Ensure dedicated 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 Principle 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.

74. The sign/s approved by this Development Consent must be erected in a secure manner to ensure safety and its installation is not to involve measures that would cause irreversible damage to the building.
75. All trees required to be retained during the works must be retained and protected in accordance with "Appendix D: Tree Protection Requirements (Generic)" and Attachment E: Tree Protection Plan" outlined in the Arborist Advice listed in **Condition 7** of this consent and as required by any Arborist advice complying with the requirements of **Condition 23(e)** of this consent.
76. All works / regulatory signage associated with the proposed development are to be at no cost to Council or Roads and Maritime Services.
77. Any work below the Main High Water Mark or on Maritime wet or dry land, such as to the existing pontoon, jetty structures and seawall, will require land owners consent by Roads and Maritime Services.

## PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

78. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in compliance with the approved Construction Certificate plans and all conditions of this Development Consent.
79. Prior to the issue of **any** Occupation Certificate, a dedication of land of approximately 2680m<sup>2</sup> along the foreshore and linking to Broderick Street, being generally in accordance with the Land Dedication Plan listed in **Condition 7** of this consent, must be made to Council for the provision of public open space.

A survey plan prepared by a registered surveyor of the proposed lot to be dedicated and lot/s for the remnant land must be submitted to Council for approval, and for execution of the subdivision certificate, prior to registration at the Lands and Property Information New South Wales.

Council will not accept the dedication of any land unless it is in a suitable state for its proposed use. This will require compliance with the following:

- a) Remediation of the land and the provision to Council of the Site Audit Statement referred to in **Condition 20** certifying that the land is suitable for use as park, recreational open space and playing field.
- b) Certification by a qualified and experienced engineer, satisfactory to Council, that all the seawall bounding the land to be dedicated, in its entirety, has a life expectancy of 50 years minimum without any remedial or maintenance improvements being required.
- c) The land dedicated for public open space must be completed in accordance with the landscape and drainage design approved by this consent, including as required by **Deferred Commencement Condition 4** of this consent, including all embellishment and planting, and the removal of the wharf, to Council's satisfaction, and possession of the dedicated land given to Council.

All land dedications associated with roadworks in Elliott Street and Broderick Street and all Rights of Way and other easements associated with the footpath in Broderick Street must also be included in the plan of subdivision referred to above, which must be registered and the easements must be on title/s of the burdened lots prior to the issue of any Occupation Certificate.

Note: See condition 82 for the required terms of the easements.

This dedication has been imposed pursuant to Section 94 of the Environmental Planning and Assessment Act 1979, and the Leichhardt Open Space and Recreation Contributions Plan, after identifying that the development will increase the demand for local and district open space within the area.

The Contribution Plan 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 Counter in Council's Administration Centre, 7-15 Wetherill Street, Leichhardt, during office hours.

80. Prior to **any** Occupation Certificate being issued for works in conjunction with this development, and prior to Council signing a Subdivision Certificate for the plan referred to in **Condition 80**, the public footpath within the subject property for the full Broderick Street frontage, east of the hammerhead referenced in **Deferred Commencement Condition 1(b)** must be constructed in accordance with the approved plans and to Council satisfaction..
81. The requirements of the easement/s for the footpath along the Broderick Street frontage are as follows:
- a) The site of the registered right of way (ROW) shall be a minimum of 1.5m width.
  - b) The easement is not to be limited in height. The ROW is to provide an unobstructed public access path along the Broderick Street frontage. No built structures are to be permitted to overhang this ROW.
  - c) The right of way is to be in favour of Council ("Authority Benefited") and any persons authorised by it *"to go, pass and repass at all times over the Easement Site:-*
    - *on foot or bicycle; and/or*
    - *with wheelchairs and/or other disabled access aids; and*
    - *with or without animals; and*
    - *consistent with use as a public footpath."*
  - d) The terms of the registered ROW must include that the owner of the burdened lot must maintain the footpath and keep it in good repair to the satisfaction of Council.
  - e) Without limiting that requirement, the terms of the ROW are to include:

*"The Authority Benefited and every person authorised by it may do anything reasonably necessary to exercise and enjoy its rights including carrying out work within the Easement Site such as constructing, placing, repairing or maintaining pathways and other trafficable surfaces. This does not limit the obligation of the owner of the lot burdened to maintain the easement site and keep it and the constructed footpath in good repair"*
  - f) There must also be created an easement for support benefiting the stratum to be subject to the right of way in favour of Council and burdening the stratum lots under and the lot to be subject to the right of way. This easement for support must state that it cannot be released or varied without the consent of Leichhardt Council.

- g) The precise wording of the s.88B Instrument setting out the terms of the easements are to be to the satisfaction of Council's Manager Property and Commercial services. The applicant must submit the s.88B Instrument to Council for approval at the same time as the plan of subdivision is submitted to Council.
  - h) Proof of registration of the Plan and s.88B Instrument at the Lands and Property Information NSW, and the recording of the right of way and easement for support on the relevant titles, must be provided prior to the issue of an Occupation Certificate.
82. Prior to the issue of **any** Occupation Certificate, the existing wharf is to be demolished as part of the landscape scheme and removed from the harbour. Notification and approvals for such removal must also be provided and obtained from NSW Maritime prior to the commencement of the proposed works.
83. Prior to the issue of **any** Occupation Certificate, a positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the on-site detention and on-site retention/re-use facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities ("OSD") and on-site retention/re-use facilities ("OSR").
- b) The Proprietor shall have the OSD and OSR inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD and OSR or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD and OSR, or failure to clean, maintain and repair the OSD and OSR.

The proprietor or successor must bear all costs associated in the preparation of the subject 88E instrument. Proof of lodgement with the Lands and Property Information NSW must be submitted to and approved by the Principal Certifying Authority prior to the issue of a Occupation Certificate / Subdivision Certificate.

84. Prior to the issue of **any** Occupation Certificate, a restrictive covenant / Restriction on Use must be created under Section 88 of the *Conveyancing Act 1919*, and registered burdening the owner(s) with the requirement regarding the non-residential uses of the development. This may be included in the s.88B Instrument referred to in condition 82.

The Restrictions are that all lots, owner-occupied uses and tenancies within the following building areas of the development must only be used for permissible, non-residential purposes and no other uses or purposes:

- a) On the basement and lower ground floors of Building A;
- b) On the lower ground floor of Building B;
- c) On the ground floor of Building C;
- d) On the ground floor of Building D;
- e) On the upper ground floor of Building E; and
- f) On the upper ground floor and first floor of Building F.

The precise wording is to be to the satisfaction of Council and is to be submitted to Council for approval prior to being lodged for registration . Proof of registration with the NSW Department of Lands must be submitted to and approved by the Principal Certifying Authority prior to the issue of any Occupation Certificate.

85. Prior to the issue of **any** Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

Works-as-executed plans of the stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifying Authority stamped Construction Certificate plans.

86. Prior to the issue of **any** Occupation 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.

Works-as-executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the works have been constructed in accordance with the approved design and relevant Australian Standards, must be provided to Council prior to the issue of an Occupation Certificate.

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 those works.

The works-as-executed plan(s) must show the as built details in comparison to those shown on the plans approved with the Roadworks Permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

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.

87. Prior to the issue of **any** Occupation Certificate, the Principal Certifying Authority must ensure that all aspects of the flood risk management plan have been implemented in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer that all aspects of the flood risk management plan have been implemented and constructed in accordance with the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

88. Prior to the issue of **any** Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on site detention and on-site retention/re-use facilities. The Plan must set out the following at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

89. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant

Australian Standards and the following has been implemented within the property, where applicable:

- a) The car park has been completed, line marked and all signage relating to car parking erected.
- b) A notice has been clearly displayed at the Elliott Street and Broderick Street frontage to indicate that visitor parking is available within the property with access from Elliott Street.
- c) Sign(s) have been erected that clearly indicate(s) to the drivers of vehicles both on and off the property which driveway they are to use to enter or leave the subject land.
- d) Sign(s) have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area(s).

Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance with the above must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.

- 90. Provision must be made for access to and within the development for persons with a disability in accordance with the provisions of Australian Standard AS 1428.1:2001 *Design for access and mobility – General requirements for access – new building work* prior to the issue of an Occupation Certificate.
- 91. Any car wash bays are to be graded to an internal drainage point, connected to a Sydney Water sewer and with access to a water supply must be provided. When not in use for washing a car, the space may be used for visitor parking. Car wash bays are not be used for engine degreasing or mechanical repairs and must be signposted accordingly. Work is to be completed prior to the issue of an Occupation Certificate.
- 92. A second Dilapidation Report including a photographic survey must be submitted after the completion of works. A copy of this Dilapidation Report together with the accompanying photographs must be given to the property owners referred to in this Development Consent. A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- 93. The existing chain wire boundary fencing between the site and No. 2 Broderick Street Balmain is to be replaced with timber paling fencing as required by this consent at the applicant / owners expense prior to the issue of an Occupation Certificate.
- 94. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be satisfied that a Fire Safety Certificate for all essential fire or other safety measures has been completed.



95. Prior to the issue of an Occupation Certificate, a registered surveyor must provide certification of the heights of all buildings are in accordance with the consent to the satisfaction of the Principal Certifying Authority.
96. The approved Interpretation Strategy referred to in this Development Consent must be implemented prior to the issue of an Occupation Certificate.
97. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species, have been undertaken in accordance with the approved landscape plan and conditions of Development Consent.
98. A copy of an Active Landscape Management contract for the maintenance of the Landscaping is to be provided prior to the issue of an Occupation Certificate.
99. All letter boxes / facilities must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 *Mailboxes* and to Australia Post's satisfaction. Work is to be completed prior to the issue of an Occupation Certificate.
100. Street / shop numbers must be clearly displayed at the ground level frontage of the building prior to the issue of an Occupation Certificate. A separate application must be made to Council if new street numbers or a change to street numbers is required.
101. Tactile ground surface indicators complying with Australian Standard AS 1428.4:2002 *Design for access and mobility – Tactile indicators* must be provided at the point of common public access to the buildings and at the vehicular access points to assist people with visual impairments in gaining access to and from the public way and the premises prior to the issue of an Occupation Certificate. Such works are to be undertaken wholly within the boundaries of the site.
102. At the completion of the installation of the mechanical exhaust system, a certificate from the installer shall be submitted to Council or the Principal Certifying Authority indicating the following:-
  - a) Inspection, testing and commissioning details,
  - b) Date of inspection testing and commissioning,
  - c) The name and address of the individual who carried out the test, and
  - d) A statement that the service has been designed, installed and is capable of operating to the above standard.

The mechanical exhaust vent shall extend no less than one (1) metre above the subject buildings apex, or the adjoining buildings apex in the event of a shared common wall.

Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property.

Noise and vibration from the use of the mechanical exhaust and/or ventilation system shall not exceed the background noise level by more than 5dB(A) and shall not be audible in any premises of a neighbouring occupancy.

103. The Principal Certifying Authority must not issue an Occupation Certificate unless a design verification statement from a qualified designer is submitted in accordance with State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.
104. Prior to the issue of a final Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

105. All allotments involved in this proposal must be consolidated into one allotment. Evidence of registration shall be submitted to Council or the Principal Certifying Authority prior to the issue of a final Occupation Certificate.
106. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:
- a) Access to any pool and / or spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the *Swimming Pools Act 1992*. The pool shall not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:1993 *Fencing for Swimming Pools*.
  - b) Any mechanical equipment associated with any swimming pool and / or spa shall be located in a sound-proof container and positioned so that there is no increase in noise level at any point at the boundary with another property including a public place. Prior to operation of any pool and / or pump, the Principal Certifying Authority shall be satisfied that noise levels associated with the pool/spa pumping units shall not exceed 5dB(a) at the boundaries of the site. Evidence from a practising acoustical engineer demonstrating compliance with the above must be submitted to the Principal Certifying Authority prior to the operation of the pool.
  - c) A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the

installer, indicating compliance with this condition must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- d) Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends of any in-ground pools / spas and on the outside of any aboveground pools / spas.
- e) A cardiopulmonary resuscitation information poster authorised by the Life Saving Association is to be displayed in any pool and / or spa area.

## **ONGOING CONDITIONS OF CONSENT**

107. Development Applications must be lodged with, and approved by Council, prior to any use, fitout or occupation of the non-residential portions of the development:

- a) On the basement and lower ground floors of Building A;
- b) On the lower ground floor of Building B;
- c) On the ground floor of Building C;
- d) On the ground floor of Building D;
- e) On the upper ground floor of Building E; and
- f) On the upper ground floor and first floor of Building F.

108. All newly planted trees on site must be appropriately maintained on an on-going basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, pruning, fertilizing, pest and disease control and any other operations required to maintain healthy vigorous vegetation.

109. All loading and unloading operations are to be carried out wholly within the site.

The loading dock must be in connection with the approved use.

All loading and unloading operations must be carried out via the entrance in Elliott Street.

110. Basement car parking spaces must not be individually enclosed.

111. At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.

112. No goods are to be displayed outside the confines of the building, unless separate approval and a licence under the *Roads Act 1993* is obtained from Council.

113. All vehicles must enter and exit the site in a forward direction.
114. The required sight lines to pedestrians or other vehicles in or around the carpark or entrances are not to be compromised by landscaping, signage, fencing or the like.
115. Pedestrian access to the basement car parks must be kept clear of obstacles, including parked vehicles, at all times.
116. The proposed turning areas within the basement car parks are to be kept clear of any obstacles, including parked cars, at all times.
117. The parking bays associated with the commercial / retail component of the development must be easily accessible and be clearly designated marked and signed. Access to these bays must not be restricted in any way by security doors or intercom access during the hours of operation of the commercial development.
118. The parking bays proposed for the residential component of the development must be inaccessible to visitors to the commercial component of the development and shall be clearly designated, marked and signed. In addition, the parking bays must be appropriately marked or signed to indicate which residential unit they have been allocated to. Car spaces that are stacked must be allocated to the same residential unit.
119. All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council Resident Parking Schemes. All occupants and/or employees of this building will be ineligible to obtain Council Resident Parking Scheme parking permits. The owner of the dwelling must advise in writing all intending owners, tenants and occupiers of the dwelling, at the time of entering into a purchase / lease / occupancy agreement, of this prohibition.
120. Signs reading "all owners, tenants and occupiers of this building are advised that they are not eligible to obtain Resident Parking Scheme parking permits from Council", must be located in prominent places such as at display apartments and on directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to the issue of an Occupation Certificate being issued and must be maintained in good order at all times.
121. The Operation and Management Plan for the on site detention on-site retention and re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
122. The Operation and Management Plan for the basement pump-out system, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

123. Garbage bins are to be shared by 4 units i.e. 1 x 240L garbage / 4 units. The residential Domestic Waste Charge will therefore be based on the above configuration. This configuration will remain for the life of the building.
124. Any air conditioners must not be audible in nearby dwellings between 10:00pm to 7:00am on Monday to Saturday and 10:00pm to 8:00am on Sundays and Public Holidays.
125. The operating noise level of all aspects of the development, including all plant and equipment, shall not give rise to intrusive noise of background + 5dB(A) as defined in the NSW EPA Industrial Noise Policy.

The intrusiveness criterion is summarised as follows:

§ LAeq, 15 minute ≤ rating background level + 5

126. Prior to the issue of an Occupation Certificate, the Certifying Authority must be satisfied that all outdoor lighting is in accordance with this consent and is designed and positioned to minimise any detrimental impact upon the amenity of other premises and dwellings and that the outdoor lighting complies with the relevant provisions of *Australian Standard AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting* where outdoor lighting is proposed.
127. No advertising flags or banners or the like are to be erected on or attached to the shopfront without the consent of Council.

Merchandise, stored material, A-frame signs or the like must not be placed on the footway of other public areas without the consent of Council.

128. The approved signs must be maintained in a presentable and satisfactory state of repair.

Any signs that are to be illuminated shall be externally illuminated and the level of illumination and / or lighting intensity used to illuminate the sign/s is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises in accordance with the Lighting Plan approved by this consent. Illumination of signage shall cease between the hours of 8:00pm and 7:00am daily.

129. All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with the Lighting Plan approved by this consent.
130. An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.
131. The owner/manager of the site is responsible for the removal of all graffiti from buildings, walls and fences within seventy-two (72) hours of its application. Any

rectification works shall be of a colour that is consistent with the colour of the building or structure.

132. Access to any swimming pool and / or spa must be restricted by fencing or other measures as required by the Swimming Pools Act, 1992.

Noise levels associated with pool and / or spa pumping units shall not exceed the background noise level (L90) by more than 5dBA at the boundaries of the site.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained to the nearest sewer system in accordance with the requirements of Council. No drainage, including overflow from the pool and / or spa shall enter Council's stormwater system. This condition does not preclude any future intention to harvest pool run-off and backwash water as a source of greywater for re-use in landscaping and toilet flushing which would require consultation with Council and New South Wales Health.

The disposal of backwash and/or the emptying of a swimming pool and / or spa into a reserve, watercourse, easement or storm water drainage system is prohibited. These waters are to discharge via a permanent drainage line into Sydney Water's sewer in accordance with Australian Standard Australian Standard AS 3500.2:2003 *Plumbing and drainage – Sanitary plumbing and drainage*. Permission is to be obtained from Sydney Water prior to the emptying of any pool to the sewer.

Lighting from the swimming pool and / or spa and other facilities shall not detrimentally impact the amenity of other premises and adjacent dwellings.

A resuscitation chart is to be displayed and maintained at all times.

### 133. **Ausgrid Conditions**

The following Ausgrid conditions apply:

- a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements (1).
- b) The applicant must check the location of underground cables by using Dial Before You Dig (2) and comply with the requirements of Ausgrid's NS 156 - Working Near or Around Underground Cables (3).
- c) Prior to the issue of a Construction Certificate (or an Occupation Certificate where a Construction Certificate is not required), the applicant must provide to the Council and Ausgrid a noise assessment report. The report must address, in relation to the adjacent substation, the requirements of the amenity or intrusive criteria in section 2.4 of the EPA's NSW Industrial Noise Policy, 2000 (4)

- d) The development must comply with both the Reference Levels and the precautionary requirements of the draft ARPANSA's Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz. 3 kHz, 7 December 2006 (5)
- e) The development must comply with Ausgrid's Tree Safety Management Plan (6).
- f) The development must be carried out in accordance with the Energy Network Association's Substation Earthing Guide, ENA EGI-2006 (7) so that hazardous step, touch and transfer voltages do not exist during fault conditions (50Hz or transient).

- (1) <http://www.energy.com.au/energylea.nsf/ContentUSafety+advice+for+contractors>
- (2) <http://www.energy.com.au/energy/ea.nsf/ContentUSafety+Dial+before+you+dig>
- (3) <http://www.energy.com.au/energy/ea.nsf/Content/Network+standards>
- (4) <http://www.epa.nsw.gov.au/noise/applicnotesindustnoise.htm>
- (5) [http://www.arpansa.gov.au/Publications/drafts/dr\\_elf.cfm](http://www.arpansa.gov.au/Publications/drafts/dr_elf.cfm)
- (6) <http://www.energy.com.au/energylea.nsf/ContentUSafety+Trees+and+powerlines>
- (7) <http://www.saiglobal.com/shop/scripUsearch.asp>

#### 134. General Terms of Approval – Department of Primary Industries

##### Number Condition

##### Plans, Standards and Guidelines

- |   |                                                                                                                                                                                                                                                                                                                                                                       |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA 2011/529 and provided by Council:                                                                                                                                                                                    |
|   | (i) Site plan, map and/or surveys                                                                                                                                                                                                                                                                                                                                     |
|   | Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.                                                                                              |
| 2 | Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CM) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the foreshore identified. |
| 3 | The consent holder must prepare or commission the preparation of:                                                                                                                                                                                                                                                                                                     |
|   | (i) Erosion and Sediment Control Plan                                                                                                                                                                                                                                                                                                                                 |
|   | (ii) Soil and Water Management Plan                                                                                                                                                                                                                                                                                                                                   |
| 4 | N/A                                                                                                                                                                                                                                                                                                                                                                   |
| 5 | The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a                                                                                                                                                                   |

	suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
6	N/A
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
8-9	N/A
10	The consent holder must design and construct all ramps, stairs access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation, or damage to the bed or banks of the foreshore or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.
12	N/A
13	N/A
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
15	N/A
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19-27	N/A



## **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.

## NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. 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 six (6) 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.
3. 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 six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
  - a) Application for any activity under that Act, including any erection of a hoarding.
  - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
  - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
  - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.

- e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
  - f) Development Application for subdivision if consent for subdivision is not granted by this consent.
  - g) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.
9. You may need a permit before filling a new or renovated swimming pool which holds more than 10,000 litres of water. You are advised to contact Sydney Water on 132092 to obtain this permit.