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Anka Constructions Pty Ltd
Andrew Boyarsky
C/- Anka Property Group
PO BOX 727
EDGECLIFF NSW 2027

Contact: Adele Cowie
Phone: 9367 9085

File Ref: D/2012/429

**NOTICE OF DETERMINATION OF
DEVELOPMENT APPLICATION NO: D/2012/429
Issued under the Environmental Planning & Assessment Act 1979
(Section 81(1)(a))**

Applicant Name: Anka Constructions Pty Ltd

Applicant Address: Andrew Boyarsky
C/- Anka Property Group
PO BOX 727
EDGECLIFF NSW 2027

Land to be Developed: **Lot 3 Sec D DP 119, Lot 2 DP 234045, LOT 1 DP 540118 INTL IN EASEMENT
118-124 Terry Street, ROZELLE NSW 2039**

Proposed Development: Demolition of existing buildings, remediation, mixed use development comprising 202 apartments 1270sqm of retail commercial space 411 sqm of light industrial space and 250 car spaces and subdivision. A new road will be constructed within the site and dedicated to Council. The proposal also entails a temporary sales office with display units and signage.

Determination: Consent

Date of Determination:

Consent to Operate From:

Consent to Lapse On: XXXX 2018

The following conditions have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment.

GENERAL CONDITIONS OF CONSENT

Interface with 126 Terry Street

01. The area of the site which constitutes the landscaped space above the loading dock/carpark immediately adjacent to the side lightwell and rear courtyard servicing 126 Terry Street is to be treated in the following manner:
- a) The finished level of the trafficable area is not to exceed RL 34.6.
 - b) There is to be a palisade style open metal fence only erected adjacent to the lightwell opening, on the development site, to prevent unauthorised access to 126 Terry Street (This palisade fence may be omitted subject to written agreement being obtained from the owner/s of 126 Terry St)..
 - c) Landscape planting in front of the lightwell opening is to constitute leafy shrubs of sufficient height and density to restrict sightlines into the lightwell.
 - d) The landscaped area immediately adjacent to the rear courtyard of 126 Terry Street is not to result in any solid fencing higher than the level of the fence currently between the two properties. Open palisade metal fencing is to be used for security, supported by dense landscaping including ground covers and shrubs, for privacy.
 - e) The plans are to be amended to extend the blade wall on the south-western side of the front terrace of unit C214 to the planter box in order to limit overlooking to No. 126 Terry Street.**
 - f) The north boundary with No 126 Terry St shall be protected by a reinforced masonry wall 600mm in height for the length of the adjacent driveway to ensure protection of infrastructure.**

Comment [RE1]: Conditions e) & f) agreed 20/2/2013

At-grade Bin Store Design & Location

02. The residential bin store room located at grade between Building B and the shops/commercial tenancies is to be relocated so that it is adjacent to Building B, with a space in front, accessed off New Road, sufficient in width, depth and height to accommodate a medium rigid vehicle (MRV). The MRV is to be able to park wholly behind the property boundary and thus clear of the footpath to New Road. The area of the bin store is to be not less than 70sqm. The bin store is to be positioned so as to allow for an overland stormwater flowpath, and pedestrian access of not less than 1.5m wide (these may be combined). The bin store is to be fully enclosed, except for air ventilation if required, to minimise the noise impact on nearby residential units. The bin store must have a roller door that allows for entry of the rear of a garbage truck to collect and empty to bins wholly within the bin store.

Design & embellishment of linear park

03. The linear park located on the western side of New Street is to be designed to accommodate the following:

a) a high quality play space for children (anticipated age group up to six years) incorporating clamber and climb structures, soft fall and play equipment suited to a small park in accordance with relevant Australian standards.

b) bicycle racks, and seating ~~and tables~~ for groups up to six persons, which are to be of durable materials.

Comment [RE2]: Condition agreed and amended 20/2/2013

c) planting species are to exclude any plants bearing nuts, berries or other fruits which may be attractive to smaller children

d) Planting species are to exclude any plants bearing thorns or spikes or known to cause allergic/asthmatic reactions.

e) Planting species are to incorporate grasses, shrubs and canopy trees native to the Greater Sydney region and are to be drought resistant species. Canopy tree/s are to be located so as to provide shading to the designated play area during summer.

f) suitable child safe fencing and gates

04.Design and location of roundabout in Terry Street and stormwater management

An engineering design of road and stormwater drainage works in Terry Street, Margaret Street, Crystal Street and the proposed new road must be prepared by a qualified practicing Civil Engineer. The design must be prepared/ amended to make provision for the following:

a) The roadworks design must be generally in accordance with the Civil Works Plans prepared by AECOM on Drawing Nos

- AEC ANZ-CIV-0010 Rev 5 dated 30 November 2012
- AEC ANZ-CIV-0011 Rev 2 dated 4 December 2012
- AEC ANZ-CIV-0100 Rev 3 dated 30 November 2012
- AEC ANZ-CIV-0105 Rev 3 dated 30 November 2012
- AEC ANZ-CIV-0106 Rev 2 dated 30 November 2012
- AEC ANZ-CIV-0107 Rev 3 dated 30 November 2012
- AEC ANZ-CIV-0120 Rev 4 dated 4 December 2012
- AEC ANZ-CIV-0121 Rev 4 dated 4 December 2012
- AEC ANZ-CIV-0400 Rev 3 dated 4 December 2012
- AEC ANZ-CIV-0600 Rev 4 dated 4 December 2012
- AEC ANZ-CIV-0601 Rev 2 dated 30 November 2012

b) The stormwater design must be generally in accordance with the Civil Works Plans prepared by AECOM on Drawing Nos

- AEC ANZ-CIV-0300 Rev 3 dated 30 November 2012
- AEC ANZ-CIV-0305 Rev 2 dated 30 November 2012
- AEC ANZ-CIV-0306 Rev 4 dated 30 November 2012

- AEC ANZ-CIV-0310 Rev 4 dated 4 December 2012

c) The proposed roundabout at the Terry Street/ Margaret Street and new road intersection must be redesigned to address the following specific issues:

- i. A Medium Rigid Vehicle entering the roundabout from the new road and from Margaret Street must be able to undertake left turns without crossing into oncoming traffic in Terry Street. **Due to the constraints of the left turn movement from Margaret Street, Council may accept partial compliance with the above requirement if it is demonstrated by the applicant that full compliance cannot reasonably be achieved.**
- ii. A Medium Rigid Vehicle entering the roundabout from Terry Street, in both directions, must be able to undertake right turns into the new road and Margaret Street without crossing the approach centre line markings.
- iii. Swept path analysis must be provided for the U turn movement in Terry Street from the north east approach.
- iv. A raised pedestrian crossing (Zebra crossing) must be provided in Terry Street on the south western approach to the intersection to provide a safe location for pedestrians to cross Terry Street. The proposed kerb ramps on either side of Terry Street on the north eastern approach must be deleted.
- v. The roundabout requires significant redesign to address the above issues, including but not necessarily limited to:
 - Realign the central roundabout island.
 - Widen and realign the new road kerb to generally align with Margaret Street on both sides.
 - Relocate the kerb return on the north west corner (Margaret Street/ Terry Street corner) to the north west.
 - Relocate the kerb return on the south west corner (New road / Terry Street corner) to the south west.

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Comment [RE3]: Sentence agreed, and condition amended 20/2/2013

The centre island of the roundabout must include a concrete apron with porphyry paver infill.

- d) Plans and further detailing of the new road is required to be submitted in support of the design, addressing the following specific issues at a minimum:
- i. Swept path analysis must be submitted to demonstrate complying access for a medium rigid vehicle (MRV) to the proposed bin storage area, with the location and width of the required vehicle crossing to be specified. This may result in modification to proposed parking spaces and water sensitive urban design elements.
 - ii. Further detail of the water sensitive urban design elements and road design must be provided, including planting details, dimensions, finishes to pavement and parking spaces and details of any threshold elements required to define the Shared Zone.
 - iii. The proposed Shared Zone in the new road must be designed to meet the requirements and approval of Roads and Maritime Services.

- e) The proposed raised threshold in Terry Street to the east of Wulumay Close must incorporate interlocking pavers, with landscaping between the kerb alignment and the threshold, but offset from the face of kerb by 450mm to allow for stormwater flows in the gutter. The threshold is to be positioned opposite the existing street tree on the northern side of Terry Street. Note that additional barriers may be required to meet Roads and Maritime Services requirements.
- f) Sight distances to vehicular traffic in both directions are to be assessed at the proposed vehicle access to Building A in accordance with AS/NZS 2890.1-2004. It is likely that some existing on street parking will have to be removed on either side of the access. Details are to be provided.
- g) The proposed raised threshold in Terry Street, between the basement carpark entry and the loading dock to Building C, must incorporate interlocking pavers, with landscaping between the kerb alignment and the threshold to prevent pedestrian access, but offset from the face of kerb by 450mm to allow for stormwater flows in the gutter. Note that additional barriers may be required to meet Roads and Maritime Services requirements.
- h) Reconstruction of the kerb, gutter and footpath for the full Terry Street frontage of the site.
- i) Reconstruction of the kerb, gutter and footpath on the western side of Terry Street southward of the proposed roundabout to the existing on street parking.
- j) Construction of new road pavement and resheeting of existing road pavement for the full width of Terry Street for the extent of the Terry Street frontage of the site to the south west of the proposed roundabout.
- k) The proposed indented loading zone on the Terry Street frontage of the site must be reduced to provide storage for a single MRV only. The remaining section of this indented parking area must be provided for general parking.
- l) Construction of a concrete vehicle crossing in the new road, between Building B and the shops/ commercial tenancies, to service an MRV for access to the bin storage area.
- m) Resheeting of the Terry Street road pavement between the proposed roundabout and Walumay Close, to the road centreline.
- n) Resheeting of the road pavement at the proposed roundabout, to the extent of new kerb and gutter in Terry Street and Margaret Street.
- o) Closure of all redundant vehicle crossings at the Terry Street frontage of the site.
- p) Construction of three concrete vehicular crossings at the Terry Street frontage of the site.
- q) Reconstruction of the sandstone kerb, concrete gutter and asphalt footpath at the Crystal Street frontage.

- r) Construction of kerb ramps as required at the Terry Street, Crystal Street and new road frontages.
- s) All stormwater inlet pits, for the extent of the Terry Street frontage of the site and within the new road must be constructed/ reconstructed with a minimum clear lintel length of 2400mm.
- t) All utility services must be shown on the engineering plans and stormwater drainage long sections. Where there is a conflict with existing services, test holes must be undertaken as part of the design process.
- u) Relocation/ installation of parking/ traffic signs as required.
- v) The plans must show existing and proposed on street parking.
- w) Video inspection must be carried out on completed stormwater drainage works that are to revert to Council ownership and a copy provided to Council to support the certification of the works.
- x) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards.
- y) The applicant must consult with Council's Manager – Assets and Manager – Traffic in relation to the design of all works in the public road reserve, including those lands to be dedicated as public road.

The design must be certified by a suitably qualified Civil Engineer and be submitted to and approved by Council prior to this consent becoming operable

The design must be submitted to Council's Local Traffic Committee and approved by Council and the NSW Roads and Maritime Services prior to this consent becoming operable.

05. A structural engineering design and plans that address how the embankments will be retained in the southern corner of the site, adjacent to the Kennard's site, including demonstrating how stormwater will be controlled and directed to existing drainage infrastructure, and how future maintenance access will be provided to this area.

The report and plans must be prepared by a qualified practicing Structural Engineer and be provided for approval prior to the lodgement of any Construction Certificate for building works on the site..

06. An Archaeological Survey must be conducted of the site prior to the issue of a Construction Certificate.

This survey shall be carried out by a suitably qualified and experienced heritage consultant, archaeologist or the like and shall identify the likelihood of remains and/or artefacts, whether European or Aboriginal, being present on site.

This survey shall be carried out by an appropriately qualified person (Heritage Planner or Consultant, Archaeologist or the like) and shall identify the likelihood of remains and/or artefacts, whether European or Aboriginal, being present on site.

In the event that remnants or artefacts are found during the progression of works on the site, all works are to cease until the full requirements of this condition have been addressed.

Remnants and artefacts discovered during demolition, earthworks or excavation shall be photographed, catalogued by location and description and stored and preserved in a place agreed to by Council.

Disposal of the remnants and artefacts shall only occur in consultation with, and subject to the agreement of Council.

07. Development must be carried out in accordance with Development Application No. D/2012/429 and the following plans and in accordance with the recommendations contained within the supplementary documentation referred to in the following table, *except where amended or superseded* by the conditions of this consent.

Plan Reference	Drawn By	Dated
Basement floor plans DA098 Revision B	Turner & Associates	28/11/2012
Basement floor plans DA099 Revision B	Turner & Associates	28/11/2012
Floor plans DA 100 Revision B	Turner & Associates	28/11/2012
Floor plans DA 101 Revision B	Turner & Associates	28/11/2012
Floor plans DA 102 Revision A	Turner & Associates	31/8/2012
Floor Plans DA 103 Revision A	Turner & Associates	31/8/2012
Floor Plans DA104 Revision A	Turner & Associates	31/8/2012
Floor Plans DA 105 Revision A	Turner & Associates	31/8/2012
Demolition & Hoarding Plan DA020 Rev. B	Turner & Associates	28/11/2012
Display Unit Location Plan DA050 Rev. B	Turner & Associates	28/11/2012
Display Unit Floor Plan DA051 Rev. A	Turner & Associates	31/8/2012
Display Unit Floor Plan DA052 Rev. A	Turner & Associates	31/8/2012
Adaptable Unit floor plans DA505 Rev. B	Turner & Associates	28/11/2012
Elevations DA 200 Revision B	Turner & Associates	28/11/2012
Elevations DA 201 Revision B	Turner & Associates	28/11/2012
Elevations DA 301 Revision B	Turner & Associates	28/11/2012
Elevational Detail DA500 Revision B	Turner & Associates	28/11/2012
Landscape plans DA07 Revision G	Aspect Studios	28/11/2012
Landscape plans DA12 Revision G	Aspect Studios	28/11/2012
Landscape Plans DA13 Revision B	Aspect Studios	28/11/2012

Landscape Plans DA00 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA01 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA03 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA04 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA05 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA06 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA08 Revision F	Aspect Studios	17/8/2012
Landscape Plans DA09 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA10 Revision E	Aspect Studios	17/8/2012
Landscape Plans DA11 Revision E	Aspect Studios	17/8/2012
Landscape Sections DA306 – Revision A	Turner & Associates	17/8/2012
Subdivision Plan Ref. 23807	Norton Survey Partners	8/8/2012
Document Title (Supplementary documentation)	Prepared By	Dated
Report on Hazardous Building Materials Assessment Project 37958.01	Douglas Partners	August 2012
Report on Remediation Action Plan Project 44027.10-1	Douglas Partners	November 2011
DA ESD Report 1004602	Cundall	1/8/2012
Integrated Water Cycle Plan Ref. S11227 Revision G	Medland Metropolis	28/9/2012
Operational Waste Management Strategy	Wasteaudit	August 2012
Construction and Demolition Waste Management Plan	Wasteaudit	August 2012
Acoustic Report Revision 4	Wood & Grieve Engineers	6/2/2013
Accessibility Report Final v3	Morris-Goding Accessibility Consulting	23/8/2012
Aboricultural Assessment & Development Impact Report	Glenyss Laws Consulting Arborist	6/2/2012
Geotechnical Investigation Project 44027.11	Douglas Partners	19/4/2012
BCA Capability Report (Ref. J110588)	Vic Lilli & Partners Consulting	10/8/2012

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

08. Consultation with the Principal of Rozelle Public School (or his/her delegate) prior to the commencement of works, and during demolition, excavation and construction works is to be undertaken by the applicant/developer as follows.

This consultation is to include the following:

- a) Prior to the commencement of works the developer is to obtain from the school such information as the school is willing to release, identifying critical school periods during which limited noisy operations would be preferred.
- b) Prior to commencement of works the developer is to provide to Council, and the school principal, an anticipated works agenda which identifies what measures will be taken to manage the works on site to mitigate noise impacts during the critical timeframes identified by the school.
- c) During works the developer is to provide the Principal or his/her delegate with a monthly progress sheet for the development.
- d) During works the developer is to offer to meet with the Principal, or his/her delegate, not less than monthly, with such meeting to be held on a weekday between 8.30am and 5.00pm unless otherwise agreed to by the School Principal.

09. Approval is given for the following works to be undertaken to trees:

Schedule	
Tree/location	Approved works
Tree 53 – <i>Ficus benjamina</i> located on the adjacent site at 116 Terry Street, Rozelle.	Removal
Trees 1 – 52 and Tree 55 located within the site	Removal

Removal or pruning of any other tree on the site is not approved.

- 10. The VPA between Anka Constructions Pty. Ltd and Leichhardt Municipal Council dated 14 September 2012 shall be performed in connection with the carrying out of the approved development ("the VPA").
- 11. Deleted
- 12. Deleted
- 13. Deleted

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE (note: staged construction certificates may be issued pertaining

to differing components of the works subject to all documentation requirements, certification requirements being fully undertaken as pertinent to the scope of works covered by the staged construction certificate – in this regard reference to “before the issue of a construction certificate” – or similar wording- in any condition may be taken by the Principal Certifying Authority to mean a staged construction certificate pertaining to part only of the physical works encompassed within this development consent. This allowance does not preclude the issuance of a construction certificate pertaining to the entirety of the development consent.)

Note: Payment of all bonds, levies and deposits (excepting monetary levy and Affordable Housing Contribution under the VPA) must be made in FULL prior to the release of the first construction certificate for any works on site under the terms of this consent.

14. The Principal Certifying Authority shall be satisfied that the approved landscape (concept) plans, listed below and endorsed with Council’s stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>
DA-00, 01, 02, 03, 04, 05, 06, 08, 09, 10, 11 (Rev E)	Aspect Studios	17/08/2012.
DA-07 (Rev G)	Aspect Studios	28/11/12
DA-12 (Rev G)	Aspect Studios	28/11/12
DA 306 (Rev A)	Turner & Associates	28/11/12
DA 600 (Rev A)	Turner & Associates	31/08/12

The above landscape plan(s) shall be amended in the following ways:

The species used for planting in Courtyard 2 shall be in accordance with the plants listed for that area on the Planting Strategy DWG DA-12 (Rev G).

The planting along the site boundaries adjacent to 126 Terry Street and 11A Wellington Street shall be dense (predominantly low clumping plants with some taller shrubs in suitably placed clusters). The beds to be a minimum of 1.5 in width. Planting configuration and species to be such that access to the boundary is restricted.

Street tree species (including internal roadway) are to be approved by Council’s Open Space Manager.

- 15.A stormwater drainage design, incorporating on site stormwater retention and detention facilities (OSR/OSD), 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:

The design must be generally in accordance with the:

- i) Stormwater drainage concept plan on Drawing No S11227-SW02 Rev 7 dated 28 November 2012 and Drawing No MedM-CIV-501 dated 22 November 2012 prepared by Medland Metropolis
- ii) Integrated Water Cycle Plan Rev G prepared by Medland Metropolis dated 27 September 2012.

Site discharge must connect into the underground pipe system at least 300mm above the floor of the respective inlet pit within the road.

A pump-out system for stormwater disposal is permitted for drainage of the basement areas only and must be designed in accordance with the following criteria:

- iii) The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one hour duration, 100 year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from a one-hour duration 20 year ARI storm event.
- iv) An overflow, flashing light and audible alarm is to be provided to warn of pump failure.
- v) The pump system must discharge to the OSD storage tank(s).

a) 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.

b) The design must make provision for **existing overland** stormwater runoff from uphill/upstream properties/lands between the development site and Wellington Street which currently drain towards the site. The design must include the collection of such waters and discharge to the public existing drainage system.

The design, supported by adjustments to finished surface levels on the subject site if required, must ensure that stormwater runoff from the development site is not directed onto the adjoining properties between the development site and Wellington Street.

c) The proposed rainwater tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation.

16. 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 2890.5-1993 Parking Facilities - On-Street parking*, *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:

Comment [RE4]: Words agreed and added 20/2/2013

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Comment [RE5]: Word agreed and amended 20/2/2013

Comment [RE6]: Condition amended and agreed 20/2/13

- a) The proposed retail parking spaces located within the loading dock must be designated for staff of the commercial component of the development.
- b) The access ramps to Terry Street and the new road must be amended to address the following issues:
 - i. The longitudinal sections on Drawing No DA302 / B prepared by Turner and Associates dated 28 November 2012 do not meet the existing footpath levels and show a general flattening of the boundary levels across the driveway. The sections must be amended to meet the existing footpath levels. The driveway profile will need to incorporate appropriate level transitions to meet the sloping road/footpath.
 - ii. The longitudinal sections on Drawing No DA303 / A prepared by Turner and Associates dated 28 November 2012 do not meet the proposed new road footpath levels and show a general flattening of the boundary levels across the driveway. The sections must be amended to meet the proposed new road footpath levels. The driveway gradients must be adjusted accordingly. The driveway profile will need to incorporate appropriate level transitions to meet the sloping road. A minimum headroom clearance of 2200mm must be maintained through the access.
 - iii. The longitudinal sections on Drawing No DA304 / A prepared by Turner and Associates dated 28 November 2012 must be amended to meet the existing footpath levels. The driveway profile will need to incorporate appropriate level transitions to meet the sloping road
 - iv. A longitudinal section along each edge of the loading dock access to Terry Street must be provided demonstrating compliance with the ground clearance and headroom requirements of the Standard for a Medium Rigid Vehicle and showing the driveway meets the existing footpath levels. The driveway profile will need to incorporate appropriate level transitions to meet the sloping road.

The sections must extend to the centreline of the road carriageway, include the ground clearance template and show structures above to demonstrate adequate headroom clearance.

- c) Minimum Headroom of 2200mm must be provided throughout the access and parking facilities. Minimum Headroom of 2500mm must be provided above any accessible parking space(s). 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.

- d) Minimum Headroom of 4500mm must be provided throughout the loading dock and garbage storage access and facilities.
- e) Accesses must be amended as required to provide clear sight lines (triangles) to pedestrians in Terry Street and the new road in accordance with the requirements of Clause 3.2.4(b) of AS/NZS 2890.1-2004.

- f) The longitudinal profile of the accesses and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle.
- g) A 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.
- h) Security doors to the basement carpark and loading dock must meet the following criteria:
 - i. For Buildings A and B, must be set back a minimum of 11 metres from the property boundary.
 - ii. For both accesses to Building C, must be set back a minimum of 5500mm from the property boundary and be open at all times during business hours.
- i) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of all relevant standards.

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

17. The applicant must bear the cost of construction of the following works:

- a) Road and Stormwater Drainage work in Terry Street, Margaret Street, Crystal Street and the proposed new road in accordance with the plans approved under **Deferred Commencement Condition No 04**

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. Detailed engineering drawings (plans, sections and elevation views) and specifications of the works required by this Condition must accompany the Application form.

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.

18. A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to Council prior to the issue of a Construction Certificate.

- a) Full width of Terry Street, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath, between Victoria Road and Wellington Street, inclusive of the roundabout at this intersection.
- b) Full width of Wellington Street, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath, between Victoria Road and Terry Street.

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

The liability of any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition will be borne by the applicant.

19. 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 \$382,600.00 must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works.

Payment will be accepted in the form of cash, bank cheque or bank guarantee.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security.

An inspection fee of \$214.00 is also required to be paid to Council prior to the commencement of demolition works on the site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first).

A request for release of the security may be made to the Council only after all construction work has been completed and the second Dilapidation Report required by this consent has been provided to Council.

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.

20. 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 \$672 200 must be paid to Council to cover the costs associated with the road, footpath (Terry Street) 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.

Video inspection must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of the works.

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.

21. A structural engineering report and plans that address the proposed works in the vicinity of Terry Street and the new road boundary, 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 components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary.
- b) Any proposed retaining walls that provide support to the road reserve 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) 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.

22. 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 report must be generally in accordance with the recommendations of Section 3 (Flood Management) of the Integrated Water Cycle Plan Rev G prepared by Medland Metropolis dated 27 September 2012.
- b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions shall include but not be limited to the following:
 - i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.

- iii) Flood warning signs/depth indicators for areas that may be inundated
 - iv) A flood evacuation strategy.
 - v) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

23. Deleted

24. 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.

25. The bicycle storage within the basements on the site must accommodate a minimum of 70 bicycles and be designed in accordance with Australian Standard AS 2890.3:1993 *Parking Facilities – Bicycle parking facilities*. Details are to be provided prior to the issue of a Construction Certificate.

26. 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.

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

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

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

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

- h) Copies of any preliminary investigation, detailed investigation and remediation action plan for the site.
- i) Contact details for the remediation contractor and any other party responsible for ensuring compliance of remediation work with regulatory requirements.
- j) Development of an appropriate site management plan for the remediation/development phase including a health and safety plan that takes into account all potential contaminants on the site, including polycyclic aromatic hydrocarbons, metals including mercury, and asbestos. **(source Interim advice letter no. 1 prepared by Graeme Nyland dated 20/12/2011)**

28. Prior to the issue of a Construction Certificate for any building works on the site, 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, a validation 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.

The validation report is to confirm validation of suitability in accordance with the site validation plan included in the RAP, including validation of imported topsoil. This includes validation of any fill that remains on the site. **(source Interim advice letter no. 1 prepared by Graeme Nyland dated 20/12/2011)**

A Site Audit Statement is to be obtained at the completion of remediation, certifying that the site is suitable for the proposed use.

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 must not be issued.

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

- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
- b) Written notice is to be given to Council / Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by Council / Certifying Authority:
 - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A *final* inspection when the demolition works have been completed.

NOTE: Council requires 24 hours notice to carry out inspections. Arrangement for inspections can be made by phoning 93679222.

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

- e) The demolition plans must be submitted to the appropriate Sydney Water Office, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 5.30pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Department of Environment and Climate Change NSW.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to Council / Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous

materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.
- 30. 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.
- 31. 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) 126 Terry Street
 - b) 116 Terry Street
 - c) 1A Wellington Street

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

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

concurrence must be obtained from the Certifying Authority in such circumstances.

32. A minimum of 35 car parking spaces for use by persons with a disability must be provided as part of the total car parking requirements. Consideration must be given to the means of access from the car parking spaces to adjacent buildings, to other areas within the building and to footpath and roads and must be clearly shown on the plans prior to the issue of a Construction Certificate.

All details must be prepared in accordance with Australian Standard AS/NZS 2890.1:2004 *Parking Facilities – Off street car parking* and the relevant provisions of Australian Standard 1428.1:2001 *Design for Access and Mobility – General requirements for access - New building work* and Australian Standard 1428.4:2002 *Design for Access and Mobility – Tactile indicators*.

33. The basement car park entry to each carpark must 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.
34. In order to accommodate food waste bins on each floor the building manager is to utilise smaller bins and manage collection and removal on a daily basis, I.E. 80 or 120 litre bins which are then emptied into larger 240 litre bins in the bin storage area on ground / basement floor for collection by Council on the normal collection day. This will not require any additional area than 2 x 240 litre bins which is already accommodated in each bin storage area.
35. A certificate prepared by a qualified Geotechnical Engineer must be provided prior to the issue of the Construction Certificate to the satisfaction of the Certifying Authority. This is to certify the existing rock formations and substrate on the site are capable of:
- a) Withstanding the proposed loads to be imposed.
 - b) Withstanding the proposed excavation, including any shoring works that may be required to ensure stability of the excavation.
 - c) Providing protection and support of adjoining properties.
 - d) The provision of appropriate subsoil drainage during and upon completion of construction works.
36. 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.
37. A landscape plan prepared by a qualified Landscape Architect or Landscape Consultant must be provided prior to the issue of a Construction Certificate. The plan must include:
- a) Location of all proposed and existing planting delineating existing trees to be retained, removed or transplanted.
 - b) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity.
 - c) At least 85% of the plantings must be native species from the Sydney locale.
 - d) At least one tree capable of a height of four (4) metres.
 - e) Details of planting procedure.
 - f) Details of earthworks including mounding, retaining walls, and planter boxes.
 - g) A landscape maintenance strategy for the owner / occupier to administer over a twelve (12) month establishment period.
 - h) Details of drainage and watering systems.
38. Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is 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*.

39. 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.

40. An application must be made to Council for the issue of a Levels Certificate. The certificate, issued by Council, must be provided prior to the issue of a Construction Certificate.

The certificate specifies the surface levels in the road reserve adjacent to the property that must be used as the basis for the design of vehicle or pedestrian accesses, finished floor levels, fences, vents and any structures in the vicinity of the property boundary.

Note that the Levels Certificate may specify that levels in the adjacent road reserve are to be changed from those existing.

41. To ensure reasonable privacy for the adjoining properties in Wellington Street, windows directly facing those properties must have a minimum sill height of 1.6m above finished floor level in Levels 1 and 2 of Building B. Alternatively, the window/s may be permanently fixed to this height (that is windows are not to swing or lift open) with obscure glazing provided ventilation requirements of the Building Code of Australia are met. Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Certifying Authority.

42. A 1600mm high privacy screen must be erected along the edge of any deck or terrace in Levels 1 and 2 of Building B which would otherwise allow direct overlooking into the rear of adjacent properties located in Wellington St to ensure reasonable privacy for the adjoining property/s. Each privacy screen must be 75% obscure, permanently fixed and made of durable materials. Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Certifying Authority.

43. 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 referred to in this Development Consent and must address, but is not limited to the following issues:

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
- f) Control surface water flows through the site in a manner that:

- i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non 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.
44. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Service Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au see Building Developing and Plumbing then Quick Check or telephone 132092.
- The Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.
45. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan, where appropriate:
- 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.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors New South Wales Inc. or an accredited certifier.
- b) Construction Noise
During excavation, demolition and construction phases, noise generated from the site must be controlled.
 - c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
 - d) Toilet Facilities
During 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.

- 46. 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.

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

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

- 48a The first construction certificate for the first stage of the built form of the approved development shall not be issued until the security for the New Street is paid in accordance with the VPA.
- 48b The first construction certificate for each stage of the approved development must not be issued until the relevant development contributions have been paid in accordance with the VPA.

PRIOR TO THE COMMENCEMENT OF WORKS

49. 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.

50. The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment, with the exception of awnings to shops/commercial premises which may project over the footpath. No portion of the proposed structure, excepting awnings as above, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

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

- a) location of the building with respect to the boundaries of the site;
 - b) level of the floor 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.
51. 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.

52. 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.

53. 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.
54. To preserve the following trees no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunks to prevent any activities, storage or the disposal of materials within the fenced area. The tree protection shall be maintained intact until the completion of all demolition/building work on site.

Schedule	
Tree/location	Radius in metres
Trees 54 (street tree)	To be protected as per Appendix G, Arboricultural Assessment & Development Impact Assessment

Note: Tree 54A which is opposite Margaret Street may be removed, however a replacement tree of the same species is to be planted in the street reserve along the site frontage, to Council specification.

55. Prior to the commencement of works, 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-compliances and/or noise complaints.
56. 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.
57. Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Certifying Authority for the work.

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

DURING WORKS

58. Building materials and machinery are to be located wholly on site.
59. 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.

60. The site must be appropriately secured and fenced at all times during works.
61. Excavation, building or subdivision work must be restricted to the hours of 7:00am to 5:30pm Monday to Friday inclusive, 7:00am to 1:00pm Saturday. Work is not be carried out on Sunday or Public Holidays.
62. 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.
63. 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.
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 *Interim Construction Noise Guideline*.
65. A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.
66. Construction material and vehicles shall not block or impede public use of footpaths or roadways.
67. 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.

- 68. 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.

- 69. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works unless specifically approved in this consent.

No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

All builders' refuse, spoil and/or material unsuitable for use in landscape areas being removed from the site on completion of the building works.

The canopy replenishment trees to be planted being maintained in a healthy and vigorous condition until they attain a height of 4 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead being replaced with the same species.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 70. Provision must be maintained for access to and within the building on the site 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.
- 71. A Travel Access Guide for the local area is to be made available to residents and non residential tenants of the development prior to occupation.
- 72. The approved parking spaces located within the basements must be allocated as detailed below. All spaces must be appropriately line marked and

labelled according to this requirement prior to the issue of an Occupation Certificate. If the development is strata subdivided, the car park layout must be in accordance with the required allocation:

- a) 212 residential parking spaces (these are to be allocated on the following basis: one and two bedroom units are to have a maximum of one car space allocated each, three bedroom units are to have a maximum of two car spaces allocated – note the quantum of 212 carspaces shared between the approved units means that not all three bedroom units will have two car spaces allocated).
 - b) 20 commercial (business tenancies) parking spaces
 - c) 18 visitor spaces
 - d) 35 of the total number of required carspaces are to be designed as disabled spaces
 - e) Three of the total number of carparking spaces are to be allocated (one each) to the live/work units.
73. Where necessary to achieve compliance with the Building Code of Australia, 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 an Occupation Certificate.
74. The Principal Certifying Authority is to be satisfied that all landscape works, including tree planting, have been undertaken in accordance with the approved plan(s) and conditions of consent. A copy of an active Landscape Management contract for the maintenance of the landscaping for a period of not less than one year after the installation is to be provided prior to the issue of the Occupation Certificate.
75. A car wash bay graded to an internal drainage point, connected to a Sydney Water sewer and with access to a water supply must be provided. Car wash bays are not to 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.
76. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

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 Principle 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 Principle Certifying Authority stamped Construction Certificate plans.

77. Prior to the issue of an Occupation Certificate, the Principle 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 Terry Street and new road frontages to indicate that customer parking for the commercial component of the development is available within the property with access from Terry Street.
- c) 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.

78. A second Dilapidation Report addressing the public infrastructure identified in this consent including a photographic survey and structural condition, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council prior to the issue of an Occupation Certificate.

79. Prior to the issue of an 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.

80. Prior to the issue of an 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.

81. Prior to the issue of an 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.

82. 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.

83. In the event that boundary fencing with any adjoining property is damaged during works and needs to be replaced, the replacement fence shall constitute an 1800mm lapped and capped timber fence with all costs to be borne by the applicant.
84. 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.
85. All letter boxes 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.
86. A street / shop number must be clearly displayed at the ground level frontage of each building and shop tenancy 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.
87. 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.
88. 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 building 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.
89. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

90. The area at the end of New Road adjacent to the rear boundary of 11A Wellington Street is to be planted as indicated on the landscape plans with plants of a sufficient height to provide privacy to the rear of that property from persons standing at the end of New Road. Any new fencing required to the adjoining property is to be a lapped and capped timber fence a minimum of

1800mm (up to 2400mm subject to the agreement of the owners of that property).

91. Prior to release of the final Occupation Certificate issued pursuant to this consent the developer is to provide Council with a report and schedule prepared by an ESD consultant identifying the ESD components which were incorporated into the development, and establishing the eventual level of Green Star rating which was achieved by the finished development.
92. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on site detention / 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.

93. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the basement pump out 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.

- 93a The occupation certificate for the first stage of the approved development must not be issued until the New Street is completed and dedicated to the Council in accordance with the VPA.
- 93b The occupation certificate for the final stage of the approved development must not be issued until work – as – executed plans with appropriate calculations are submitted to the Council showing the final as built floor space ratio (calculated in accordance with the definition contained in Leichhardt Local Environmental Plan 2000) of the development.

- 93c The occupation certificate for the final stage of the approved development must not be issued until the relevant development contributions have been paid to Council in accordance with the VPA.

ONGOING CONDITIONS OF CONSENT

94. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
95. Food waste bins are to be provided on each residential floor. If food waste bins cannot be accommodated separately in a bin store area, then the building manager may implement an alternative management solution as follows:
- (i) In order to accommodate food waste bins on each floor the building manager is to utilise smaller bins and manage collection and removal on a daily basis, I.E. 80 or 120 litre bins which are then emptied into larger 240 litre bins in the bin storage area on ground / basement floor for collection by Council on the normal collection day. This will not require any additional area than 2 x 240 litre bins which is already accommodate in each bin storage area.
96. The retail tenancies approved as part of this development are only to be open for business and used for the purpose approved within the following hours.

Monday	7.00am to 8.00pm
Tuesday	As above
Wednesday	As above
Thursday	7.00am to 10.00pm
Friday	7.00am to 10.00pm
Saturday	7.00am to 10.00pm
Sundays and Public Holidays	8.00am to 7.00pm

The business component of the live/work premises facing Crystal St are only to operate between the hours of 7.00am to 7.00pm Monday to Friday, 7.00am to 6.00pm Saturdays and 10.00am to 4.00pm Sundays and public holidays.

97. All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with, where relevant, Australian Standard AS 1158.3:2005 *Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance* and design requirements and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.
98. Pedestrian access to the basement car park must be kept clear of obstacles, including parked vehicles, at all times.
99. Any basement car parking space must not be individually enclosed without prior development consent.

100. Driveways and parking spaces must not be used for manufacture, storage or display of goods, materials and equipment. The spaces must be available at all times, for all vehicles associated with the development.
101. At all times, the loading dock, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
102. ~~Any basement car parking space must not be individually enclosed without prior development consent Condition Deleted.~~
103. ~~Driveways and parking spaces must not be used for manufacture, storage or display of goods, materials and equipment. The spaces must be available at all times, for all vehicles associated with the development. Condition Deleted~~
104. The parking bays proposed for 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 business hours approved for the commercial development.
105. 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.
106. 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.
107. 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.
108. The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
109. The Operation and Management Plan for the on site detention on-site retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
110. The Operation and Management Plan for the basement pump out facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

Comment [RE7]: Conditions 102 & 103 deleted by agreement 20/2/13

111. 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 a healthy vigorous tree.
112. The operating noise level of the premises 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:

$L_{Aeq, 15 \text{ minute}} \leq \text{rating background level} + 5$

113. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling, shops, industry without the prior consent of the Council unless the change to another use is permitted as exempt development under *Leichhardt Development Control Plan 35 – Exempt and Complying Development*.

These are defined under the *Leichhardt Local Environmental Plan 2000* as follows:

Dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

Exhibition home means an unoccupied dwelling available for public inspection and used for display purposes.

Industry means:

- a) any manufacturing, production, assembly or research process, or
- b) the breaking up or dismantling of any goods or any article for trade, sale or gain or ancillary to any business, or
- c) the winning of extractive material.

Shop means a building or place used for selling, whether by retail or auction.

CONDITIONS WHICH RELATE ONLY TO THE APPROVED DISPLAY UNIT (EXHIBITION HOME) AND ONLY APPLY IN THE EVENT THE DEVELOPER PROCEEDS WITH THAT SPECIFIC COMPONENT OF THE CONSENT.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 1X. 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.

2X. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standard *AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking*. The following specific issues must be addressed in the design:

- a) The proposed entry must be 5500mm wide to provide dual access. Jersey kerbs or similar must be installed along the remainder of the carpark frontage to ensure access is clearly limited to the proposed location.
- b) Vehicles must enter and exit the site in a forwards direction.

The design must be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia and be provided prior to the issue of a Construction Certificate

3X. Access to and within the building at the main points of entry, customer service counter, carparking and sanitary compartment is to be provided in accordance with Part D of the Building Code of Australia and AS 1428.1.

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.

4X. The Disability(Access to Premises-Buildings) Standards 2010 is applicable to the proposed development. The applicant is to comply with the requirements of this Standard as applicable.

5X. Compliance with the requirements of the Building Code of Australia is required as applicable, including but not limited to:

- a) Exits are required to comply with Part D including travel distances and alternate exits.
- b) Emergency lights and Exit signs are to be provided in accordance with Part E4 as applicable.
- c) Treads and risers are to comply with Clause D2.13 and Table D2.13 as applicable.
- d) Handrails and Balustrades are to comply with Part D2 and AS1428.1-2009
- e) Mechanical ventilation is required throughout in accordance with clause F4.5 and AS1668.2 and AS/NZS3666.1.
- f) Fire fighting equipment is to be provided in accordance with Part E1 and access to existing services is required to be maintained throughout as applicable.
- g) Sanitary facilities are to be provided in accordance with Part F2 including facilities for persons with a Disability in accordance with AS1428.1-2009

6X. Prior to the issue of a Construction Certificate for the exhibition home, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan where applicable:

a) A plan view of the entire site and frontage roadways indicating:

- i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
- ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
- iii) The locations of proposed work zones in the frontage roadways.
- iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
- v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
- vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- vii) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
- viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors New South Wales Inc. or an accredited certifier.

b) Construction Noise

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

c) Occupational Health and Safety

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

d) Toilet Facilities

During 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.

- 7X. Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings

PRIOR TO THE COMMENCEMENT OF WORKS

- 8X. 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.

- 9X. 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.

- 10X. Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the erection or demolition of a building 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.

- 11X. 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.

DURING WORKS

12X. Excavation, building or subdivision work must be restricted to the hours of 7:00am to 5:30pm Monday to Friday inclusive, 7:00am to 1:00pm Saturday. Work is not be carried out on Sunday or Public Holidays.

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.

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.

13X. 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.

14X. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works unless specifically approved in this consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

15X. 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.

16X. Prior to the issue of an Occupation Certificate, the Certifying Authority must be satisfied that all outdoor lighting 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.

17X. Prior to the issue of an Occupation Certificate, the Principle 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.

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.

ONGOING CONDITIONS OF CONSENT

18X. 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.

19X. All vehicles must enter and exit the site in a forward direction.

20X. The operating noise level of the premises 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:

$L_{Aeq, 15 \text{ minute}} \leq \text{rating background level} + 5$

21X. Collection of all glass bottles and recycling is to occur between the hours of 700 am and 5 pm Monday to Friday and 7.30 am and 1.00 pm Saturday. No collection is to occur on Sundays and public holidays.

22X. The approved signs must be maintained in a presentable and satisfactory state of repair.

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.

No A-frame signs or sandwich boards are to be used in associated with the occupancy with on the street or on private property without the consent of Council.

The signs shall be removed from the site no later than 14 days after the sale of the last property, or prior to demolition of the existing building, whichever occurs first.

23X. The property is only to be open for business and used for the purpose approved within the following hours.

Monday to Sunday inclusive 9.00am to 5.00pm

24X. The display unit is limited to a three year operation commencing from the date of this consent. After three years all works associated with the display unit (exhibition home) must be removed from the site.

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 demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) 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.

Have you made a political donation?

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