







DEVELOPMENT ASSESSMENT REPORT

Application No.	DAREV/2017/13
Address	43 Booth Street, ANNANDALE NSW 2038
Proposal	Review of Determination of D/2016/354 which was refused. Application seeks approval for alterations to the existing office space in the building and its conversion into a dwelling.
Date of Lodgement	9 March 2017
Applicant	Ms M E Dickie and Mr P T Byrnes
Owner	Mr P T Byrnes and Ms M E Dickie
Number of Submissions	Nil
Value of works	\$170,000
Reason for determination at Planning Panel	Clause 4.6 Exception – FSR
Main Issues	<ul style="list-style-type: none"> • Heritage • Parking
Recommendation	Approval - Change original determination



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for review of Determination of D/2016/354 which was refused.

The application seeks approval for alterations to the existing office space in the building and its conversion into a dwelling at 43 Booth Street, Annandale.

The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Heritage conservation
- Parking

The above issues can be addressed by recommended conditions of consent and therefore the application is recommended for approval subject to conditions.

2. Proposal

The proposal seeks specifically -

- Lower Ground Floor
 - Internal demolition and construction of bin storage, residential lift. Retention of existing parking (4 spaces).
- Ground Floor
 - Additional pedestrian entry from Booth Street to the dwelling. Retention of cafe
- First Floor
 - Internal demolition and construction of dwelling rooms (living, dining, kitchen, bath rooms etc.) Construction of external courtyard fronting Booth Lane
- Mezzanine Floor
 - Internal demolition and construction of bedroom and bathroom

3. Site Description

The subject site is located on the northern side of Booth Street, between Nelson Street and Trafalgar Street. The site consists of one allotment and is generally rectangular shaped with a total area of 205sqm and is legally described as Lot 1 DP 306865.

The site has frontages to Booth Street and Booth Lane of 6 metres.

The site supports a building comprising a café and office atop a storage/parking level. The plans nominate four (4) parking spaces at the rear of the site accessed from Booth Lane.

The adjoining properties and to the south across Booth Street support two-storey buildings comprising a mixture of both commercial and residential uses. To the north are largely residential uses.

The site is not listed as a heritage item however is located within a conservation area. The site is not identified as a flood prone lot.

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Date	Application No	Application Details	Outcome
19/12/1989	S102 – DA/1989/413	Commercial change of use (shop and professional offices). Modify parking conditions.	Approved
17/11/1989	DA/1989/413	Commercial change of use (shop and professional offices)	Approved
01/02/1990	BA 1989/1047	Alterations and refit 3 x 3 storey commercial building	Approved
11/03/1993	BC/1993/40	Building Certificate	Issued
20/10/1993	DA/331/1993	Coffee shop and advertising signage	Approved
15/12/1993	BA/1993/892	Alterations to building	Approved
23/06/2009	M/2008/293	Modification of Development Consent DA/331/1993 in the following way: delete conditions 7 and 9 relating to restrictions on number of employees and permit cafe use.	Approved
02/03/2016	PREDA/2015/257	Alterations and additions to existing building, including conversion of existing office space to a residential apartment.	Advice Letter Issued (dated 1/3/16)
18/11/2016	D/2016/354	Conversion of existing office space into single unit dwelling.	Refused

Surrounding properties

39-41 Booth Street

Date	Application No	Application Details	Outcome
11/02/2009	D/2008/526	Change of use from dwelling to real estate office	Approved

45 Booth Street, Annandale

Date	Application No	Application Details	Outcome
11/10/2005	D/2005/160	Change of use of the garage at the rear to a service station for mechanical repairs of motor vehicles.	Approved
11/10/2005	M/2005/180	Modification of D/1998/590 for use of premises as a herbal medicine shop with residence above. Modification involves the deletion of condition 2 requiring 2 on-site parking spaces.	Approved

4(b) Application history

Date	Discussion / Letter/ Additional Information
18/04/2017	Additional Information lodge – Clause 4.6 Exception

5. 82A Review

Section 82A of the Environmental Planning and Assessment Act, 1979 allows an applicant to request Council to review the determination of an application. The review is to be carried out in accordance with the requirements discussed in the following:

A review of a determination cannot be carried out on a complying development certificate, or a determination in respect of designated development, or a determination in respect of integrated development, or a determination made by the council under section 116E in respect of an application by the Crown.

The subject application was not complying development, designated development, integrated development or an application made by the Crown.

A determination cannot be reviewed after the time limit for making of an appeal under Section 97 expires, being 6 months from the original determination.

The subject application was determined on 18 November 2016. The request for review was received by Council on 9 March 2017. The review must be determined by 17 May 2017.

In requesting a review, the applicant may make amendments to the development described in the original application, provided that Council is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The applicant has made the following comments and amendments to the plans –

- Maintaining four (4) off-street commercial parking spaces in accordance with BA 1989/1047.
- Providing a resident store room in the lowest level whilst maintaining the proposed lift.
- Alterations to the lift so there is no penetration of the slab
- Minor change to mezzanine floor level and detail of void closure for dining room. Skylight to mezzanine ensuite.
- Rear courtyard stormwater details
- Maintaining a separate resident access from the street frontage of Booth Street.

Council is satisfied that the amendments would result in substantially the same development as described in the original application.

The review of determination has been notified in accordance with the regulations, if the regulations so require, or a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations.

The application was advertised for a period of 14 days from 27 March 2017 to 10 April 2017.

Consideration of any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan.

Following public notification no submissions were received.

As a consequence of a review, Council may confirm or change the determination.

After assessing this review, it is recommended that Council change its original determination of refusal to approval subject to conditions.

The review must not be made by the person who determined the original but is to be made by another delegate of the council who is not subordinate to the delegate who made the determination. If the original determination was made by the Council then the review is also to be considered by the Council.

The original determination was made by a Team Leader and would have been able to be determined at an Officer level without the need to be reported to the Panel. However as the proposed FSR exceeds Officer delegation it is reported to the Panel for determination.

6. Reasons for Refusal

The original development application was refused on 18 November 2016. The reasons can be consolidated into the following 'key' reasons, with comments in response as to how this review has address those reasons -

1. Level of information submitted to address – Floor Space Ratio, Building Code of Australia (BCA), contamination, waste storage and water.

Comment: The information and plans submitted with this review have been assessed by various Council Officers and it is now considered that the information has addressed those previous issues subject to the imposition of conditions.

2. Adverse Heritage Impacts

Comment: As discussed in this report, it is considered that given a previous approval on the site that alters the original form of the façade, the modifications to the majority of the ground floors of the commercial properties in this section of Booth Street, it is not considered reasonable to prevent the additional entry on the Booth Street façade.

3. Parking Impacts

Comment: As discussed in this report, the proposed parking arrangement on the site is considered able to be amended to provide two (2) compliant spaces.

7. Assessment

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

7(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

7(a)(i) State Environmental Planning Policy No 55—Remediation of Land—

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried

out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

Council initially raised concerns (D/2016/354) regarding the disturbance of the existing concrete slab in relation to contamination. In additional information prepared by Burrell Threlfo Pagan Pty Ltd, dated 6 March 2017, the architect advises that the lift can be installed without any penetration to the existing concrete slab. Council is satisfied with this statement; however suitable conditions have been included to safeguard any unexpected events/finds.

As a result of the above, it is considered that the site will not require remediation in accordance with SEPP 55.

5(a)(i) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with the original application.

5(a)(ii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

5(a)(iii) Leichhardt Local Environment Plan 2013 (LLEP 2013)

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.4 – Floor Space Ratio
- Clause 4.4A – Floor Space Incentives for active street frontages
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.9 – Preservation of trees or vegetation
- Clause 5.9AA – Trees or vegetation not prescribed by development control plan
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise
- Clause 6.11A - Residential accommodation in Zone B1 and Zone B2

The following table provides an assessment of the application against the development standards:

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Clause 4.4 (1:1) Clause 4.4A (1.5:1)	1.89:1	26.50%	No

The following provides further discussion of the relevant issues:

- Clause 4.4 – Floor Space Ratio & Clause 4.4A Exception to maximum floor space ratio for active street frontages

As outlined in table above, the proposal exceeds the maximum permitted 1.5:1 FSR. Notwithstanding the exceedance assessment of this Clause is required for the purposes of utilising this Clause for a 'bonus' FSR above the maximum 1:1 permitted under Clause 4.4 – Floor Space Ratio.

The building is on a site marked 'Area 1' on the Floor Space Ratio Map. Whilst seeking an additional dwelling entry along Booth Street it will retain an active 'non-residential' frontage through the café entry and window opening being retained. The building seeks a café and residential accommodation (dwelling) consistent with the mixed use development requirement. The building in its bulk and scale is not increased. The overall form of the building is not altered with external alterations at the rear and the provision of the dwelling entry from Booth Street. The ground floor to Booth Street remains a café use with the exception of the access into the building.

As discussed below the exception to the development standard is considered to be well founded and as a result, on balance the proposal is considered to achieve the objective of this clause by enabling a floor space incentive for mixed use development that retains an active street frontage.

Clause 4.6 Exceptions to Development Standards

Whilst the proposal results in an FSR reduction, it remains in breach of the following development standard/s:

- Clause 4.4 – Floor Space Ratio
- Clause 4.4A – Floor Space Incentives for active street frontages

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

Comment: As discussed below in subclauses (3) and (4), it is considered that the contravention to the development standard is acceptable in this instance.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The 'key' reasons submitted by the applicant as justification to the contravention of the standard/s are:

- Clause 4.4 – Floor Space Ratio
 - Clause 4.4A – Floor Space Incentives for active street frontages
 - In the context, the proposal will provide a compatible built outcome with less bulk and visual impact than the existing because the alterations are contained within the existing envelope and part of the building is opened at the rear, thereby relieving visual bulk.
 - The proposal will provide a good standard of residential amenity for the future occupants of the proposed dwelling on the subject site.
 - The proposal provides a (less intensive) residential use to replace existing commercial uses within it, therefore, reducing on-street parking demand during business hours.
 - The proposal will maintain an acceptable level of privacy for the adjoining neighbours.
 - The proposal will cause no loss of views.
 - The proposal will generate no adverse traffic or parking impacts.
 - The proposed built form will have no adverse heritage or streetscape impacts.
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Council being the consent authority in this instance, is satisfied that the applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and it is considered to be well founded in this instance. The proposal will result in a reduction in the overall FSR and will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standard/s, B2 – Local Centre zoning and the provisions for residential accommodation in the B1 and B2 zone (Clause 6.11A LEP2013).

- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

The granting of concurrence to the proposed variation of the development standards will not raise any issues of state or regional planning significance.

- (b) *the public benefit of maintaining the development standard, and*

The proposed variations to the development standards will not compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, there is no material public benefit to the enforcing of the development standards.

- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

No other matters are required to be considered before granting concurrence.

- Clause 5.10 – Heritage Conservation

The site is not Heritage Item, however is located in a Heritage Conservation Area. The images below indicate the existing façade, approved changes in 1989 and the proposed changes -

<p>Existing front façade of the subject building</p>	<p>BA/1989/1047 Approved changes</p>	<p>Proposed Façade changes</p>

In the development application the proposed introduction of the dwelling entry door along Booth Street and loss of the ‘slot’ type character window was not supported as it was considered to remove the visual/historic relationship of the ground floor portion of the façade with the upper level of the building.

The existing 1989 approval as noted lowers the window, while retaining its narrow or ‘slot’ width. This work could be carried out as that 1989 consent has been acted upon, so this proposal essentially seeks to widen that opening to enable a separate entry into the building to the dwelling. It is considered that if that work was carried out whilst retaining the ‘slot’ appearance it would ultimately remove the original form and in doing so would diminish the contribution it currently offers. Given the approval has been acted upon, this cannot be prevented. It is considered based on the ability of this work to be carried out and consequently lose the original form, to then slightly widen the window/door is difficult to reasonably object to. It is recognised that the majority of the ground floors of the commercial properties in this section of Booth Street have been modified, with their upper levels remaining in their original form. The modification of ground floors is not uncommon due to access and general retail trends.

In terms of alternate options to the separate Booth Street entry, considerations such as a rear entry and/or an entry foyer to both café and dwelling were made, however it is not considered that a pedestrian entry in the rear lane is appropriate, primarily due to safety and that an entry foyer would reduce the internal floor area of the cafe, but not provide a clearly defined building entry for both the dwelling and café which is desired and common in newer developments.

As a result, it is considered that the dwelling entry to Booth Street is acceptable in this instance.

- Clause 6.4 – Stormwater management

The amended plans provide greater clarity as to the nature and extent of the proposed works. Although the proposal involves conversion of existing office space to a new dwelling, the requirement for on-site detention has been reviewed and is not considered to be applicable given the relatively minor nature of the internal alterations.

Whilst concern is raised regarding the proposed drainage methodology for the first floor Courtyard conditions are included regarding the capacity of the drainage system, including the provision of two separate floor waste drains to reduce the risk of blockage.

It is considered that subject to conditions the proposal satisfies the objectives of this Clause.

- Clause 6.8 – Development in areas subject to aircraft noise

The site is located in an ANEF 20-25 contour. An Acoustic Report was submitted with the application that assessed the proposal against the provisions of AS 2021—2000. This has been reviewed and it considered satisfactory. Standard conditions are included the recommendation ensuring compliance with the recommendations/AS 2012-2000.

- Clause 6.11A - Residential accommodation in Zone B1 and Zone B2

In similar discussion to Clause 4.4A, the proposal will contain a mixed development, it will retain its active street frontage through entry and windows for the café and all the Booth Street ground floor will be used for the café, except for pedestrian access to the dwelling above.

As a result, it is considered the proposal satisfies the objective of this clause that seeks to promote residential accommodation as part of mixed use developments in business zones to support the vitality of neighbourhood and local centres.

6(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

6(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	No
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	N/A

C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.1.4 Booth Street, Annandale Distinctive Neighbourhood	No
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	N/A
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	No
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	No
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A

Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	N/A
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	N/A
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	
Section 1 – Food	N/A
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A
Part G: Site Specific Controls	
Old Ampol land, Robert Street	N/A
Jane Street, Balmain	N/A
Old Balmain Power Station	N/A
Wharf Road Birchgrove	N/A
Anka Site – No 118-124 Terry Street Rozelle	N/A
233 and 233A Johnston Street Annandale	N/A

The following provides discussion of the relevant issues:

C1.4 – Heritage Conservations Areas and Heritage Items, C2.2.1.4 Booth Street, Annandale Distinctive Neighbourhood, C4.4 Elevation and Materials and C4.6 Shopfronts

As assessed in Clause 5.10 – Heritage Conservation of LEP2013, it is considered that the proposed alteration to the Booth Street façade is acceptable in this instance.

C1.11 – Parking

Under DA/1989/413 (17/11/1989) it was initially conditioned that five (5) car parking spaces in a non-stacked arrangement be provided. A subsequent S102 (S96) application approved (19/12/1989) four (4) spaces in a stacked arrangement. BA/1989/1047 that altered the

building to offices and retail (01/02/1990) maintained the four (4) spaces in a stacked parking arrangement. The proposal seeks to maintain the parking arrangement.

The proposed change of use from office to a single dwelling reduces the required parking rate based on the general parking rates held in this part. The existing and proposed rates are –

	Minimum	Maximum
Existing (Office & Café)	5 (2.3 + 1.4)	6 (2.8 + 2.3)
Proposed (Dwelling and Café)	3 (0.6 + 1.4)	5 (1.1 + 2.3)

Council Engineers have commented - *The submitted plans show 2 sets of tandem parking spaces (total of 4 spaces). However, there is insufficient width within the lower ground floor to accommodate 2 adjacent vehicles, particularly when taking into account the pedestrian access/fire egress along the eastern side. There is also insufficient width at the garage door to manoeuvre into the parking spaces on the western side.*

Consequently, off street parking will need to be limited to 2 tandem parking spaces, allocated to the commercial use.

The Applicant has commented that - *Whilst the off-street parking spaces may not comply with Australian standards, we submit that these are current/existing spaces Council approved under BA1989/1047 and criticism of the parking arrangement is not appropriate as it does not satisfy the Newbury Test as the application proposes no changes to this parking arrangement. The only difference is provision for a wheel stop which is a minor alteration. Council should also be aware that although the works were approved as a building application, the 1998 amendments to the EP&A Act, 1979 protect building approvals as development consents - they are one and the same.*

It is disagreed that there is no opportunity to review the parking arrangement on the site as the proposal seeks a change in use on the site and as part of the assessment it is relevant to assess the functioning and servicing of the site which includes parking, fire protection, egress, access etc.

The outcome of the condition suggested by Council's Engineer is that the status quo of a shortfall of one (1) space on the site will remain together with the stacked arrangement to ensure there is adequate fire egress to the rear via a passage alongside the spaces, which the current arrangement does not allow. As indicated above, this will also ensure technical compliance with AS2890.1

It is considered that in a stacked arrangement the allocation of space to the dwelling is not practical and therefore the spaces are to be allocated to the café.

6(d) The Likely Impacts

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

6(e) The suitability of the site for the development

The site is zoned B2 – Local Centre. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

Council's Building Surveyor has provided comments to matters of the Building Code of Australia (BCA), fire-upgrading and access requirements. In conclusion, it is considered that

these matters are able to be resolved by way of conditions and detail to be provided at Construction Certificate (CC) stage.

6(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan for a period of 14 days to surrounding properties. No submissions were received.

6(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is now not considered to be contrary to the public interest subject to appropriate conditions.

7 Referrals

7(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage Officer
- Development Engineer
- Building Surveyor
- Environmental Health Officer

7(b) External

The application was not required to be referred to any external bodies.

8. Section 94 Contributions

Section 94 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. There are no employment credits for a change to residential. A financial contribution would be required for the development under Leichhardt Section 94 Contributions Plans as follows:

Contribution Plan	Adjusted Contribution
Community Facilities	\$2,649.51
Open Space	\$17,335.68
Bicycle	\$14.80
Total	\$20,000.00

9. Conclusion

The proposal now generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

10. Recommendation

- A. The variations to Clauses 4.4 – *Floor Space Ratio* and 4.4A *Exception to maximum floor space ratio for active street frontages* of Leichhardt Local Environmental Plan 2013 be supported under the provisions of Clause 4.6 exceptions to development standards.
- B. That Council, as the consent authority pursuant to s82A(4A) of the Environmental Planning and Assessment Act 1979, change the determination and grant consent to Development Application No: DAREV/2017/13 for alterations to the existing office space in the building and its conversion into a dwelling at 43 Booth Street, Annandale subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. DAREV/2017/13 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA01 Issue D – Site & Roof Plan	Borg Architects	06/03/2017
DA04 Issue E – Proposed Lower & Ground Floor Plans	Borg Architects	06/03/2017
DA05 Issue E – Proposed 1 st Floor and Mezzanine Plans	Borg Architects	06/03/2017
DA06 Issue C – Elevation Sheet 1	Borg Architects	15/07/2016
DA07 Issue C – Elevation Sheet 2	Borg Architects	15/07/2016
DA08 Issue E – Elevation Sheet 3	Borg Architects	06/03/2017
DA09 Issue E – Section	Borg Architects	06/03/2017
DA10 Issue B – External Finishes Schedule	Borg Architects	08/03/2017
DA12 Issue A – Stormwater Concept Plan	Borg Architects	06/03/2017
DA16 Issue A – Courtyard Section	Borg Architects	06/03/2017
Document Title	Prepared By	Dated
Acoustic Report	The Acoustic Group	22/06/2016
BASIX Certificate No. A252020	Borg Architects	15/07/2016

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

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

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

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

2. Consent is granted for the demolition on the property, subject to strict compliance with the following conditions:
 - a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished 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 the Principal 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 the Principal 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: If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- 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 6.00pm 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 Environmental Protection Authority.
- 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. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- 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 the Principal 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 / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

- 3. Amended plans are to be submitted incorporating the following amendments:
 - a) The two (2) westernmost off street parking spaces must be deleted. Off street parking is to be limited to two (2) parking spaces only which are to be allocated to the commercial/retail use.

Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

4. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction.

An acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

5. 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.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
 - i) 10:00pm to 7:00am on Monday to Saturday: and
 - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

6. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
7. 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 “Principal 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 and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

8. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
- a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

9. 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 0.35% 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.

Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

10. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
11. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
- a) Must preserve and protect the adjoining building from damage
 - b) Must, at least seven (7) days before excavating below the level of the base

of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

12. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

13. 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 designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater—Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of 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.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

14. The approved plans must be submitted to a Sydney Water Quick Check agent 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. For Quick Check agent details please refer to the web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents/index.html>

The Principal Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

15. 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 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) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
- iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
- iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
- v) 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.

- b) Noise and vibration

During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration:

a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.

- 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. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

16. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.

17. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15\text{min}}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15\text{min}}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

An acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be provided to the satisfaction of the Principal Certifying Authority demonstrating that noise and vibration from the operation of the premises including the use, plant and equipment will satisfy the stipulated criteria above and relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. Recommendations must be consistent with the approved plans.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate.

18. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

19. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
 - a) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No DA12/A dated 15 July 2016 and the Courtyard Section of Drawing No DA16/A dated 7 March 2017 prepared by Borg Architects, subject to amendment to address the following:
 - i) Two separate floor waste drains must be provided for the proposed rear courtyard.
 - ii) The threshold at the northern end of the rear courtyard must be lower than the threshold at the rear door to ensure overflow is directed away from the dwelling.
 - b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
 - c) All plumbing within the site must be carried out in accordance with Australian

Standard *AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage*

- d) Plans must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- e) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- f) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- g) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- h) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

20. The design of the vehicular access and off street parking facilities must comply with Australian Standard *AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking*. 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) The two (2) westernmost off street parking spaces must be deleted. Off street parking is to be limited to two (2) parking spaces only.
 - b) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
 - c) The two parking spaces must be linemarked as tandem parking spaces with minimum clear dimensions of 11400 x 3000mm (length x width).
 - d) The external form & height of the approved structures must not be altered from that depicted on the approved plans.

The design must be certified by a suitably qualified Civil Engineer as complying with the above requirements.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate and provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

21. Pursuant to Clause 94 of the Environmental Planning & Assessment Regulation 2000, the consent authority has undertaken an assessment of the development proposal and requires the building to be upgraded as the measures within the building are inadequate for:
- i. Protecting users of the building in the event of fire.
 - ii. Facilitating egress from the building in the event of fire
 - iii. Restricting the spread of fire from the building to other buildings nearby.

Due to the extent of proposed works it is appropriate to ensure the development be brought into partial conformity with the BCA.

- The following fire safety and upgrade works are required:
- i. Engage the services of an A1 Accredited Certifier to provide a revised Building Code of Australia fire safety audit which shall cover Sections C, D and E of Building Code of Australia and to identify general areas of non-compliance and address the performance requirements of the BCA to develop a strategy over a specified time period for the upgrading of the building.
 - ii. The method of protection of openings less 3 metres from the boundary shall be incorporated in the final documentation for the construction certificate.
 - iii. Options for timing of report submission: The recommendations shall be indicated on plans and the audit submitted to the Principal Certifying Authority as part of the Construction Certificate application.

- EPAA Regs: Clause 168: Fire Safety Schedule

Attached to the Development Consent is a Fire Safety Schedule which has been issued in accordance with clause 168(1)(a) of the Environmental Planning & Assessment Regulation 2000. The Principal Certifying Authority shall ensure the existing and proposed fire safety measures are installed and certified to be operating in accordance with the BCA and Australian Standards. A Fire Safety Certificate shall be submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate.

(See attached Fire Safety Schedule attached to Consent).

- A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without resulting in demolition of elements marked on the approved plans for retention.

Details demonstrating compliance with the requirements of this condition are to be

submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)

- 22. 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 and inspection fee as detailed below 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.

Security Deposit (FOOT)	\$2075.50
Inspection fee (FOOTI)	\$219.00

Payment will be accepted in the form of cash, bank cheque or EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve & footpath prior to & on completion of the works being carried out.

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 deposit.

A request for release of the security may be made to the Council after all construction work has been completed and a Final Occupation Certificate issued.

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.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

- 23. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)
 - a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application
 - b) A concrete pump across the roadway/footpath. – A Standing Plant permit
 - c) Mobile crane or any standing plant – A Standing Plant Permit

- d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application
- e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application
- f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application
- g) Awning or street verandah over footpath. – Road works Application
- h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

PRIOR TO THE COMMENCEMENT OF WORKS

24. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, 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 property boundaries must be set out by or the location certified by a registered surveyor in accordance with the approved plans, 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.
25. The site must be secured with temporary fencing prior to any works commencing.

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. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning 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 and must be maintained clear of any advertising.

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

A copy of the certificate of insurance must be submitted to the Certifying Authority prior to the works commencing.

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

In all other cases, written notice must be given to the Certifying Authority of:

- a) the name and licence number of the principal contractor; and
- b) reasons why a certificate of insurance is not required.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

27. 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.
28. 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.
29. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
30. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) 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 Principal 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.

Photographic evidence demonstrating compliance with the requirements of this

condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

31. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

DURING WORKS

32. Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.

Construction materials and vehicles shall not block or impede public use of the footpath or roadway.

33. 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 suitably qualified structural engineer.

If 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 within the proximity of the respective boundary.

Any proposed method of support to any excavation adjacent to adjoining properties or any underpinning is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil/structural works. Copies of the design plans must be provided to the relevant adjoining property owner/s prior to commencement of such works. Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

34. The site must be appropriately secured and fenced at all times during works.

35. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphate ores or soils.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority.

36. Excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

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.

37. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the

demolition, construction or operation/use of the development.

38. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
39. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
40. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
41. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

The requirements of the Soil and Water Management Plan must be maintained at all times during the works and shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

Material from the site is not to be tracked onto 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.

42. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

43. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is

to confirm that no high front gutters have been installed.

44. 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 accordance with this consent including all conditions.
45. 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.

46. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
 - the approved plans;
 - BASIX certificate (where relevant),
 - approved documentation (as referenced in this consent); and
 - conditions of this consent.
47. A report prepared by a suitably qualified Acoustic Consultant shall be submitted to Council certifying that the development complies with the requirements of (as relevant):
 - State Environmental Planning Policy (Infrastructure) 2007
 - ANEF - the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000
 - conditions of development consent; and
 - recommendations of report prepared by The Acoustic Group, Report No.: 46.5220.R1:MCC dated 22 June 2016

The report shall include post construction validation test results.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

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

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

49. 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.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a qualified practicing Civil Engineer 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.

50. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

ONGOING CONDITIONS OF CONSENT

51. 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.
52. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
53. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. *food and drinks premises and shop top housing* without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

The use of the premises as a *food and drinks premises and shop top housing*, is defined under the *Leichhardt Local Environmental Plan 2013*.

54. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assess as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

55. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
56. All loading and unloading operations are to be carried out wholly within the site.
57. Pedestrian access to the basement car park must be kept clear of obstacles, including parked vehicles, at all times.
58. 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.

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.

59. 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.

FIRE SAFETY SCHEDULE
Issued pursuant to Section 168
Environmental Planning and Assessment Regulation 2000

This Fire Safety Schedule specifies the fire safety measures (both existing and proposed) that shall be implemented in the whole of the building premises. **A tick (ü) indicates an applicable measure.**

Essential Fire Safety Measures	Existing	Proposed	Standard of Performance <i>Design & Installation Standard</i>
Emergency Lighting		x	BCA Part E4.2, E4.4, AS2293.1-2005
Exit signs (illuminated)		x	BCA Part E4.5, E4.6, E4.8; AS2293.1-2005
Fire blankets	x		BCA Part E1.6 AS2444-2001
Fire doors (and self-closing devices)		x	BCA Part C3.4, C3.5, C3.7, C3.8, C3.10, C3.11 Spec C3.4; AS1905.1-2005
Fire hose reel system			BCA Part E1.4; AS2441-2005
Fire hydrant system			BCA Part E1.3; AS2419.1-2005
Fire safety & emergency evacuation procedure		x	AS3745-2002
Fire seals (protecting openings in fire-resisting components of the building ie fire stopping, collars etc)		x	BCA Part C3.12, C3.15, Spec. C3.15; AS4072.1-2005, AS1530.4-2005

Essential Fire Safety Measures	Existing	Proposed	Standard of Performance <i>Design & Installation Standard</i>
Fire shutters		?	BCA Spec. C3.4; AS1905.2-2005, AS1530.4-2005
Fire windows		?	BCA Spec C3.4
Lift landing doors (fire rated landing doors)		x	BCA Part C3.10(a); AS1735.11-1986
Lightweight construction (ie fire rating of walls, ceilings, column/beam protection etc)		x	BCA Part C1.8, Spec. C1.8; AS1530.4-2005
Portable fire extinguishers	x		BCA Part E1.6, Table E1.6; AS2444-2001
Paths of travel for stairways, passageways and ramps	x		Clause 183-186 of the Environmental Planning & Assessment Regulation 2000
Required exit doors (exit latches)		x	BCA Part D2.19, D2.20, D2.21
Smoke alarms and heat alarms		x	BCA Table E2.2a, Spec. E2.2a Clause 3; AS3786-1993
Solid core doors (and self-closing devices)		x	BCA Part C3.11;
Window / Wall-wetting sprinkler and drencher system		?	BCA Part C3.2, C3.3, C3.4, C3.11(g)(v)(A), D1.7(c), G3.4(b), H101.5; AS2118.2-1995
Warning and operational signs			BCA Part D2.23, E3.3 (relates to lifts only)
Alternative Solution – Fire Engineered Solution Report		?	

On completion of the work, the owner of the building shall cause the Council to be furnished with a “Final Fire Safety Certificate” in relation to each essential fire or other safety measure included in this schedule. The certificate shall meet with the requirements of Part 9 Division 4 of the Environmental Planning and Assessment Regulation 2000.

A copy of the Final Fire Safety Certificate is to be given to the Commissioner of Fire and Rescue New South Wales, and a further copy is to be prominently displayed in the building in a location specified by the Council.

In addition to the above it will be necessary at least once in each period of 12 months from the date of the above “Final Fire Safety Certificate” for the owner of the building to furnish the Council with respect to each essential fire or other safety measure implemented in the building, an “Annual fire Safety Statement” pursuant to the requirements of Part 9 Division 5 of the Environmental Planning and Assessment Regulation 2000 the details of which will be available on application.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A 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:

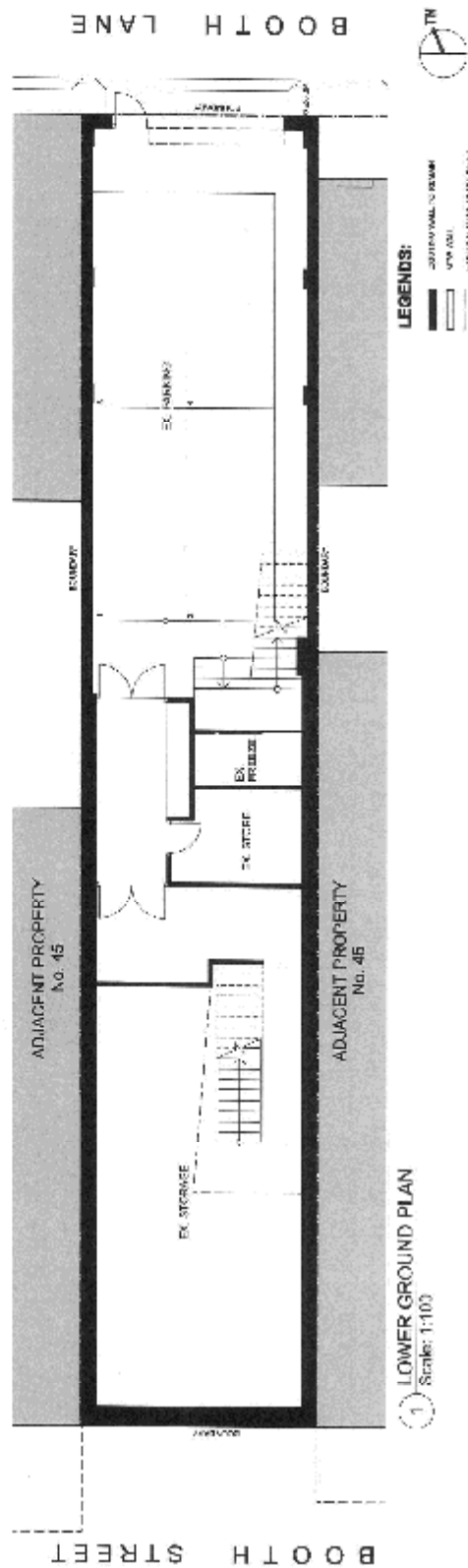
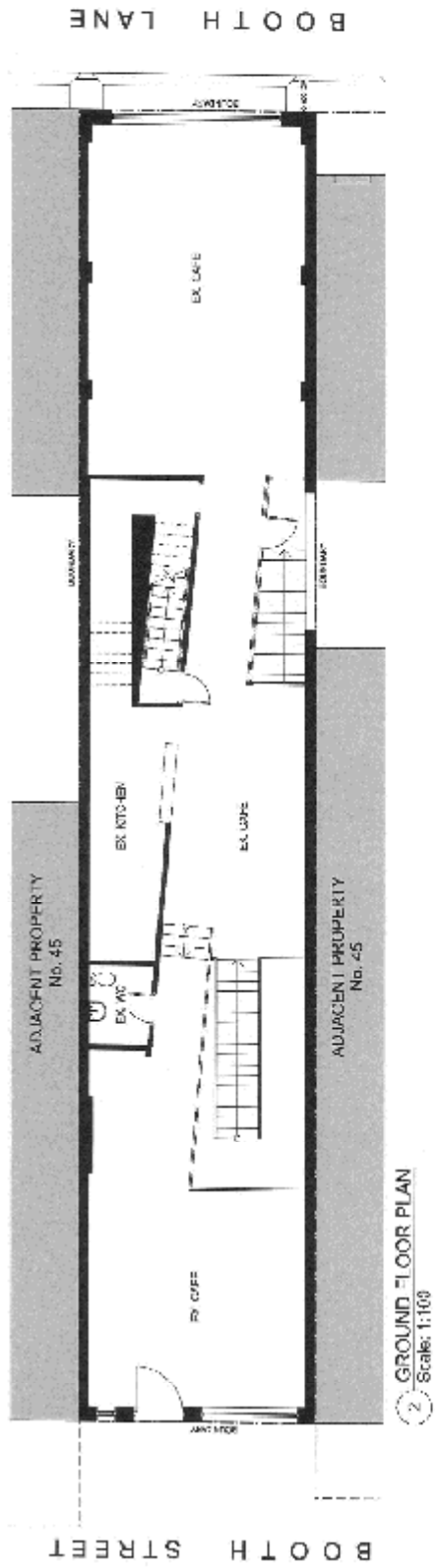
- (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent 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.
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. Furthermore, Council has no power to determine a review after the expiration of these periods. 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.

Attachment B – Plans of proposed development



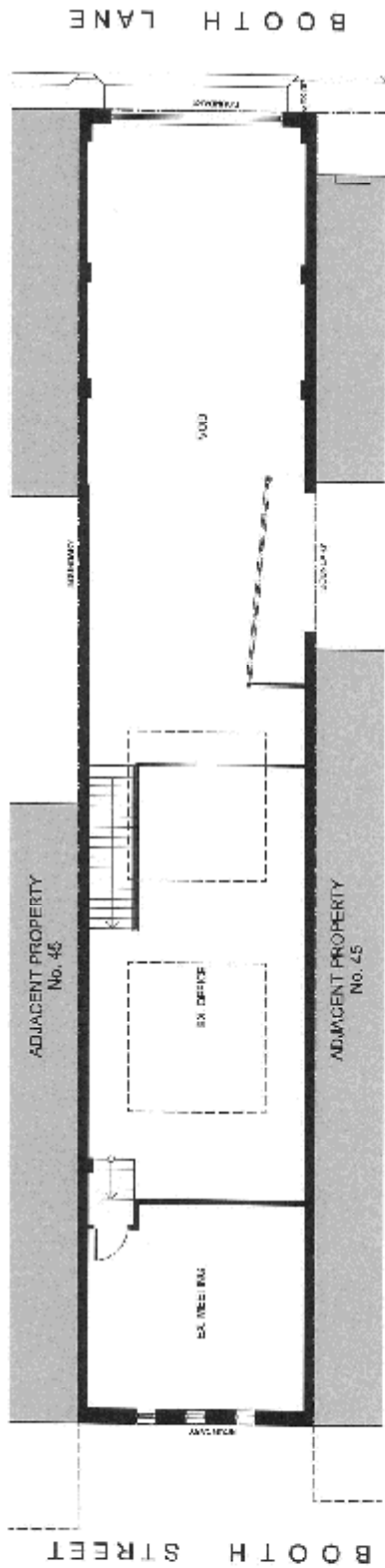
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 - EXISTING WALL TO REMAIN
 - EXISTING
 - PROPOSED

EXISTING LOWER & GROUND FLOOR PLANS

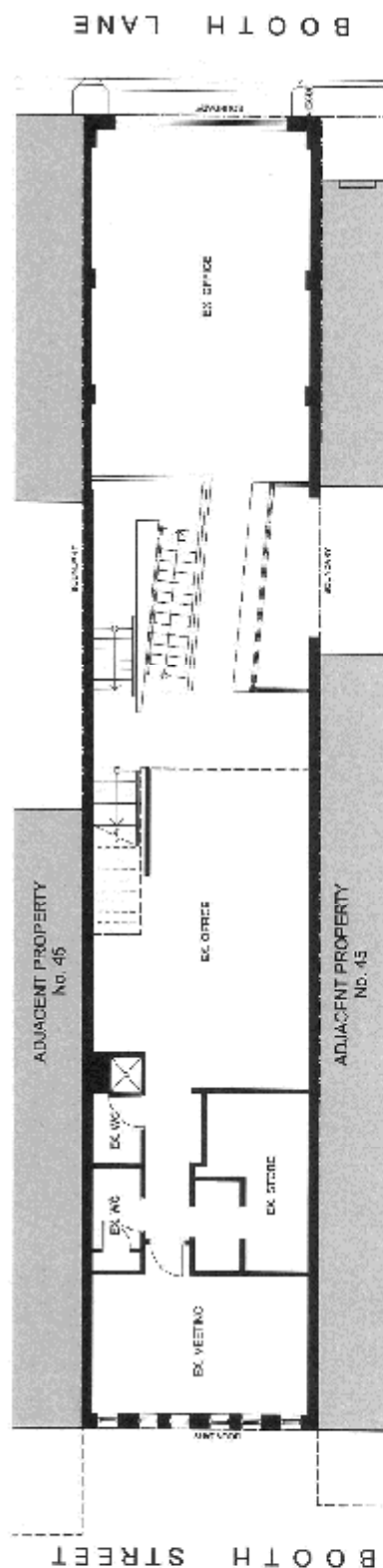
PROJECT: BOOTH STREET
DATE: MAY 2015
SCALE: 1:500
NO: DA02

PREPARED BY: borg
DATE: 15/05/15
PROJECT NO.: 23 BOOTH STREET, ANNANDALE NSW 2288

DESCRIPTION:
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2 MEZZANINE PLAN
Scale: 1:100

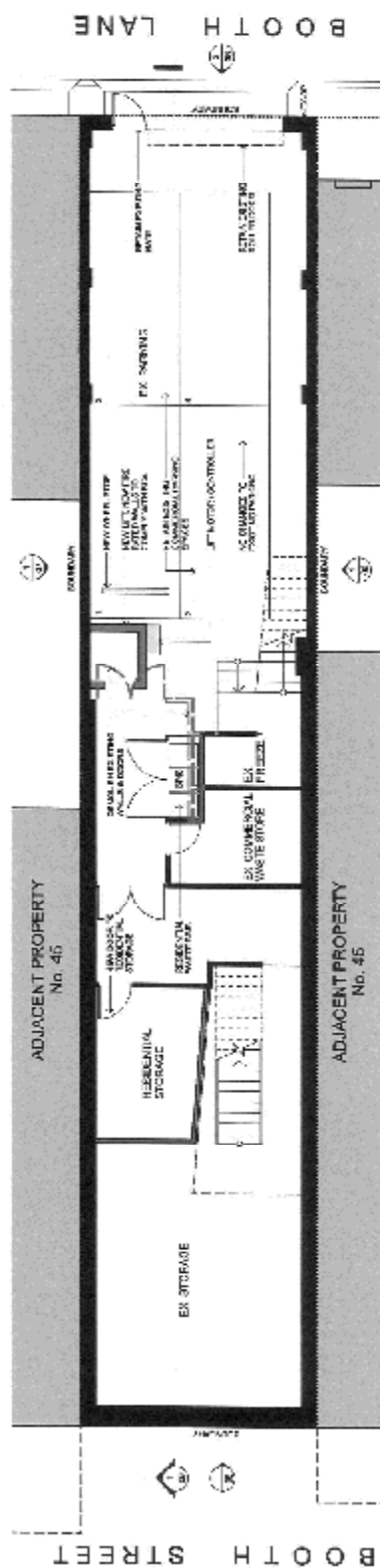
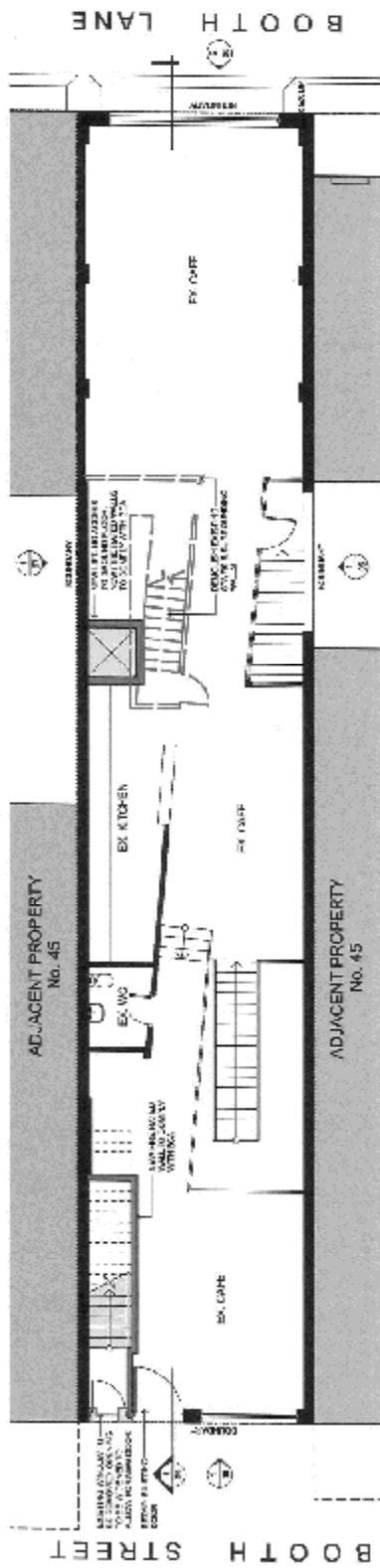


1 FIRST FLOOR PLAN
Scale: 1:100

LEGENDS:
 COLOUR FILL: EXISTING
 HATCH: EXISTING
 DASHED LINE: EXISTING TO BE DEMOLISHED

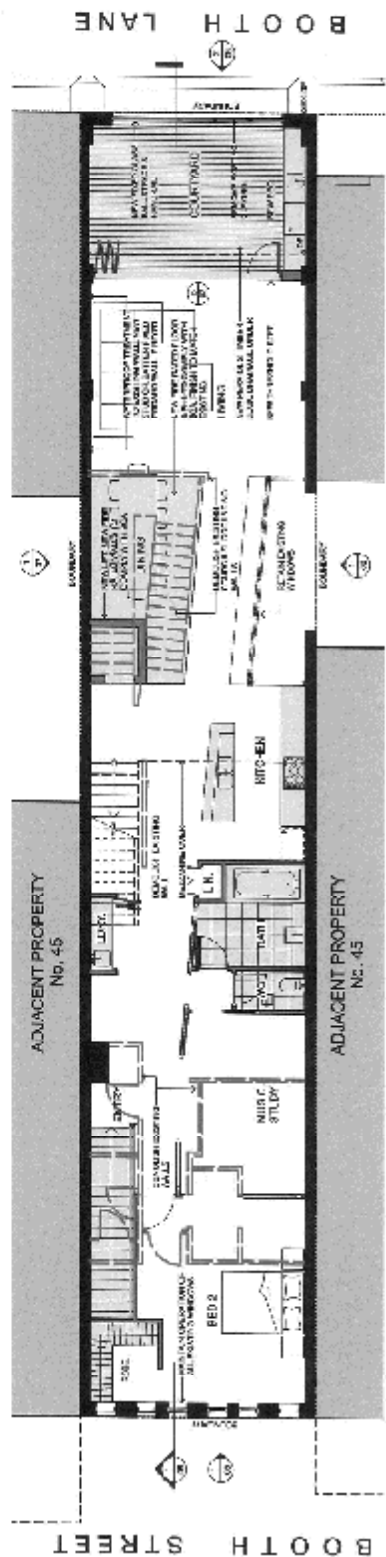
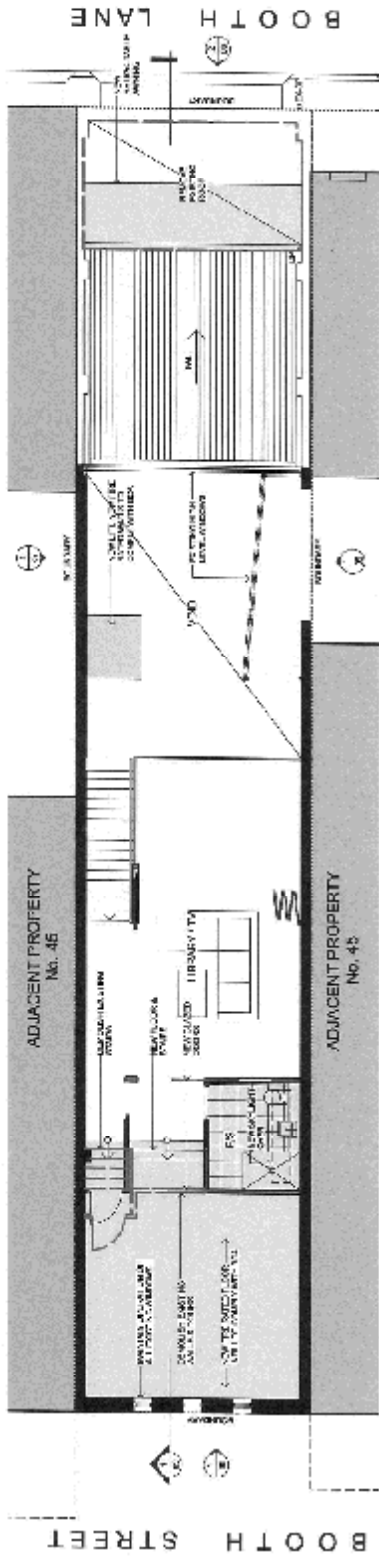


		EXISTING FIRST FLOOR & MEZZANINE PLANS	
DATE: 2016 PROJECT NO: 1803 SCALE: 1:100 @ A3	43 BOOTH STREET ANNANDALE NSW 2038	BOOTH STREET BOOTH LANE	C



LEGEND:
 - - - - - 200' ASPIRATION TO 20' DIA
 - - - - - 400' ASPIRATION TO 20' DIA
 - - - - - 200' TO 20' DIA

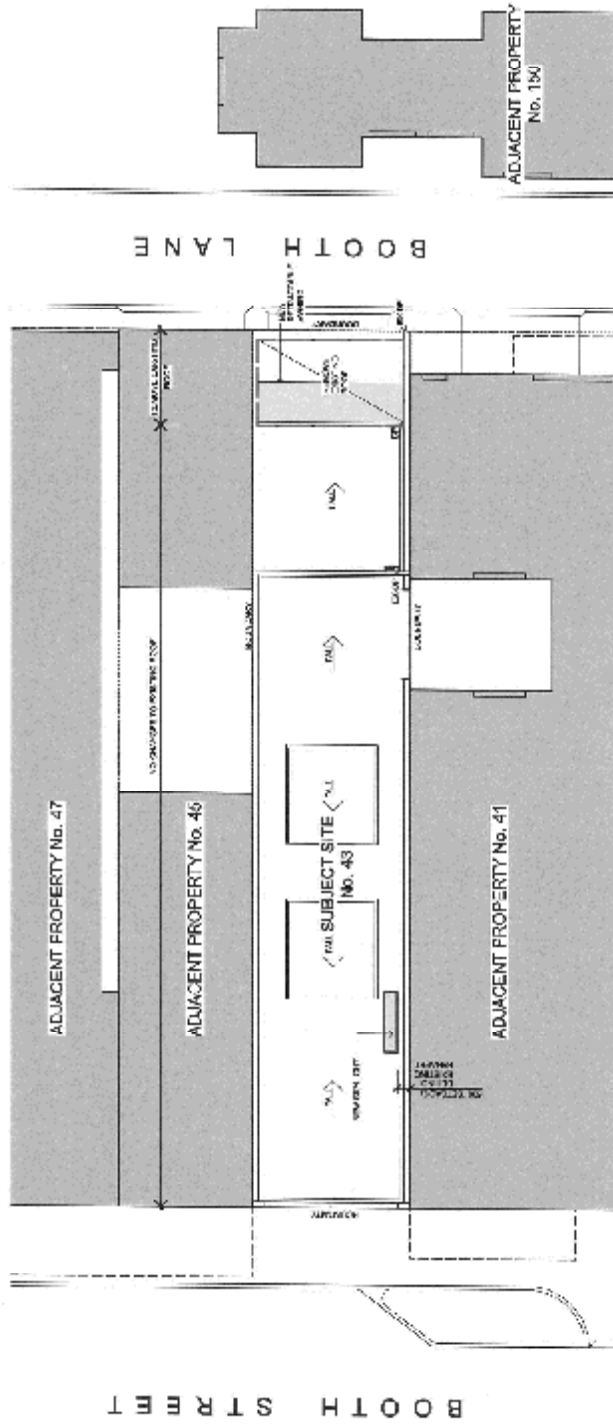
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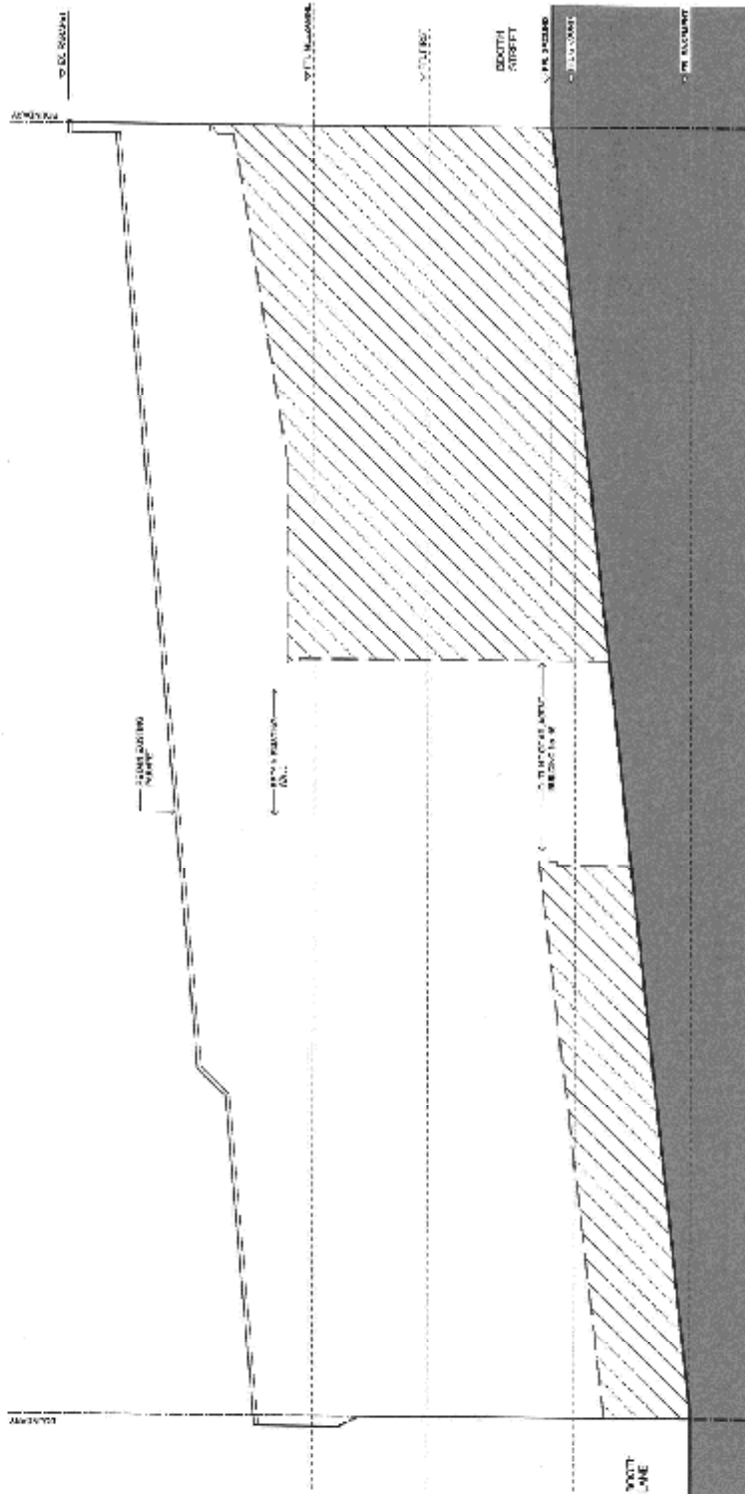
LEGEND:
 - - - - - EXISTING STRUCTURE TO REMAIN
 - - - - - PROPOSED WALLS
 - - - - - EXISTING FLOOR TO REMAIN

<p>Project No. PS Date 2024</p>		<p>Project No. ME Date 2024</p>	
<p>PROPOSED 1ST FLOOR & MEZZANINE PLANS</p>			
<p>Client 1916</p>	<p>Project 1916</p>	<p>Scale 1:100 (G 43)</p>	<p>Sheet DA05</p>
<p>BOOTH STREET</p>			
<p>43 BOOTH STREET ANNANDALE NSW 2038</p>			
<p>boig architects</p>		<p>43 BOOTH STREET ANNANDALE NSW 2038 PH: 02 9550 1234 WWW.BOIGARCHITECTS.COM.AU</p>	
<p>DATE: 10/10/2024</p>	<p>SCALE: 1:100</p>	<p>PROJECT: 1916</p>	<p>SHEET: DA05</p>
<p><small>THIS DOCUMENT IS THE PROPERTY OF BOIG ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR DISTRIBUTED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF BOIG ARCHITECTS. ANY UNAUTHORIZED USE OF THIS DOCUMENT IS STRICTLY PROHIBITED. BOIG ARCHITECTS ACCEPTS NO LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS DOCUMENT. THE USER OF THIS DOCUMENT AGREES TO HOLD BOIG ARCHITECTS HARMLESS FROM AND AGAINST ALL SUCH CLAIMS AND DAMAGES.</small></p>			

LEGEND:
 ■ AS SHOWN IN THE PLAN
 ■ PROPOSED LAMPPOST
 ■ AS SHOWN IN THE PLAN
 ■ AS SHOWN IN THE PLAN



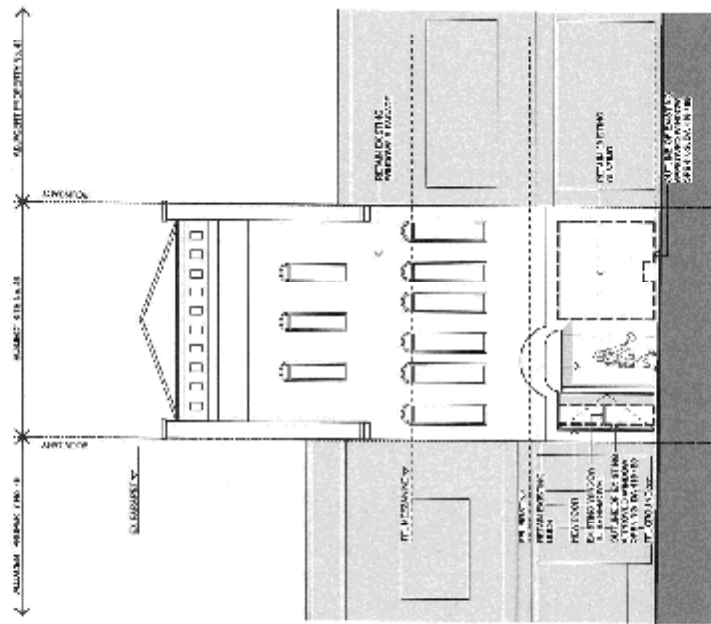
<p>Notes:</p> <p>1. All dimensions are in millimeters unless otherwise stated.</p> <p>2. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>3. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>4. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>5. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>6. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>7. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>8. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>9. All dimensions are to the centerline of the wall unless otherwise stated.</p> <p>10. All dimensions are to the centerline of the wall unless otherwise stated.</p>	<p>D SITE PLAN</p> <p>E ROOF PLAN</p> <p>F SECTION</p> <p>G ELEVATION</p> <p>H SECTION</p> <p>I SECTION</p> <p>J SECTION</p> <p>K SECTION</p> <p>L SECTION</p> <p>M SECTION</p> <p>N SECTION</p> <p>O SECTION</p> <p>P SECTION</p> <p>Q SECTION</p> <p>R SECTION</p> <p>S SECTION</p> <p>T SECTION</p> <p>U SECTION</p> <p>V SECTION</p> <p>W SECTION</p> <p>X SECTION</p> <p>Y SECTION</p> <p>Z SECTION</p>	<p>PROJECT:</p> <p>1. 1/20/2018</p> <p>2. 1/20/2018</p> <p>3. 1/20/2018</p> <p>4. 1/20/2018</p> <p>5. 1/20/2018</p> <p>6. 1/20/2018</p> <p>7. 1/20/2018</p> <p>8. 1/20/2018</p> <p>9. 1/20/2018</p> <p>10. 1/20/2018</p>	<p>PROJECT NO:</p> <p>123</p> <p>DATE:</p> <p>11/20/2018</p>	<p>PROJECT NAME:</p> <p>BOOTH STREET</p> <p>23 BOOTH STREET, ANNANDALE NSW 2039</p>	<p>PROJECT NO:</p> <p>123</p> <p>DATE:</p> <p>11/20/2018</p>	<p>PROJECT NAME:</p> <p>BOOTH STREET</p> <p>23 BOOTH STREET, ANNANDALE NSW 2039</p>	<p>PROJECT NO:</p> <p>123</p> <p>DATE:</p> <p>11/20/2018</p>	<p>PROJECT NAME:</p> <p>BOOTH STREET</p> <p>23 BOOTH STREET, ANNANDALE NSW 2039</p>	<p>PROJECT NO:</p> <p>123</p> <p>DATE:</p> <p>11/20/2018</p>	<p>PROJECT NAME:</p> <p>BOOTH STREET</p> <p>23 BOOTH STREET, ANNANDALE NSW 2039</p>
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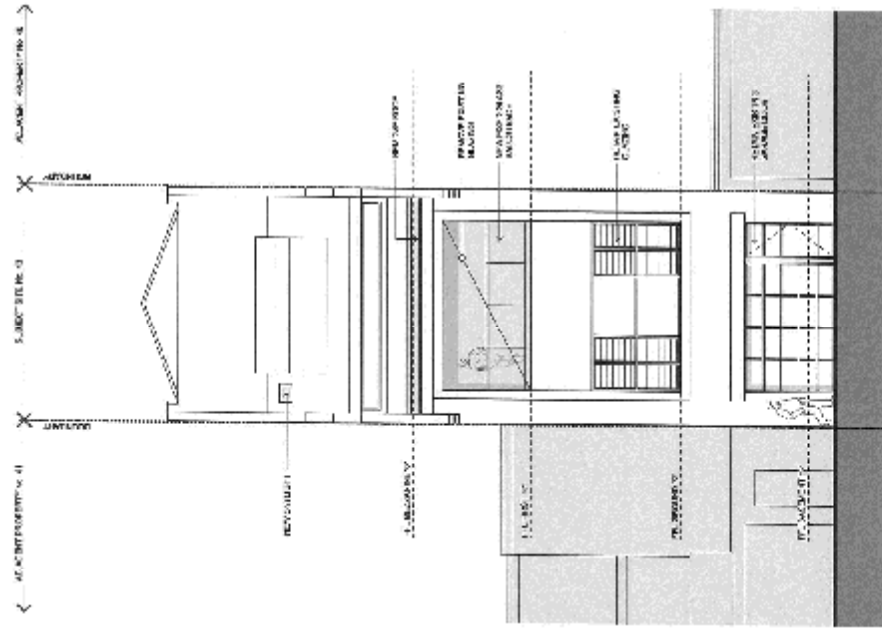
1 WEST ELEVATION
Scale: 1:100

<p>DATE: 10/10/15 PROJECT: 43 BOOTH STREET SCALE: 1:100 PROJECT NO.: DA07</p>		<p>PROJECT NO.: DA07 DATE: 10/10/15 SCALE: 1:100</p>		<p>PROJECT: 43 BOOTH STREET ADDRESS: ANIMADDALE NSW 2056</p>		<p>PROJECT NO.: DA07 DATE: 10/10/15 SCALE: 1:100</p>	
<p>ARCHITECTS: börg architects 10/10/15 10/10/15 10/10/15</p>		<p>PROJECT NO.: DA07 DATE: 10/10/15 SCALE: 1:100</p>		<p>PROJECT: 43 BOOTH STREET ADDRESS: ANIMADDALE NSW 2056</p>		<p>PROJECT NO.: DA07 DATE: 10/10/15 SCALE: 1:100</p>	

LEGEND:
 [Symbol] FRONT ELEVATION TO TRAIN
 [Symbol] SIDE ELEVATION
 [Symbol] [Symbol] REAR ELEVATION TO ROAD



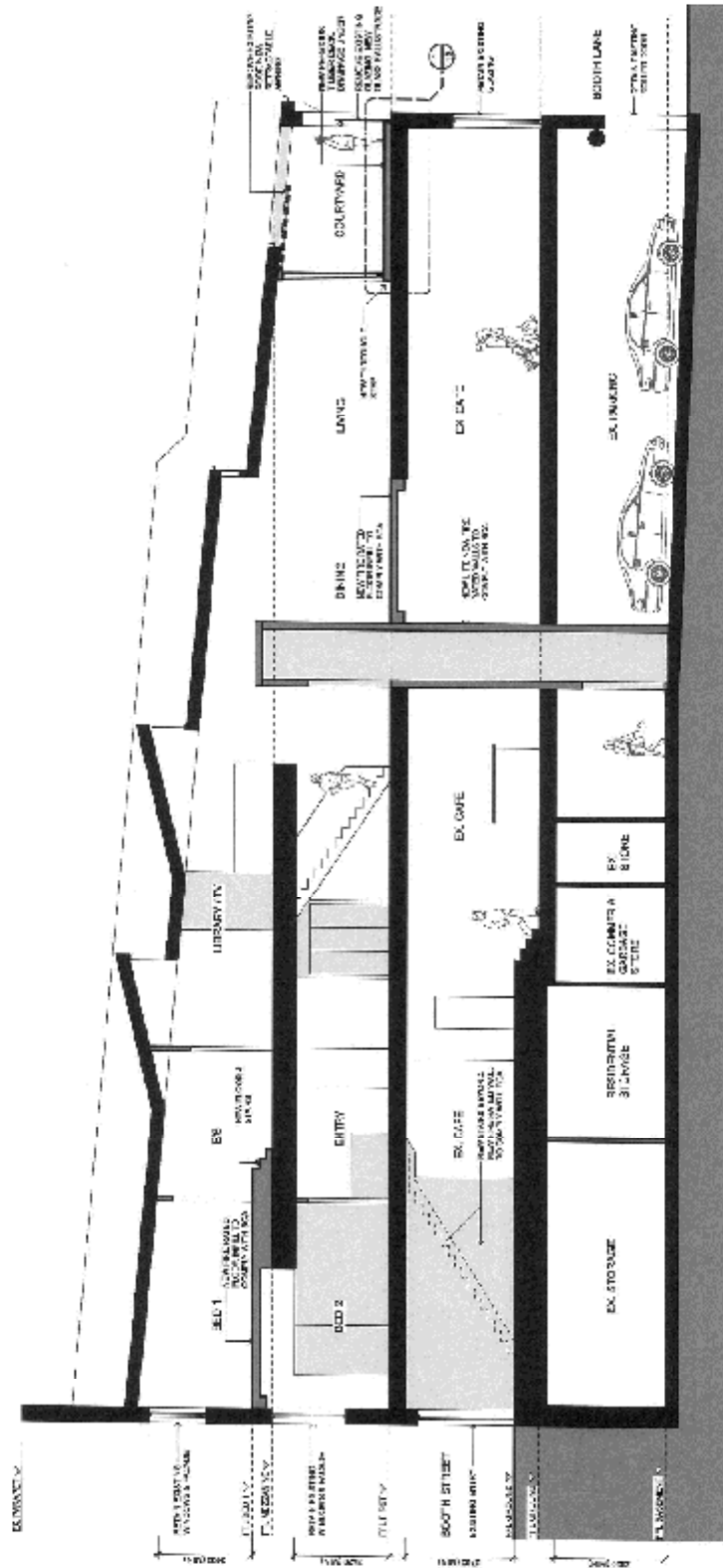
1 STREETSCAPE ELEVATION (SOUTH)
 Scale: 1:100



2 STREETSCAPE ELEVATION (NORTH)
 Scale: 1:100

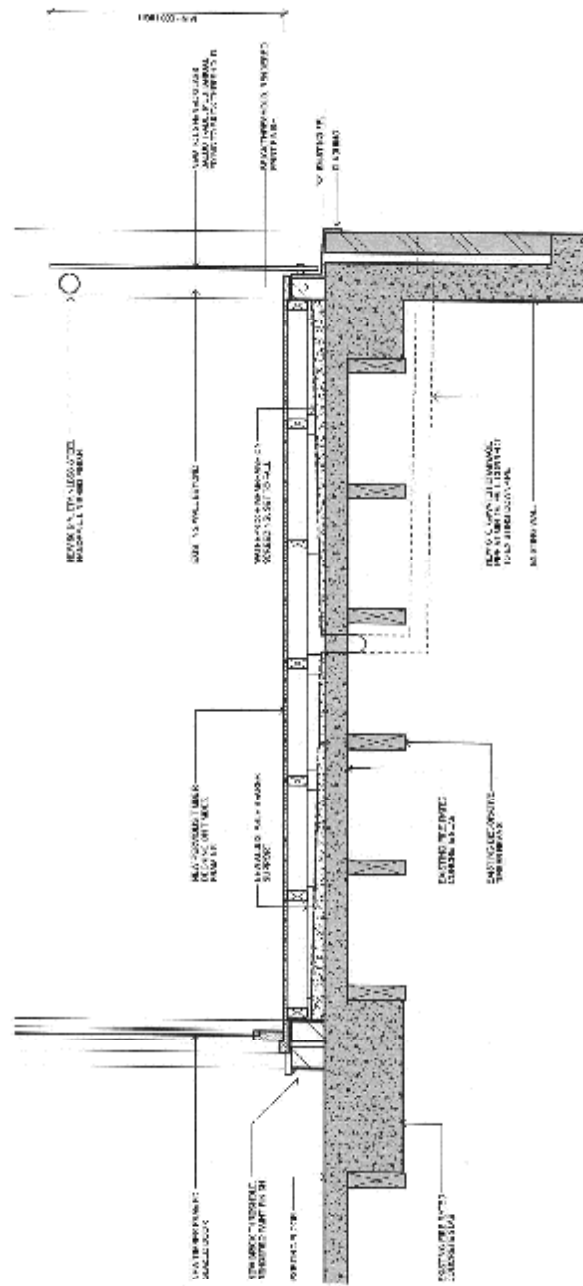
<p>boig architects 43 ROOFTOP STREET ANNANDALE NSW 2088 PH: (02) 9638 4444 FAX: (02) 9638 4444 WWW.BOIGARCHITECTS.COM.AU</p>	<p>PROJECT BOOTH STREET</p>	<p>DATE 11/06/23</p>	<p>NO. DA08</p>
	<p>CLIENT 43 ROOFTOP STREET ANNANDALE NSW 2088</p>	<p>DATE 11/06/23</p>	<p>NO. DA08</p>

LEGEND:
 DOTTED LINE TO LAMP
 PROPOSED CHANGE
 EXISTING FINISHED



1 SECTION
 SCALE: 1:100

<p>boig ARCHITECTS 48 BOOTH STREET, ANANDALE NSW 2139 PH: 02 9838 2300 WWW.BOIGARCHITECTS.COM.AU</p>		<p>SECTION DATE: DEPT 2013 DRAWN: DA09 SCALE: 1:100</p>													
<p>PROJECT: 48 BOOTH STREET, ANANDALE NSW 2139</p>		<p>CLIENT: BOOTH STREET 48 BOOTH STREET, ANANDALE NSW 2139</p>													
<p>DATE: 15/08/13</p>		<p>SCALE: 1:100</p>													
<p>REVISIONS:</p> <table border="1"> <tr> <th>NO.</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>2</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>3</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>4</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>5</td> <td>ISSUED FOR PERMIT</td> </tr> </table>		NO.	DESCRIPTION	1	ISSUED FOR PERMIT	2	ISSUED FOR PERMIT	3	ISSUED FOR PERMIT	4	ISSUED FOR PERMIT	5	ISSUED FOR PERMIT	<p>DATE: 15/08/13</p>	
NO.	DESCRIPTION														
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SECTION 50816-120

<p>borg</p> <p>ARCHITECTS</p> <p>10/100 ST. GEORGE ROAD, SYDNEY NSW 2000</p> <p>PH: 02 9231 9000</p> <p>WWW.BORGARCHITECTS.COM.AU</p>	<p>PROJECT: BOOTH STREET</p> <p>ADDRESS: 43 BOOTH STREET, ANNANDALE NSW 2058</p>	<p>DATE: 12/05/15</p> <p>SCALE: DA16</p>	<p>NO: 1001</p> <p>REV: 01</p>
	<p>PROJECT: COURTYARD SECTION</p> <p>DATE: 12/05/15</p> <p>SCALE: DA16</p>	<p>NO: 1001</p> <p>REV: 01</p>	<p>NO: 1001</p> <p>REV: 01</p>

NOTES: