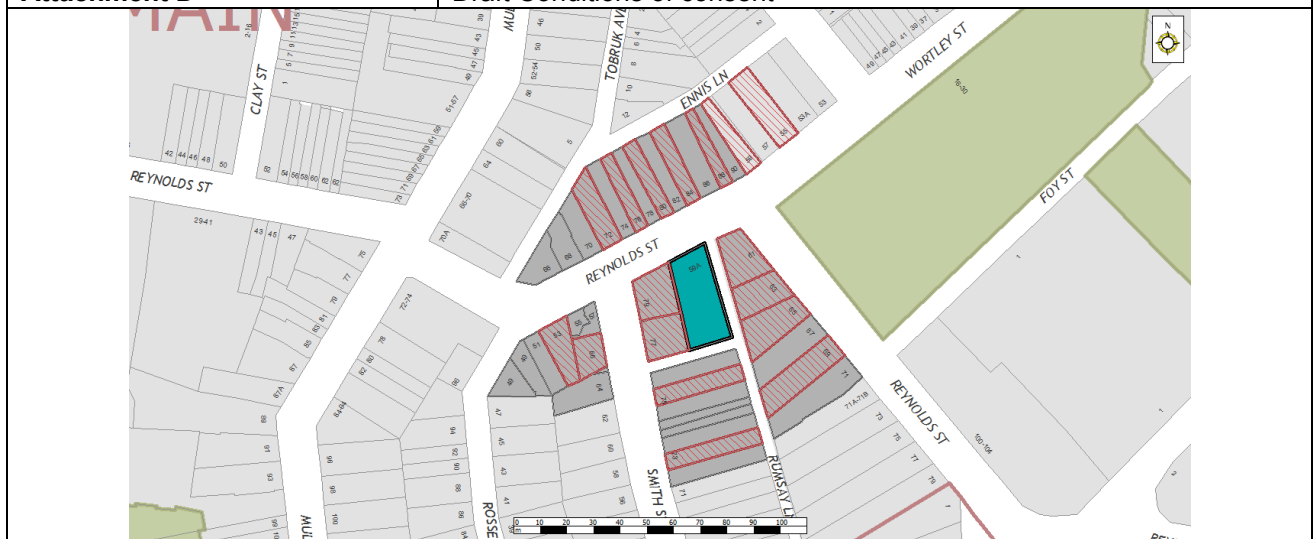




# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2018/445
<b>Address</b>	59A Reynolds Street, Balmain NSW 2041
<b>Proposal</b>	Additions and alterations to existing dwelling house and construction of a three storey residential flat building containing seven units over basement parking, and associated works, including retaining wall and fence works.
<b>Date of Lodgement</b>	24 August 2018
<b>Applicant</b>	Bonheur Holdings Pty Ltd
<b>Owner</b>	Mrs. O. Stasinopoulos
<b>Number of Submissions</b>	29
<b>Value of works</b>	\$6,694,026
<b>Reason for determination at Planning Panel</b>	<ul style="list-style-type: none"> <li>• Number of individual submissions exceeds 10</li> <li>• Non-compliances with Landscaped Area development standard exceeds 10%</li> <li>• SEPP 65</li> </ul>
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>• Floor space ratio exceedance</li> <li>• Insufficient Landscaped Area</li> <li>• No clause 4.6 request</li> <li>• SEPP 65 and ADG</li> <li>• Non-compliances with LLEP 2013 and LDCP 2013</li> <li>• Heritage</li> <li>• Stormwater</li> </ul>
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Architectural Plans and Landscape Plans
<b>Attachment B</b>	View Assessment report By Dr. Richard Lamb
<b>Attachment C</b>	Statement of Heritage Significance for the Valley (Rozelle and Balmain) HCA
<b>Attachment D</b>	Draft Conditions of consent



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

## 1. Executive Summary

This report concerns an application to partially demolish an existing dwelling and construct a three storey residential flat building over one level of basement parking. The application was notified in accordance with Council's Notification Policy and 29 submissions from 28 individual submitters were received.

Following a preliminary assessment of the proposed development, the Applicant was notified and invited to withdraw the application because of a number of significant design inadequacies and the need for additional information. As no response was forthcoming from the Applicant, Council followed up this invitation but as at the date of this report no response has been received.

The proposal does not satisfy the aims, objectives and design parameters contained in State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and is inconsistent with the objectives and controls of the R1 – General Residential zone and the broader Leichhardt Local Environmental Plan 2013 (LLEP 2013).

Of particular note, the proposal exceeds the maximum floor space ratio and is deficient in the amount of landscaped area under the LLEP 2013. No written request under Clause 4.6 of LLEP 2013 has been submitted by the Applicant seeking to vary these development standards and accordingly, consent is not able to be granted.

The proposal is inconsistent with the Leichhardt Development Control Plan 2013 (LDCP 2013) in a number of respects and is considered to result in a form of development which is an overdevelopment of the site and is out of character with the surrounding locality.

The application was referred to Council's Heritage Advisor, Development Engineer and Landscape Officer, all of whom have raised concerns about the proposed development.

The potential impacts to the surrounding environment have been considered as part of the assessment process. The potential impacts from the development are considered to be significant and not able to be controlled or mitigated by conditions of consent.

The application is considered unsuitable for approval and is recommended for refusal.

## 2. Proposal

Consent is sought to partially demolish an existing dwelling but retain the front two rooms of the dwelling and construct a three storey residential flat building containing seven apartments over a basement accommodating seven parking spaces.

The development involves retention of the existing dwelling fronting Reynolds Street, part demolition of the rear of the dwelling and internal alterations to facilitate its integration into the residential flat building.

The apartments will consist of:

- 1 studio apartment (Unit 6);
- 4 one-bedroom apartments (Units 1, 3, 4 & 5);
- 1 two-bedroom apartment (Unit 2); and
- 1 two-bedroom apartment over two storeys (Unit 7).

The basement carpark will accommodate the following parking spaces:

- 6 residential car spaces;

- 1 motorbike space; and
- 4 bicycle parking spaces

A non-trafficable “green roof” is proposed as part of the site landscaping.

Vehicle access to the site is to be via modification to the existing crossover on Reynolds Street. Vehicles will enter the basement car park via a ramped access located towards the site’s north-east corner.

The modification to the existing crossover will result in the provision of one additional on-street parking space along the frontage of the site, which is proposed to satisfy the visitor parking space requirement for the development.

The existing sandstone retaining wall to Rumsay Lane along the eastern boundary of the site (refer to **Figure 3**), which is the surviving remnant of the grounds of the villa on the corner of Reynolds and Smith Streets, is proposed to be retained during the excavation works for the proposed basement parking level. Because of its heritage significance, this section of wall is proposed to be renovated and reinforced as part of the works; however, this is not supported by Council’s Development Engineer (refer to **Section 6**) as this wall encroaches onto Council land and there is insufficient integrated Structural and Geotechnical Engineering evidence to demonstrate that it is feasible to retain the wall during construction.

It is proposed that the later mass concrete section of the retaining wall is to be reclad with stone that is similar to the remainder of the wall.

### 3. Site Description

The subject site is No. 59A Reynolds Street, Balmain identified as Lot 7 DP 448513. The property comprises a site area of 536.9m<sup>2</sup> (by survey). The property has a northern frontage of 15.015m to Reynolds Street, southern boundary of 16.150m, eastern boundary to Rumsay lane of 36.2m and western boundary of 33.48m. Access to the site is off Reynolds Street.

The site adjoins Rumsay Lane, a narrow (approximately 3m) night soil laneway dating back to the nineteenth century that runs between Reynolds Street in the north and extends and joins with Rumsay Street at its southern end (refer to **Figures 1, 2 & 3**).

While the site is generally flat, this is because the site was levelled at some point in its history. The locality is quite steep in parts, representing the natural topography which falls to the Harbour (White Bay).

This part of the street is residential in character and contains predominately single or two storey residential buildings with or without attics. Buildings are attached, abut each other or have narrow side setbacks; and date from the Late Victorian period to recent times. Front setbacks are generally consistent and provide for small front yards.



**Figure 1:**  
Reynolds Street view of subject site and existing dwelling  
(Source: Applicant's SEE)



**Figure 2:**  
Street view of site  
(Source: Applicant's SEE)



**Figure 3:**  
Rumsay Lane to the east of the site and sandstone and concrete retaining wall  
(Source: Applicant's SEE)

## 4. Background

### 4(a) Site history

PREDA/2018/109 proposed a development on this site which included part of Rumsay Lane and the rear lane to the south. The proposal was for the construction of seven apartments over four storeys, (including retention of main part of the existing cottage and conversion of that cottage to an apartment). The proposal included basement parking.

Council's advisory letter was issued on 28 June 2018, identifying the following key issues:

<b>Key issues</b>	<ul style="list-style-type: none"> <li>• Impact on Conservation Area</li> <li>• Impact on Heritage Item in Vicinity - (25 Smith Street)</li> <li>• Neighbouring Amenity Impacts (Bulk, Solar access, Privacy, Views)</li> <li>• Bulk and Scale, Siting, Envelope</li> <li>• Streetscape &amp; Local Character</li> <li>• Stormwater</li> <li>• Parking &amp; Access</li> </ul>
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The Applicant was advised that the proposal, in the form submitted, was unacceptable as it represented an overdevelopment of the site and would not be supported.

Development Application D/2018/403 was received by Council on 2 August 2018 proposing a development similar to the current proposal. Upon review it was found that that D/2018/403 did not contain the correct information, as required by Part 1, Schedule 1 of the Environmental Planning and Assessment Regulation 2000, specifically:

**“1. Consent of Owner / Owners to Application Lodgement**

*No evidence of owners consent from Mrs O Stasinopoulos accompanied the application.*

**2. Redefinition Survey**

*A redefinition survey was not provided and is required.*

*In this regard, deficiencies between the existing title dimensions and the boundaries as determined by the recent level and detail survey that was undertaken on the site require the new survey dimensions to be formalised by a Redefinition Survey.*

**3. Architectural Plans Consistent with Survey**

*Architectural plans were inconsistent with the required redefinition survey / survey plan.”*

Pursuant to Section 51 of the Environmental Planning and Assessment Regulation 2000, the application was rejected and returned to the Applicant.

On 24 August 2018 the subject development application was submitted to Council with correct owner's consent and accompanied by a report from the Applicant's surveyor, Beveridge Williams, addressing Point 2. above. This report is as follows:

*“LAND in the Local Government Area of Inner West, having a frontage to Reynolds Street, situated at Balmain, being Lot 7 in Deposited Plan No. 448513.*

*In accordance with your instructions we have undertaken a Level & Detail for the purposes of a development application for development of the above described land only.*

*As a part of the Detail and Level plan, a boundary determination was undertaken. It has identified that there are differences between the existing title dimensions and the boundaries as determined via survey. These can only be formalised via a plan of redefinition registered at Land Registration Services (LRS).*

*No significant encroachments were identified as a part of this survey to neighbouring properties. The survey did identify that the stone wall along Rumsay lane is generally the laneway land. It can also be seen that part of an unformed laneway is being utilised by the current owners at the rear of the property. This area has not been included in the survey area provided for the lot on this Level and Detail plan.*

*Currently only title and survey dimensions relating to Lot 7 in DP448513 are referred to in this Level and Detail survey, which includes the bearings, distances and area. Please note that dimensions shown (S) relate to survey, dimensions shown (T) relate to title. Title dimensions have been converted from imperial measures.*

*A plan of redefinition will be conducted as a part of this development, and we would expect that the plan that is submitted to the LRS for this purpose will hold the same boundary position and dimensions as what we have determined via survey and is shown on the plan. Once registered this will then become the title dimensions as well.*

*The redefinition plan can be undertaken and lodged with the LRS prior to any construction works being undertaken, if requested within a D.A.”*

It is noted that the land area has been calculated by survey to be 536.9m<sup>2</sup> and by Title to be 531.2m<sup>2</sup>. Calculations included in this report have been based on the surveyed area of 536.9m<sup>2</sup> as a redefinition Plan has been submitted to NSW Registry Services.

#### 4(b) Application history

The following table outlines the relevant history of the subject application.

<b>Date</b>	<b>Discussion / Letter/ Additional Information</b>
24 August 2018	Application submitted to Council.
18 September 2018	Redefinition Plan submitted to NSW Registry Services for registration.
20 September 2018	Notification period completed. 29 submissions received.
10 January 2019	An email was sent to the Applicant following the completion of a preliminary assessment recommending that this application be withdrawn because of significant inadequacies relating to: <ul style="list-style-type: none"> <li>• Heritage</li> <li>• Landscape</li> <li>• Engineering</li> <li>• SEPP 65</li> <li>• Objectives of the R1 zone (LLEP 2013)</li> <li>• Concerns raised in submissions (including view impacts)</li> </ul> Refer to <b>Section 6</b> for details relating to concerns on Heritage, Landscaping and Engineering grounds.
12 February 2019	A follow up email was sent to the Applicant recommending that that the application be withdrawn. To date, no response has been received.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

### 5(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 No 65 - Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; and
- Leichhardt Local Environmental Plan 2013.

The following sections provide further discussion of the relevant issues:

#### 5(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. Leichhardt Development Control Plan 2013 (LDGP 2013) provides controls and guidelines for remediation works. SEPP 55 requires that the consent authority be satisfied that the site is, or can be made, suitable for the proposed use prior to the granting of consent.

A Hazardous Materials Survey was carried for the site by EHO Consulting Pty Ltd. The scope of the investigation was to as far as reasonably practicable locate and record the location, extent and product type of any presumed or known hazardous materials and to provide the client with a workable hazardous material register.

Representative samples were collected from materials as specified.

- asbestos containing materials (ACM)
- asbestos containing dust (ACD)
- Lead containing paint
- Lead containing dust (LCD).

Visual identification of:

- Synthetic mineral fibres
- poly-chlorinated biphenyl (PCB)-containing capacitors in fluorescent light and fan fittings

Two main materials were identified – asbestos containing materials and dust and lead containing paint and dust. Additionally, the presence of synthetic mineral fibres and polychlorinated biphenyl (PVB)-containing capacitors in fluorescent lighting and fan fittings were noted.

Where the assessed risk is 'medium' and asbestos is to be disturbed, it is recommended that all asbestos debris and all associated dust and asbestos fibres be removed. All work would be conducted under controlled conditions by licensed asbestos removalists and conduct of air monitoring by an independent licensed asbestos assessor.

Lead paint walls, ceilings and wooden fixtures and fittings are recommended to be patched, repaired, encapsulated or removed under controlled conditions by competent persons.

Where the risk has been assessed as 'low' any works are to be managed insitu in accordance with EPA guidelines.

Soil sampling of the site was not undertaken as part of the preparation of the DA plans. The site has been used for residential purposes for probably at least 100 years and soil contamination is not identified as a relevant issue in the assessment of this application.

#### **5(a)(ii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development**

The development is subject to the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). SEPP 65 prescribes 9 design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement from Felicia Whiting (Registered Architect 6202) the project architect, who directed the design of the development. The statement attempts to explain how the design quality principles are achieved within the development but it fails to demonstrate, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is not acceptable having regard to some of the 9 design quality principles and this is demonstrated by **Table 1** and the following assessment of the proposal under the Apartment Design Guide (ADG).



Table 1: SEPP 65 design quality principles

Design Quality Principles	Comment	Satisfactory
<p><b>1: Context and neighbourhood character</b></p>	<ul style="list-style-type: none"> <li>The proposal is inconsistent with the existing context and desired future character of the Honeysuckle Precinct and does not provide an appropriate built form for this locality.</li> <li>The proposal will not have any significant detrimental impacts on the amenity of adjoining development.</li> </ul>	<p><b>No</b></p>
<p><b>2: Built form and scale</b></p>	<ul style="list-style-type: none"> <li>The proposal is not appropriate built form for the site as it is considered to be an overdevelopment of the site and does not address the street in a compatible fashion.</li> <li>The proposal is not consistent with the general scale of the surrounding locality and the desired future character for the site.</li> </ul>	<p><b>No</b></p>
<p><b>3: Density</b></p>	<ul style="list-style-type: none"> <li>While the proposal satisfies the allowable FSR of 0.7:1 for this site, the proposed density does not achieve a high level of residential amenity.</li> </ul>	<p><b>No</b></p>
<p><b>4: Sustainability</b></p>	<ul style="list-style-type: none"> <li>A BASIX Certificate has been submitted, indicating that the building will satisfy the energy and water targets set by the BASIX SEPP.</li> </ul>	<p>Yes</p>
<p><b>5: Landscape</b></p>	<ul style="list-style-type: none"> <li>The proposal does not achieve a landscape outcome for the site that responds to the constraints of the site and will not create functional areas providing a good level of amenity for occupants of the development.</li> </ul>	<p><b>No</b></p>
<p><b>6: Amenity</b></p>	<ul style="list-style-type: none"> <li>The proposal does not satisfy relevant guidelines in respect to privacy and communal open space and fails to ensure good amenity for the occupants of the development.</li> </ul>	<p><b>No</b></p>
<p><b>7: Safety</b></p>	<ul style="list-style-type: none"> <li>The proposal provides natural surveillance of public areas and territorial reinforcement by clearly differentiating between public and private space.</li> </ul>	<p>Yes</p>
<p><b>8: Housing diversity and social interaction</b></p>	<ul style="list-style-type: none"> <li>While the proposal includes a mix of apartment sizes, providing a range of options for residents and housing choice, the lack of communal open space fails to provide opportunities for social interaction for residents.</li> </ul>	<p><b>No</b></p>
<p><b>9: Aesthetics</b></p>	<ul style="list-style-type: none"> <li>The aesthetics of the proposed building do not respond well to the environment and local heritage context and will not be a positive contribution to the desired future character of the area.</li> </ul>	<p><b>No</b></p>

**Apartment Design Guide**

The ADG contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP, the requirements contained within LDCP 2013 in relation to visual privacy, solar and daylight access, common circulation and spaces, apartment sizes and layout, ceiling heights, private open space and balconies, natural ventilation and storage have no effect. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The development has been assessed against the relevant design criteria within Part 3 and 4 of the ADG as follows:

**Communal and Open Space**

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site, which in this instance equals (536.9m<sup>2</sup> / 4) 134.2m<sup>2</sup>.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).

The proposal provides private landscape area to ground floor units and the upper level apartments have balconies.

The proposal does not include any ground level communal open space and relies upon nearby Punch park for communal open space amenity. It is proposed that the green roof (98m<sup>2</sup>) be provided in lieu of common open space; however, it is significantly deficient in area. It is 36.2m<sup>2</sup> or 27% less than the ordinarily required 25% (134.2m<sup>2</sup>) of the site area.

The green roof is to be is non-accessible, except for maintenance, to limit any intrusion on the privacy of neighbouring properties. While the green roof is designed to provide a pleasant outlook for neighbours whose properties might overlook it, this facility will not be observable by residents of the development, and therefore, fails enhance the amenity and well being for residents as it will not be available for recreation, passive use or outlook.

**Visual Privacy/Building Separation**

The ADG prescribes the minimum required separation distances from buildings on neighbouring sites to the side and rear boundaries set out in **Table 2**:

**Table 2:** ADG minimum required separation distances

<b>Building Height</b>	<b>Habitable rooms and balconies</b>	<b>Non-habitable rooms</b>
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres

**Table 3** sets out the proposed setback distances for each level of the proposed development from the east and west side boundaries

The objective of this criteria is to ensure adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

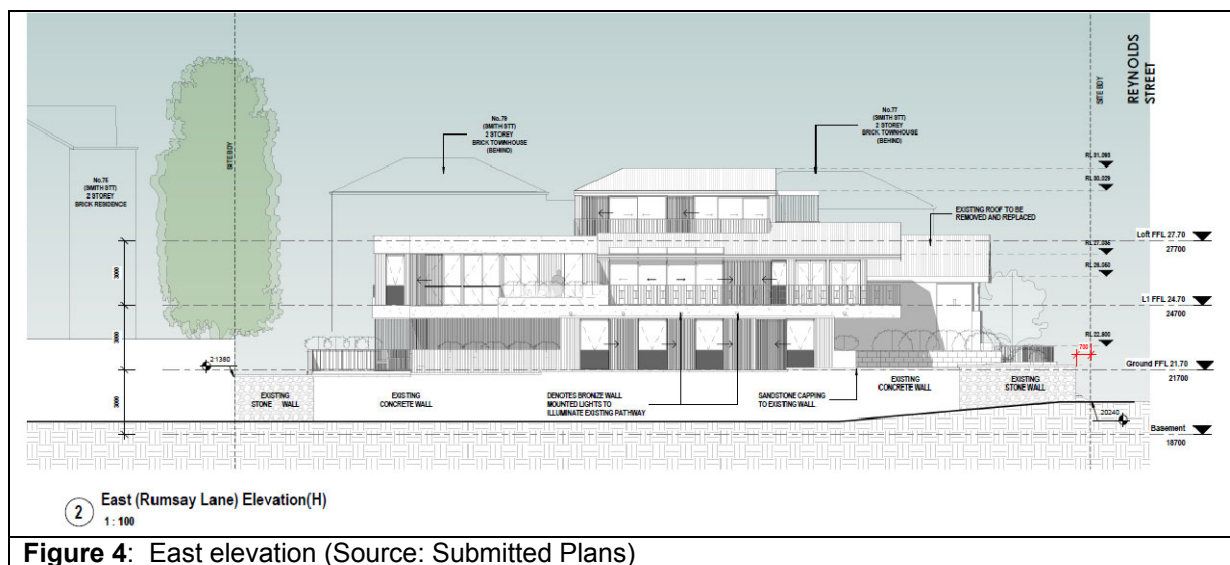
**Table 3** – Separation distances from side boundaries

Level	ADG recommended setback	Proposed setback from Western side boundary	Proposed setback from Eastern side boundary
Ground	6 m	0.995m to 1.915m	Nil
1	6 m	1.294m to 1.828m	1.31m to 2.50m
Loft	6 m	2.89m	4.35m

Given the dense nature of surrounding development and the width of the site (approximately 16m), it is not feasible to achieve the ADG required setbacks. Instead, the submitted Statement of Environmental Effects states that the development will rely upon obscure glass, shutters, operable and fixed screens to provide suitable privacy protection but these are not notated on the submitted plans. The proximity of surrounding residential development raises concern as to the impacts on the visual impacts upon neighbours.

However, as the proposal is new development in an established area it should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. The proposal includes large expanses of glazed area and balconies on both the eastern and western elevations (refer to **Figures 4 & 5**), primarily to provide adequate solar access to each new unit (internal and external areas) but this gives rise to the concern for the protection of privacy between the proposal and neighbouring properties. As the proposal relies solely on private open space areas (balconies) for outdoor amenity within the development, the active nature of these balconies is likely to increase the incidence of overlooking neighbouring properties.

It is considered that it will be difficult to add privacy protection measures to these balconies without adding unnecessarily to the overall bulk of the development &/or interfering with the amenity of the internal areas of the new units and their associated private open space areas.



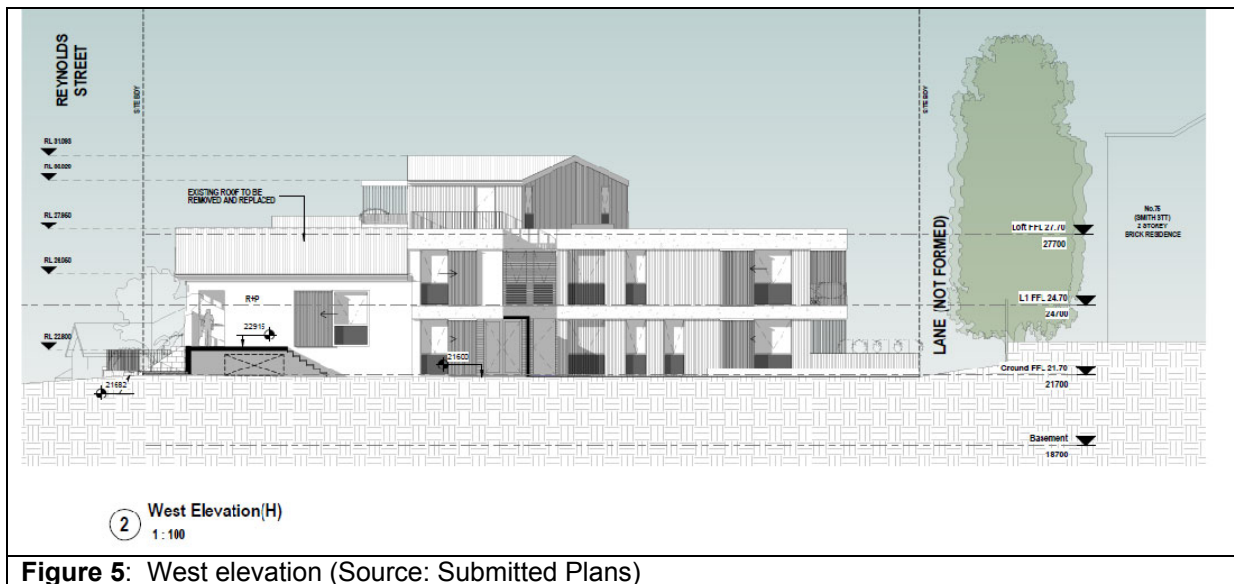


Figure 5: West elevation (Source: Submitted Plans)

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.

75% of all dwellings within the development receive solar access in accordance with the above controls. All of the dwellings receive an appropriate level of solar access given the context and orientation of the site.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of a building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

60% of dwellings within the development are naturally ventilated.

Ceiling Heights

The development provides floor to ceiling heights in accordance with the ADG controls.

Apartment Size

All apartments within the development comply with the ADG minimum size requirements.

### Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- *Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.*
- *Habitable room depths are limited to a maximum of 2.5 x the ceiling height.*
- *In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.*
- *Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).*
- *Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).*
- *Living rooms or combined living/dining rooms have a minimum width of:*
  - *3.6 metres for studio and 1 bedroom apartments.*
  - *4 metres for 2 and 3 bedroom apartments.*
- *The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.*

The development provides apartments that comply with the above requirements.

### Private Open Space and Balconies

The ADG prescribes the sizes for primary balconies of apartments as set out in **Table 4**:

**Table 4:** Sizes for primary balconies of apartments

<b>Dwelling Type</b>	<b>Minimum Area</b>	<b>Minimum Depth</b>
Studio apartments	4m <sup>2</sup>	-
1 Bedroom apartments	8m <sup>2</sup>	2 metres
2 Bedroom apartments	10m <sup>2</sup>	2 metres
3+ Bedroom apartments	12m <sup>2</sup>	2.4 metres

The balcony for Unit 4 (Level 01) has a minimum depth of 1.6m and does not satisfy the minimum dimension of 2m. All other balconies meet the minimum area and depth requirements.

### Common Circulation and Spaces

The ADG prescribes that the maximum number of apartments off a circulation core on a single level is 8. The maximum number of units accessible off a single level is 4 (Level 1) in accordance with ADG requirements.

### Storage

The development can provide sufficient storage within the apartments and basement levels complying with the minimum size as per the requirements of the ADG.

### Waste Management

The ADG requires that waste storage facilities be designed to minimise impacts on the streetscape, building entry and amenity of residents. Council's Development Engineer has specified that the bin room should be relocated to the ground floor for convenient transfer for the bins to Reynolds Street for collection.

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

A BASIX Certificate was submitted with the application indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

**5(a)(iv) 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 and planning principles for land within the Sydney Harbour Catchment.

**5(a)(v) Leichhardt Local Environment Plan 2013 (LLEP 2013)**

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013 (note that these calculations relate solely to the subject site, not the strata complex):

- Clause 1.2 Aims of the Plan
- Clause 2.3 Zone Objectives and Land Use Table
- Clause 4.3A Landscaped Area for residential development in Zone R1
- Clause 4.3A (3)(b) Site Coverage for residential development in Zone R1
- Clause 4.4 Floor Space Ratio
- Clause 5.10 Heritage Conservation
- Clause 6.2 Earthworks
- Clause 6.4 Stormwater Management
- Clause 6.13 Diverse Housing

**Table 5** below provides an assessment of the application against the development standards:

Leichhardt Local Environmental Plan 2013				
Clause No.	Clause	Standard	Proposed	Compliance
1.2	Aims of the Plan	<ul style="list-style-type: none"> <li>• to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment</li> <li>• to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt</li> <li>• to promote a high standard of urban design in the public and private domains</li> <li>• to maintain and enhance Leichhardt's urban environment</li> </ul>	The proposal does not achieve those Aims of LLEP 2013 listed at left.	<b>No</b>

		<ul style="list-style-type: none"> <li>• to protect and enhance view and vistas</li> <li>• to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area</li> <li>• to ensure that development provides high quality landscaped areas in residential developments</li> <li>• to prevent undesirable incremental change, including demolition, that reduces the heritage significance of places, conservation areas and heritage items</li> <li>• to promote the health and wellbeing of residents</li> </ul>		
2.3	Land Use Table	<ul style="list-style-type: none"> <li>• To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.</li> <li>• To provide landscaped areas for the use and enjoyment of existing and future residents.</li> <li>• To protect and enhance the amenity of existing and future residents and the neighbourhood</li> </ul>	The proposal is permissible in the R1 General Residential zone but fails to achieve those objectives of the zone listed at left.	No
4.3A	Landscaped Area	<p>20% (107.4m<sup>2</sup>)</p> <p><i>landscaped area</i> means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</p> <p>Any area that:</p> <p>(i) has a length or a width of less than 1 metre, or</p> <p>(ii) is greater than 500mm above ground level (existing),</p> <p>is not to be included in calculating the proportion of landscaped are</p>	<p>The Applicant has calculated the total landscaped area to include areas with a dimension less than 1 metre, raised planter boxes and the green roof. None of which constitute <i>landscaped area</i> as defined.</p> <p>The area of the site at ground level that will be set aside for landscaped area will total approximately 50m<sup>2</sup>. A deficiency of approximately 57.4m<sup>2</sup> or 53.5% from the development standard.</p> <p>The Applicant has <b>not</b> submitted a written request under clause 4.6 seeking a variation to this development</p>	No

			standard.	
4.3A (3)(b)	Site Coverage	60% (322.1m <sup>2</sup> )	Applicant's Figure: 60% (322.1m <sup>2</sup> )  Calculated to be: 59.3% (318.4m <sup>2</sup> )	Yes
4.4	Floor space ratio	0.7:1 (375.9m <sup>2</sup> )	<p>The Applicant has calculated the total GFA at 380.9m<sup>2</sup> (excl. basement). This exceeds the maximum FSR by 5m<sup>2</sup>.</p> <p>This calculation does not include the internal stair linking the two level of Unit 7 (approximately 8m<sup>2</sup>). This is not to be used as common circulation area.</p> <p>The proposed development therefore exceeds the FSR development standard by approximately 13m<sup>2</sup> or 3.5%.</p> <p>In any event, the Applicant has <b>not</b> submitted a written request under clause 4.6 seeking a variation to this development standard.</p>	No
5.10	Heritage Conservation	<p>The site is located within The Valley (Rozelle and Balmain) Heritage Conservation Area.</p> <p>In general, Council's Heritage Advisor has found that the proposed development is unacceptable on heritage grounds (refer to <b>Section 6</b>). Of particular note, the size and scale of the proposal is too large as it impacts on the views from the heritage item at No. 75 Smith Street and the character of the conservation area generally.</p>		
4.4	Earthworks	<p>The consent authority must consider the following matters</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p>	<p>The total volume of proposed excavation is 1235.4m<sup>3</sup>.</p> <p>Council's Development Engineer has advised that the proposed development is unsatisfactory in terms of providing sufficient integrated Structural and</p>	No



		<p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>Geotechnical Engineering relating to the feasibility of excavating behind the retaining wall at the Rumsay Lane (refer to <b>Section 6</b>)</p>	
4.4	Stormwater Management	<p>The consent authority must be satisfied that the development:</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.</p>	<p>Council's Development Engineer does not support the proposed method of collecting or disposing of stormwater from the site and significant redesign of that system is required (refer to <b>Section 6</b>).</p>	No
4.4	Diverse Housing	<p>At least 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include self-contained studio dwellings or one-bedroom dwellings, or both</p>	<p>7 dwellings are proposed.</p> <p>Units 1, 3, 4 &amp; 5 are 1 bedroom units</p> <p>Unit is a studio</p>	Yes

### 5(b) Draft Environmental Planning Instruments

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

## 5(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
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
<b>Part C</b>	
C1.0 General Provisions	No
C1.1 Site and Context Analysis	No
C1.2 Demolition	No
C1.3 Alterations and additions	No
C1.4 Heritage Conservation Areas and Heritage Items	No
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	No
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No
C1.12 Landscaping	No
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	No
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	No
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not applicable
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	No
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.4 The Valley 'Balmain' Distinctive Neighbourhood ( <i>Smith Street Hill Sub Area</i> )	No
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	No
C3.2 Site Layout and Building Design	No
C3.3 Elevation and Materials	No
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	No
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Yes

C3.8 Private Open Space	<b>No</b>
C3.9 Solar Access	Insufficient information submitted
C3.10 Views	<b>No</b>
C3.11 Visual Privacy	<b>No</b>
C3.12 Acoustic Privacy	<b>No</b>
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	Not applicable
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Not applicable
<b>Part E: Water</b>	
<b>Section 1 – Sustainable Water and Risk Management</b>	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	<b>No</b>
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
<b>Section 2 - Water Management</b>	
E1.2.1 Water Conservation	Not applicable
E1.2.2 Managing Stormwater within the Site	<b>No</b>
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	<b>No</b>
E1.2.5 Water Disposal	<b>No</b>
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Yes
<b>Section 3 - Hazard Management</b>	
E1.3.1 Flood Risk Management	Not applicable
E1.3.2 Foreshore Risk Management	Not applicable
<b>Part F: Food</b>	Not applicable
<b>Part G: Site Specific Controls</b>	Not applicable

The following provides discussion of the relevant issues:

### **C1.0 General Provisions**

Council seeks to maximise opportunities for good urban design to make a positive contribution to streetscapes and public spaces throughout the municipality whilst promoting the amenity of property, its occupiers. The proposed development is considered to be incompatible with the character of the surrounding area as it does not maintain the scale and general built character of Reynolds Street, particularly with regard to setbacks, landscaping and the preservation of significant view lines across the site. The proposed development will have a negative impact on the heritage significance of the locality (refer to **Section 6**).

**C1.1 Site and Context Analysis**

The proposed development does not satisfactorily consider the special qualities of the site and its context including urban design, streetscape and heritage considerations.

**C1.2 Demolition**

Insufficient evidence has been provided with the application to adequately address the protection of the sandstone wall on Rumsay Lane. This wall is to be retained on heritage grounds. Accordingly, the proposed development does not achieve the objectives of this part of the LDCP 2013.

**C1.3 Alterations and additions**

The proposed development will retain part of the existing dwelling and it is considered that this part of the LDCP 2013 should be considered. As discussed throughout, the proposed development in its entirety does not achieve the objectives of this part of LDCP 2013. In particular, it does not complement the scale, form and materials of the streetscape and it does not make a positive contribution to the desired future character of the streetscape and the heritage values of the locality.

**C1.4 Heritage Conservation Areas and Heritage Items**

Council's Heritage Advisor (refer to **Section 6**) considers that the proposed development is not compatible with the setting or relationship of the building with the Heritage Conservation Area.

**C.11 Parking & C1.7 Site Facilities**

Council's Development Engineer (refer to **Section 6**) has advised that the proposed stormwater system, access and parking, and waste facilities are inadequate.

**C1.12 Landscaping**

The proposed amount of landscaped area to be included with this development is grossly inadequate and fails to achieve the minimum requirement of 20% of site area specified under clause 4.3A of the LLEP 2013 and accordingly, does not achieve the objectives of this part of LDCP 2013.

**C1.14 Tree Management**

Council's Landscape Officer has advised that the proposed development is unacceptable because of the adverse impacts on significant trees on adjoining properties (refer to **Section 6**) and accordingly, does not achieve the objectives of this part of LDCP 2013.

**C1.18 Laneways**

The site has a secondary frontage to Rumsay Lane, which is a "narrow lane" in the laneway hierarchy set out in LDCP 2013. There is strong concern that the heritage significant retaining wall on that laneway will be destroyed during construction and in this respect the proposed development fails to respect the existing and desired future use, form and character of the laneway.

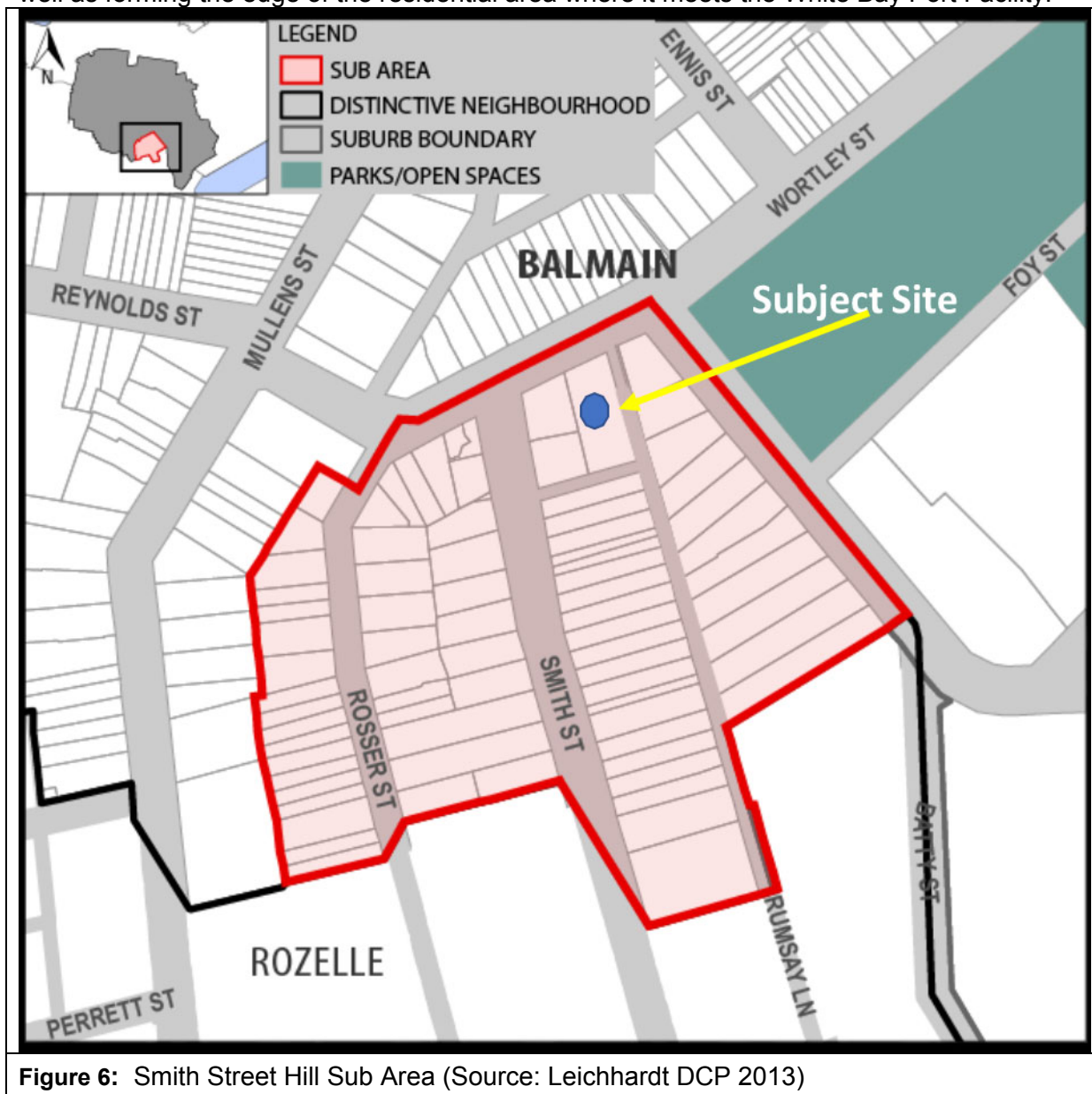
**C1.21 Green Roofs and Green Living Walls**

A green roof of considerable size is proposed on the rear part of the proposed development, but inadequate detail has been provided by the Applicant concerning matters such as soil volumes and maintenance methods.

**C2.2.2.4 The Valley ‘Balmain’ Distinctive Neighbourhood (Smith Street Hill Sub Area)**

The Smith Street Hill Sub Area is defined by a small hill located between Reynolds, Mullens and Mansfield Streets. This hill rises approximately 20m above surrounding land and is notable for its steepness on the east and west sides, resulting in expansive views to the south and east (refer to **Figure 6**).

The hill area is significant for having spectacular views over the City to the east and north as well as forming the edge of the residential area where it meets the White Bay Port Facility.



The key controls of the LDCP 2013 applicable to this sub area are:

- C1 *Preserve view lines from the hill to the south and east.*
- C2 *Maintain the privacy of properties below the hill and avoid bulky development which overshadows lower sites.*

View loss has been raised as an objection to the proposed development by a number of surrounding residents (refer to **Section 5 (f)**). Views of the city skyline and the Anzac Bridge are currently enjoyed from the street and from private properties. There is no doubt that the

significantly increased bulk, scale and height of the proposed development above the existing dwelling will result in the loss of views from both the public domain and private properties.

In response to **Control C1**, the application is accompanied by a View Assessment prepared by Dr. Richard Lamb.

In forming this opinion, Dr. Lamb undertook field work and visited the adjoining property to the west, 77 and 79 Smith Street. Appendix 2 (page 26) of Dr. Lamb's report includes a diagram showing the properties that Dr. Lamb sought access to in the preparation of his report. It is agreed that these are the private properties most likely to suffer some level of view loss due to the proposed development.

With regard to the impact on views from the public domain, Dr. Lamb considers that:

*"There are views across the north-east corner of the site from Reynolds Street and presumably from residences on the west side of the street.*

*The view at street level included part of the Anzac Bridge, Jacksons Landing buildings and, in the distance, buildings in Broadway such as the UTS and buildings under construction or recently completed on the former CUB site.*

*In my opinion, while development of the site may partly block these views, the same outcome would occur for any redevelopment of the site, and indeed this would be independent of the built form (i.e., whether individual residences or RFBs).*

*The splayed form proposed in the massing of the proposed development, relative to the street, has the effect on protecting this view."*

With regard to the potential loss of views from private properties, Dr. Lamb is of the opinion that:

*"There would be some private domain view loss in relation to any potential development on the site that complies with the relevant development controls."*

And,

*"It would not be reasonable to expect to retain the existing views across the site, as the existing dwelling is a single storey cottage."*

Dr. Lamb also considers that vegetation (especially tall canopy trees) immediately to the south of the site and in Punch Park (to the east of the site) restricts the views available to residential properties opposite the site, on the northern side of Reynolds Street and to the west in Smith Street. In any event, Dr. Lamb considers that if views are enjoyed from these properties that these would be from upper level bedrooms, not living rooms.

Dr. Lamb has considered the planning principles in the judgment of the Land and Environment Court of New South Wales in *Tenacity Consulting v Warringah [2004] NSWLEC 140*, and concludes that:

*"In my opinion a reasonable compromise between development potential and private domain view sharing has been reached with the adoption of massing and building heights proposed, in relation to the views analysed from 77 and 79 Smith Street. This allows for the retention of significant aspects of the view based on the location of the identified view corridor. The corridor provides a reasonable view sharing outcome."*

It is implied in Dr. Lamb's analysis that the proposed development represents the utmost skilful design and that some view loss is inevitable. However, the proposed development does not comply with with relevant development standards and in any event, mere compliance does not guarantee a satisfactory or acceptable development. Given the shortcomings of the proposed development as listed throughout this report, it is considered that a more skilful design (e.g. a compliant or simply a lesser scale development) is available which could achieve a greater retention of views currently enjoyed by the public and private residents.

In response to **Control C2**, the application is supported by hourly mid-winter (21<sup>st</sup> June) shadow diagrams between 9am and 3pm. Existing shadow diagrams showing only the existing dwelling have not been submitted and there is no clear notation on those that have been submitted to clearly denote the extent of additional overshadowing. The area shown in red on the submitted shadow diagrams appears to be the additional shadow cast by the proposed development.

The Applicant has submitted existing and proposed shadow elevations for Nos. 77 & 79 Smith Street but only for 9am and 10am; however, overshadowing this property caused by the proposed development continues to at least 11am. No shadow elevations are provided for adjoining properties to the east (Nos. 61 & 63 Reynolds Street), yet they will suffer some overshadowing after 2pm.

Given the pattern of surrounding development and topography, it is considered that No 77 Smith Street (before Noon) and Nos. 61 & 63 Reynolds Street (after Noon) will be most affected by any increase in overshadowing.

Privacy impacts has been raised in submissions from surrounding residents and further discussion on these matters is included later in this report.

**Control C3** requires any proposed development be consistent with the desired future character and controls of The Valley 'Balmain' Distinctive Neighbourhood. Having regard to these objectives and controls, the proposed development is considered to be unsatisfactory as it does not:

- Maintain the scale and general built form as established on Reynolds Street
- Contribute to the local character and the collective heritage of the Conservation Area
- Preserve the established streetscape with regard to setbacks, street trees and general lack of driveway crossings
- Preserve view lines to the south and east
- Adequately account for overshadowing and privacy issues
- Preserve and promote the establishment of trees in front gardens
- Building setbacks on the eastern side are to be a minimum of 1m
- Achieve the maximum building wall height applying to the neighbourhood of 3.6m (the front portion of the existing dwelling exceeds this height).

### **C3.1 Residential General Provisions**

The proposed development is not considered compatible with the established setting and character of the suburb and neighbourhood and is not compatible with the desired future character and heritage significance of the place and its setting. In addition, the proposed development does not adequately ensure that the amenity, including solar access and visual privacy of adjacent properties is not adversely impacted.

### **C3.2 Site Layout and Building Design**

The proposed development does not achieve the objectives of this part of the LDCP 2013. In particular:

- O1 To ensure adequate separation between buildings for visual and acoustic privacy, solar access and air circulation.
- O2 To ensure the character of the existing dwelling and/or desired future character and established pattern of development is maintained

In the context of this part of LDCP 2013, this arise because of the insufficient landscaped area and non-compliance with side setback controls.

The side boundary setbacks of the proposed development do not satisfy **Control C7**, which requires that building setbacks comply with the numerical requirements set out in the side boundary setback graph (refer to Figure C129: Side Boundary Setbacks Graph of the LDCP 2013). It is noted that it does not even satisfy the more generous standard of a minimum setback of 1m on the eastern side under Control C3 of Part C2.2.2.4 of the LDCP 2013 (see above). As a result, the proposed development is not in accordance with the building typology required by LDCP 2013.

Council may allow lesser setbacks where, *inter alia*, the pattern of development within the streetscape is not compromised; and, the potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised. In this instance, the proposed development does not satisfy these requirements in terms of scale, privacy and possibly solar access and relaxing Council's setback controls is not supported.

### C3.3 Elevation and Materials

The elevation design of a building is as important as the building bulk and scale. The proposed development does not achieve the objectives of this part of LDCP 2013 as the combination of the:

- size and arrangement of windows and balconies presenting to the street,
- location and size of vehicular and pedestrian access points, and
- limited landscaped area on the street frontage

to visually detract from the existing streetscape and the proposed development will not complement the prevailing or desired future character of the neighbourhood.

### C3.5 Front Gardens and Dwelling Entries

The limited front gardens and dwelling entries (pedestrian and vehicular) do not provide a sensitive transition between the public and private domain and does not enable the development to achieve a high level of functional and visual engagement with the public realm. The combination of the driveway access, pedestrian entry result in very limited landscaping forward of the front building line, which does not make a positive contribution to streetscape quality and does not soften the visual impact of the built form.

### C3.8 Private Open Space

The private open space for Unit 1 on the ground floor (incorporating the retained portion of the existing dwelling) is a balcony/terrace facing the street. While no in principle objection is raised against this arrangement, insufficient detail has been provided to ensure appropriate levels of visual privacy to the space and ensure it will be suitable for passive recreation by the residents (**Control C5**).

Units 4 & 5 (Level 01) and Unit 7 (Loft) have elevated side facing balconies. It is considered that these arrangements are unsatisfactory as these balconies do not ensure the privacy of the occupants of the subject dwelling and surrounding residential properties (Nos. 61 & 63 Reynolds Street to the east and 77 & 79 Smith Street to the west) will be protected (**Control C4**). As stated previously in this report, the inclusion of permanent privacy screening devices is not supported as they will reduce the amenity of these private open space areas and will add to the overall bulk and scale of the development.



The balconies for Units 4 & 6 (Level 01) do not satisfy **Control C3**, which requires private open space areas to be a minimum of 8m<sup>2</sup> with a minimum dimension of 2m directly accessible from the principal living areas. The balconies off these units do not meet these minimum dimensions.

### **C3.9 Solar Access**

Developments must minimise the degree of overshadowing of neighbours. As stated previously in this report, the application is supported by hourly mid-winter (21st June) shadow diagrams between 9am and 3pm. Existing shadow diagrams showing only the existing dwelling have not been submitted and there is no notation or legend on those that have been submitted to clearly denote the extent of additional overshadowing. The Applicant has submitted existing and proposed shadow elevations for Nos. 77 & 79 Smith Street but only for 9am and 10am, when shadows continue to be cast over that property until at least 11am.

Given the pattern of surrounding development and topography, it is considered that No 77 Smith Street (before Noon) and Nos. 61 & 63 Reynolds Street (after Noon) will be most affected by any increase in overshadowing.

Without better details, including more complete shadow elevations, it is not considered possible to draw firm conclusions as to the proposed development's ability to comply with this part of LDCP 2013.

### **C3.10 Views**

As discussed previously in this report views and vistas are special elements of the character of this locality. The private properties most at risk of view loss are:

- 57 Reynolds Street
- 66 to 84 Reynolds Street
- 77 & 79 Smith Street
- 66 Smith Street

The View Assessment by Dr. Richard Lamb considers impacts in detail from only 77 & 79 Reynolds Street. The assumption Dr. Lamb makes about other residential properties is that existing views are enjoyed primarily from the upper floors of dwellings and these are most likely to be bedrooms or low activity rooms. This is not the case for at least one property, being 57 Reynolds Street on the western corner of Smith Street, which has the main living areas, kitchen and private open space (large balcony) on the upper level.

As stated previously, given the shortcomings of the proposed development as listed throughout this report, it is considered that a more skilful design (e.g. a lesser scale development) is available which could achieve a greater retention of views currently enjoyed by the public and private residents.

### **C3.11 Visual Privacy**

The objective of this part of LDCP 2013 is to ensure spaces are designed with a high level of consideration to protecting visual privacy within the dwelling, in particular the main living room, and private open space of both the subject site and nearby residential uses. The proposed development does not meet this objective.

The proposed development does not satisfy the separation requirements of the ADG and does not achieve the required side setbacks under the LDCP 2013. As stated previously, the proposal includes large expanses of glazed area and balconies on both the eastern and western elevations and this gives rise to the concern for the protection of privacy between the proposal and neighbouring properties. It is considered that it will be difficult to add privacy protection measures to these balconies without adding unnecessarily to the overall bulk of the development or interfering with the amenity of the internal areas of the new units and their associated private open space areas.

### **C3.12 Acoustic Privacy**

A Noise Impact Assessment prepared by Acoustic Logic has been submitted; however, this is limited to an assessment of aircraft noise impacts on the amenity of future tenants within the proposed residential development, even though the site is not located in an area affected by aircraft noise.

Notwithstanding, it is accepted that the proposed development is capable of satisfactorily addressing acoustic privacy issues by adequately controlling noise emissions from the site caused by plant and machinery.

What is of concern are the size, location and orientation of elevated balconies and terraces and the resultant noise emissions from these high activity areas towards adjoining properties; particularly given the deficient side setbacks that are proposed.

#### **E1.1.3 Stormwater Drainage Concept Plan**

#### **E1.2.2 Managing Stormwater within the Site**

#### **E1.2.3 On-Site Detention of Stormwater**

#### **E1.2.4 Stormwater Treatment**

#### **E1.2.5 Water Disposal**

Council's Development Engineer has advised that the information submitted with this application is insufficient (refer to **Section 6**).

### **5(d) The Likely Impacts**

The assessment of the Development Application demonstrates that the proposal as submitted has not adequately addressed the resultant impacts on the site, neighbouring properties or the heritage significance of the locality.

### **5(e) The suitability of the site for the development**

The site is zoned R1 General Residential under LLEP 2013. This application has not satisfactorily addressed how the proposed development is suitable for this site and how adverse effects on adjoining properties and the heritage significance of the locality are to be minimised.

### **5(f) Any submissions**

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in

accordance with Council's Notification Policy and 29 submissions were received from 28 individual submitters; all objecting to the proposal. A list of submitters is presented in **Table 6** below:

	<b>Objector</b>	<b>Address</b>
1	C.T. Williams	66 Smith Street, Balmain
2	C.R. Roberts	73 Smith Street, Balmain
3	J.E. Johansen	4/75 Smith Street, Balmain
4	K. Littlemore	5/75 Smith Street, Balmain
5	A. Nair	77 Smith Street, Balmain
6	V. Bernay	79 Smith Street, Balmain
7	S.A. Knox	55 Wortley Street, Balmain
8	H. Talaat	59 Wortley Street, Balmain
9	R.A. & H.E. Edwards	12 Ennis Street, Balmain
10	S. Moore	23 Ennis Street, Balmain
11	P.A. Hobbs	16 Reynolds Street, Balmain
12	S. Carrick	53 Reynolds Street, Balmain
13	T. Jones	55 Reynolds Street, Balmain
14	V. Allen (2 submissions)	61 Reynolds Street, Balmain
15	K. Edel	61 Reynolds Street, Balmain
16	R.W. Evans	63 Reynolds Street, Balmain
17	K.A. Brown	65 Reynolds Street, Balmain
18	D.G. Ireland	66 Reynolds Street, Balmain
19	R.C. Hodges	69 Reynolds Street, Balmain
20	M.L.B. Stowers	70 Reynolds Street, Balmain
21	K. Higgins	72 Reynolds Street, Balmain
22	M. Alexander	76 Reynolds Street, Balmain
23	E.A. Drysdale	80 Reynolds Street, Balmain
24	D. Marks	84 Reynolds Street, Balmain
25	C. O'Loughlin	88 Reynolds Street, Balmain
26	L.M. Guildford	466 Windsor Road, Baukham Hills
27	J.Parker MP on behalf of a number of residents	112A Glebe Point Road, Glebe
28	J. Butler	Unknown

The issues raised in submissions are summarised as follows (in no order of priority):

- Loss of views, primarily due to Unit 7 (3<sup>rd</sup> storey)
- Adverse impacts in relation to visual and acoustic privacy, solar access
- Adverse impacts on the character of the streetscape and heritage quality of the locality
- Adverse impacts on significant trees on adjoining land
- Increase in density and traffic
- Increase in the demand for street parking, which is already at a premium
- Unreasonable and inappropriate bulk and scale, which results in an overdevelopment of the site
- The design lacks respect for the constraints of the site and the topography of the area
- Excessive excavation
- Inadequate landscaped area
- Adverse impacts upon the stormwater system in the locality
- Unnecessary removal of power poles in the street
- Waste management and rubbish bins on the footpath
- Potential noise issues with plant and machinery
- Approval of this application will establish an unfortunate precedent for Balmain

These issues have been discussed throughout this report, except for the potential removal of power poles in the street but this is not considered a material concern in the assessment of the application and in the recommendation for refusal.

### 5(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 development is inconsistent with the aims, and design parameters contained in State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, Leichhardt LEP 2013 and Leichhardt DCP 2011. As discussed throughout this report, the development will result in adverse impacts on the amenity of adjoining premises, the streetscape and the heritage conservation area and approval of the proposed the development is not considered to be in the public interest.

## 6. Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers:

- Development Engineer
- Heritage Advisor
- Landscape Officer
  
- [Development Engineer](#)

Advice has been provided that the application is deficient with regards to the following:

#### 1. **Rumsay Lane Retaining Wall**

- a) *The site currently benefits from an existing retaining wall at the Rumsay Lane frontage of the site. The proposal to retain the wall is not supported as the wall encroaches onto Council land and it does not appear feasible to retain the wall during construction. The wall must be removed, and a new retaining wall constructed fully within the property boundary. **Assessment officer/heritage officer to note.***
  
- b) *As the proposed development includes significant excavation within the zone of influence of the adjacent road reserve, an integrated Structural and Geotechnical Engineering report must be submitted with the Development Application.*

*The report must address the following issues at a minimum:*

- *The basement must be of fully tanked construction such that pump-out systems are not required to drain the subsurface drainage system. Consideration will only be given to the provision of a pump-out system where it can be demonstrated by detailed geotechnical investigation that groundwater flows are minimal/intermittent.*
- *All components of the structure, including subsoil drainage, must be set back inside the property boundary.*
- *Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.*

- *Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment.*
- *Recommendations regarding method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property.*
- *Relevant geotechnical/subsurface conditions of the site, as determined by full geotechnical investigation.*
- *The impact of excavation on the structural stability of the adjacent road and detailing how the carriageway would be monitored.*
- *Details for the transition from the new retaining wall to the existing retaining wall on Rumsay Lane at the south of the site.*
- *Any other issues that may need to be addressed.*

*The Report must be prepared by suitably qualified Structural and Geotechnical Engineers.*

*The recommendations of the report must be incorporated into the plans.*

## **2. Vehicle Crossing and Driveway Ramp**

- a) *The proposed vehicle crossing should comply with Council standard vehicle crossing detail including 900mm wings.*
- b) *The vehicle crossing should be relocated to the west to avoid clash with pram ramp and to provide adequate refuge for pedestrians on the footpath between the vehicle crossing and the pram ramp.*
- c) *The gradient of the driveway for the first 6 metres from the property boundary must not exceed 1 in 20 (5%) in accordance with the requirements of Clause 3.3(a) of AS/NZS 2890.1-2004.*
- d) *The non-standard footpath paving on Reynolds Street shown on the architectural plans is not supported.*
- e) *The driveway width should be minimised where necessary to reduce loss of on-street parking.*
- f) *The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps.*

*In this regard the driveway is not adequate for a B99 Vehicle and scraping will occur. In addition the footpath levels and gutter invert levels on the long sections do not match existing gutter invert levels as shown on the survey*

- g) *A minimum headroom of 2200mm must be provided throughout the access and parking facilities. Note that headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc and at any open garage door. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.*

**3. Basement Carpark**

- a) *Access and manoeuvrability to Space 3 and Space 4 is restricted due to the location of the lifts and bicycle parking. The lifts and bicycle parking should be relocated to provide improved access to Space 3 and Space 4 and provide parking facility dimensions that comply with Figure 2.2 of AS/NZS 2890.1-2004 for User class 1A (as a minimum).*
- b) *The parking aisle must comply with the Blind Aisle requirements of the Standard, as defined by Clause 2.4.2(c) of AS/NZS 2890.1-2004.*
- c) *A dedicated car wash bay must be provided on site in a location that does not prevent access to the parking facilities. Details of the car wash bay including bunding and connection to sewer must be detailed on the plans.*

**4. Stormwater**

- a) *Grated stormwater pits within the enclosed basement are not necessary or supported as they provide access for pollutants from vehicles to enter stormwater system.*

*All grated stormwater pits within the basement excluding the grate at the base of the ramp, should be deleted or include solid/sealed access covers. The subsoil drainage system should be designed to prevent pollutants from cars entering the system.*

- b) *The proposal to discharge water from the site to the existing stormwater pit on Rumsay Lane is supported only for the basement pump-out of subsoil drainage. A stilling pit is required at the boundary from which flows shall drain via gravity to the Council stormwater pit on Rumsay Lane.*
- c) *An overland flow path to drain surface flows from the site to Reynolds Street is required. In this regard it appears proposed levels are flat along western boundary and would be unable to drain to Reynolds Street.*
- d) *The on-site detention (OSD) calculation is based on 100% pre-development impervious. This is not correct as per the survey.*
- e) *The on-site detention calculation is based on 65% post development impervious. This is not correct based on the site analysis plan.*

*In addition, Council does not support a green roof to be considered pervious area as the roof as stormwater runoff will drain through the green roof to the stormwater drainage system. On this basis the green roof areas should be included as impervious areas.*

- f) *The OSD tank as proposed would not function as an OSD system as there is no low level connection from the storage to the orifice outlet.*
- g) *OSD inlet pipe discharging to the bottom of the OSD tank is not supported as the pipe will be hydraulically controlled by the OSD tank water level. The inlet must be raised.*
- h) *The plans suggest the OSD tank is to have 1% fall however the levels provided on the detail show the bottom of the tank is flat. Clarification is required.*

- i) *Calculations must be submitted in support of the flow rates and storage volumes proposed in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013. The full model data and results including impervious/pervious areas, rainfall data should be provided.*
- j) *The proposed 100mm height of the OSD weir will be prone to blockage and does not provide for construction tolerances. The height of the weir must be increased.*
- k) *The use of 100 x 50 x 5 RHS appears excessive and is not supported due to the impact on the heritage stone kerbs.*

*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 maximum section height of 100mm.*

*New kerb outlets in stone kerb shall be carefully cored through the existing kerb stone such that the kerb outlet is perpendicular (a 90° angle) with the gutter. The pipe under the footpath shall end 30mm within the kerb stone with mass concrete around the pipe connection to the kerb stone. Purpose made pipe fittings and bends or welded joints shall be used where necessary to align the discharge pipe with the kerb outlet.*

#### **5. Subsoil drainage**

- a) *The geotechnical report recommends retaining walls be fully drained with suitable subsoil drains provided at the rear of the wall footings. The proposed subsoil drainage system must be shown on the plans and be located fully within the property boundaries.*

#### **6. Waste**

- a) *The bin room should be relocated to the ground floor for convenient transfer for the bins to Reynolds Street for collection. The bin room must be demonstrated to have adequate area to store the required bins in accordance with the requirements of Leichhardt DCP2013.*

- [Heritage Advisor](#)

The following advice has been provided:

<b>Heritage Listing:</b>
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*The subject property is located within The Valley (Rozelle and Balmain) Conservation Area. The building is not a heritage item. The heritage items located nearby are*

<i>Semi-detached house, including interiors, 69 Reynolds Street,</i>	<i>1295</i>
<i>Semi-detached house, including interiors, 71 Reynolds Street</i>	<i>1296</i>
<i>House, Providence, including interiors, 73 Smith Street,</i>	<i>1313</i>
<i>Former House &amp; Front Fence, including interiors, 75 Smith Street</i>	<i>1314</i>
<i>Punch Park, 16-30 Wortley Street,</i>	<i>1361</i>

**Significance**

*Details of the Statement of Heritage Significance for The Valley (Rozelle and Balmain) Heritage Conservation Area (listed under Part 2 of Schedule 5 of Leichhardt Local Environmental Plan 2013) can be found at the following address on Leichhardt Council's website:*

<https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/heritage-conservation-areas>

*The Statements of Significance for the heritage items in the vicinity can be found in the State Heritage Inventory and Register*

<https://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx>

**Previous Comments**

*A heritage referral was provided for PreDA/2018/109. The application was not supported on heritage grounds.*

**Discussion**

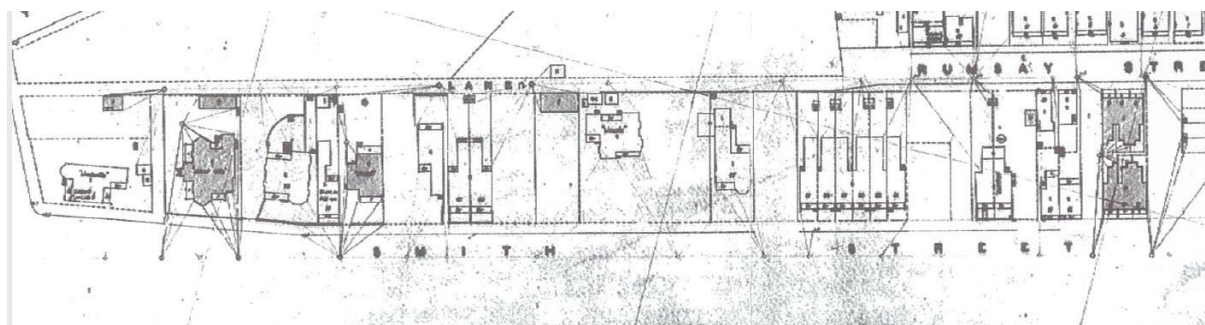
*The residence at No. 59A Reynolds Street dates from around 1919. This residence was erected with the subdivided grounds of a now demolished residence on the corner of Smith Street. The retaining wall to the lane predates the 1919 residence considerably and is probably contemporary with the series of substantial houses built along Smith Street in the nineteenth century. Rumsay Lane was in existence by the mid-1880s and is mentioned in reports of Balmain Council's works in 1885.*

*The 1919 residence does not date from the main phase of development of the Conservation Area but reflects a later phase of infilling and increasing of the density of the Balmain peninsular. No photographic images have been located that show its original configuration.*

*The 1890s block plan shows a very small building on the lot that is not identified in the Statement of Heritage Impact but may have been a garden shed associated with the now demolished residence on the corner of Smith and Reynolds Streets. The larger houses on Smith Street had outbuildings to Rumsay Lane, some of which survive today.*

*Some of the issues raised at the PreDA stage have been addressed in the DA submission, however the proposal still remains a larger scale than the surrounding Conservation Area, which is predominately single or two storey residential buildings with or without attics. The views from the existing heritage item at No. 75 Smith Street have not been taken into consideration. No. 75 Smith Street (I314), now converted into flats, is a substantial residence erected during the second half of the 1880s for the shipbuilder Joseph Sorrie and was designed with a bay window fronting the street and a bay window overlooking Rumsay Lane, with a porch between. The original outline of the houses lining Smith Street can be seen on the 1892 Metropolitan Detail series map and the Water Board block plan (illustrated below).*





*Between these two bays, the northern façade, which overlooks No. 59A Reynolds Street originally had verandahs however these features have been infilled. The proposed upper level of the proposal to redevelop No. 59A Reynolds Street will block views from this substantial nineteenth century residential building which is a listed local heritage item.*

*Externally the façade of No 59A Reynolds Street has been altered, with the gable and valence either removed or sheeted over and the windows altered. The original detail is unknown; however, some evidence may survive beneath the later sheeting. Internally the decorative fibrous plaster ceilings survive to the front two rooms of the house and other decorative elements such as the fireplace surround and decorative hall screen also survive. A number of these elements are proposed to be kept in the interior of the unit that will be formed from the front section of the residence.*

*Further detail as to the original detail of the front façade of the existing residence, such as the profile of timber brackets, should be able to be worked out during the construction phase, once the sheeting has been taken off. If there is no surviving concealed evidence, then a simple timber detail should be employed without a bracket. The proposed 'heritage' balustrade detail is not in keeping with the age and style of the building. An example that shows the relationship between the horizontals and verticals of a gable of this age of house is shown below. The uprights to the gable should be thinner battens supported on a solid beam rather than the lightweight cladding shown in the perspectives and on elevations. The materials proposed for the existing residence are not fully indicated on the elevations.*



*The retaining wall to Rumsay Lane is partly constructed of sandstone and partly constructed of concrete. This night soil laneway dates back to the nineteenth century. The retaining wall is very likely to predate the current house at No. 59A Reynolds Street and is more likely to be contemporary with the late nineteenth century residences at No. 73 and No. 75 Smith*

*Street and the garden of the now demolished house at No. 77-79 Smith Street. Other than the garden that is proposed to be removed, no other trace of this villa survives. The larger villas on the high land around Smith Street have been identified as a significant characteristic of the Conservation Area. This retaining wall to the night soil lane, the surviving remnant of the grounds of the villa on the corner of Reynolds and Smith Streets, should be retained.*

*This retaining wall is evidence of the extent of the gardens of the series of substantial villas erected along Smith Street, a number of which are now heritage items. Sandstone walls and stone retaining walls have both been identified as one of the significant characteristics of The Valley Conservation Area and should be retained. The Geotechnical Advice provided states that the “retaining wall is in good condition with no obvious signs of any movement or settlement except minor age related loss of mortar cements along joins [ie joints]”. The condition of the wall indicates that the feature can be retained.*

*Care will need to be taken when excavating behind the existing retaining wall to ensure that its stability is not compromised. Repair works are likely to be needed to the sandstone sections of the wall to ensure its continued stability. The depth of the stone blocks needs to be confirmed, as the blocks are to be retained in their entirety.*

*The new sandstone capping to the top of the retaining wall is shown as being flat in the perspective. Sandstone cappings should be sloped to drain water off.*

### **Recommendation**

*Overall the scale of the proposal remains of concern, as it impacts on the views from the heritage item at No. 75 Smith Street and the character of the conservation area generally.*

*In general, the proposal to retain the front two rooms of the dwelling is acceptable on heritage grounds however the scope of works is such that the protection of the surviving significant fabric will need to occur so that damage does not occur during the construction phase. Additional information will need to be provided with the construction certificate to indicate how these elements are to be protected.*

*The detailed construction of the sandstone retaining wall to Rumsay lane remains unknown and needs further investigation and protection during the building works. The two sections of sandstone retaining wall are to be retained.*

The following amendments to the proposal are recommended:

- 1. A reduction in the scale of the proposal in order that views from the heritage item at No. 75 Smith Street can be retained.*
- 2. The detail of the front façade of the retained interwar house is to be altered to utilise timber sections and profiles characteristic of the era of construction of the dwelling. Both sides of the verandah are to be open however a timber screen can be provided if required.*
- 3. The panelled front door and fanlight is to be retained.*
- 4. The full depth of the front two full rooms of the front portion of the house is to be retained. The surviving fibrous plaster ceilings are to be retained throughout the first two rooms of the house and the hallway and are to be protected from damage during any roofing repair works.*

5. *The proposed glazing to separate the hall is to be designed to be totally separate from the timber fretwork.*
6. *Other internal elements not being retained such as the fireplace should be salvaged.*
7. *Specialist advice is to be sought from a heritage engineer regarding the protection of the retaining wall to Rumsey Lane during construction and the extent of repair works required. Both sandstone sections of the retaining wall are to be retained, as is any sandstone walling currently not visible behind the later concrete wall. The depth of the stone blocks needs to be confirmed, as the blocks are to be retained in their entirety. The sandstone sections can be carefully dismantled and rebuilt if necessary, provided that the blocks are carefully numbered and are replaced in the exact same arrangement (i.e. retaining irregularities in the courses). Evidence of the sandstone bedrock that the walls are founded on should also be retained. The more recent cement repairs should be removed, and the wall should be repointed with a suitable mortar mix designed to conserve historic sandstone walls. Hard cement rich mortars are not appropriate.*
8. *Sandstone copings are to be sloped not flat to shed water.*

- [Landscape Officer](#)

The following advice has been provided:

*A site inspection was carried out on 18<sup>th</sup> October 2018.*

*There are no street trees in front of the site.*

*There are no trees on the site.*

*There are 8 trees on neighbouring properties: 4 to the south of the site (Trees 1 to 4) and 4 to the west of the site (Trees 5 to 8). The trees to the south have significant landscape value - contributing to the visual amenity of the area and neighbourhood and make a significant contribution to urban canopy cover. All trees located in neighbouring properties (irrespective of their landscape significance or retention value) are a constraint on the development design and both the proposed design and construction methodology must allow for the ongoing viability of these trees. The trees must be protected throughout the proposed works.*

*The Pre-Development Application Advice dated 28.06.2018 (PreDA Advice) stated that a detailed Impact Assessment Report should be submitted and that this report must contain (a) details of the impact of the proposed development on the trees, (b) a comprehensive pruning specification and (c) a detailed, comprehensive and site specific Tree Protection Plan.*

*The Arboricultural Impact Assessment Report prepared on 3.7.2018, reviewed on 25.7.2018, prepared by Redgum Horticultural (Arborist Report) states the TPZ encroachment for Trees 1 to 4 caused by the proposed basement is minor under AS 4970 – 2009. It is unclear if the calculations include any over excavation for the basement level, but the level of encroachments are sufficiently small that it appears that even with a narrow over excavation of, eg 500mm, the impact on the trees resulting from the excavation works will be still be minor. Tree sensitive construction methodology must be used, and the trees should be protected throughout the proposed works. The crowns of the trees are not accurately shown on the submitted elevation plans (eg. North and East Elevations, dwg no. A702, Issue 1, dated 27.07.18, prepared by Modulus). It appears that the crowns of Trees 1 and 3 may*

*conflict with the southern face of Level 1 and pruning may be required to provide building clearance. The Arborist Report does not discuss this. An amended report must be submitted. The pruning of more than 10% of the tree crowns is unlikely to be supported. The trees are a constraint on the development design and the design may need to be modified to move the first floor/level 1 away from the southern boundary to ensure that the trees do not require continual pruning in the future to provide building clearance.*

*Tree 5 is a Lilly Pilly (Syzygium sp) hedge located to the west of the site. The Arborist Report states (under section 5.9) that the TPZ setback is 3 metres and 'the setback for the proposed development adjacent to these specimens is estimated at 1.9m from COT, which is an encroachment by the proposed development'. The Summary on page 3 of the report states that the tree will be subject to major encroachment. No other details or discussion is provided. The tree appears to be approximately 1.9 metres from the basement as shown on the Basement Plan (dwg A104, Issue 1, dated 27.07.18, prepared by Modulus). The TPZ encroachment resulting from the basement excavation (with no over excavation) appears to be approximately 12.5%. Many of the submitted plans, including the Ground Floor Plan (dwg no. A105, Issue 1, dated 27.07.18, prepared by Modulus) and the Ground Floor Landscape Plan (dwg no. SK 02, Issue D, dated 07.2018, prepared by Umbaco) show a planter box or garden bed running north-south along the western wall of the unit building and possibly stepping stone/pavers also running north-south. Any excavation for footings for these structures are closer to the tree than the basement and may also have an adverse impact on the tree. This tree is a constraint on the development design and the design must be modified to reduce the impact on the tree. Such modifications may need to include moving the proposed basement further away from the boundary line. Any encroachment to the TPZ of the tree greater than 10% is unlikely to be supported.*

*The Arborist Report states that the TPZ encroachment to Trees 6, 7 and 8 (described as Cactus) is estimated to be 9.1%. Section 5.10 states that 'a TPZ setback of 2.0m from COT, the setback for the proposed basement adjacent to these specimens is estimated at 1.4m from COT'. Both the Ground Floor Plan and the Ground Floor Landscape Plan show paving between the western side of the building and the boundary fence – well within the TPZs of the trees. Steps are also shown within the TPZ of Tree 8. Given that the stems of the three trees appear to be close to the boundary line, the encroachment to the TPZ of these trees could be as high as 40-45%. The trees are unlikely to survive such a high impact. In addition, the Stormwater Management Plan Ground Floor (dwg no. C3.02, Issue A, dated 20.07.18, prepared by ACOR Consultants) shows stormwater pipes located with the TPZ of the trees. Again, the adverse impact on the trees resulting from excavation works to install the pipes may be significant. The Arborist Report fails to mention these works. The proposed development design must be modified to allow for the long-term viability of these trees. Any encroachment to the TPZ of the trees greater than 10% is unlikely to be supported.*

*Section 4 of the Arborist Report relates to pruning and states, in relation to Trees 1 to 4, that 'a portion of their crowns overhanging the subject site which will require some minor crown lifting to provide reasonable access to proposed landscape and utility areas to the rear of Unit 3' and goes on to recommend that such pruning is limited to small diameter branch laterals. Insufficient information is provided, e.g. no recommendations are provided for the height of the crown lifting or the maximum amount of crown to be removed. The submitted plans do not show any utility area at the rear of Unit 3. Council's Development Fact Sheet – Arborist Reports clearly sets out Council's requirements for pruning specifications. A pruning specification that complies with Council's requirements must be submitted. Pruning of more than 10% of the crown and any pruning beyond the site boundary will not be supported.*

*The Arborist Report references tree protection measures. These include, for each tree, the statement that 'The project arborist is to certify that installation of protection measures has been installed as per D/A conditions prior to commencement and works are to be monitored*

throughout the project at approx. 3 mthly intervals depending on the length of the development.' Details of site-specific tree protection measures are not provided. Clauses 5.11 to 5.25 appear to contain general tree protection measures only. Clause 5.12 states that protection fencing, or works are to be located as indicated on Appendix F – Tree Protection Plan but the protection measures are unclear on the plan. The text on the plan is too small to read, it is unclear what the red dotted lines refer to, no tree protection zones are shown for Trees 5 to 8 and no protection measures appear to be diagrammatically shown or are obvious for any of the trees. A Tree Protection Plan must be submitted for all the trees. This must comply with Council's requirements for arborist reports which are clearly set out in the Development Fact Sheet – Trees on Development Sites.

The PreDA Advice raised a concern about there being insufficient deep soil area and stated that sufficient soil volume must be provided to allow a minimum of two canopy trees to be sustained long into the future. The Ground Floor Landscape Plan shows two canopy trees – one within each of the gardens of Units 1 and 3. The planting of a Blueberry Ash (*Elaeocarpus reticulatus*) within the front setback (garden of Unit 1) is acceptable. However, there is concern that the planting of one small tree may not be sufficient to soften the overall bulk and scale of the proposed development from the north and east. The submitted Level 1 and Loft Landscape Plan (dwg no. SK 034, Issue C, dated July 2018, prepared by Umbaco) shows feature shrubs in pots to balconies on Level 1 and the Loft Level. It is unclear if these are intended to soften the visual impact of these parts of the building. If the owners of these units can change or remove the planting in the pots and the plants need to be maintained (watered etc) by the unit owners, then the use of plants in pots for this purpose may not be suitable or practicable.

The submitted Statement of Environmental Effects (dated July 2018, prepared by Andrew Martin Planning) states that the three ground level apartments have generous gardens with deep soil planting. An adequate volume of good soil and sufficient water are required for trees to establish well, remain healthy and be sustainable in the long-term. The minimum soil volume for each canopy tree must be 12 cubic metres. The deep soil space available to the Blueberry Ash proposed to be planted in the garden to Unit 1 is acceptable and the planting of this tree in the location shown on the submitted plans is supported. The area of deep soil space in the gardens of Units 2 and 3 is limited by the construction of the basement area below part of the gardens.

The canopies of the large trees to the south of the site overhang the gardens of Units 3 and 4 and there is concern that any tree planted within those gardens may not receive sufficient sunlight to grow vigorously and to full mature size. The mature height of the Lemon-scented Myrtle (*Backhousia citriodora*) proposed to be planted in the garden of Unit 3 is stated to be 10 metres. The tree is likely to be suppressed by the neighbouring trees or the crown of the tree will conflict with them requiring one or more of the trees to be continually pruned. The location of the Lemon-scented Myrtle is not supported. The development design must be modified to provide suitable environmental conditions for the planting and long-term sustainability of a second small canopy tree. This includes providing the tree with sufficient soil volume (a minimum of 12 cubic metres) and above ground space to grow. The second canopy tree must have a minimum mature height of 8 metres and a minimum mature spread of 5 metres. The tree must be located a minimum of 1.5 metres from site boundaries, existing and proposed structures and services (such as stormwater pits and pipes). The minimum container size at planting of both trees must be 150 litres to provide instant visual impact upon planting.

The applicant has failed to provide all the information required as set out in the PreDA Advice. Council's requirements for arborist reports are clearly set out in the Development Fact Sheet – Trees on Development Sites and Development Fact Sheet – Arborist Reports, both available online. Every consulting arborist preparing reports for sites within the Inner

West Council area should be aware of these requirements. All relevant plans should be provided to the arborist to allow a comprehensive analysis of the proposed development to be carried out. The applicant should be advised that Council may reject or require amendments to be made to any reports that do not comply with these requirements and this may cause a delay in the assessment of an application.

The application is not supported in its current form. Further information is required as set out below.

1. Amended architectural and landscape plans showing modifications to the development design and layout to:
  - (a) reduce the extent of crown pruning on Tree 1 – *Corymbia maculata* (Spotted Gum) and Tree 3 *Grevillea robusta* (Silky Oak) located on neighbouring property to the south to avoid conflict between the crown of the trees and the southern face of the proposed building;
  - (b) significantly reduce the impact on Tree 5 – *Syzygium* sp. (Lillypilly) and Trees 6, 7 and 8 (described as Cactus in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural) located on neighbouring property to the west of the site;
  - (c) ensure sufficient above ground space and an adequate volume of soil and water for canopy replenishment tree planting. In addition to the proposed *Elaeocarpus reticulatus* (Blueberry Ash) shown planted in the garden of Unit 1, a minimum of one further canopy tree must be included on the site. The tree must have a minimum mature size of 8 metres x 5 metres, be provided with a minimum soil volume of 12 cubic metres and be planted a minimum of 1.5 metres from proposed structures, site boundaries and services such as stormwater pipes and pits. The minimum container size at planting for both trees must be 150 litres;
  - (d) provide existing and proposed site levels of all landscape elements (including paving, garden beds, planter boxes, top of step, bottom of step etc) on an amended Ground Floor Landscape Plan;
  - (e) clearly show all landscape elements such all paving, stepping stone pavers and planters and provide details of all proposed landscape materials.
2. An amended Arboricultural Impact Assessment Report prepared by an arborist with a minimum AQF level 5 qualification in arboriculture who does not remove or prune trees in the Inner West local government area. The report must include all 8 trees included in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural. The report must include a comprehensive assessment of the impact of each element of the proposed design (including landscape and stormwater/services) and include TPZ incursion percentage figures. If the arborist recommends a TPZ incursion of more than 10% they must demonstrate (via eg. root mapping using minimally destructive methods) that the proposed development will not have a detrimental impact on the tree's health, stability and long-term viability. The report must comply with the requirements specified in Council's Development Fact Sheet – Trees on Development Sites.
3. A Tree Protection Plan prepared by an arborist with a minimum AQF level 5 qualification in arboriculture who does not remove or prune trees in the Inner West local government area. The report must include all 8 trees identified in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural. The plan must comply with the requirements specified in Council's Development Fact Sheet – Trees on Development Sites.
4. A Pruning Specification for Trees 1 to 4 (as identified in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural). The

*specification must comply with the requirements specified in Council's Development Fact Sheet – Arborist Reports.*

## 6(b) External

Not applicable

## 7. Section 7.11 Contributions

Section 7.11 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.

In calculating the contribution amount, a credit is allowed for the existing dwelling.

The proposed development does not include subdivision.

For the purpose of calculating the contribution amount Unit 6 is less than 53m<sup>2</sup> and Units 1 to 5 and 7 are calculated over 53m<sup>2</sup> and less than 106m<sup>2</sup>.

If this application was to be approved, a contribution would be required for the development under:

- Leichhardt Developer Contributions Plan No. 1 (Open Space and Recreation (2005))
- Leichhardt Developer Contributions Plan No. 2 (Community Facilities and Services - 2005)
- Leichhardt Developer Contributions Plan (Transport and Access 1999)

## 8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the Leichhardt LEP 2013. The proposal exceeds the maximum floor space ratio development standard and does not achieve the minimum landscaped area development standard. The application is not accompanied by a written request under clause 4.6 of the Leichhardt LEP to vary these standards.

The proposal is not consistent with the Leichhardt DCP 2013. The development will result in adverse impacts on the amenity of adjoining premises, the streetscape and the heritage significance of the locality. The application is unsuitable and is recommended for refusal.

## 9. Recommendation

A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 **refuse** Development Application No. D/2018/445 for additions and alterations to existing dwelling-house and construction of residential flat building containing seven units, over basement parking, and associated works, including retaining wall and fence works for the reasons set out below:


1. The proposed development fails to satisfy the minimum landscaped area and maximum floor space ratio development standards under clauses 4.3A and 4.4 of the Leichhardt Local Environmental Plan 2013 (LLEP 2013). No written request under clause 4.6 of LLEP 2013 has been received and development consent cannot be granted to this development application.

2. Even in the event that a written request under clause 4.6 of the LLEP 2013 was submitted, the proposed development fails to satisfy the minimum landscaped area and maximum floor space ratio development standards under clauses 4.3A and 4.4 and fails to satisfy the objectives of those development standards and is an overdevelopment of the site.
3. The proposed development fails to satisfy the objectives of the R1 – General Residential zone and the aims and objectives of the LLEP 2013.
4. The proposed development is unsatisfactory for this site and the locality having regard to the design quality principles set out in State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the criteria and guidelines of the Apartment Design Guide.
5. The proposed development is unsatisfactory for this site and the locality having regard to the following clauses of the LLEP 2013:
  - a) Clause 1.2 Aims of the Plan
  - b) Clause 2.3 Zone Objectives and Land Use Table
  - c) Clause 4.3A Landscaped Area for residential development in  
Zone R1
  - d) Clause 4.4 Floor Space Ratio
  - e) Clause 5.10 Heritage Conservation
  - f) Clause 6.2 Earthworks
  - g) Clause 6.4 Stormwater Management
6. The proposed development is unsatisfactory for this site and the locality having regard to the following sections and parts of Leichhardt Development Control Plan 2013 (LDCP 2013):
  - a) C1.0 General Provisions
  - b) C1.1 Site and Context Analysis
  - c) C1.2 Demolition
  - d) C1.3 Alterations and Additions
  - e) C1.4 Heritage Conservation Areas and Heritage Items
  - f) C1.7 Site Facilities
  - g) C1.11 Parking
  - h) C1.12 Landscaping
  - i) C1.14 Tree Management
  - j) C1.18 Laneways
  - k) C1.21 Green Roofs and Green Living Walls
  - l) C2.2.2.4 The Valley 'Balmain' Distinctive Neighbourhood (Smith Street Hill Sub Area)
  - m) C3.1 Residential General Provisions
  - n) C3.2 Site Layout and Building Design
  - o) C3.3 Elevation and Materials
  - p) C3.5 Front Gardens and Dwelling Entries
  - q) C3.8 Private Open Space
  - r) C3.10 Views
  - s) C3.11 Visual Privacy
  - t) C3.12 Acoustic Privacy
  - u) E1.1.3 Stormwater Drainage Concept Plan
  - v) E1.2.2 Managing Stormwater within the Site
  - w) E1.2.4 Stormwater Treatment
  - x) E1.2.5 Water Disposal



7. The proposed development will have an adverse environmental impact in the locality as it is likely to impact on the amenity of adjoining residential development.
8. In the circumstances of the case, approval of the development application is not considered to be in the public interest.

Attachment A Architectural Plans, Shadow Diagrams and Landscape Plans



12 8031 8102/00/10

Scale: 1:200 @ 1:200 @ 0.3

Issue Date: 27/07/18

Scale: @A1 1:200@0.3

Drawn by: HP

Checked by: PW

Project: **DA APPLICATION**  
**Proposed Residential Unit Building**  
 59a REYNOLDS STREET BALMAIN NSW  
 CLIENT: BOWHEIR HOLDINGS PTY LTD

Drawing title: **Cover Sheet**

Project number: **G-004EAL**  
 Drawing number: **A001**  
 SHEET 1

NO.	DESCRIPTION	DATE
1	ISSUE	27/07/18

Page 600





1	DATE	27/07/18
2	DATE	
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30	DATE	



Scale: 1:500

Project number: **G-00484L**

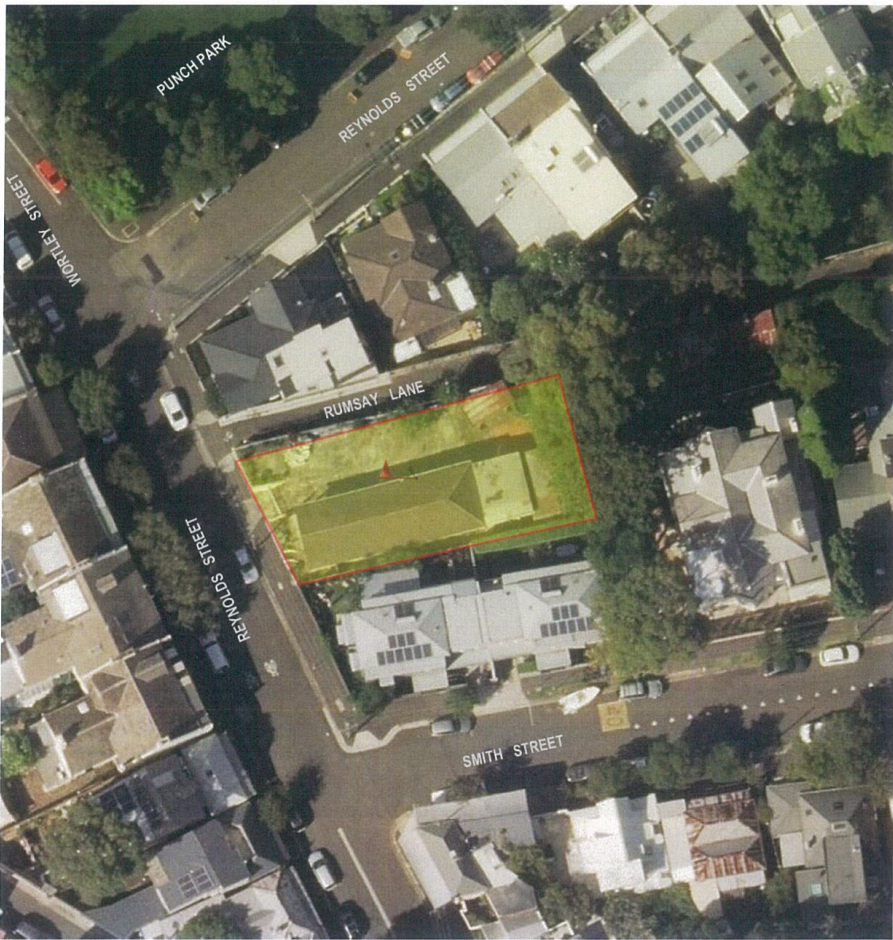
Drawing number: **A003**

Issue Date: 27/07/18

Scale: @A1 | 2000/A3

Drawn by: KP

Checked by: FW



Drawing title: **Site Context**

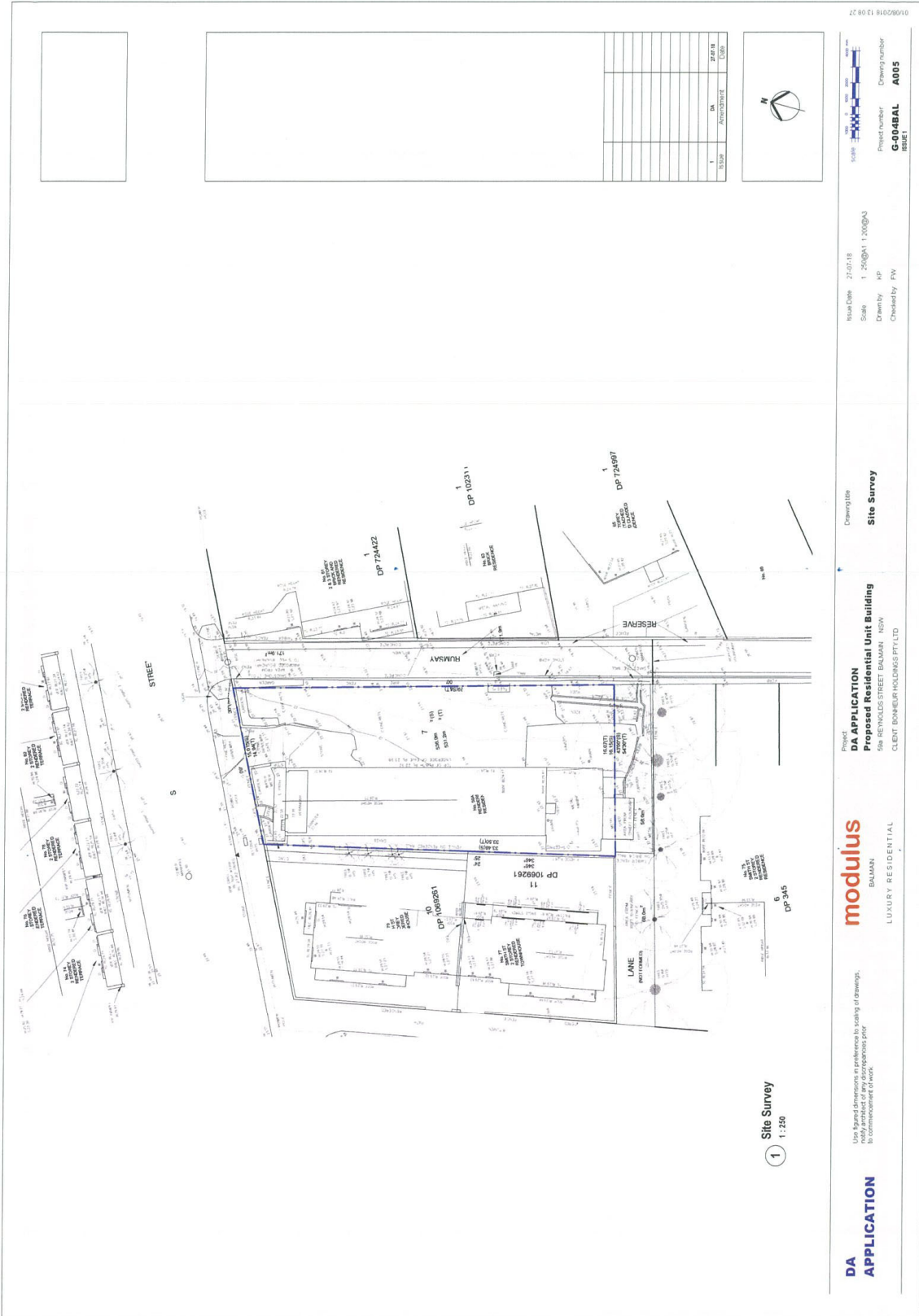
Project: **DA APPLICATION Proposed Residential Unit Building**  
 58A REYNOLDS STREET BALMAIN NSW  
 CLIENT: BOMBARDIER HOLDINGS PTY LTD

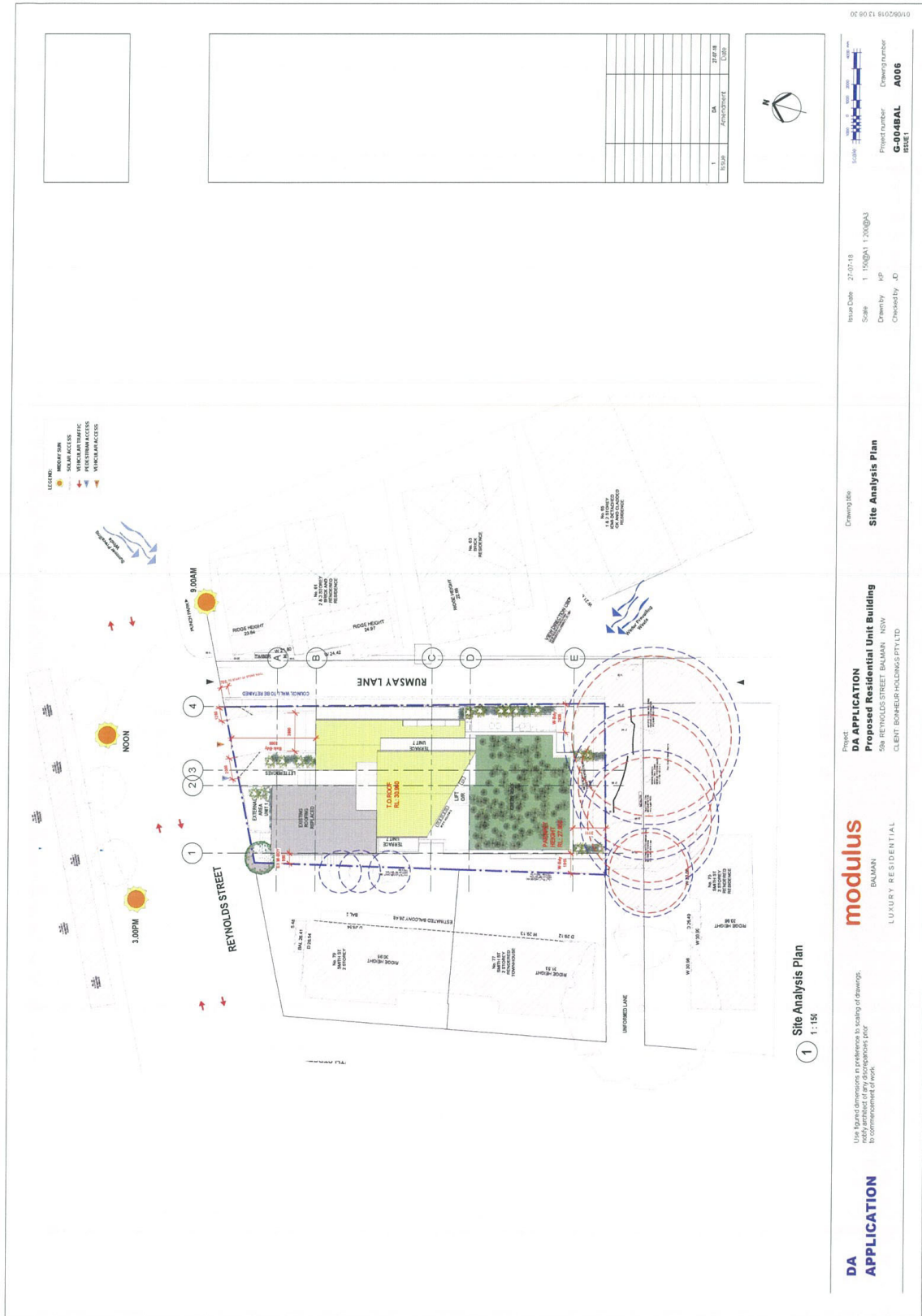
**modulus**  
 BALMAIN  
 LUXURY RESIDENTIAL

Use of figures dimensions or references in order to scale drawings, not to be used for construction purposes prior to commencement of work.

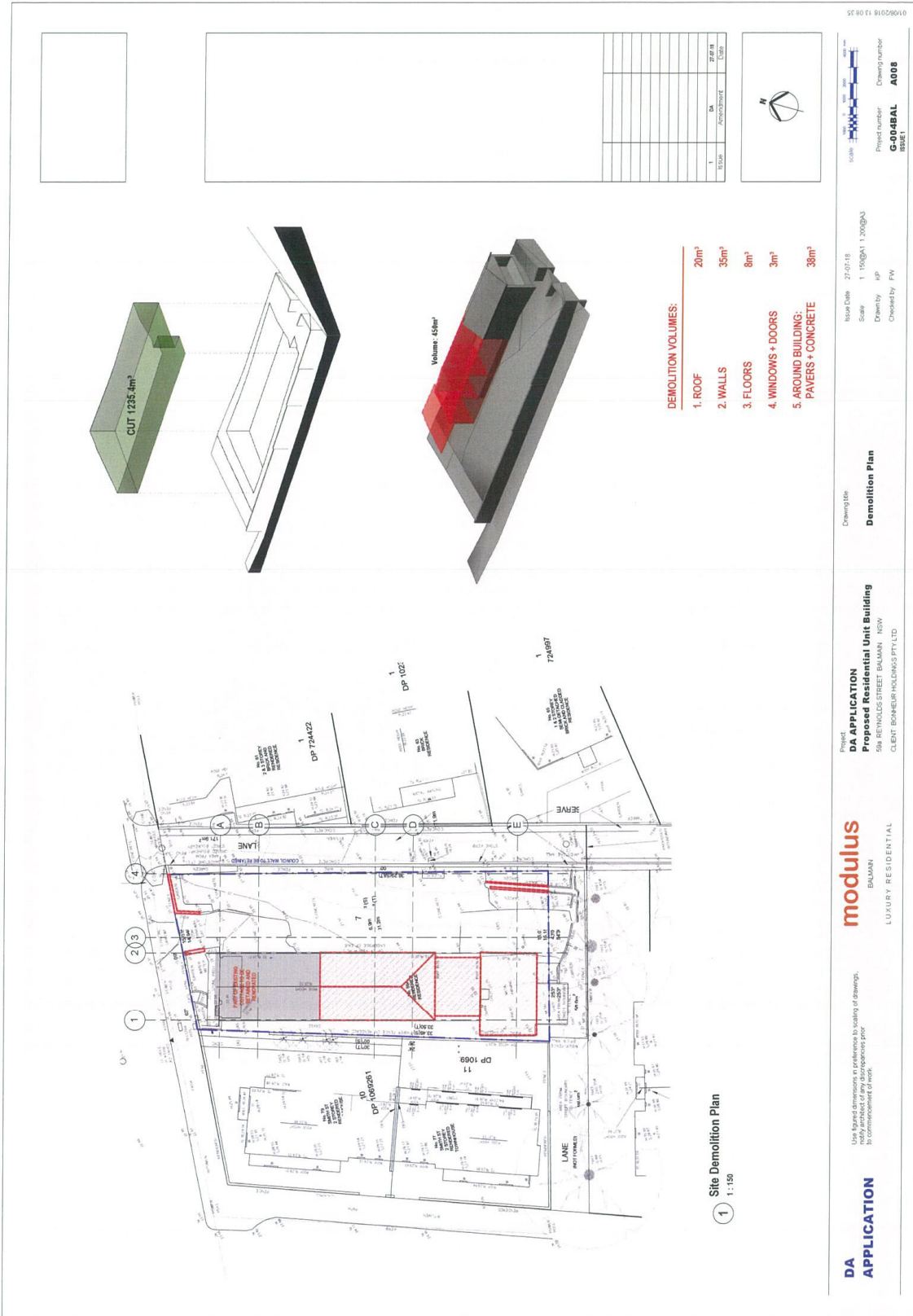
**DA APPLICATION**



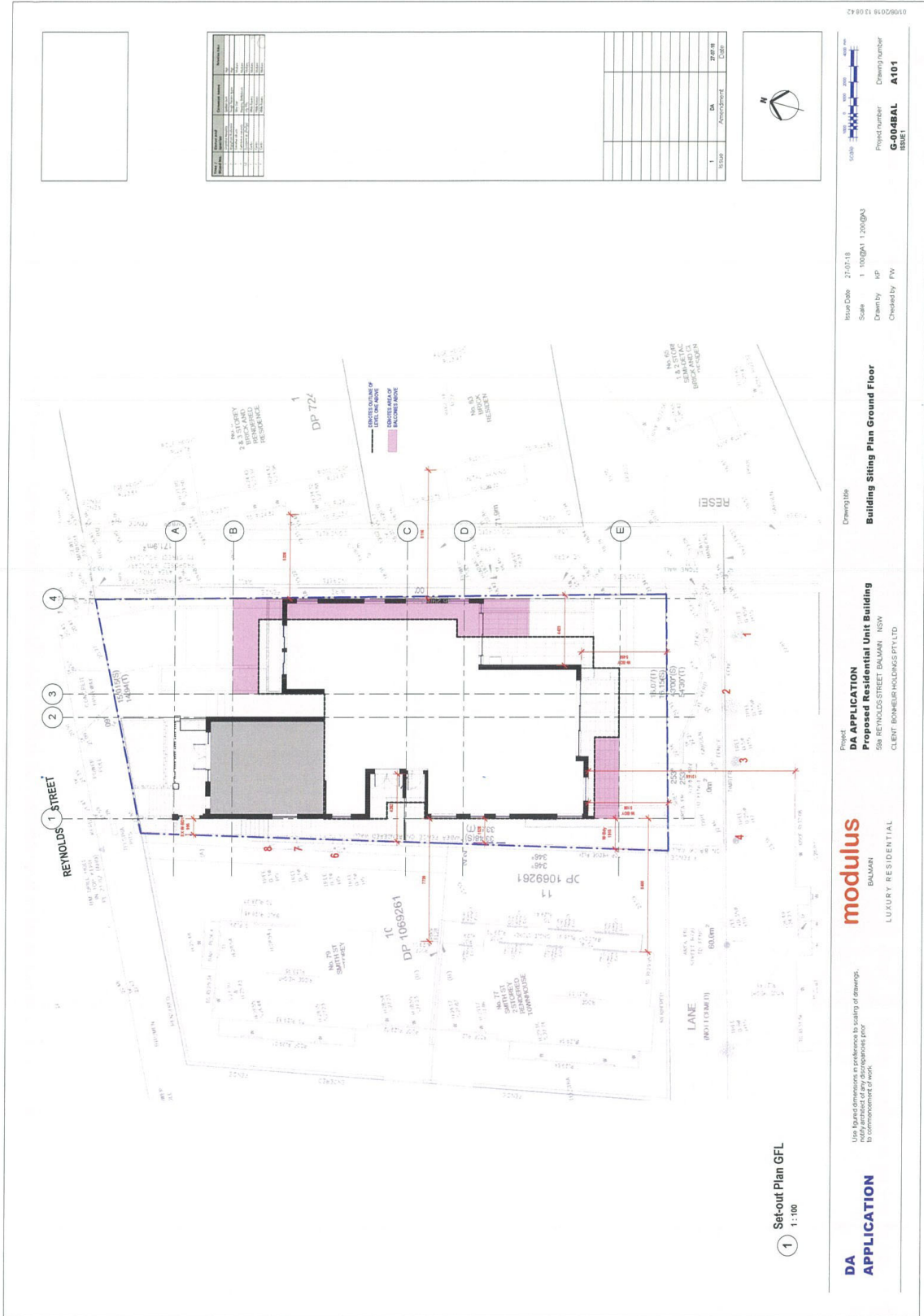


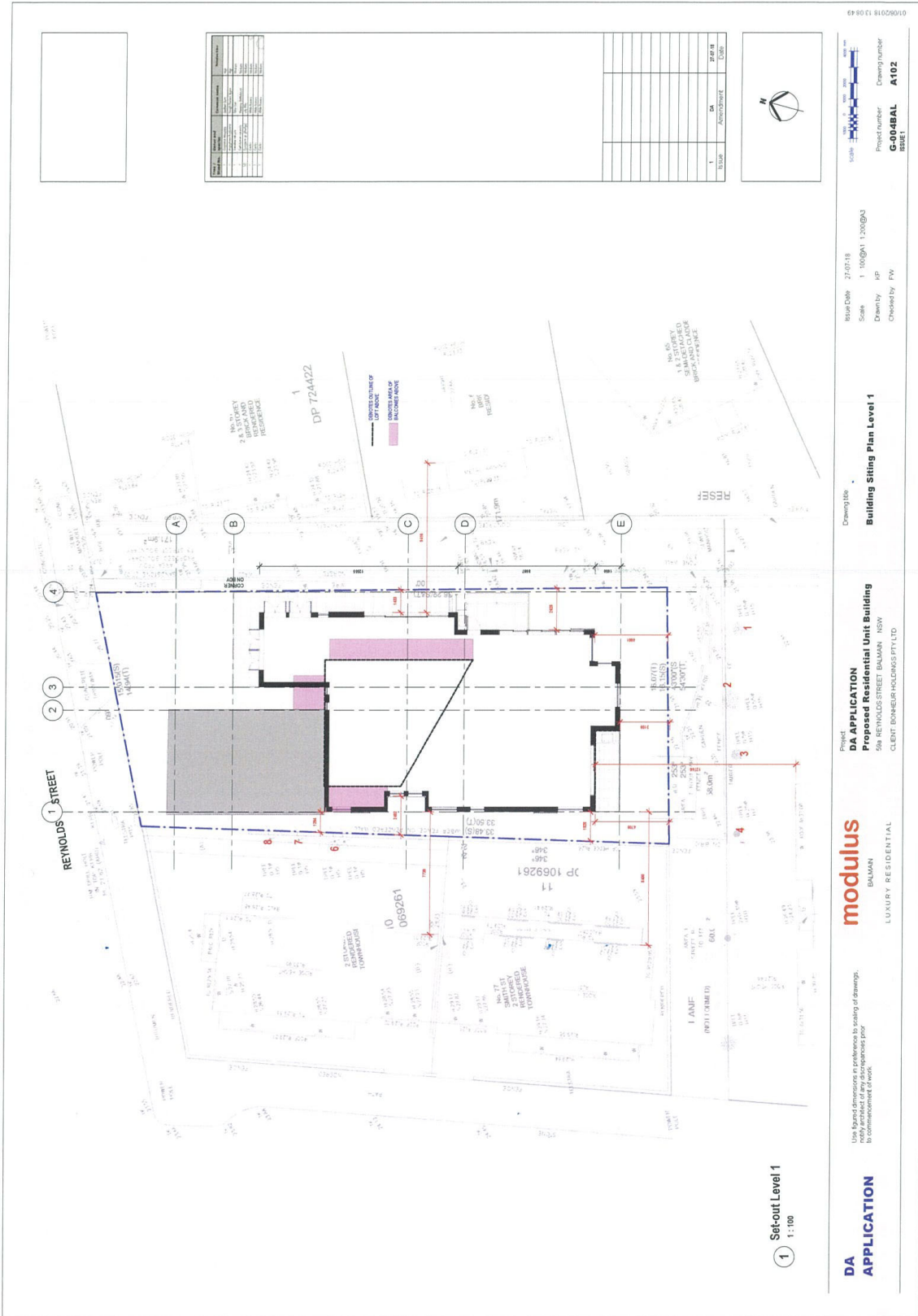


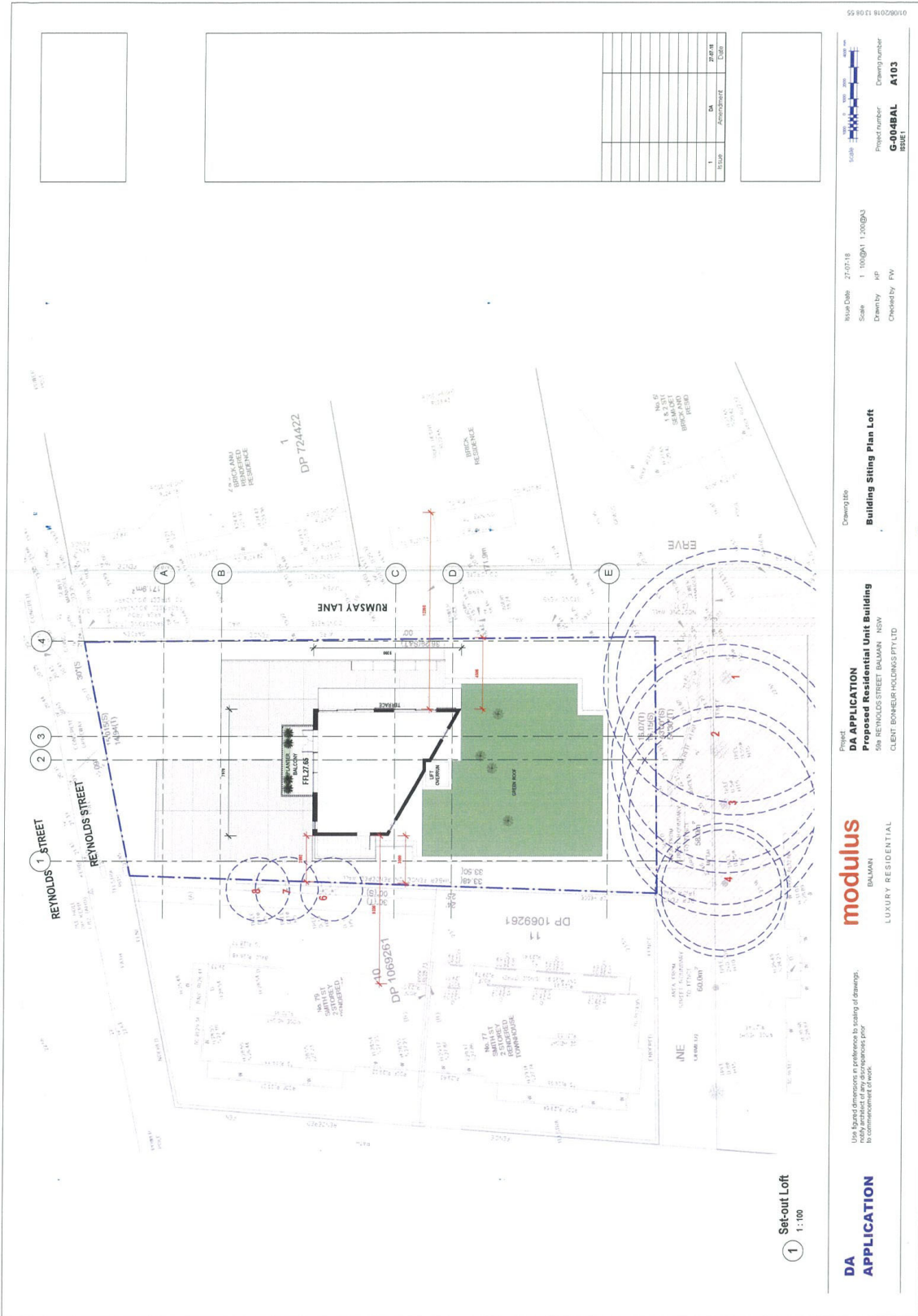
						<p>Scale: 1:500              Project number: <b>G00484L</b>              Drawing number: <b>A007</b></p>	<p>Issue Date: 27-07-18              Scale: @A1 1,200xGA3              Drawn by: KP              Checked by: FW</p>	<p>Drawing file:  <b>Existing Site Photos</b></p>	<p>Project:  <b>DA APPLICATION</b>  <b>Proposed Residential Unit Building</b>              59A REYNOLDS STREET BALMAIN NSW              CLIENT: BONHEUR HOLDINGS PTY LTD</p>	<p><b>modulus</b>              BALMAIN              LUXURY RESIDENTIAL</p>	<p>Use 3/4 panel dimensions in preference to 1/2 sheet of drawings.              noty notched for any discrepancies prior              to commencement of work.</p>	<p><b>DA APPLICATION</b></p>
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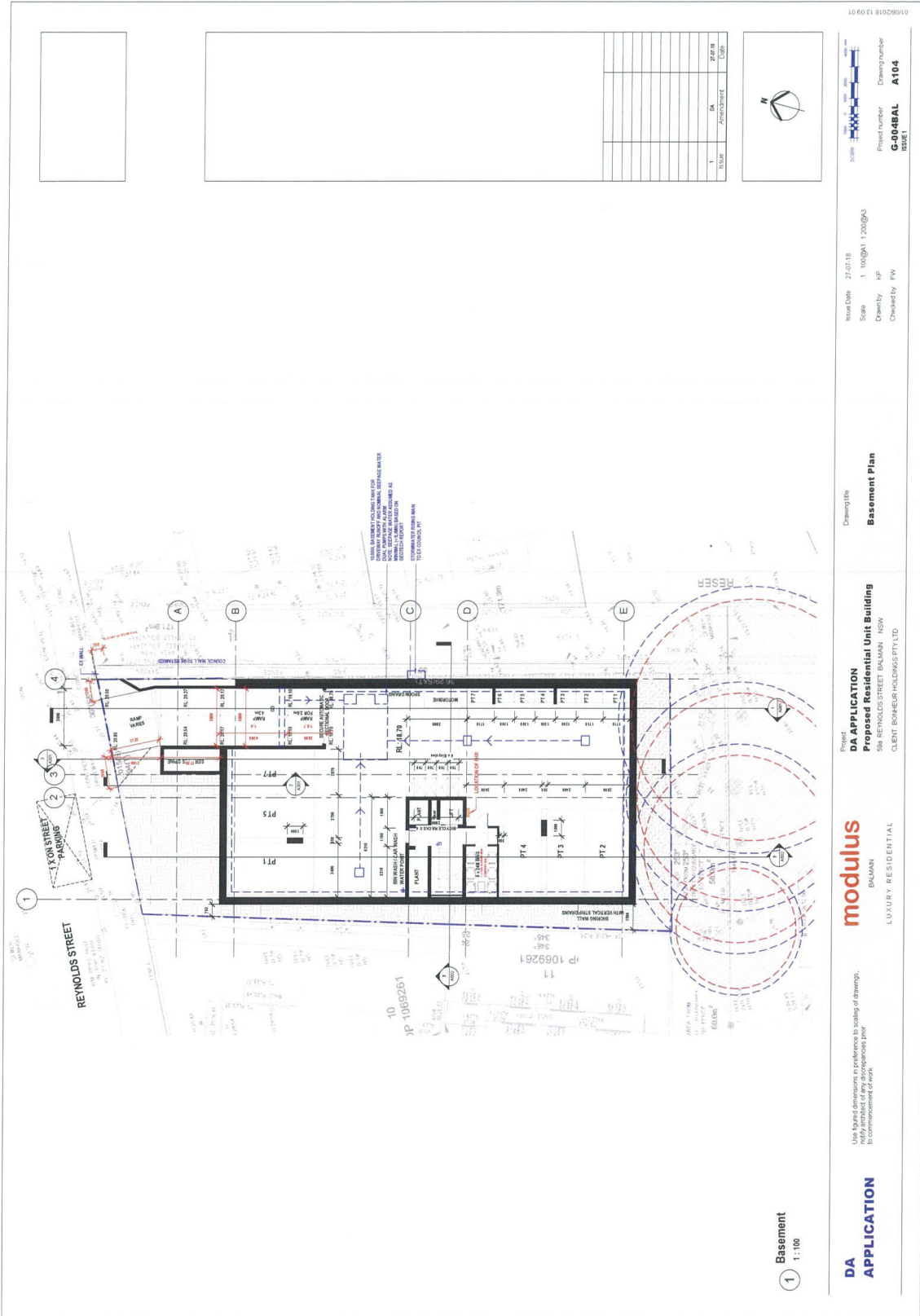












1 Basement  
1:100

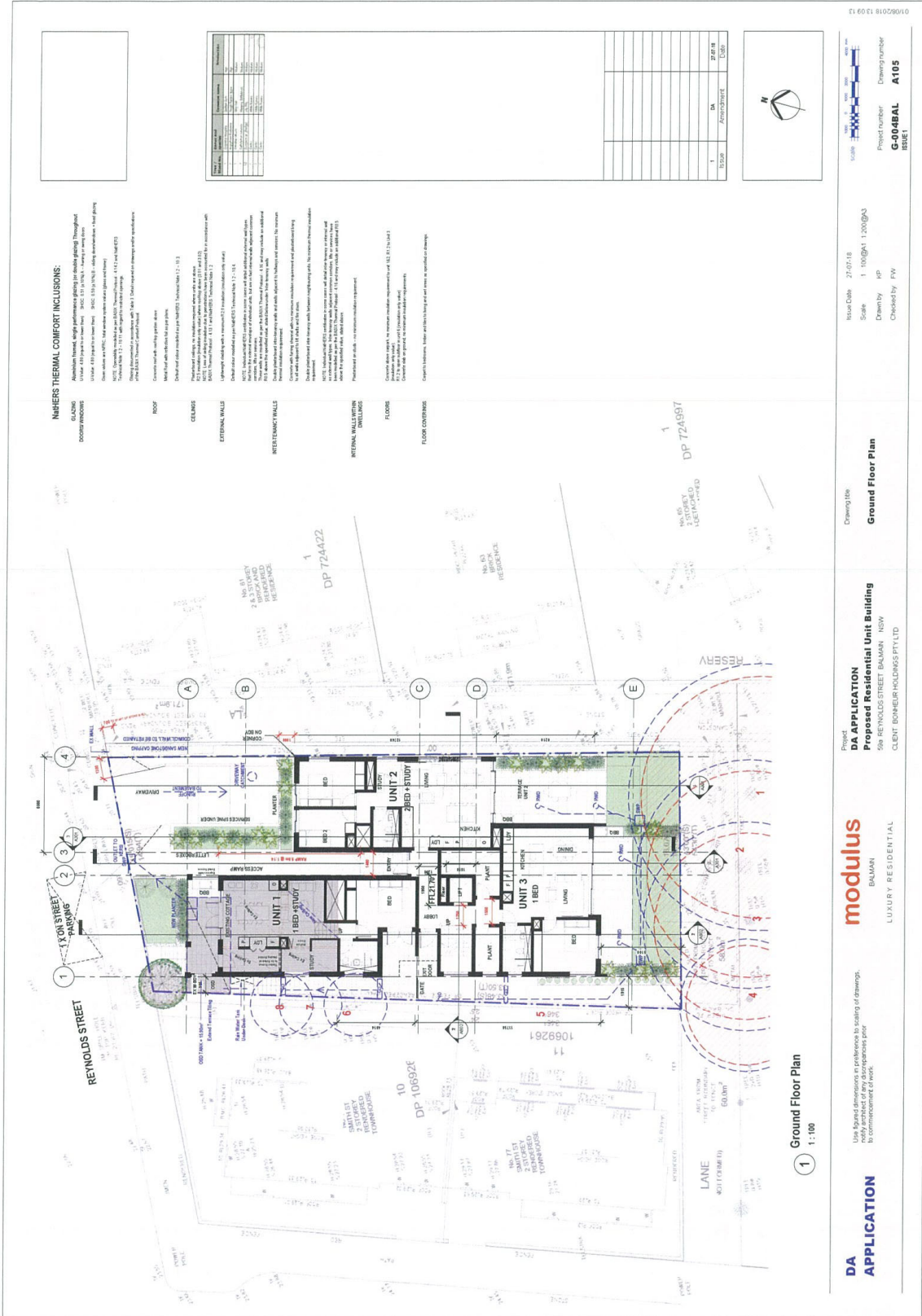
**DA APPLICATION**

**modulus**  
BALMAIN  
LUXURY RESIDENTIAL

Project  
**DA APPLICATION**  
**Proposed Residential Unit Building**  
588 REYNOLDS STREET BALMAIN NSW  
CLIENT BONHEUR HOLDINGS PTY LTD

Drawing title  
**Basement Plan**

Issue Date 27.07.18  
Scale 1:100(A1), 1:200(A3)  
Drawn by RP  
Checked by FW  
Project number G00485AL  
Drawing number A104



1 Ground Floor Plan 1:100

Issue Date: 27-07-18  
 Scale: 1:100 (A1 1:100 @ 1:100 @ G3)  
 Drawn by: HP  
 Checked by: RW

Project number: G-00484L A105  
 Drawing number: 10501

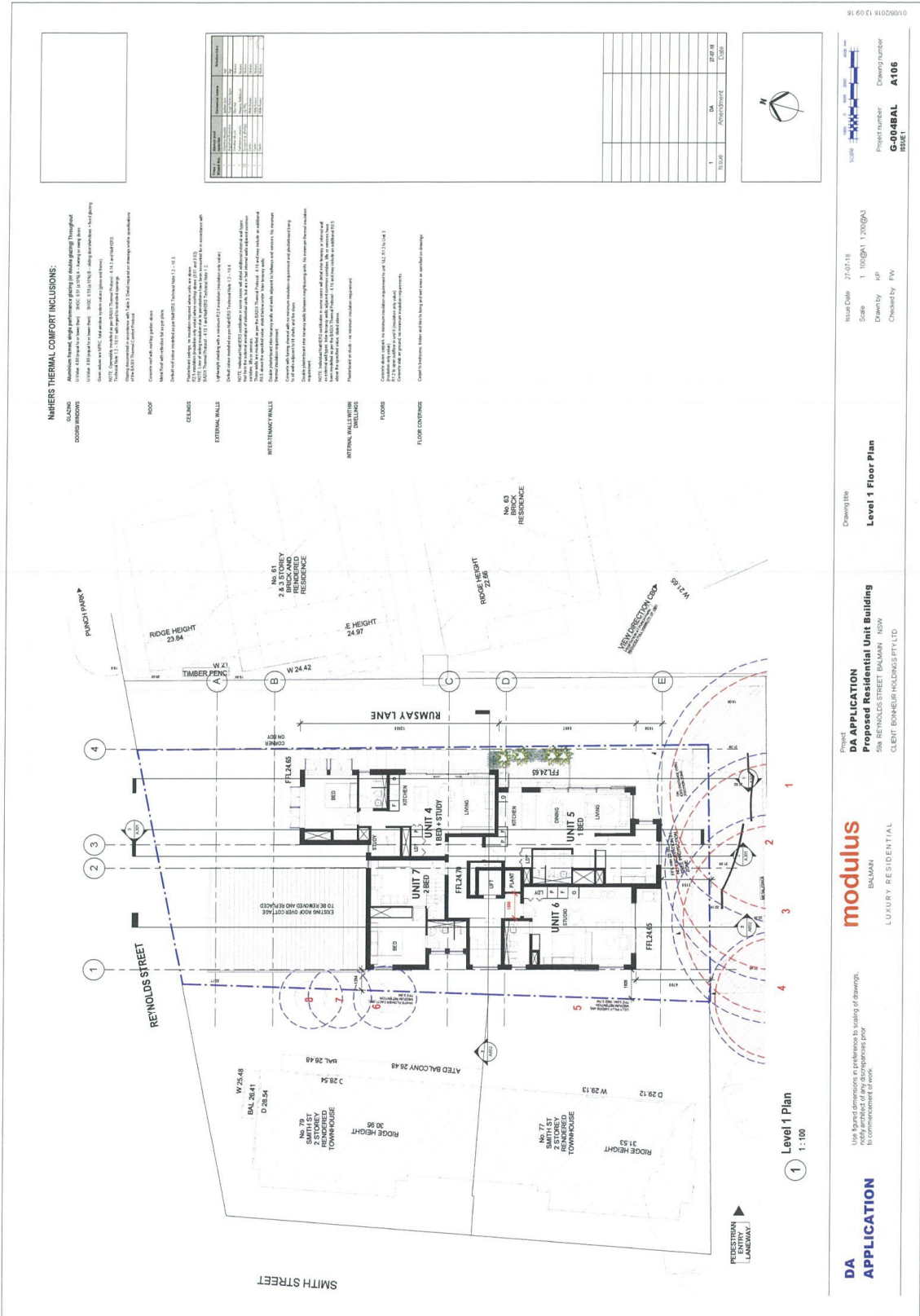
Drawing title: Ground Floor Plan

Project: DA APPLICATION  
 Proposed Residential Unit Building  
 598 REYNOLDS STREET BALMAIN NSW  
 CLIENT: BOMBEAR HOLDINGS PTY LTD

modulus  
 SYDNEY  
 LUXURY RESIDENTIAL

Use all dimensions in preference to scaling of drawings, notify architect of any discrepancies prior to commencement of work.

DA APPLICATION



Material	Notes
Roof	Asph/Flt
External Walls	Brick
Internal Walls	Plasterboard
Floors	Concrete
Floor Coverings	Carpet

**OTHERS THERMAL COMFORT INCLUSIONS:**  
 All windows must be double-glazed. All doors must be solid core. All external walls must be insulated. All roofs must be insulated. All floors must be insulated. All ceilings must be insulated. All walls must be insulated. All windows must be double-glazed. All doors must be solid core. All external walls must be insulated. All roofs must be insulated. All floors must be insulated. All ceilings must be insulated. All walls must be insulated.

**DA APPLICATION**  
 Proposed Residential Unit Building  
 588 REMOULD STREET BALMAIN NSW  
 CLIENT: BOMBEUR HOLDINGS PTY LTD

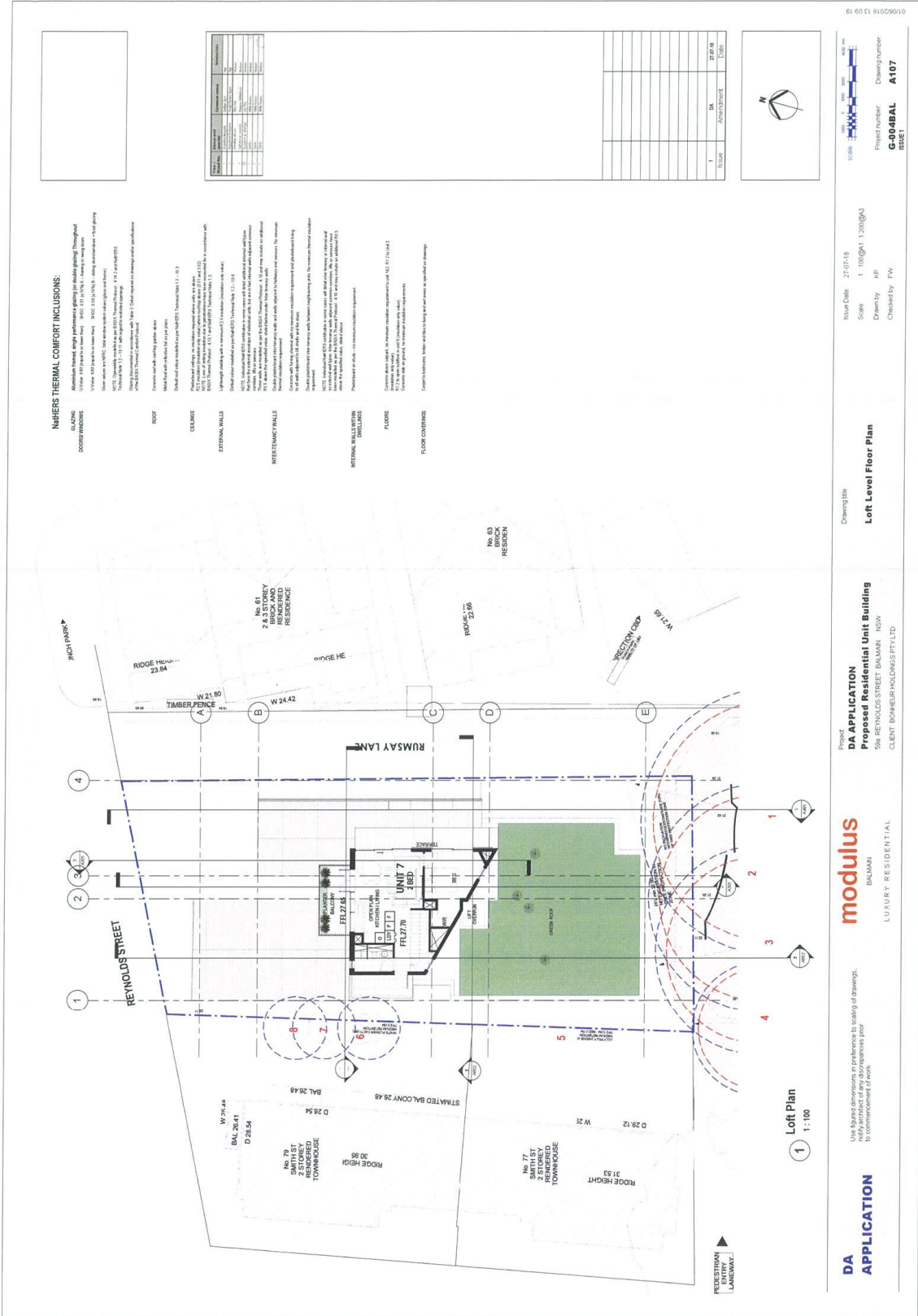
**modulus**  
 BALMAIN  
 LUXURY RESIDENTIAL

**DA APPLICATION**  
 Use for dimensions in preference to scaling of drawings, not to be used for any other purpose.  
 To be used for dimensions in preference to scaling of drawings, not to be used for any other purpose.

**modulus**  
 BALMAIN  
 LUXURY RESIDENTIAL

**DA APPLICATION**  
 Proposed Residential Unit Building  
 588 REMOULD STREET BALMAIN NSW  
 CLIENT: BOMBEUR HOLDINGS PTY LTD

**modulus**  
 BALMAIN  
 LUXURY RESIDENTIAL



Issue Date: 27/07/18  
 Scale: 1:100 (A1), 1:200 (A3)  
 Project Number: G00484L  
 Drawing Number: 1001  
 Designer: HP  
 Checker: FW  
 Project Name: DA APPLICATION  
 Proposed Residential Unit Building  
 58A REYNOLDS STREET BALMAIN NSW  
 CLIENT: BOMBER HOLDINGS PTY LTD

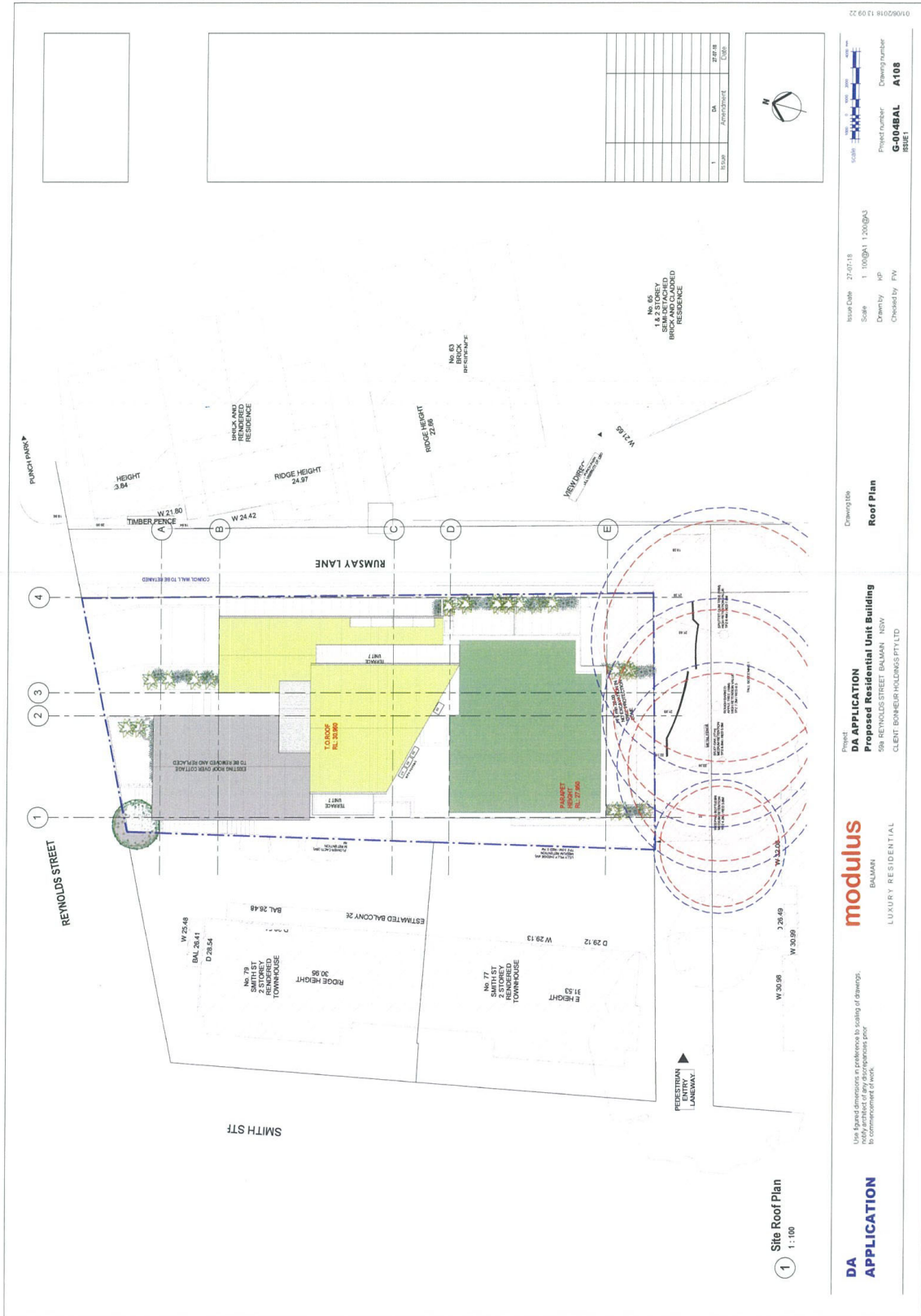
modulus  
 BALMAIN  
 LUXURY RESIDENTIAL

DA APPLICATION  
 Use the dimensions in preference to scaling of drawings, notify architect of any discrepancies prior to commencement of work.

Project: DA APPLICATION  
 Proposed Residential Unit Building  
 58A REYNOLDS STREET BALMAIN NSW  
 CLIENT: BOMBER HOLDINGS PTY LTD

Drawing Title: Loft Level Floor Plan

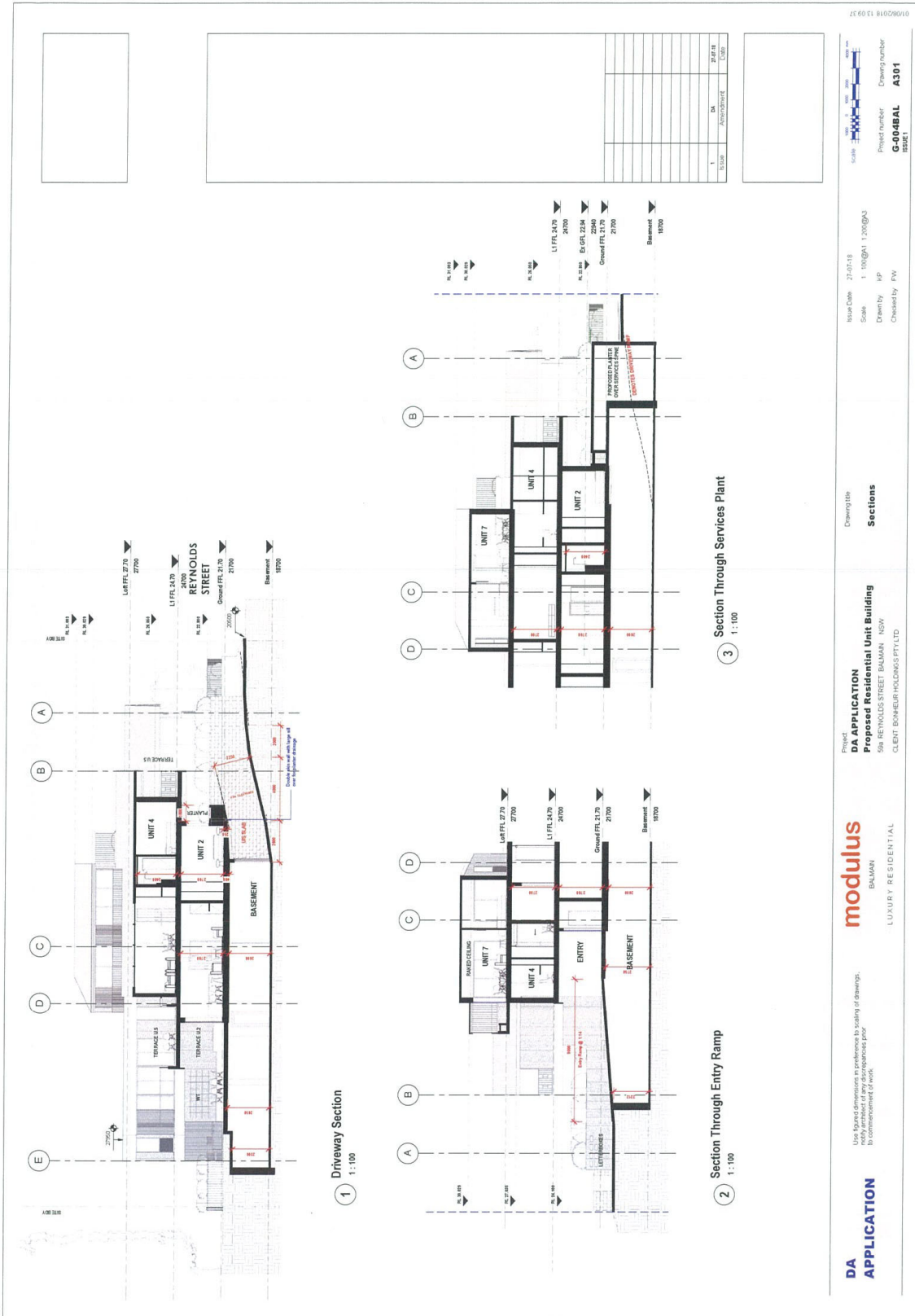
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 Checker: FW

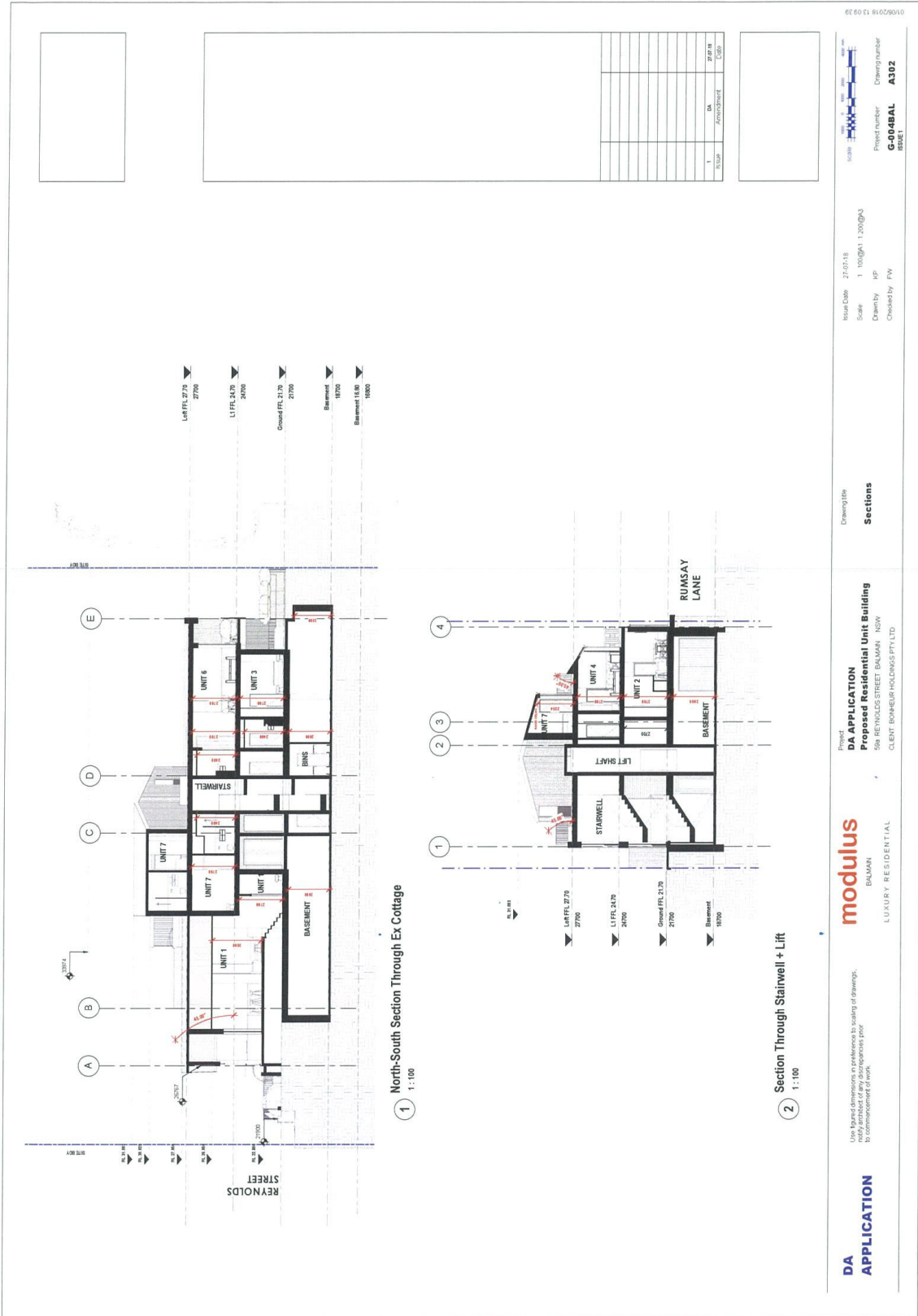




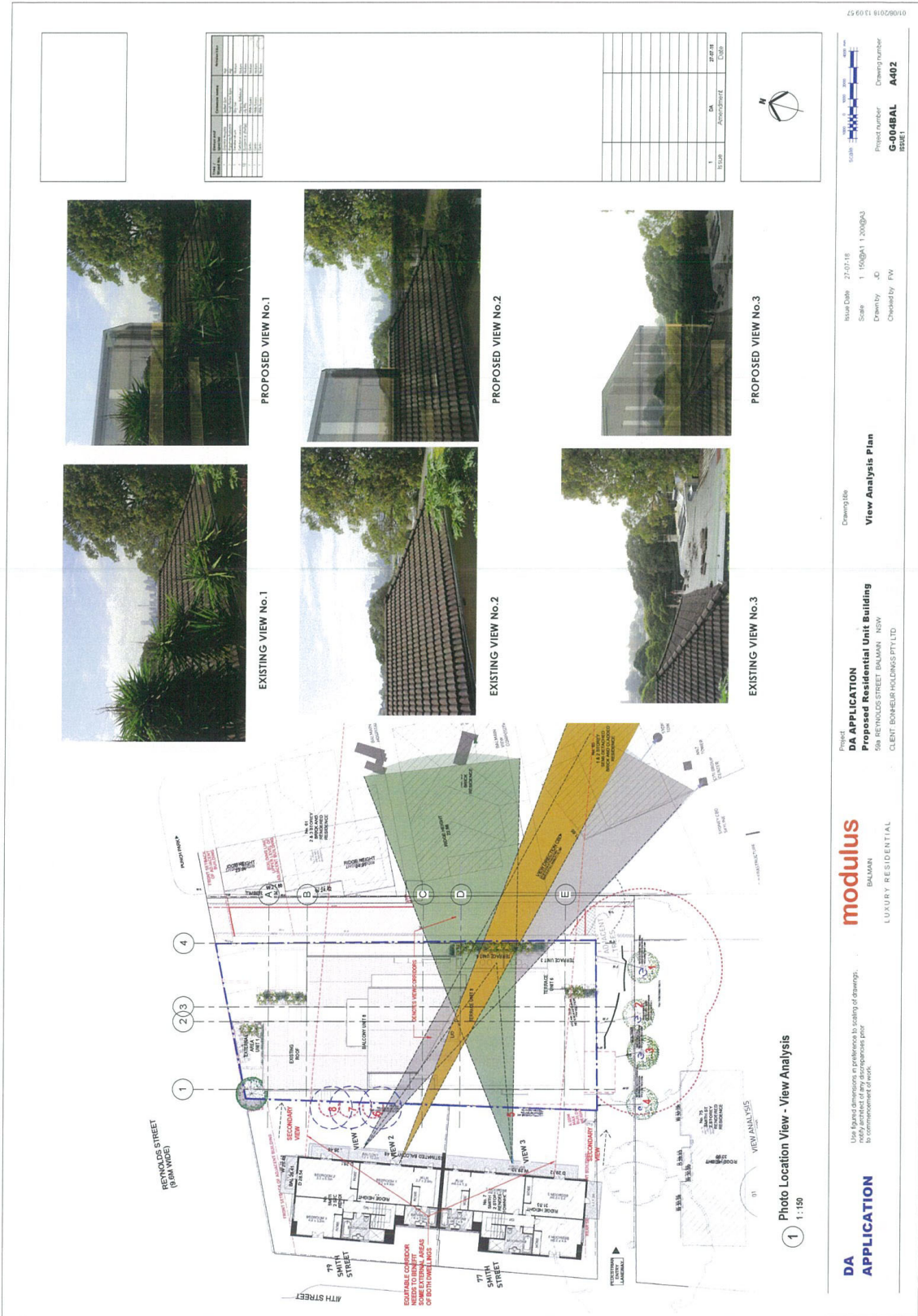












NO.	DESCRIPTION	DATE	BY	CHECKED
1	DATE			
2	DATE			
3	DATE			
4	DATE			
5	DATE			
6	DATE			

Scale: 1:200  
 Project Number: C8048AL  
 Drawing Number: A501

① Shadowing June 21st 9.00am  
1:200

② Shadowing June 21st 10.00am  
1:200

③ Shadowing June 21st 9.00am No77-79 Smith St  
Existing

④ Shadowing June 21st 9.00am No77-79 Smith St  
Proposed

⑤ Shadowing June 21st 10.00am No77-79 Smith St  
Existing

⑥ Shadowing June 21st 10.00am No77-79 Smith St  
Proposed

**DA APPLICATION**

**modulus**  
BALMAIN  
LUXURY RESIDENTIAL

**DA APPLICATION**  
Proposed Residential Unit Building  
506-508 TECHNOLOGY STREET BALMAIN NSW  
CLIENT: BOMBEUR HOLDINGS PTY LTD

Shadow Diagrams June 21st 9.00am + 10.00am

Issue Date: 27/07/18  
 Scale: 1:200 (A1, 1:200 @ A3)  
 Drawn by: JSP  
 Checked by: FW  
 Project Number: C8048AL  
 Drawing Number: A501



Block	Amendment	DA	2023	2024	2025
1					

Issue Date: 27/07/18  
Scale: 1:200 (GN 1:200) GNJ  
Drawn by: HP  
Checked by: PW

Drawing title:  
**Shadow Diagrams June 21st  
11.00am + 12.00pm**

Project:  
**DA APPLICATION  
Proposed Residential Unit Building  
584 REYNOLDS STREET BALMAIN NSW  
CLIENT: BONHEUR HOLDINGS PTY LTD**

**modulus**  
BALMAIN  
LUXURY RESIDENTIAL

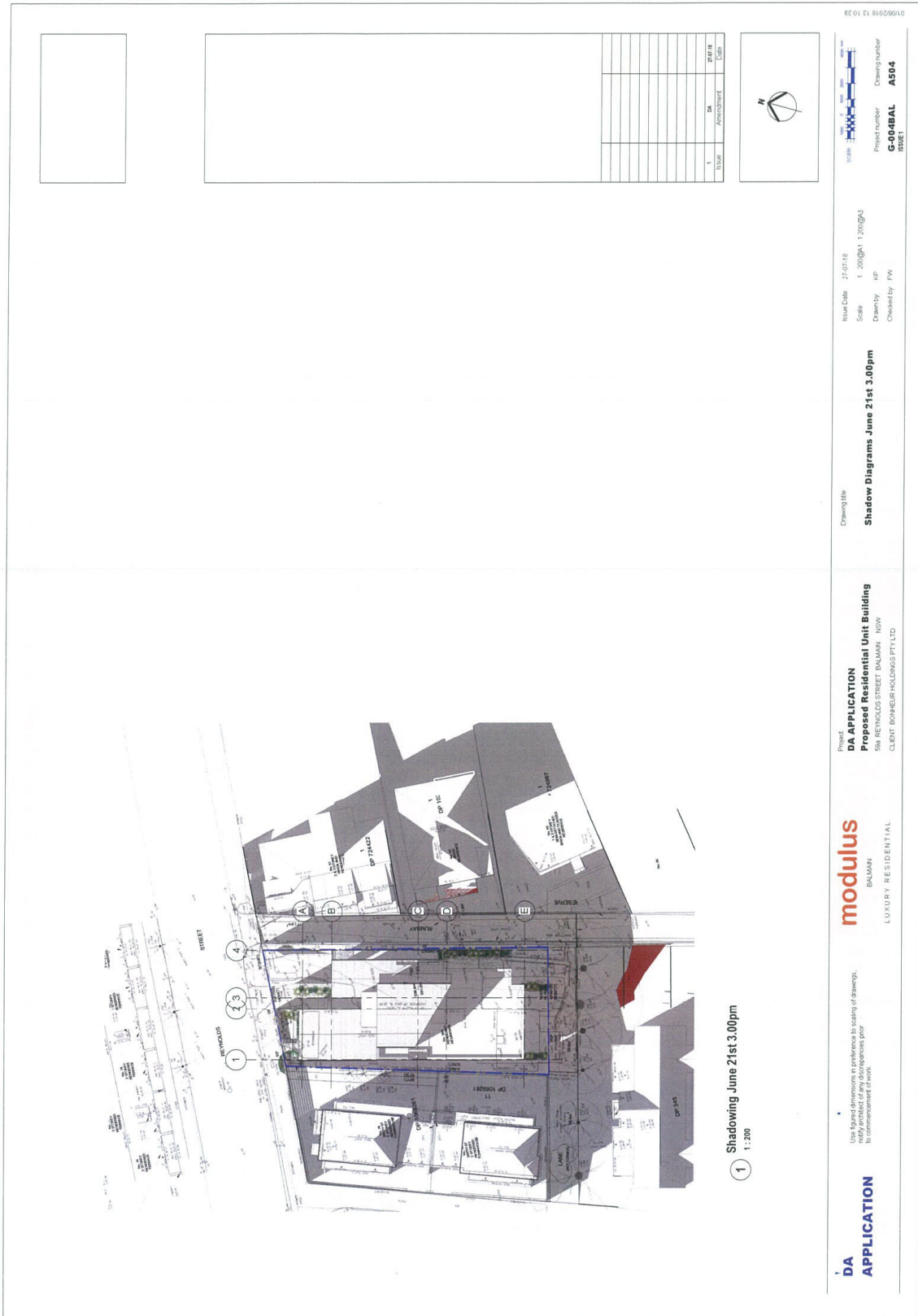
Use for and dimensions in preference to scaling of drawings, not to be used for any other purpose prior to commencement of work.

**DA APPLICATION**

Project number: G-00-484L  
Drawing number: A802  
SHEET 1













**DA APPLICATION**  
BALMAIN  
LUXURY RESIDENTIAL

**modulus**  
BALMAIN  
LUXURY RESIDENTIAL

Project: **DA APPLICATION Proposed Residential Unit Building**  
596 REYNOLDS STREET BALMAIN NSW  
CLIENT: BOMBEUR HOLDINGS PTY LTD

Issue Date: 27.07.18  
Scale: 1:150 (DA) 1:200 (BAS)  
Drawn by: HP  
Checked by: PW

Project number: **G-00484L**  
Drawing number: **A003**  
SHEET

Drawing title: **Solar Access Diagrams**

Scale: 1:150  
1 Solar Access Ground Floor Plan  
2 Solar Access Level 1  
3 Solar Access Loft Level

① Solar Access June 9.00am

② Solar Access June 10.00am

③ Solar Access June 11.00am

④ Solar Access June 12.00pm

⑤ Solar Access June 1.00pm

⑥ Solar Access June 2.00pm

⑦ Solar Access June 3.00pm

1	DA	27/07/18
2	DA	@A1 1:200(A3)
3	DA	27/07/18
4	DA	27/07/18
5	DA	27/07/18
6	DA	27/07/18
7	DA	27/07/18

DA APPLICATION  
 Use for and demonstrate in preference to holding of drawings, not to be used for any other purpose prior to commencement of work.

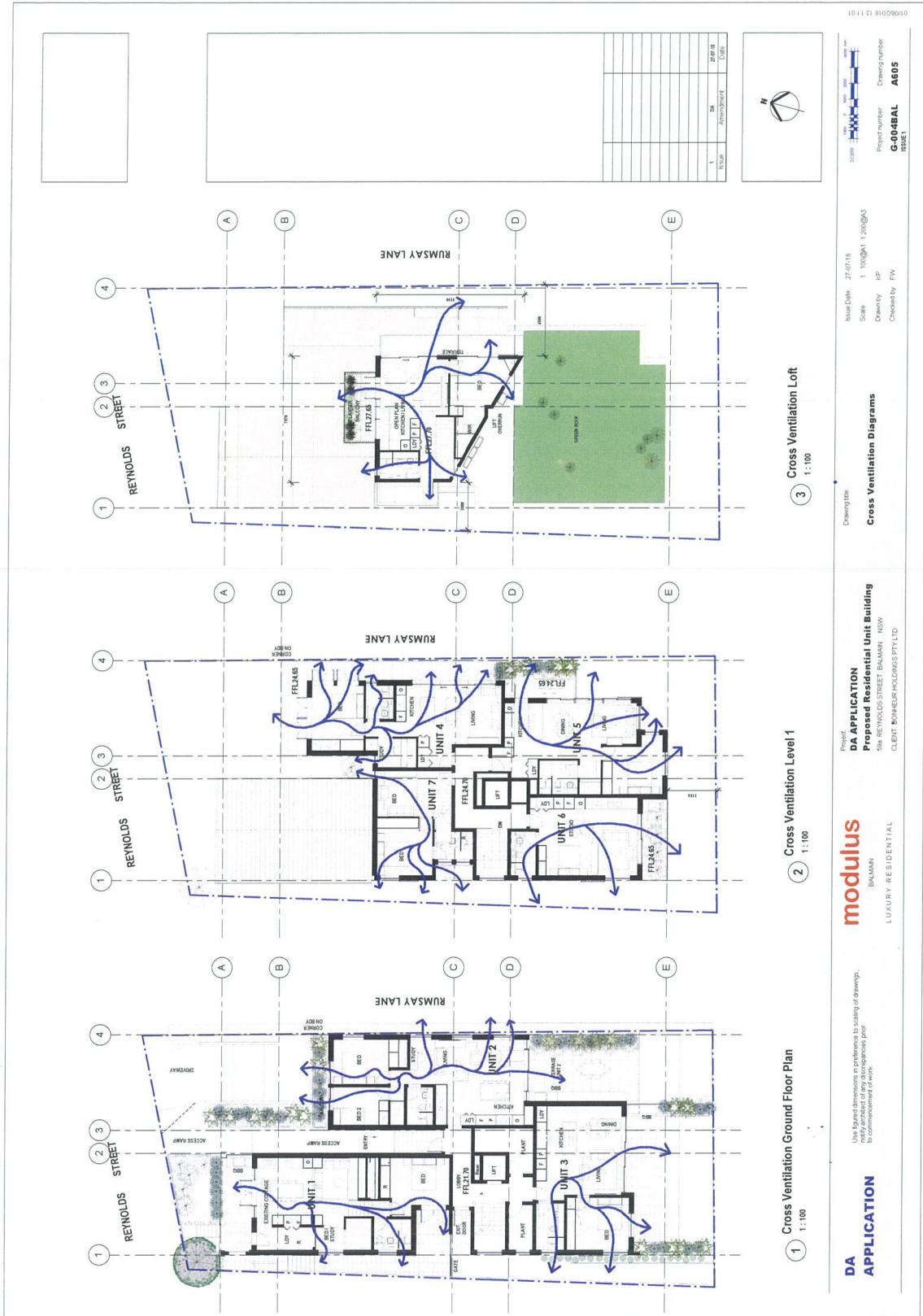
modulus  
 BALMAIN  
 LUXURY RESIDENTIAL

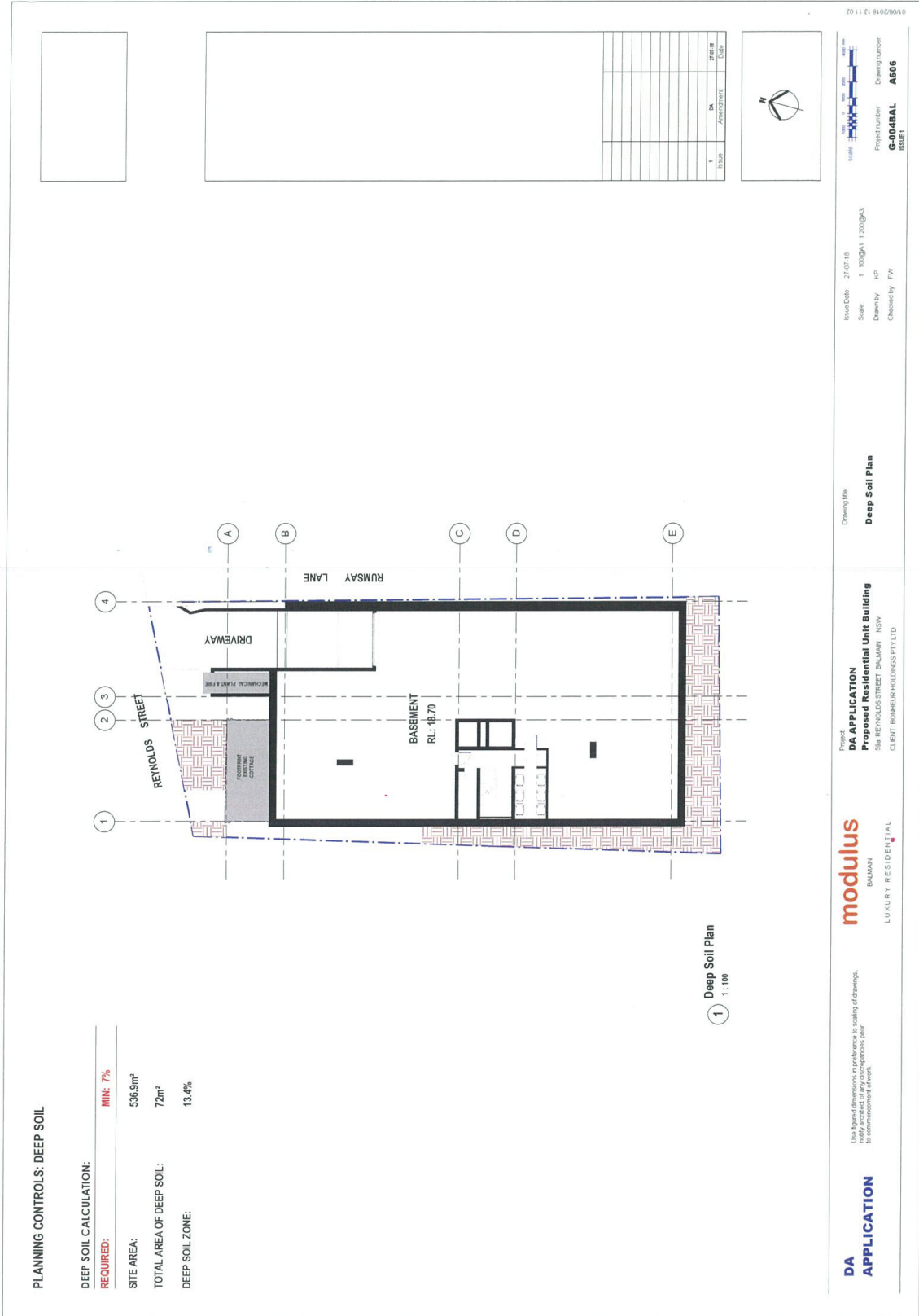
Project: DA APPLICATION  
 Proposed Residential Unit Building  
 59A BENTONDS STREET BALMAIN, NSW  
 CLIENT: BONHEUR HOLDINGS PTY LTD

Drawing Title: Solar Access 3D

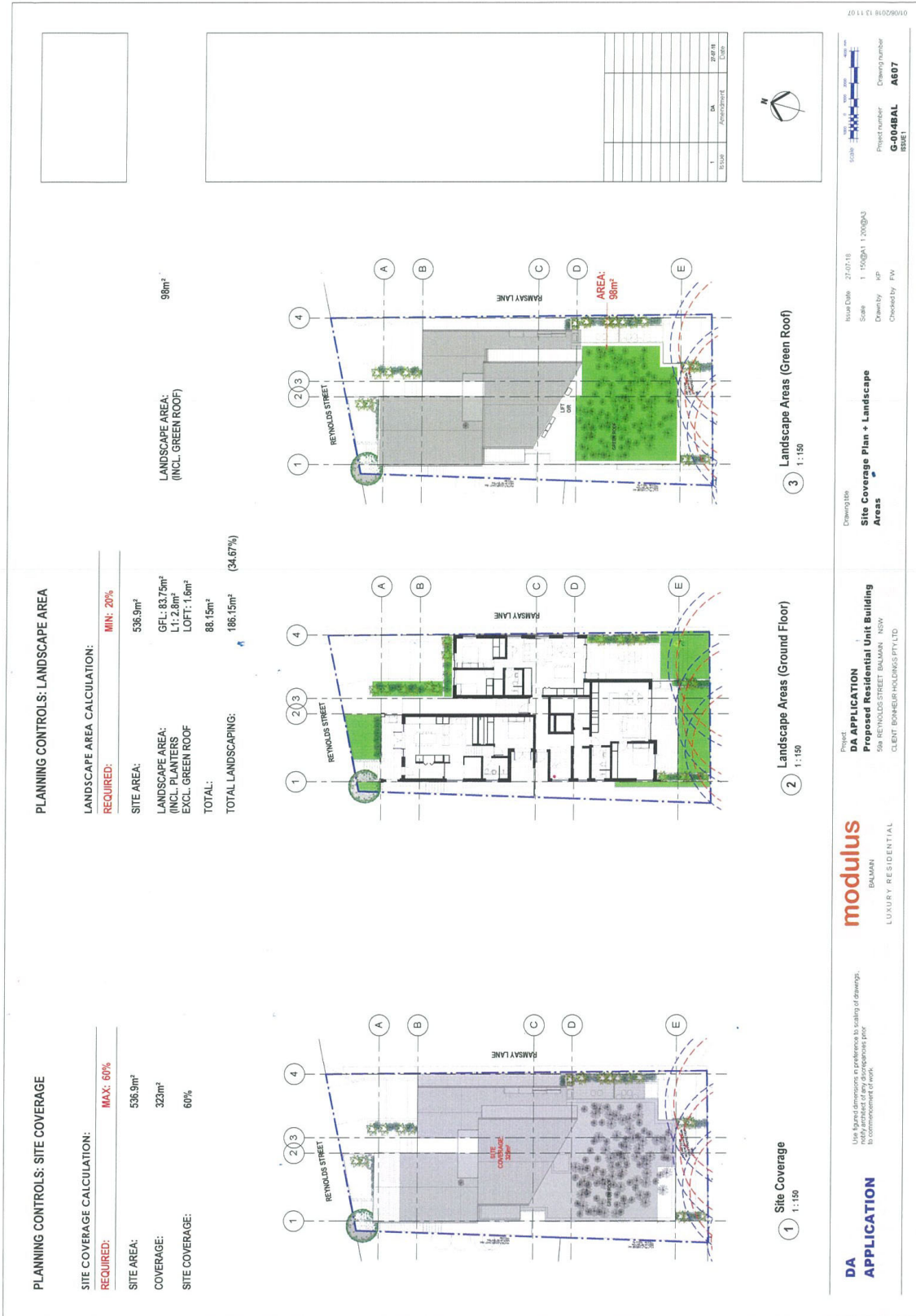
Issue Date: 27/07/18  
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 Drawn by: HP  
 Checked by: FW

Project Number: G-0048BAL  
 Drawing Number: A604  
 SHEET: 01 OF 01







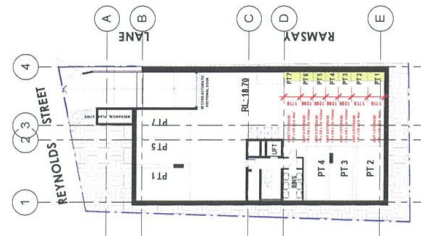




PLANNING CONTROLS: STORAGE VOLUMES

PLANNING CONTROLS

PROPOSAL	UNIT AREA	VOLUME	INTERNAL: 3m <sup>3</sup>
1 BED UNIT: (1 BED + STUDY)	58m <sup>2</sup>	4m <sup>3</sup>	INTERNAL: 3m <sup>3</sup>
2 BED UNIT: (1 BED + STUDY)	58m <sup>2</sup>	4m <sup>3</sup>	INTERNAL: 4m <sup>3</sup>
UNIT 1 (1 BED + STUDY)	58m <sup>2</sup>	2.15 x 1.9 = 4m <sup>3</sup>	
UNIT 2 (1 BED + STUDY)	58m <sup>2</sup>	2.8 x 1.55 = 4m <sup>3</sup>	
UNIT 3 (1 BED)	48m <sup>2</sup>	3m <sup>3</sup>	
UNIT 4 (1 BED + STUDY)	50m <sup>2</sup>	1.82 x 1.65 = 3m <sup>3</sup>	
UNIT 5 (1 BED)	50m <sup>2</sup>	2.08 x 1.45 = 3m <sup>3</sup>	
UNIT 6 (1 BED)	38m <sup>2</sup>	1.7 x 1.7 = 3m <sup>3</sup>	
UNIT 7 (STUDIO)	38m <sup>2</sup>	1.5 x 2 = 3m <sup>3</sup>	
UNIT 7 (2 BED + STUDY)	67.3m <sup>2</sup>	2.1 x 1.9 = 4m <sup>3</sup>	



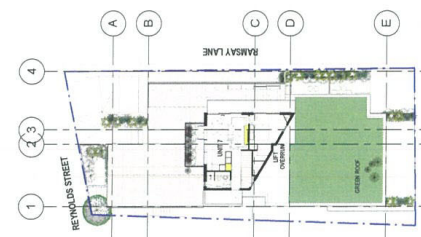
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2 Ground Floor Storage  
1:200



3 L1 Storage  
1:200



4 Loft Storage  
1:200

**DA APPLICATION**

**modulus**  
BALMAIN  
LUXURY RESIDENTIAL

**DA APPLICATION**  
Proposed Residential Unit Building  
59/ REYNOLDS STREET BALMAIN NSW  
CLIENT: BOMBEUR HOLDINGS PTY LTD


**Storage Volumes Plan**

Issue Date: 27.07.18  
Scale: 1:200 (A1) 1:200 (G3)  
Drawn by: HP  
Checked by: PW  
Project number: G004BAL  
Drawing number: A609  
SHEET 1

DETAIL:  
PAINT FINISH TO HERITAGE  
HOUSE  
METAL FINISH TO NEW  
DWELLING

NO	DESCRIPTION	DATE	BY	CHKD
1	APPROVED			
	ELAB			
	DATE			
	BY			
	CHKD			

R2 - HERITAGE BALUSTRADE



**SPECIALTY:**


TWIGGY WALL

WL - LIGHT LANEWAY

B1 - FEATURE BRONZE CLADDING

T04 - TIMBER ROOFS & WINDOWS TO EXISTING DWELLING

R1 - BRONZE RAILING RAILING




R3 - AGED BRASS

P1 - PLANTERS

P2 - ROOF GARDEN

RF1 - COLORBOND MATT ROOF




M1 - ALUMINIUM WINDOW / DOOR FRAME + SPANDRELS

G1 - LOW IRON TINTED PERFORMANCE GLASS

WT - WIRE TRELLIS

S1 - STONE WALL




SC1 - SANDSTONE CAPPING

T3 - TIMBER OPERABLE BATTEN GARAGE/ SERVICES SPINE

T4 - TIMBER SOFFIT PANEL

F1 - OFF FORM CONCRETE



L1 - LIMESTONE PAVING SETS/ LIMESTONE PORCELAIN TILE

T1 - TIMBER CLADDING PANELS

T2 - TIMBER SLIDING SCREENS

DA APPLICATION

Project: **DA APPLICATION**  
**Proposed Residential Unit Building**  
59A HERVOLD STREET BALMAIN, NSW  
CLIENT: BOWNE HOLDINGS PTY LTD

modulus  
BALMAIN  
LUXURY RESIDENTIAL

DA APPLICATION

Use for and dimensions in preference to cutting of drawings, notes and/or any discrepancies prior to commencement of work.

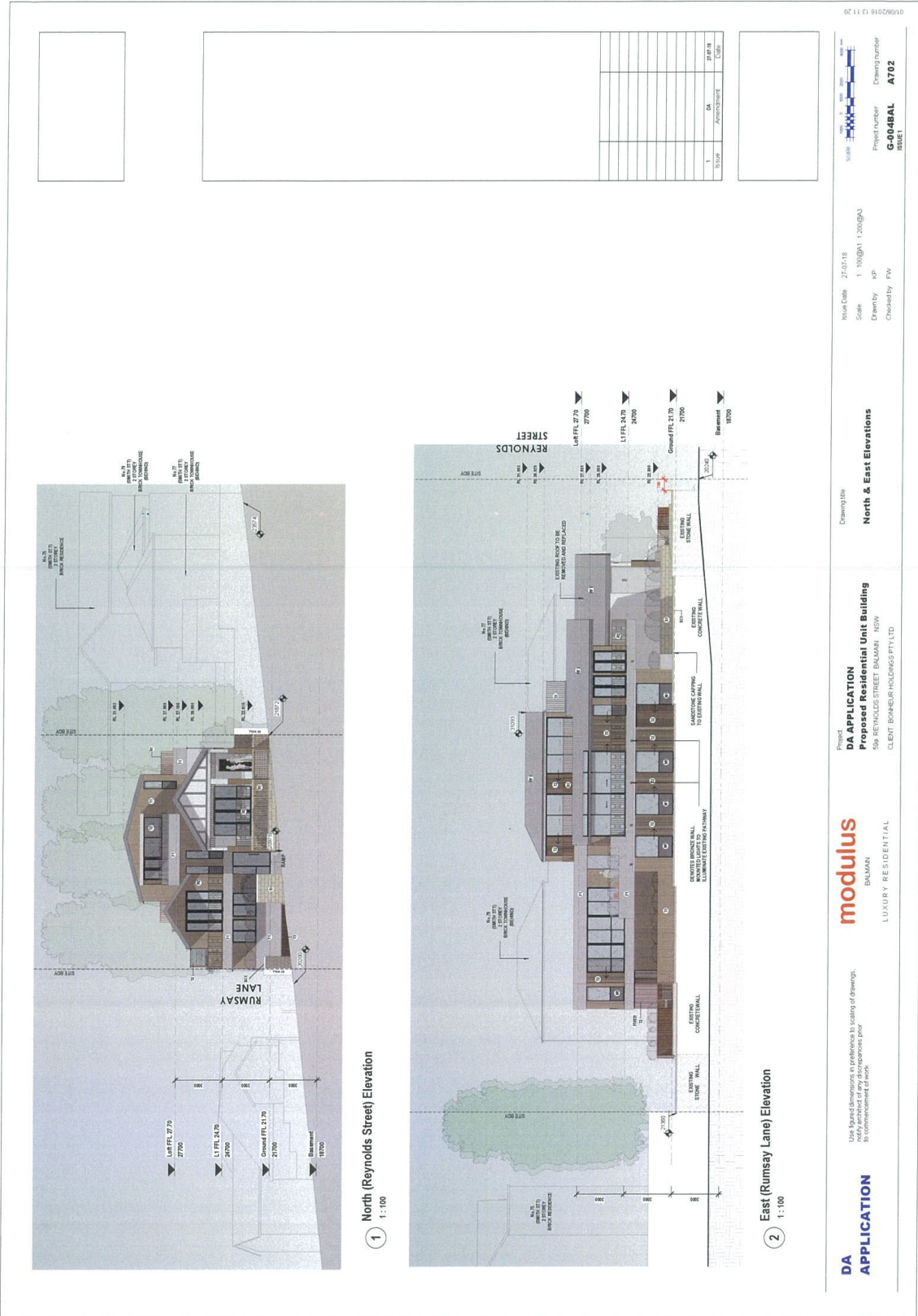
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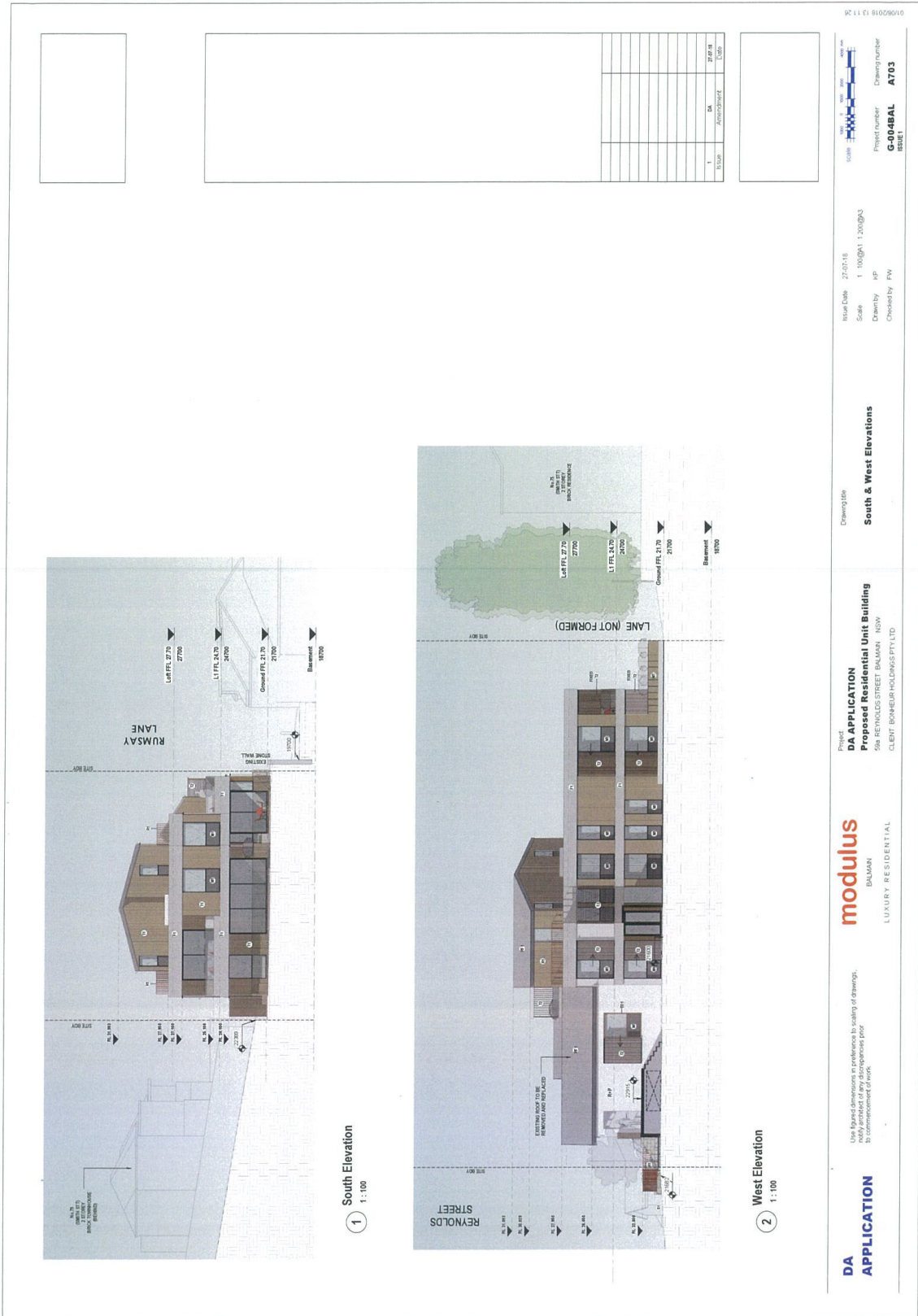
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Scale: @A1 1:200@A3  
Drawn by: HP  
Checked by: FW

Scale: 1:200

Project number: **G00484L**  
Drawing number: **A701**

Scale: 1:200





DA APPLICATION  
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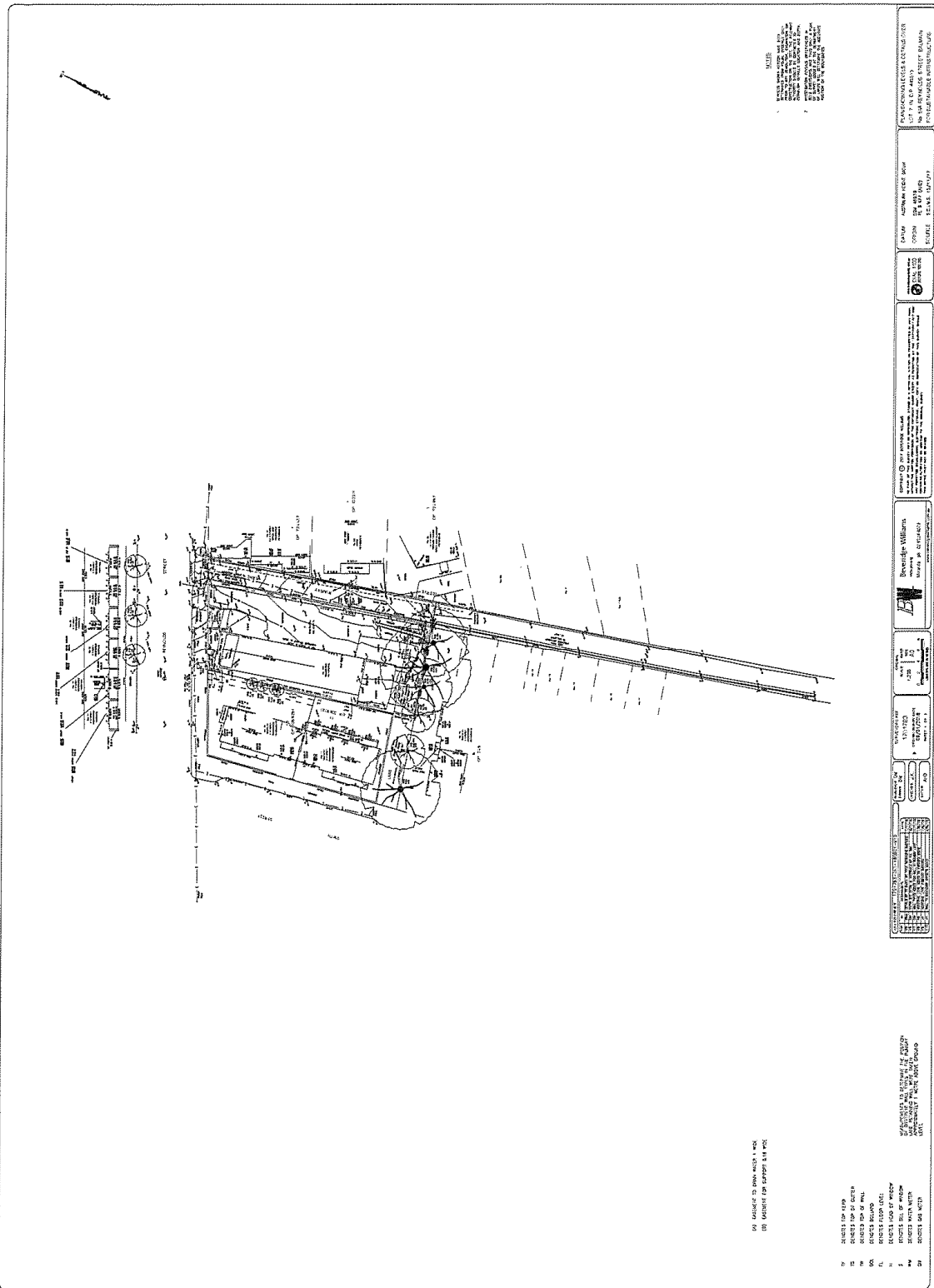
Project: **DA APPLICATION**  
**Proposed Residential Unit Building**  
 59A REYNOLDS STREET BALMAIN NSW  
 CLIENT: BOHEME HOLDINGS PTY LTD

modulus  
 BALMAIN  
 LUXURY RESIDENTIAL

South & West Elevations

Issue Date: 27/07/18  
 Scale: 1:100 (GN) 1:200 (GL)  
 Drawn by: HP  
 Checked by: PW

Project Number: **G-00-48AL**  
 Drawing Number: **A703**  
 SHEET 1



NOTES:  
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS AND THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS.  
 3. THE DEVELOPER SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.  
 4. THE DEVELOPER SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.  
 5. THE DEVELOPER SHALL MAINTAIN ALL EXISTING UTILITIES AND SERVICES.  
 6. THE DEVELOPER SHALL MAINTAIN ALL EXISTING LANDSCAPING AND TREES.  
 7. THE DEVELOPER SHALL MAINTAIN ALL EXISTING FENCES AND WALLS.  
 8. THE DEVELOPER SHALL MAINTAIN ALL EXISTING CURBS AND SIDEWALKS.  
 9. THE DEVELOPER SHALL MAINTAIN ALL EXISTING ROADS AND DRIVEWAYS.  
 10. THE DEVELOPER SHALL MAINTAIN ALL EXISTING SIGNAGE AND LIGHTING.  
 11. THE DEVELOPER SHALL MAINTAIN ALL EXISTING FURNITURE AND OTHER FEATURES.  
 12. THE DEVELOPER SHALL MAINTAIN ALL EXISTING UTILITIES AND SERVICES.  
 13. THE DEVELOPER SHALL MAINTAIN ALL EXISTING LANDSCAPING AND TREES.  
 14. THE DEVELOPER SHALL MAINTAIN ALL EXISTING FENCES AND WALLS.  
 15. THE DEVELOPER SHALL MAINTAIN ALL EXISTING CURBS AND SIDEWALKS.  
 16. THE DEVELOPER SHALL MAINTAIN ALL EXISTING ROADS AND DRIVEWAYS.  
 17. THE DEVELOPER SHALL MAINTAIN ALL EXISTING SIGNAGE AND LIGHTING.  
 18. THE DEVELOPER SHALL MAINTAIN ALL EXISTING FURNITURE AND OTHER FEATURES.  
 19. THE DEVELOPER SHALL MAINTAIN ALL EXISTING UTILITIES AND SERVICES.  
 20. THE DEVELOPER SHALL MAINTAIN ALL EXISTING LANDSCAPING AND TREES.  
 21. THE DEVELOPER SHALL MAINTAIN ALL EXISTING FENCES AND WALLS.  
 22. THE DEVELOPER SHALL MAINTAIN ALL EXISTING CURBS AND SIDEWALKS.  
 23. THE DEVELOPER SHALL MAINTAIN ALL EXISTING ROADS AND DRIVEWAYS.  
 24. THE DEVELOPER SHALL MAINTAIN ALL EXISTING SIGNAGE AND LIGHTING.  
 25. THE DEVELOPER SHALL MAINTAIN ALL EXISTING FURNITURE AND OTHER FEATURES.

PROJECT INFORMATION  
 PROJECT NAME: 10/19/2024  
 PROJECT NUMBER: 13/11/2024  
 PROJECT ADDRESS: 10/19/2024  
 PROJECT CONTACT: 13/11/2024

CLIENT INFORMATION  
 CLIENT NAME: 10/19/2024  
 CLIENT ADDRESS: 13/11/2024  
 CLIENT CONTACT: 10/19/2024

DESIGNER INFORMATION  
 DESIGNER NAME: 10/19/2024  
 DESIGNER ADDRESS: 13/11/2024  
 DESIGNER CONTACT: 10/19/2024

DATE: 10/19/2024  
 SCALE: 1:1000  
 SHEET: 1 OF 1

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10/19/2024  
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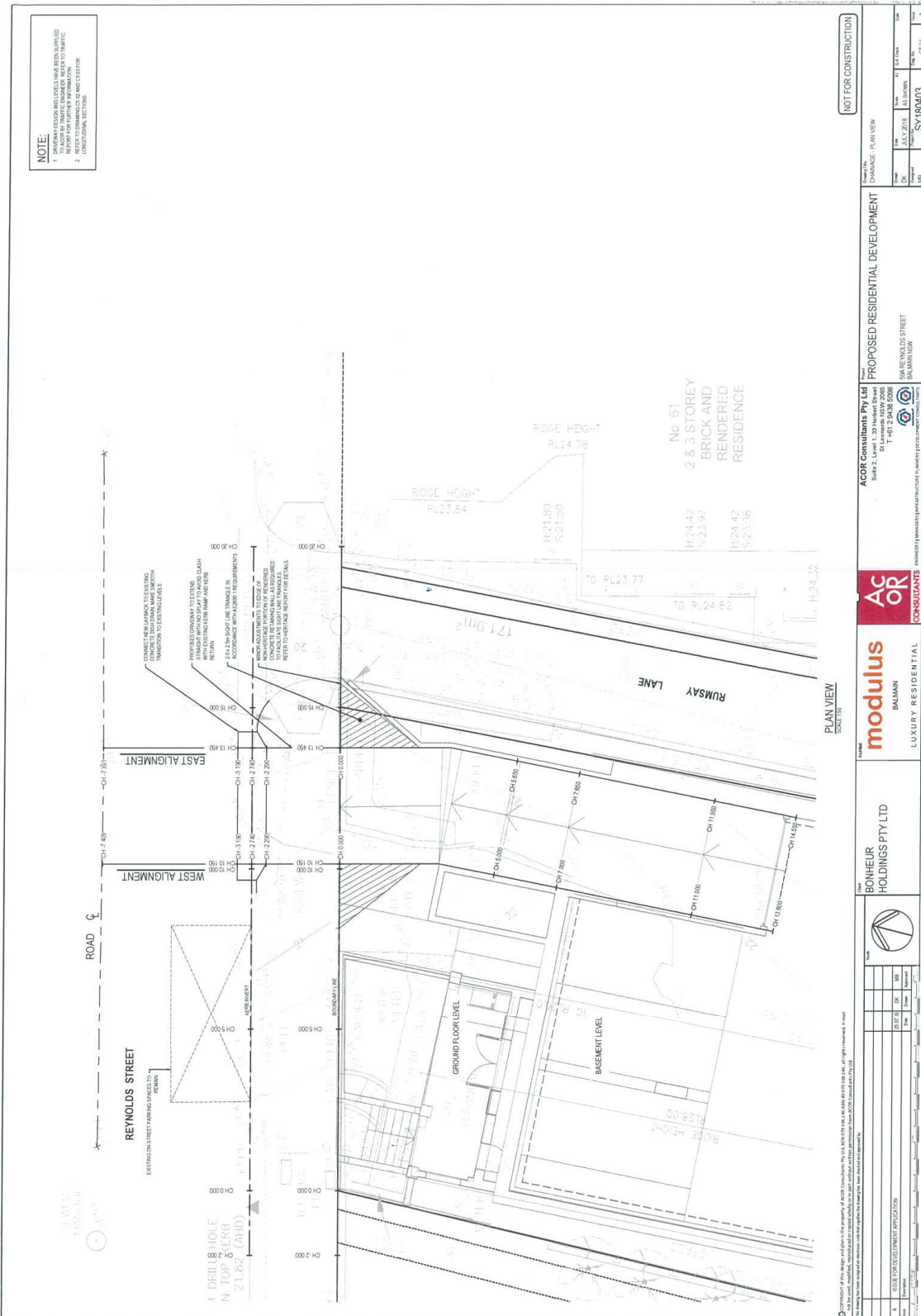
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 13/11/2024

10/19/2024  
 13/11/2024  
 10/19/2024  
 13/11/2024







NOT FOR CONSTRUCTION

PROPOSED RESIDENTIAL DEVELOPMENT

ACOR CONSULTANTS Pty Ltd  
 Suite 2, Level 2, 24/38 RUMSAY LANE  
 BALMANN NSW 2080  
 T +61 2 9438 6288  
 F +61 2 9438 6289  
 E info@acor.com.au  
 www.acor.com.au

**ACOR**  
 CONSULTANTS

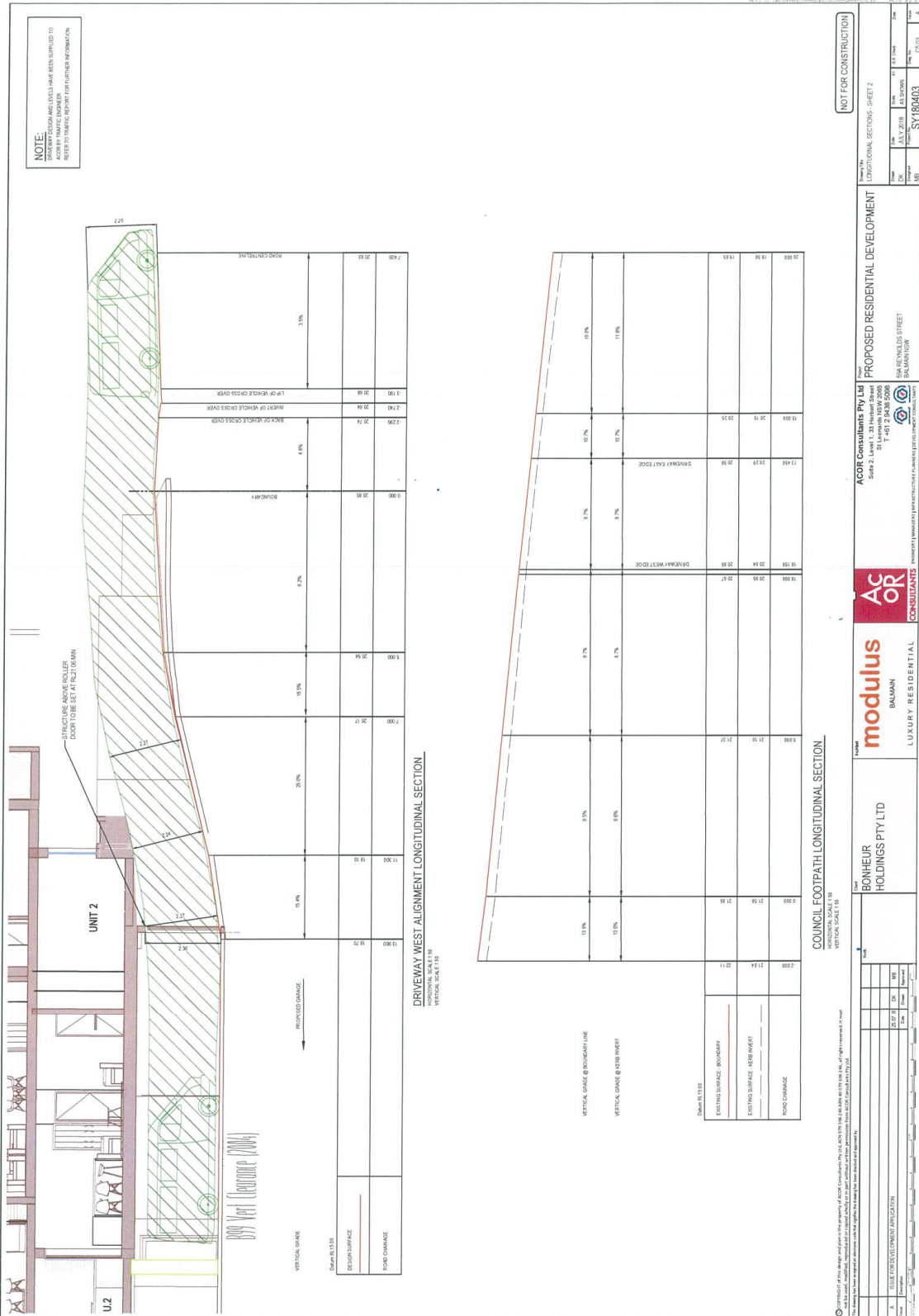
**modulus**  
 BALMANN  
 LUXURY RESIDENTIAL

**BONHEUR HOLDINGS PTY LTD**

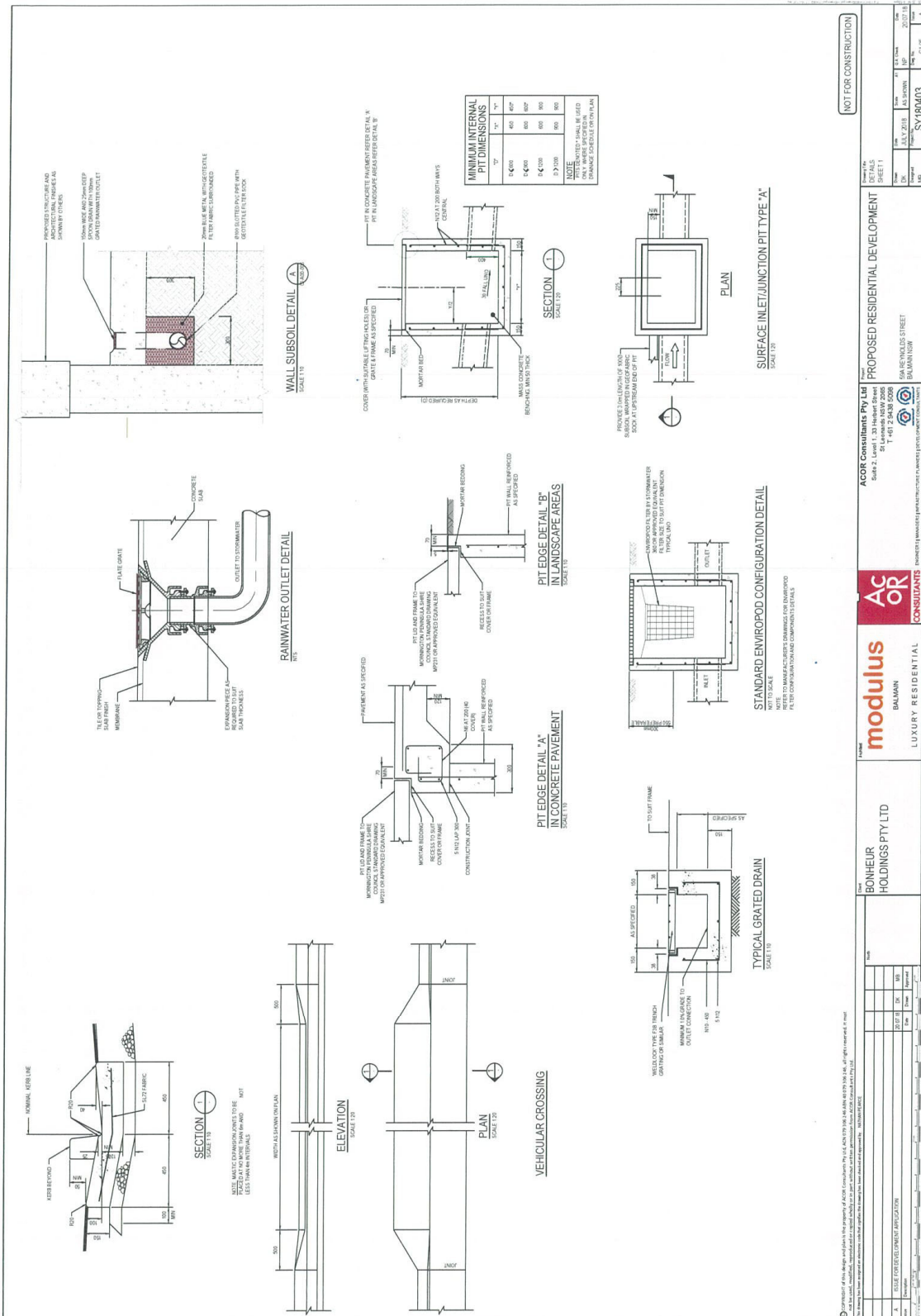
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1	20/07/18	ISSUE FOR CIVIL ENGINE APPLICATION	...	...	...

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ACOR Consultants Pty Ltd  
Suite 2, Level 2, 2-3/38 GOSBORNE STREET, BALMAIN NSW 2008  
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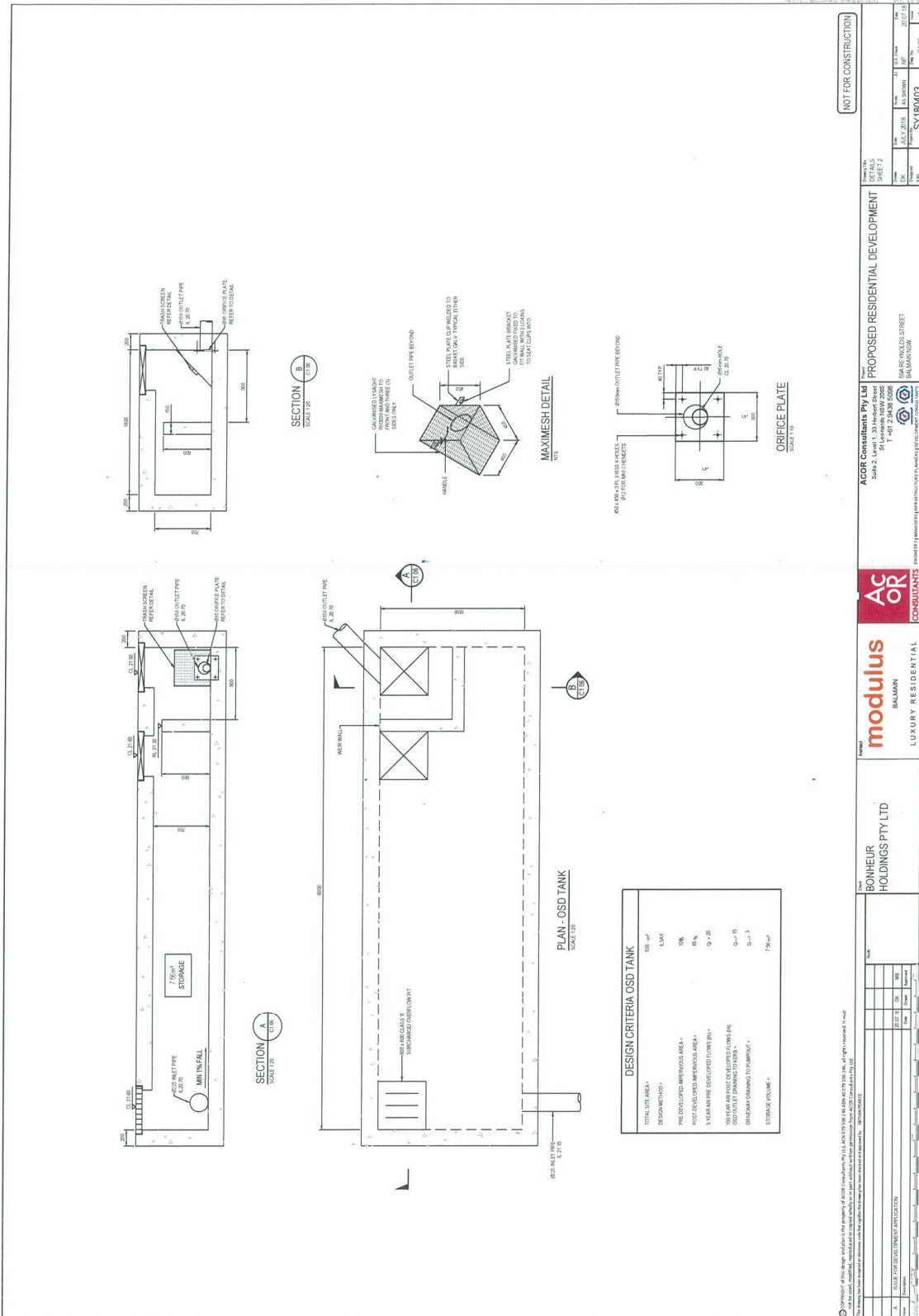
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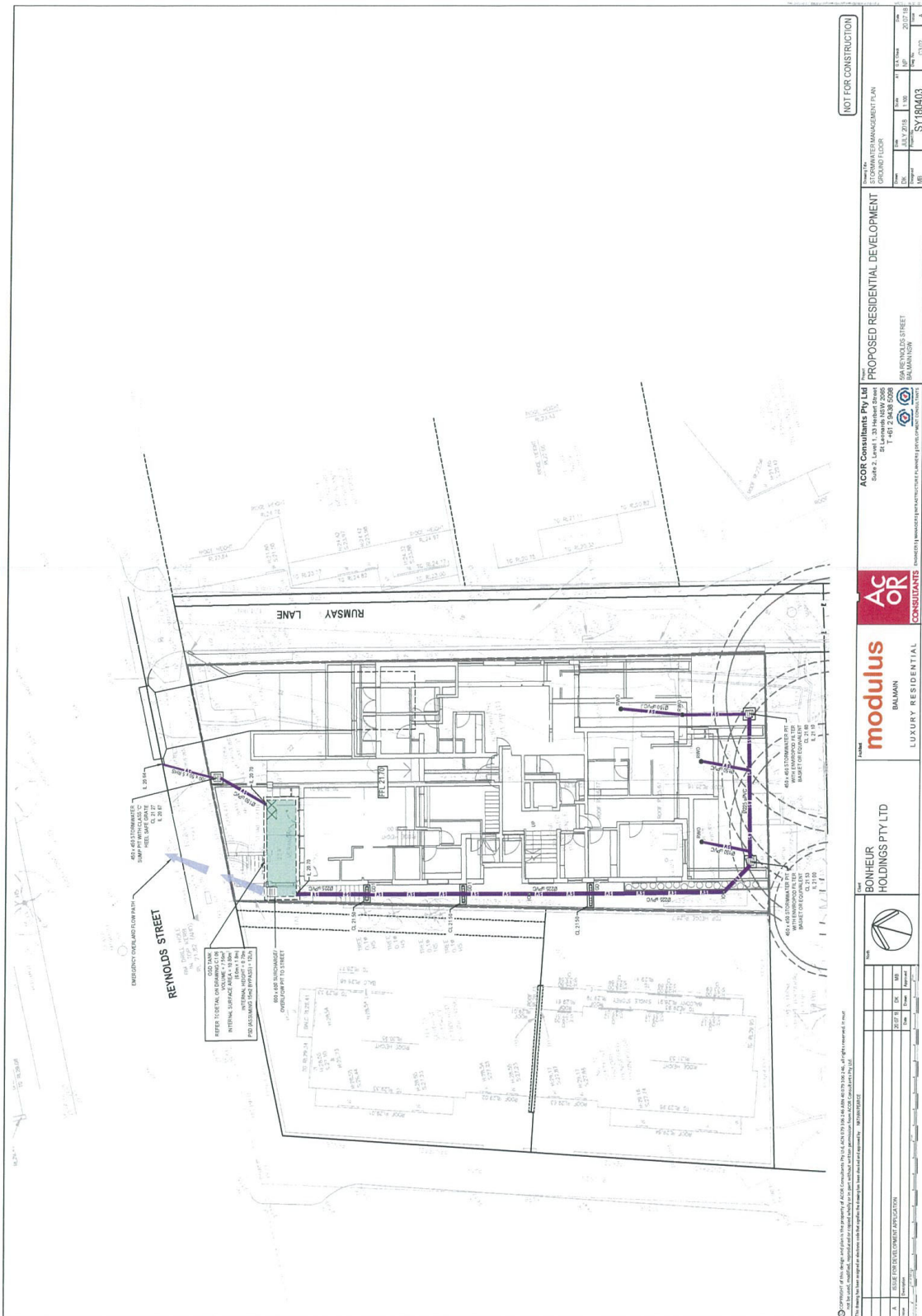
BONHEUR HOLDINGS PTY LTD

NO.	DATE	BY	CHK	APP	REV
1	20/07/18	DK	DK	DK	1
2	20/07/18	DK	DK	DK	2
3	20/07/18	DK	DK	DK	3
4	20/07/18	DK	DK	DK	4
5	20/07/18	DK	DK	DK	5
6	20/07/18	DK	DK	DK	6
7	20/07/18	DK	DK	DK	7
8	20/07/18	DK	DK	DK	8
9	20/07/18	DK	DK	DK	9
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NO.	DATE	BY	CHKD	REMARKS
1	2017.10.18	SY/86403		ISSUE FOR DEVELOPMENT APPLICATION

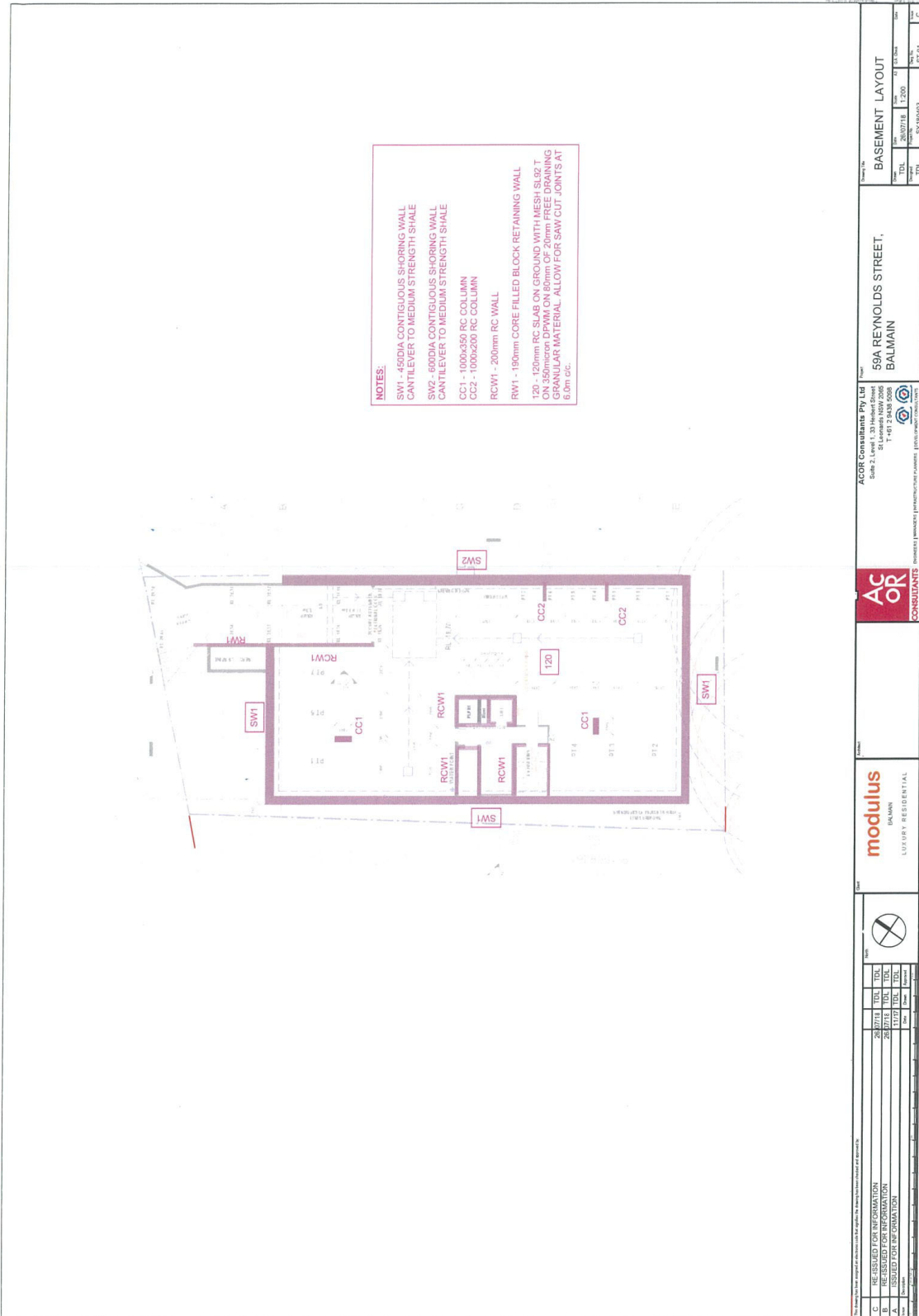


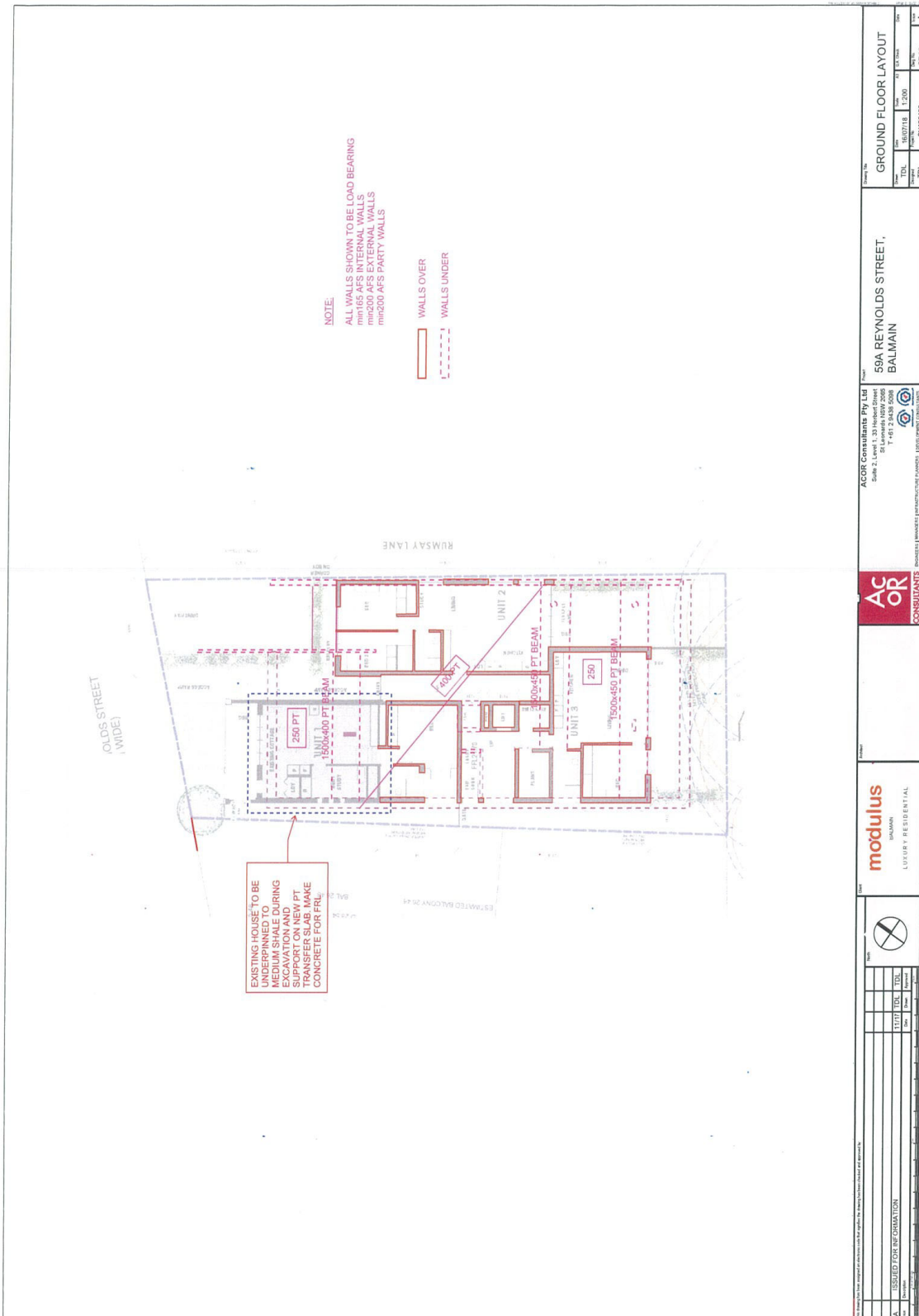






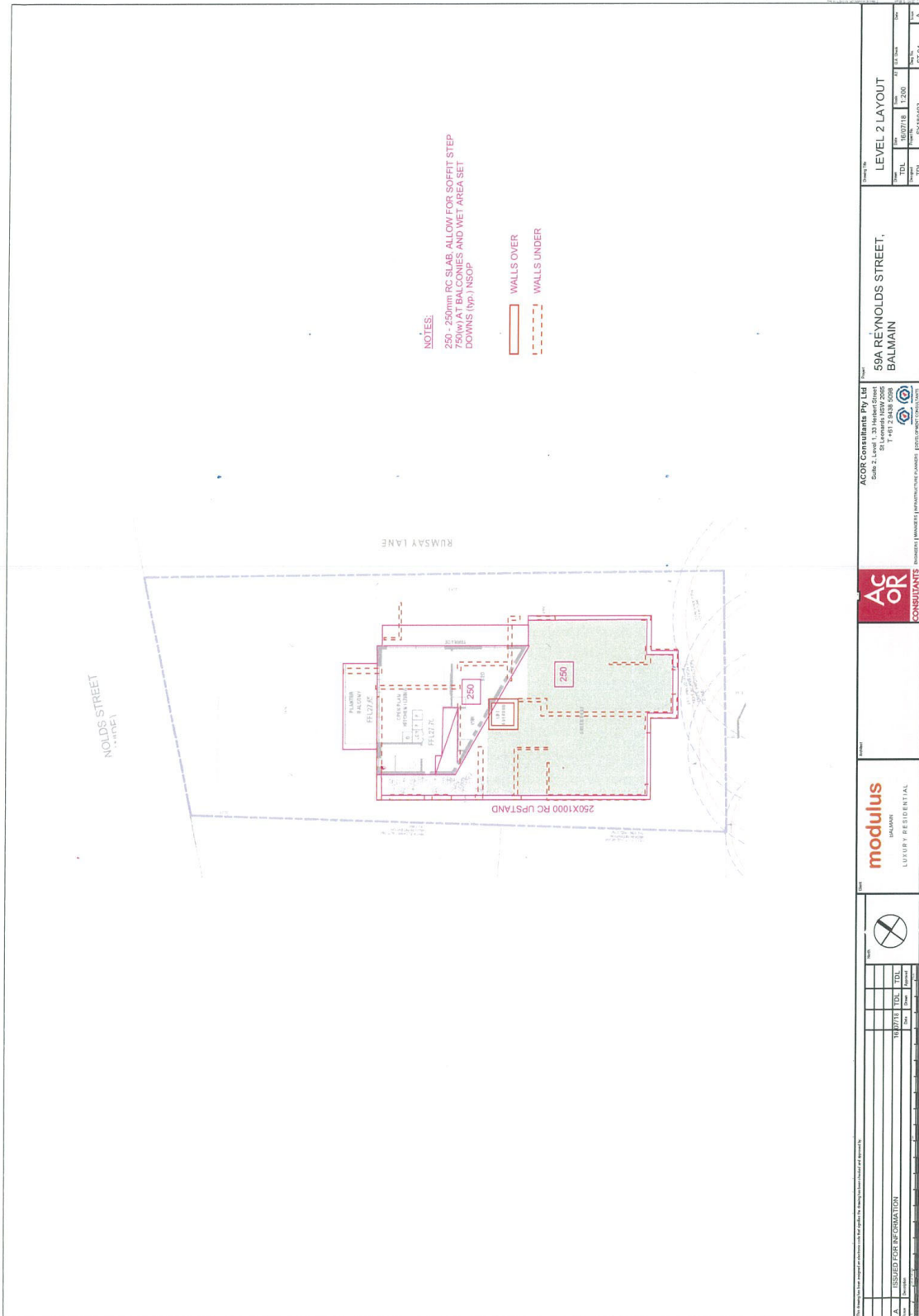






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<p>modulus                  BALMAIN                  LUXURY RESIDENTIAL</p>		<p>GROUND FLOOR LAYOUT</p>		<p>Scale: 1:1000</p>	
<p>ISSUED FOR INFORMATION</p>		<p>DATE: 10/07/18</p>		<p>BY: STJ</p>	
<p>DATE: 10/07/18</p>		<p>SCALE: 1:1000</p>		<p>PROJECT: SY180403</p>	





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<p>modulus                  BALMAIN                  LUXURY RESIDENTIAL</p>		<p>Scale: 1:500</p>		<p>Date: 18/07/18</p>	
<p>Issue: 1</p>		<p>Sheet: 1 of 1</p>		<p>Block: ST 04</p>	
<p>Site: [Crossed out]</p>		<p>Client: [Crossed out]</p>		<p>Architect: [Crossed out]</p>	





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CONSULTANTS

Our Reference: SY180403

19 July 2018

Bonheur Holdings  
Unit 2  
37 Nicholson Street  
East Balmain NSW 2041

Attention: Felicia Whiting

Dear Felicia

**RE: 59A Reynolds Street BALMAIN NSW 2041  
Statement of Structural Adequacy**

Further to item 13 of the Pre-Development Application Advice issued by *Inner West Council* dated 28 June 2018; we would like to comment as follows:

Based on ACOR's site visit of 12/07/2018, receipt of the architectural plans and geotechnical engineers report by *Crozier Geotechnical Consultants* (Project: 2018-002 dated 2<sup>nd</sup> March 2018), we feel that the existing building can be retained during the excavation and construction of the new development.

The new development will consist of the construction of a new multi-storey residential unit block with 7 new units and basement parking. It is the intention to retain part of the existing building and to incorporate the building into the new development. The new basement is to be constructed beneath the existing building.

Based on the geotechnical engineers report and advice, it is inferred that the presence of low to medium sandstone ranges from 1.1 to 2.6m below NGL. It will be the structural design intention to underpin and needle the existing foundations to medium strength sandstone before excavating the new basement. On completion of the basement construction, the existing building will be supported by the new ground floor transfer slab.

Excavation for the new basement will include non-impact techniques such as rock sawing and chemical rock breaking to avoid transmitting vibrations to the existing structure.

The increased loads onto the existing foundation strata, and walls from the new works will be within accepted limits. It should be noted that as some parts of the existing house will have varying load intensities following the completed works, there may be a risk of differential movement. There is a possibility that the additional loads may cause some opening of existing cracks and perhaps the formation of new cracks. In our opinion, they will be minor, not structural and within accepted limits stated in relevant Australian standards and would be treated by patching and/or painting.

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Subject to completion of the detailed design we hereby certify that the existing structure is capable of withstanding the impacts of the proposed development including demolition, excavation and construction.

If you have any further queries, please do not hesitate to contact the undersigned.

Yours faithfully

ACOR Consultants Pty Ltd

A handwritten signature in black ink, appearing to read 'Thomas Dale Lenden', with a stylized flourish at the end.

**Thomas Dale Lenden**  
MIEAust CPEng (2991346) NPER  
Associate Principal



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Our Reference: SY180403

19 July 2018

Bonheur Holdings  
Unit 2  
37 Nicholson Street  
East Balmain NSW 2041

Attention: Felicia Whiting

Dear Felicia

**RE: 59A REYNOLDS STREET BALMAIN NSW 2041  
STATEMENT OF INTENT - RETAINING WALL ALONG RUMSAY  
LANE**

Further to the Pre-Development Application Advice issued by Inner West Council dated 28 June 2018, ACOR attended site on the 12<sup>th</sup> July 2018. With reference to the architectural plans and geotechnical engineers report by Crozier Geotechnical Consultants (Project: 2018-002 dated 2<sup>nd</sup> March 2018), we would like to comment as follows:

From our site inspection it appears that the Rumsay Lane retaining wall consists of 3 distinct parts, namely:

1. sandstone retaining wall (with clay brick infill),
2. mass concrete retaining wall with dead man anchors (assumed); and
3. battered sandstone retaining wall.

The retaining walls are in a fair condition with no visible signs of distress.

Based on the findings of the geotechnical engineer's report and the existing topography it appears that the retaining wall was constructed to raise the external level of 59A Reynolds Street. The material behind the retaining walls is inferred to be sandy fill, with reference to Figure 4 – Geotechnical Model of the Crozier Geotechnical Consultants report.

To limit the impact on the existing retaining walls, for the construction of the basement we would install a 600-diameter contiguous bored pile cantilever shoring wall. The piles will be socketed into the medium-strength shale. There will be no temporary ground anchors crossing or intersecting the existing retaining wall.

Excavation for the new basement will include non-impact techniques such as rock sawing and chemical rock breaking to avoid transmitting vibrations to the existing structure.

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If you have any further queries, please do not hesitate to contact the undersigned.

Yours faithfully

ACOR Consultants Pty Ltd

A handwritten signature in black ink, appearing to read 'Thomas Dale Lenden'.

**Thomas Dale Lenden**  
MIEAust CPEng (2991346) NPER  
Associate Principal

## Attachment B View Assessment by Dr. Richard Lamb



Development Application

59A Reynolds Street, Balmain

Views Assessment

Report prepared for Sustainable Infrastructure  
by Dr. Richard Lamb  
Date 913 July 2018



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## 1 Purpose of this report

Richard Lamb and Associates have been engaged by project managers Sustainable Infrastructure Pty Ltd to provide independent advice in relation to the potential visual effects and impacts on view sharing of the proposed development at 59A Reynolds Street, Balmain on views from surrounding areas, streetscape and dwellings.

Richard Lamb and Associates (RLA) have extensive experience in visual impacts assessment, view loss, view sharing, scenic resource management and landscape heritage conservation over the last 20 years. The company specialises in landscape assessment, landscape heritage conservation, visual impacts and strategic planning for visual protection and conservation of cultural landscapes. The author of this report, Dr Richard Lamb, principal and managing director of RLA has 30 years' experience in strategic landscape planning and heritage conservation and has published in local and international journals on perception, aesthetic assessment and landscape management and has extensive experience working on view loss and view sharing, in which RLA specialise. A CV for Dr Lamb can be seen on the RLA website accessed from the tab on the Home page at [www.richardlamb.com.au](http://www.richardlamb.com.au). A summary CV is appended to this report (Appendix 8).

RLA have provided strategic advice in relation to view loss and view sharing for this project from early in the preliminary design and pre-DA phases, following views inspections from neighbouring dwellings, in relation to the massing and modelling of the building envelope to achieve reasonable view sharing.

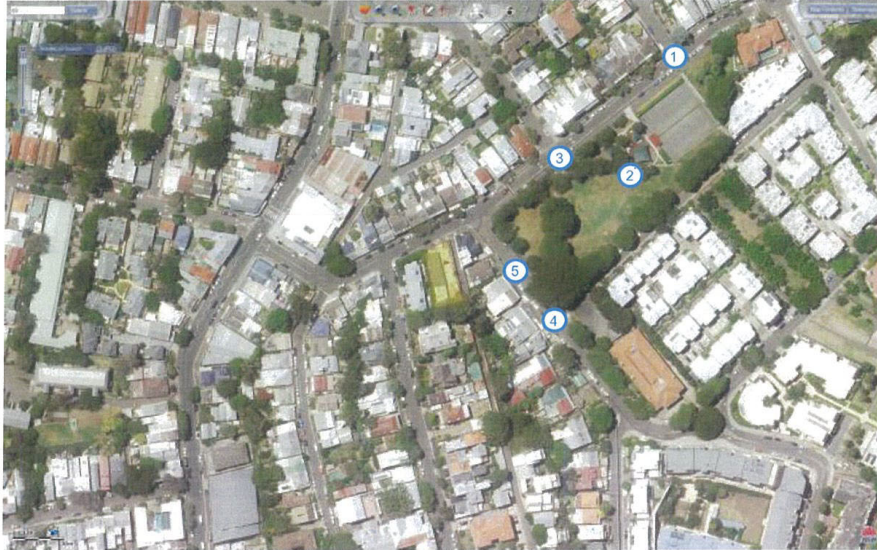
## 2 The proposal

The proposed development for Bonheur Holdings Pty Ltd includes part demolition and retention of an existing single dwelling and the construction of a residential apartment building. The DA seeks approval for a total of seven (7) residential apartments across three residential levels and will include basement carparking accessed from Reynolds Street.

The building provides 3/1-bedroom apartments, 1/1-bed studio apartment, 2/2-bedroom apartments and 1/3-bedroom apartment. Apartment 7, the 3-bedroom apartment, is over two levels and the remainder are single-level.

The massing of the building to the street respects the retained element of the existing cottage to the front (north), on the west side, with a complementary element of similar width set back above the driveway ramp to the basement on the east side, separated from the existing cottage front by the common entry to the remainder of the apartments. The cottage element retains an individual entrance from the street on the west side, as at present.

The splayed setback of the eastern part of the front of the building and the driveway location of the entrance below, preserves a significant view corridor that exists obliquely across the currently vacant north-east corner of the subject site, that benefits part of Reynolds Street in the vicinity of the site and residences on the north side of the street, opposite the site. The view includes part of White Bay, part of the Anzac Bridge and a vista toward the Broadway area.



Map 1: Wider viewing locations 59A Reynolds Street Balmain Preliminary Assessment

	Approximate location of subject site	 Not to Scale
	Viewing Location (refer to Photographic Figures)	





RLA undertook a field assessment of the Site from the streets, assisted by interpretation of aerial imagery, on Saturday, 4 November, 2017 and viewed and photographed views from 77 and 79 Smith Street on 14 March, 2018. The locations of residences that could have been affected by view loss as a result of construction of the proposed building were identified for later requests to visit, analyse and document their views.

### 3 Site context

The existing site is occupied by a linear, single-fronted early 20th century period free-standing masonry dwelling house with a tiled, gable roof to the street and a hipped form to the rear. Although the site has the appearance of once having been occupied by a second dwelling on the east side, there is as far as we are aware, no evidence that this was the case. The site appears relatively level but has been filled on the east side where it is retained by a retaining wall to part of Rumsay Lane. To the rear of the existing dwelling is a flat-roofed metal-clad open garage structure.

The site is within part of the Balmain Heritage Conservation Area (General) mapped in the Leichhardt LEP. The area is characterised by late 19th Century and early 20th century dwellings, some of which are single-storey "workers cottages" in terrace form such as those opposite the intersection of Smith Street with Reynolds Street, in the vicinity of the site. Other built form includes two-storey Victorian style terraces in Reynolds Street north of the site, and later, early 20th century bungalow-style residences to the east of the site across Rumsay Lane. These are set well below the level of the site and face the north-south running section of Reynolds Street.

Map 5 (attached) is an extract from the Heritage Map in the LEP. The Conservation area is shown with red hatching and the individually listed item in Schedule 5 of the LEP are shown in brown with their access numbers. As a guide to the potential for visual impacts of the proposed on heritage items, RLA plotted the closest heritage items to the site on the LEP schedule by address, on Map 5. There are no individually listed items of environmental heritage significance directly adjacent to the site.

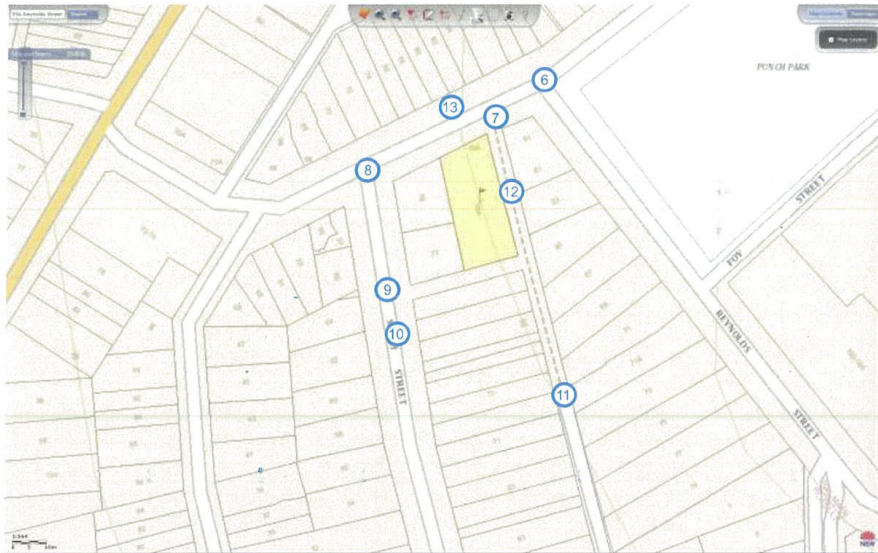
A paper road or laneway adjoins the site the south, on which there are a number of large trees that are locally prominent. The road appears to be used informally as the extension to the garden of 75 Smith Street (Item 1314), a much-modified earlier house that is now a residential flat building. 75 Smith Street is listed as a former house and fence in Schedule 5 of the LEP, indicating that its significance is historical, rather than of significant fabric. The fence and gate posts survive.

Adjacent to 75 Smith Street is Providence (Item 1313), 73 Smith Street, a largely intact 19th century house. There does not appear to be any possibility of visual connection between the proposal and this property and therefore no potential for visual impacts.

Below the level of the site and to its south-east are a row of listed dwellings opposite the former Unilever administration building, which appears to be undergoing adaptive reuse at present. A row of brush box trees in front of the Unilever building in Reynolds Street are listed as an item of landscape heritage significance. The dwellings would not be materially affected by the proposal, however the upper level of the building may be visible from Reynolds Street in their vicinity as a result of the changes in level.

Punch Park is to the north-east of the site and separated from it by Rumsay Lane, three residences and a section of Ramsay Street. Punch Park is a landscape heritage item. The trees in the park are locally prominent in views toward the east.

The park features significant stands of vegetation on the street margins of Foy, Ramsay and Wortley



Map 2: Closer viewing locations for 59A Reynolds Street Balmain Preliminary Assessment

	Approximate location of subject site	 Not to Scale
	Viewing Location (refer to Photographic Figures)	



Streets and significant stand of trees including large Moreton Bay and Hill Figs in the south west corner adjacent to the intersection of Foy and Ramsay Streets.

The trees in the paper road or lane south of the site and in the park are relevant to views, as they contain or block views in some cases beyond the subject site (see Maps 3 and 4).

## 4 Views analysis

### 4.1 Public domain views

There are views across the north-east corner of the site from Reynolds Street and presumably from residences on the west side of the street.

The view at street level included part of the Anzac Bridge, Jacksons Landing buildings and in the distance, buildings in Broadway such as the UTS and buildings under construction or recently completed on the former CUB site.

In my opinion, while development of the site may partly block these views, the same outcome would occur for any redevelopment of the site, and indeed this would be independent of the built form (ie, whether individual residences or RFBs).

The splayed form proposed in the massing of the proposed development, relative to the street, has the effect on protecting this view.

### 4.2 Private domain views

The view line across the north-east corner of the site mentioned above, if continued to the north-west, intersects with dwellings on the north side of Reynolds Street in the vicinity of No.80, Kiama. The view would presumably be available to the two-storey residences in its vicinity, however given their age it is likely that the first floors would contain bedrooms, rather than living areas.

RLA observed that the immediate neighbouring building to the site at 77-79 Smith Street may be the property most exposed to potential view loss as a result of construction of the proposed building.


77 and 79 Smith Street is an attached dual occupancy building on two lots that appears to be of 1980s origin by its form and styling. It is in the form of two dwellings, each similarly massed and detailed. No.79 toward the corner with Ramsay Street is painted dark grey and No.77 on the south of the site is cream in colour, but the two dwellings are otherwise almost identical but mirror-reversed relative to each other.


The dwellings have living areas orientated towards the site at ground level and bedrooms at the first floor. They have their formal fronts toward the subject site and a back treatment toward Smith Street. The dwellings were therefore constructed to borrow the view over the single-storey building on the subject site. However, as they are set close to the street, with no significant front outdoor space, they are set back from the northern boundaries, leaving space for landscape at ground level, accessed from their primary living areas of kitchens, dining and living rooms.

By observation from Wortley Street and Punch Park (see view places V1, V2 and V3 on Map 1 and in corresponding photographs appended to this report) I determined that No.79 has no view of the foreground, closer residential setting or the parkland of Punch Park, over the existing dwelling on the



Map 3: Viewing locations (aerial map) 59A Reynolds Street Balmain Preliminary Assessment

 Approximate location of subject site

  
Not to Scale



site. The dwelling does have a view of the ridge along which Darling Street runs, far to the east, over the existing building on the site. The view is dominated in the foreground by the roof of the existing dwelling on the site.

77 Smith Street first floor balcony windows are visible through a slot between two residences in Ramsay Street (in the vicinity of V5 on Map 2 and corresponding photographs). This part of the building sees over the flat roof and part of the hipped section at the back of the roof of the existing building on the subject site. This indicates that the balcony and outdoor space has a view of the vegetation in Punch Park and potentially both to the Balmain Ridge in the background.

The south part of 77 Smith Street is adjacent to the tall trees in the paper road or lane south of the site. The trees would block the view south-east toward the CBD and White Bay (the right side of the view) and focus it toward the park and the Balmain Ridge further to the east. This was confirmed by a later site inspection.

In the park there are tall trees on the Ramsay Street frontage, that are likely to significantly block the prospect of a view further east. Although the topography falls to the south-east from the site toward White Bay, which might be thought to then provide the opportunity for a view of Sydney Harbour, the vegetation and medium density residential development south east of Foy Street would be likely to largely block that view opportunity.

79 Smith Street, from part of the first floor, has a partial view over the ridge of the existing dwelling on the subject site toward the east, where the view horizon is formed by the ridge in Balmain along which Darling Street runs. Local landmarks visible include Balmain Hospital and the steeple of St Augustine's church.

Similarly to 77 Smith Street, the rooms that open onto the balcony are bedrooms and a walk-in robe, although the front bedroom, at the time of inspection of the dwelling, was being used as a studio. The primary living spaces of the dwelling (kitchen, dining and lounge rooms) and private open space leading off these, are at ground level. This level has no access to views across the subject site.

The front bedroom at the first floor has a view to the north-east over the ridge of the roof of the dwelling on the subject site, that includes district views and partial views of Reynolds Street in the foreground. The dwelling also has highly oblique views over the rear section of the existing house, from the first floor balcony on the east side and from windows that open onto it. The views are over the rear hipped section of roof and the flat roof of the garage behind that, which provides a partial view over White Bay toward part of the Sydney CBD, where a horizon of tall buildings is partly visible, framed by trees on both sides. The views are partially screened in the foreground by vegetation in the dwelling's own garden and by the trees noted above, that are in the paper road or lane, south of the subject site.

79 Smith Street has a Juliet balcony to the Reynolds Street frontage of the first floor bedroom, from which there is a view of the street and the locality to the north-east, that would be unaffected by the proposal. The view east over the front section of the existing dwelling on the site, toward the Balmain ridge beyond Punch Park (which is not visible) would be retained in the application, as the front of the cottage is retained and the remainder of the proposed by is set back significantly from Reynolds Street.

#### 4.3 Principles with regard to view sharing with neighbours

On the basis of our fieldwork observations outlined above, I provided the following advice to Sustainable



Map 4: Notes on visual exposure 59A Reynolds Street Balmain Preliminary Assessment

	Approximate location of subject site	
		Not to Scale



Infrastructure with regard to design development, as follows;

Any reasonable complying envelope for a permissible development would be likely to cause significant view loss to the first floor of the two-storey building at 77-79 Smith Street, as the building currently benefits from borrowed views over the single-storey existing dwelling on the site and its flat roofed garage at the rear.

There would be potential view loss to the east for the first floor of 77 Smith Street and of views south-east for views from the same level in 79 Smith Street.

The planning principle in Step 4 of *Tenacity*, which concerns view sharing in the private domain, is relevant. It states, providing that a proposal would be compliant on development standards that are directly relevant to visual impacts, such as height, FSR and envelope, that a skilful design is one that provides the same development potential and amenity for the applicant, while providing for view sharing. It would be necessary to provide reasonable view sharing, cognisant of the constraints of the site.

We advised that it would be prudent to inspect and document existing view access from dwellings adjacent to the site and that preparation of block-model photomontages of some views, would provide a useful analytical tool with regard to quantifying potential view loss and further, that photomontages if prepared, should satisfy the practice direction for use of such material in the Land and Environment Court of New South Wales. Although Council does not require this level of documentation for a DA, it has become a recognised standard for assuring that the visualisation of likely visual impacts is accurate.

We identified 14 surrounding properties in Reynolds Street and Smith Street for inspection (as shown on Map 1 Views to be inspected) and recommended that access be sought from the owners to inspect and document views.

RLA provided a proforma letter of request for access to residents, that explained the reasons and benefits of allowing RLA to independently assess and document the existing view access available.

The letters were had delivered by Sustainable Infrastructure to each address. -

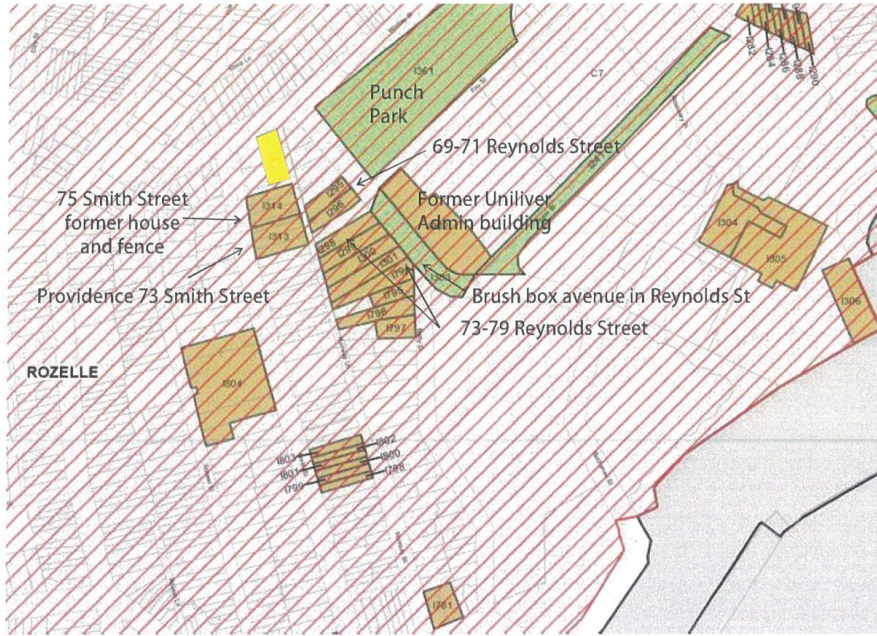
Only two owners out of the 14 properties where access was requested responded to the request for access, therefore inspections were only possible at 77 and 79 Smith Street.

## 5 Views Inspections 77 and 79 Smith Street





RLA undertook views inspection at 77 and 79 Smith Street on 14th March 2018. Analytical photographs were taken using a Canon EOS 5D Mark 3 Digital SLR camera, 22mp resolution, in RAW and JPG format, using an appropriate standardised focal length prime fixed focus lens of 35mm and mounted on a self-levelling tripod at 1.6m above the floor level. The location of the camera lens was surveyed by CMS registered Surveyors to ensure accuracy as required by the Land and Environment Court of New South Wales practice note governing preparation of photomontages for use in evidence, in the event that block-model photomontages were required in the future.

### 5.1 Observations on site: view access 77 Smith Street

The ground floor of this dwelling includes a kitchen and living/dining space orientated to the east with view access to a ground level courtyard and garden. Views to the subject site are constrained by



Map 5: Heritage Map extract 59A Reynolds Street Balmain Preliminary Assessment

	Approximate location of subject site	 Not to Scale
	Landscape heritage items	
	Build heritage items	





a boundary fence approximately 1.8m height and by intervening ornamental vegetation. There are no views across the subject site from the ground floor.

Several photographs were taken at this address from the first floor (see photographic plates at Appendix 1). The eastern elevation of the first floor includes a covered balcony along its entire length. The balcony is accessed via two bedrooms and a walk-in robe at the north end. I refer in reference to the views to the bedrooms as being south or north. The locations of the windows are shown on the survey plan appended.

Views from the north bedroom and the walk-in robe, which adjoins the party wall of 79 Smith Street, were inspected. RLA images 006 and 007 in the photographic plates at Appendix 1, are orientated to the east and north-east respectively. Notwithstanding weather on the day of photography was overcast with some fog, so that all features in the composition of the views are not clear in the images, we observed that a section of the arch of the Sydney Harbour Bridge and upper part of the South Pylon, as well as more local features such as a Balmain Hospital, St Augustine's Church and vegetation located in Punch Park, were visible in views to the east.

As noted above, the views benefit from being available over the existing flat roof of the garage at the rear of the existing dwelling on the subject site. Parts of Punch Park, which would be expected to be visible to the east are not visible, as they are screened by vegetation along the east side of Reynolds Street.

Views further south, for example toward White Bay and the CBD, are partly or totally blocked by vegetation in the paper road or lane, south of the subject land. The vegetation would be retained in the proposed development.

Views from the balcony adjacent to the south bedroom are more constrained to the south by vegetation that is located directly south of the subject site.

## 5.2 Observations on site: view Access 79 Smith Street

This dwelling conjoins 77 Smith Street which is to the south and shares the same footprint. As observed externally, it appears to have the same internal general arrangement as 7, in reverse, building but has a Juliet balcony facing Reynolds Street to the north. Two bedrooms are located adjacent to the balcony at the first floor, with the northern of the two used as a studio. The southern bedroom also includes an ensuite and walk-in robe.

The composition of views from the south end and middle part of the balcony adjacent to the south bedroom, that are orientated to the east-south-east, include parts of the Sydney skyline, Barangaroo buildings and a small amount of water in White Bay, seen above a foreground composed of low and medium density buildings. The foreshores and land-water interfaces are not visible to an appreciable extent.

The view is constrained by vegetation immediately south of the subject site, by the ridge and hip of the roof of the existing dwelling on the subject site in the foreground and by the tops of vegetation located in Punch Park.

Views from further north along the balcony ie. from outside the studio, or north bedroom, that are orientated obliquely to the east-south-east, include the Sydney Tower and parts of the Sydney CBD Skyline that are visible above the hipped roof and are partly screened by the same vegetation described above. (refer to RLA images 0015 and 0019 in Appendix 1).



Views to the north-east are available along Reynolds Street from a Juliet balcony attached to the north elevation of the north bedroom. The front window and northern section of the balcony also have a district view to the east over the front section of the roof on the existing dwelling on the subject site, toward the Balmain ridge, described above. These views would remain available after construction of the proposed development.

### 5.3 Summary of Visual Access to 77-79 Smith Street

Existing views to the east from both dwellings include a similarly characterised foreground, dominated by the roof of the existing dwelling on the subject site and a view over the ridge, that is a partial, district view, of the Balmain ridge to the east.

View loss in some views from the balcony at both dwellings may include iconic items. For example, views lost from 77 Smith Street may include parts of the Sydney Harbour Bridge and from 79 Smith Street may include parts of White Bay and the Sydney CBD skyline.

There are common compositional features available in easterly views from both 77 and 79 which are broadly accessible across the subject site.

Both dwellings benefit from views over a single storey dwelling existing on the subject site, the vacant east part of the site and the flat roofed character of the garage at the rear of the subject site. Some private view loss to 77-79 Smith Street would be likely to occur as a result of the construction of any taller built form on the site that complies with the applicable development controls.

## 6 Visual impacts mitigation strategy

Based on observations made during the inspection of views, analysis of the relationship between the neighbouring buildings and the street and consideration of the shape and orientation of the subject site to potential view lines, I recommended to Sustainable Infrastructure and the project architects that the massing of development envelopes should if possible, allow for the retention of shared views across the subject site.

The opportunity to provide view sharing are highly constrained, as 77-79 Smith Street have been constructed to borrow the benefit of views over the existing single storey dwelling on the site, which also fails to make use of the full development potential of its own land.

Recognising the suite of constraints on view sharing, I advised notwithstanding that an equitable view share should also be provided by way of a view corridor to be protected across the site from 77-79 Smith Street. This advice was given, regardless of the fact that the views are directly across the side boundaries and are also from living spaces that would not be expected to be protected (as they are from bedrooms and service areas and therefore less important viewing places, as identified in Step 3 in *Tenacity* (the planning principle for view sharing in the private domain).

I also advised that the view north-east and east, in particular from 79 Smith Street, which currently has a partial view east over the ridge of the front section of the existing dwelling on the subject site, should be protected. This would partly be achieved by the retention of the northern part of the existing cottage, as proposed. However, it could be further protected by setting back the eastern component



of the building further, retaining that view opportunity by ensuring that the proposed building did not rise into the view line above the existing cottage's roof ridge, in the view.

I prepared a graphic representation of the access to the parts of the views from 77-79 Smith Street that would be identified in Tenacity as most valued, in Step 1 of the principle (appended).

I advised that the tallest parts of development should be massed toward the north or south and lower parts of the envelope should be located within the potential view corridor. The location of the corridor is also constrained by the oblique angle of the most valued items in the view in relation to the dwellings. As a result, there are limited opportunities for built form above eye level in the southern part of the subject site.

I further advised that for both dwellings to be able to retain any prospect of a view within this broad view corridor, the height of the building envelope would need to be constrained approximately across the southern third of the subject site and in addition, that no roof-top or roof terrace structures should impede the view through the corridor.

To further specify the location of a potential view corridor across the subject site, the views from each of three locations that were surveyed and from which photographs were taken, were plotted on a plan of the subject site that included specific survey of 77-79 Smith Street, to accurately locate windows in the eastern façade (Appendix 4).

The composite view corridor produced is comprised of three slightly differently orientated but overlapping view angles that approximately intersect across the southern third of the subject site ie above part of the existing rear flat roof form (see Appendix 5).

The final massing of the building conforms literally to the specified view corridors. There is no built form at the third level in the corridor and the part of the building that is visible in the foreground is a green roof, with no vertical components such as balustrades that could compromise the views.

Photomontages have been prepared, based on images taken by RLA from surveyed locations in 77-79 Smith Street and these are in Appendix 7 to this report.

## 7 Photomontages

Block model photomontages provide a useful objective aid which can assist in determining the potential visual effects and impacts of a proposed development. An accurate 3D model of the proposed development is created and 'fitted' into a photograph so that its visual effects can be easily analysed and any potential impacts quantified. Based on observations from 77 and 79 Smith Street, I recommended three viewing locations for which photomontages should be prepared. The locations selected provide representative coverage of the existing view access from living areas of my clients' dwelling.

### 7.1 Principles of verification of photomontages

For the certification of photomontages, the fundamental requirement is that there is a computer model of the proposed future development that can be accurately located in three-dimensional space and merged with representative photographs taken from key viewing places, to produce a photomontage.

The model of the proposed building needs to be a 3D model, the location and height of which can be verified with respect to surveyed features of the existing development on the site and/or verified



3D reference points in the surrounding areas. The 3D model is then inserted into (merged with) high definition digital images of the existing environment.

This principle is recognised by a practice note of the Land and Environment Court of New South Wales, which requires that the 3D model of the proposed development can be shown to match the physical features of the existing environment, the features of which can be verified and that the images used are taken at a consistent and known focal length. Other requirements for accuracy are explained below.

The key to being able to certify the accuracy of the resulting photomontage is being able to demonstrate that the 3D model of proposed building envelopes has a good fit to known surveyed markers or fixed features of the site or locality which are shown on a survey plan that can be certified for accuracy by registered surveyors. The second level of fit that is critical is the fit of the model to a conventional photographic representation of the site in its context.

## 7.2 Creation of the 3D model

A 3D model from the drawings was imported into a CAD program for the purpose of locating the camera positions to be used for preparation of the photomontages.

A 3D model of visible elements of the adjacent existing building and structures shown on the survey plan was prepared and registered to the model of the design of the proposal in the CAD software, which is used to place the virtual 3D camera from which the computer model is viewed.

The model of the proposed development has been merged with photographic images after the fit of the base 3D model to the individual photographic images has been established. Aerial imagery and the survey of camera locations were used to determine the location of features that would be seen in front of the 3D model, such as buildings and vegetation, or additional reference features that were not visible from the survey plans. The image of the proposal was then rendered in Photoshop and merged at the same resolution as the underlying photographic image.

The camera locations were known, as required by the Land and Environment Court of New South Wales practice note for preparation of photomontages for use in evidence, to survey accuracy.

## 7.3 Checking the montage accuracy

The accuracy of the fit of the 3D computer model to the individual photographic images can be checked in more than one way.

The model is checked for alignment and height with respect to the known location of the camera, which is included as part of the 3D model. It is then cross checked in relation to fixed features which are visible in the images and which are shown on the DA drawings. The model shows a high level of fit to the 3D reference items in the images including the existing building. For an accurate 'triangulation' of the relationship between the camera and the existing features on the site to be established in 3-dimensions, at least five 3D reference points or surveyed fixed features need to be visible. Enough 3D reference points are visible in the images and I am satisfied that there are no significant inaccuracies in the matching process used.

This process is an accurate method of aligning a 3D model currently used in preparing photomontages of these kinds of developments, as it has both formal and other informal cross-checks.



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I can certify, based on the methods used and taking all relevant information into account, that the photomontages are as accurate as is possible in the circumstances.

## 8 View sharing assessment

As part of my analysis, I have undertaken an assessment of the potential visual effects and impacts of the proposed development pursuant to the planning principles in the judgment of Roseth SC of the Land and Environment Court of New South Wales in *Tenacity Consulting v Warringah [2004] NSWLEC 140 - Principles of view sharing: the impact on neighbours (Tenacity)*. This section of this report includes my assessment of the application in relation to each of the steps in *Tenacity* and if necessary, consideration of each of the threshold tests in *Tenacity*. This is because each of the steps in the planning principle is predicated on the preceding step exceeding the threshold that is necessary before proceeding to the next step. This information is to provide clarity in relation to the conclusions of the assessment.

### 8.1 Application of the *Tenacity* planning principle

Roseth SC in *Tenacity* defines a four-step process to assist in the determination of the impacts of a development on views from the private domain. The steps are sequential and conditional, meaning that proceeding to further steps may not be required if the conditions for satisfying the preceding threshold is not met in each view or residence considered.

#### Step 1: Views to be affected

The first step quoted from the judgement in *Tenacity* is as follows:

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Prior to undertaking Step 1 however, an initial threshold in *Tenacity* is whether a proposed development takes away part of the view and enjoys it for its own benefit. If it does, the other steps in the planning principle, beginning with Step 1, may need to be undertaken. However, if there is no substantive loss, or if the items lost are not considered to be valued in *Tenacity terms*, the threshold is not met and there is no justification for proceeding to Step 2, or other steps beyond Step 2.

The proposed development will take away views for its own benefit, as the building is designed to make use of the easterly views. The views, as noted above, is a partial view only, but it includes district item of some value and some partial items of iconic value, such as partial glimpses of the Harbour Bridge and Sydney Tower. Water, land-water interfaces and whole views are not available. Therefore, there is the potential for loss of some valued items in the view and therefore the threshold for proceeding beyond Step 1 is met. The next step is then to consider the nature, quality and values of the views to be affected.

This step therefore requires analysis of views including a description and analysis of the composition of the views. The value of a view depends on the visual components and valued features within it. In the specific context considered in *Tenacity*, the valued items include predominantly land views, which



are considered less highly valued than water views, partial views, that are valued less than whole views and limited views of iconic items.

The views affected based on the analysis of photomontages and observations of other views taken from 77-79 Smith Street, are as follows:

Camera Position 1 RLA image 0019

79 Smith Street, first floor balcony between studio and south bedroom.

The proposed building blocks part of the view of the sky on the left side of the view and part of the horizon formed by buildings in the CBD, including Sydney Tower. That view would still be visible from the south part of the balcony.

Camera Position 2 RLA image 0015

79 Smith Street first floor balcony off north bedroom.

The proposed building blocks part of the view of the sky on the left side of the view.

Camera Position 3 RLA image 0006

77 Smith Street, first floor balcony off walk-in robe.

The proposed building blocks part of the view of the sky, buildings in the district view toward the Balmain ridge, such as Balmain Hospital and St Augustine's church steeple and part of the vegetation in the foreground in Punch Park. In better seeing conditions, a part of the upper arch of the Harbour bridge was visible just above trees in the left part of this view. This part of the view would be lost.

Step 2: From where are views available?

This step considers from where the affected views are available in relation to the orientation of the building to its land and to the view in question. The second step, quoted, is as follows:

*The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The views to the east and south-east are across the side boundary and are oblique to the boundary. There would be some views retained for 79 Smith Street to the north and north-east and over the ridge of the existing dwelling on the site. Both properties have no other views to the district than over the subject site, so in that regard, notwithstanding the views are across the side boundary, the view lost deserves to be given some weight with respect to the importance of the view. The living areas have no view access.

Views from the first floor would be partly lost. This analysis on this step shows that the threshold for proceeding to Step 3 is met, as the expectation to protect the view from 77-79 Smith Street is a reasonable one.



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### Step 3: Extent of impact

The next step in the principle is to assess the extent of impact, considering the whole of the property and the locations from which the view loss occurs. Step 2 as quoted is:

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating*

Step 3 also contains a threshold test. If the extent of impact is negligible or minor for example, there may be no justification for proceeding to Step 4, because the threshold for proceeding to considering the reasonableness of the proposed development may not be met. In that case the reasonableness question in Step 4 does not need to be asked and the planning principle has no more work to do.

The view affected in this case is from the only part of the dwelling that has a view of any valued items identified in *Tenacity*. The views affected however, are from bedrooms and service areas, that are given less weight with regard to the importance of the impact. They are also from dwellings that were never designed to make use of the views from their living areas, as evidenced by the fact that the primary living spaces are at ground level and have no access to views. In Step 3 of *Tenacity*, it is necessary to assess the impact on the whole of the property, and not just the view that is affected. In this case, the visual impacts are confined to the first floor bedroom level of dwellings that are not designed to make use of the views from living spaces. This may indicate a practical decision of the designers, who would have been aware that the future for the adjacent subject site would be likely to be for a taller building under the prevailing development controls. Even a two-storey detached residence on the site would be likely to cause significant view loss for the bedroom level of 77-79 Smith Street. In my opinion, taking these issues into account, the extent of impact on the views is moderate (ie, mid-range) on the scale of extent in the planning principle that has the values negligible, minor, moderate, severe and devastating, in increasing order of extent of impact.

As the view loss is more than minor or negligible, there is therefore justification for proceeding to consider the reasonableness of the proposal in Step 4 of *Tenacity*.

*I have considered the application of Step 4, below.*

### Step 4: Reasonableness

The planning principle states that consideration should be given to the causes of the visual impact and whether they are reasonable in the circumstances. As stated in the preamble to the four-step process in *Tenacity*, a development that takes the view away from another may notwithstanding be considered reasonable.

Step 4 is quoted below:

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one*

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*or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The proposed development is permissible with consent on the site. I have no comment on the heritage conservation or technical town planning issues, which I leave to those with the appropriate expertise to address.

With regard to compliance with controls, the proposed development appears to be generally compliant with the controls with the greatest potential to cause view loss in the circumstances, ie. the development standard for height of buildings and the DCP controls for setbacks and envelopes.

The proposed development will cause moderate view loss. This triggers consideration of whether the extent of the effect on the views is reasonable. In that regard there are two relevant considerations. The first is whether it is reasonable for the proposal to take away the view to the extent that has been demonstrated, for its own benefit.

In my opinion, the degree of view loss on that ground is reasonable. Views of valued items are retained and the views lost are not from spaces that would be given significant weight in *Tenacity*.

The second consideration is whether the extent of view loss should be given more or less weight with regard to compliance of the proposal with the applicable controls. As noted above the proposal appears to be compliant with the controls that would be most implicated in view loss such as height of building and the parts of the envelope that would be visible from 77-79 Smith Street. Therefore, the question with regard to whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours is relevant.

In that regard, it is my opinion that the current massing and overall height of the proposal is skilful design, as it has acknowledged the very difficult task of providing for retaining views that have been fortuitously enjoyed by 77-79 Smith Street. No reasonable development on the site would be able to preserve the existing views to the east when the development controls contemplate significantly taller building envelopes as part of the desired future character of the locality.

It is accepted that the Balmain urban character in the vicinity and in the Conservation Area which applies is very diverse in built form and that much of the area is characterised by small lots with one to two-storey detached or attached residential development, with a significant proportion of late 19th and early 20th century dwellings. Within that fabric are many examples of multi-unit housing and many examples of grand early large-scale dwellings converted into multi-unit apartment buildings. In addition, the site is in the vicinity of a large area of medium density residential development, still undergoing conversion from industrial to this form.

Taking all of this together, it would not be unexpected for a site of the size and orientation to the street like the subject site to carry a multi-unit apartment development. The proposal is of the right character, massing and presentation to both of the relevant streets, to be compatible with the adjacent built form and with the finer grain details of the adjacent streets.

Even if it was argued that the typical built form in the adjacent area mandates a two-storey built form typically with a pitched roof form, a two-storey development with a pitched roof on the site would not be capable of reasonably responding to its development potential, while also preserving the views east from 77-79 Smith Street. The third level of the proposed building, occupied by only a small proportion





of the floor space of the proposed building, has no impact on views from the primary viewing areas of 77-79 Smith Street, which are at ground level. However, it is massed to acknowledge the need to provide a reasonable view sharing outcome and it is successful in that regard. It also contributes to the overall appearance of the development as a pitched roof building, which responds more effectively to the streetscape contexts from which it would be visible than a flat roofed form. The building therefore responds more literally to the intent of the envelope control that applies, which implies, although it does not prescribe, a pitched roof form.

In my opinion, the building provides for a reasonable view sharing outcome and is within the reasonable expectations of the development controls that apply to the site.



## 9 Conclusion

The proposed building is a 2-3 storey apartment building, retaining the streetscape attributes of the existing cottage on the site, with complementary massing and detailing on the east side of the Reynolds Street façade. The form and character of the building as viewed from Reynolds Street either north or east of the site is appropriate to the desired character of the streets and in relation to the response to the high proportion of earlier buildings in the vicinity.

The building is articulated on the visible facades and broken up into residential-scale individual elements that tend to reduce the bulk of the building with height. This is a characteristic of the surrounding environment and the articulation of the building is compatible with adjacent precedents. The building expresses the pitched roof form, typical pitch angles and the variations of hip and gable that are common in the adjacent setting. The proportions of wall to window facing Reynolds Street to the north reflect historical precedents, while the eastern façade to Rumsay Lane and partly visible from Reynolds Street east of the site features a more contemporary extent of glazing.

There would be minor view loss to the public domain, caused by the building occupying part of the north-eastern corner of the site that is currently vacant. However the entry level is set back significantly from the street over the car park entry ramp, largely retaining the existing view. This tactic should also tend to retain the existing, similar view, from the neighbours immediately north of the site in the vicinity of No.58, which currently have a view over and through the corner of the site.

There would be some private domain view loss in relation to any potential development on the site that complies with the relevant development controls. Retaining all of the potential view corridors across the site to the benefit of 77 and 79 Smith Street, would result in diminished development potential for the site and either poorer or no change in amenity. It would not be reasonable to expect to retain the existing views across the site, as the existing dwelling is a single storey cottage.

In my opinion a reasonable compromise between development potential and private domain view sharing has been reached with the adoption of massing and building heights proposed, in relation to the views analysed from 77 and 79 Smith Street. This allows for the retention of significant aspects of the view based on the location of the identified view corridor. The corridor provides a reasonable view sharing outcome.



## Appendix 1: Access request to adjacent residences

**DA 59A Reynolds Street, Balmain****Request to observe and photograph views from residences in Smith Street and Reynolds Street.**

Dear Resident,

Sustainable Infrastructure are preparing a Development Application (DA) which includes redevelopment of the adjacent site for residential dwellings. Parts of the proposed development may be visible from parts of your property or dwelling.

So as to properly assess the potential for impacts on views, Sustainable Infrastructure request that you allow Dr Richard Lamb and a surveyor to enter your property for the purpose of observing and photographing the views, including views over the site, from your residence. Entry to your property would only be undertaken with your permission, in your company and under your supervision. If you wish you can nominate another person you trust to act on your behalf.

The purpose of the photographs is to provide the base material for preparation of accurate photomontages which will assist the designers and Inner West Council in their assessment of the application. The purpose of the surveyor is to accurately locate the camera used to take the photographs and relate this information to the existing survey. In this way, the accuracy of the photomontages can be verified.

Dr Lamb is an independent specialist in view impacts and has advised the State Government, Council and private clients in the Inner West Council on many occasions, as well as acting as an expert witness in the Land and Environment Court of New South Wales on view impact matters in over 250 cases. Dr Lamb's CV can be viewed or downloaded from the Richard Lamb and Associates website at [www.richardlamb.com.au](http://www.richardlamb.com.au).

Should you grant access, which is entirely voluntary, you should take the opportunity to show Dr Lamb the locations in your residence from which you may have views over the subject site and to point out any particular features of the views that you value or would be concerned about having reduced or lost.

If you are granting permission for us to visit your residence, we would be grateful if you would fill in the details on the form on the next page and either post this form to the address below, fax it to the contact fax number below, scan and email it to the email address below.

As you will appreciate, organising access to a number of separate properties and coordinating surveying work and photography to coincide with visits by consultants is challenging. We have therefore suggested dates and times to visit the properties. Could you please indicate your preferred dates and times and your first choice alternative date and time and also provide contact details so we can coordinate our visit. We will endeavour to coordinate all visits on a day that is preferred by the majority.

1/134 Military Road, Neutral Bay NSW 2089

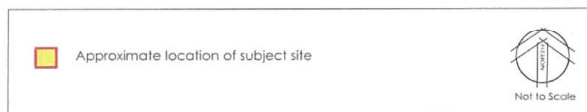
PO Box 1727 Neutral Bay, NSW 2089

T 02 99530922 F 0299538911 M 0418248810 E [admin@richardlamb.com.au](mailto:admin@richardlamb.com.au)

[www.richardlamb.com.au](http://www.richardlamb.com.au)



Map 1: Visual Assessment site location map 59A Reynolds Street





Proposed Development 59A Reynolds Street  
Request to observe and photograph views from your residence.

**Consent and preferred dates/times for visit**

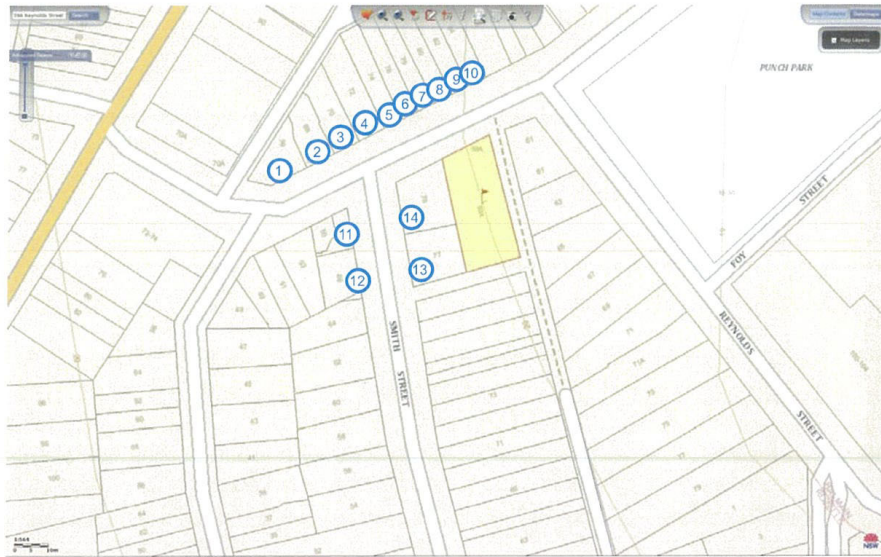
Name: (Owner/Entity)	Address of the residence to be visited	
Signature:	Your contact telephone number: (ask for who?)	
Date of signature:	Your email address:	
Your preferred contact (tick choice)	Telephone	Email
Consent granted for access: (tick choice)	Yes	No
Our preferred date: Wednesday 14 <sup>th</sup> March 2018 Our alternative preferred date: Thursday 15 <sup>th</sup> March 2018	Our preferred time range: 10am to 12pm NB Afternoon work times are not feasible as light conditions preclude successful photography.	
Your alternative date 1:	Your alternative time 1:	
Our contact details:	Richard Lamb and Associates c/o <a href="mailto:jane@richardlamb.com.au">jane@richardlamb.com.au</a> phone 99530922	

Yours sincerely




**Dr Richard Lamb**  
Richard Lamb & Associates



Appendix 2: Residences to which access was requested

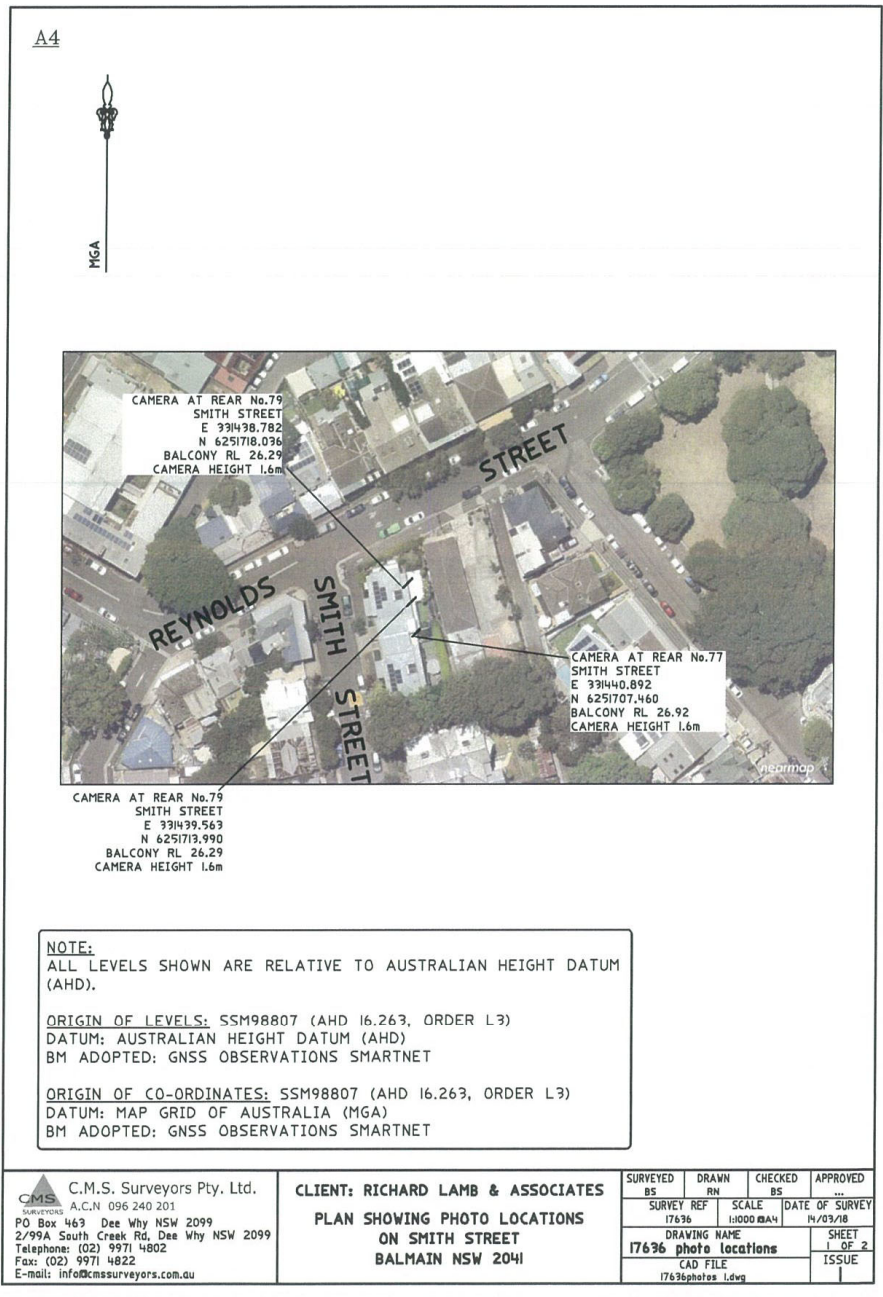


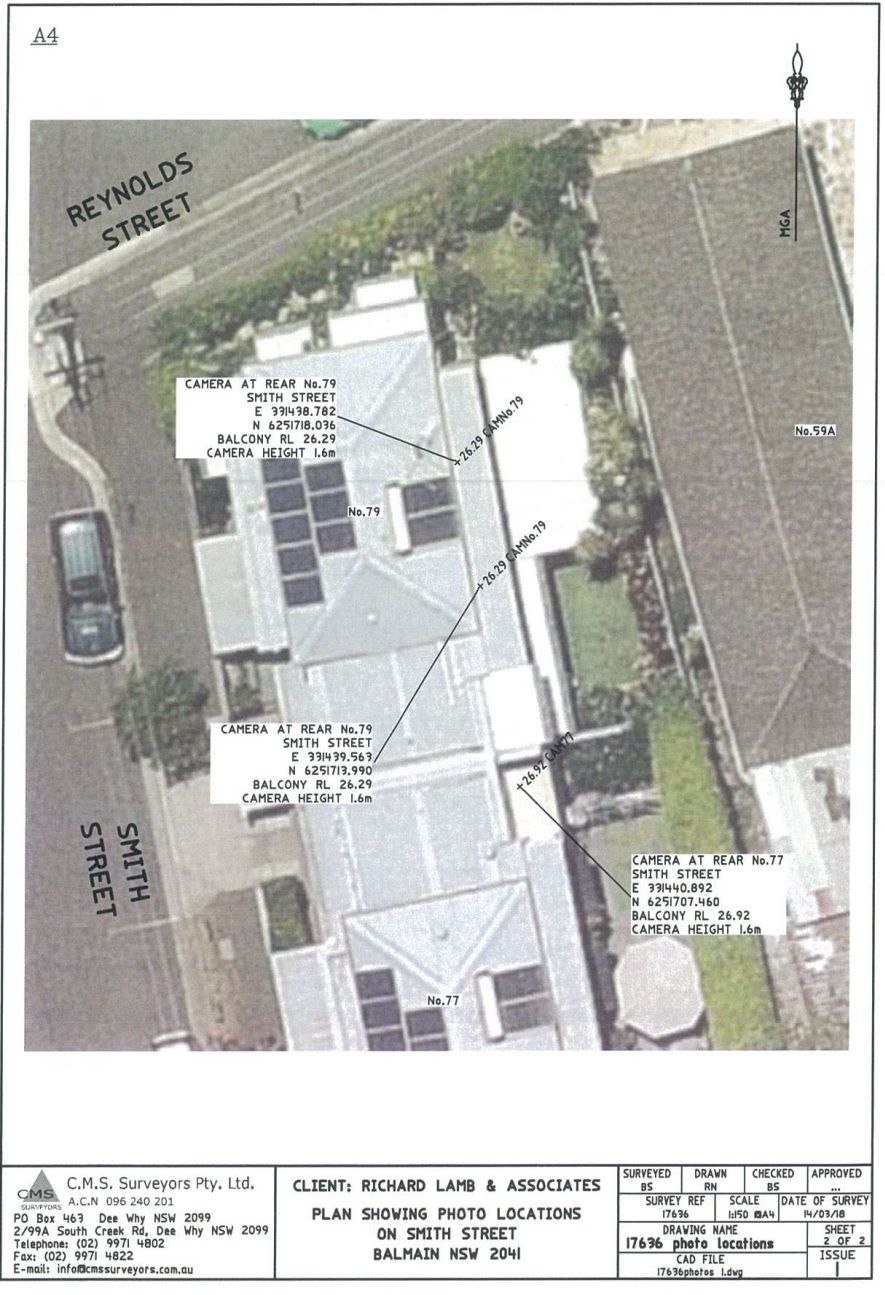
Map 1: Views to be inspected near 59A Reynolds Street, Balmain

	Approximate location of subject site	 Not to Scale
	Locations of dwellings for view inspection	



Appendix 3: Camera survey data 77 and 79 Smiths Street

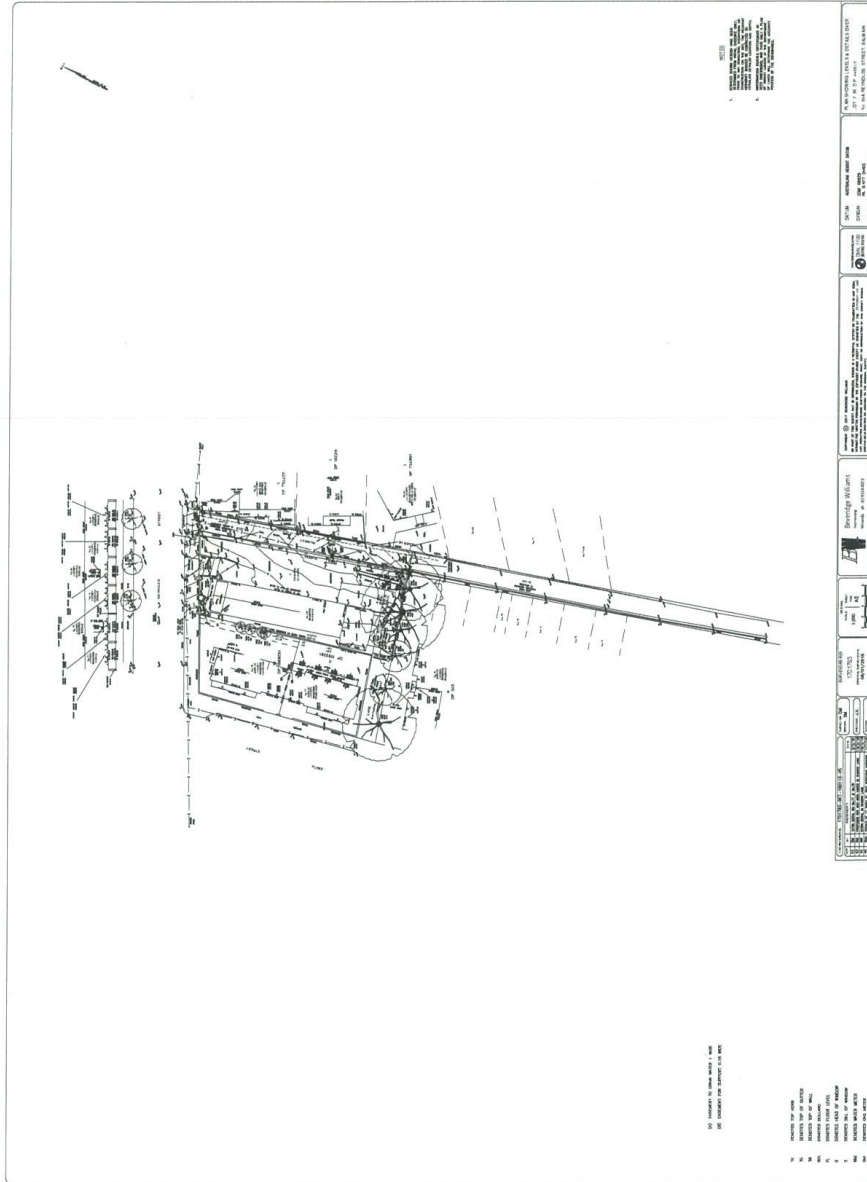








Appendix 4: Site survey

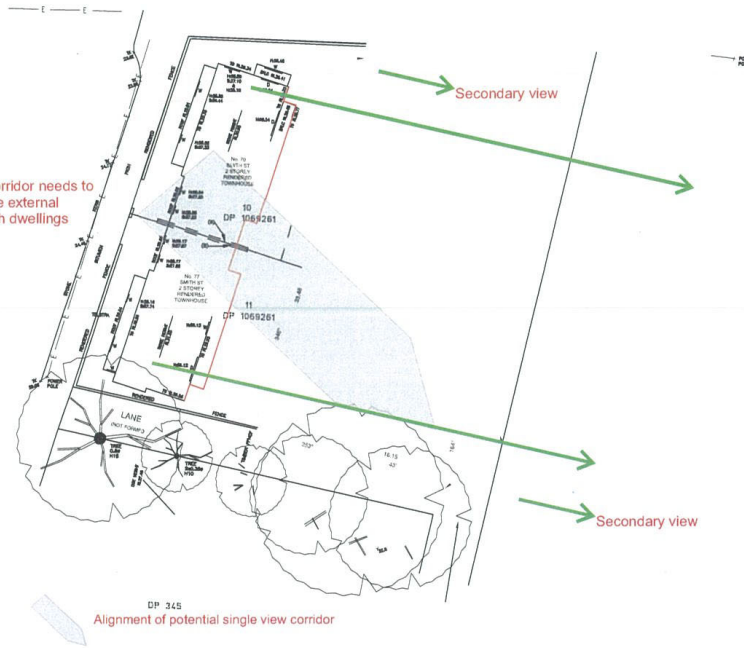




Appendix 5: RLA recommendation for view corridor

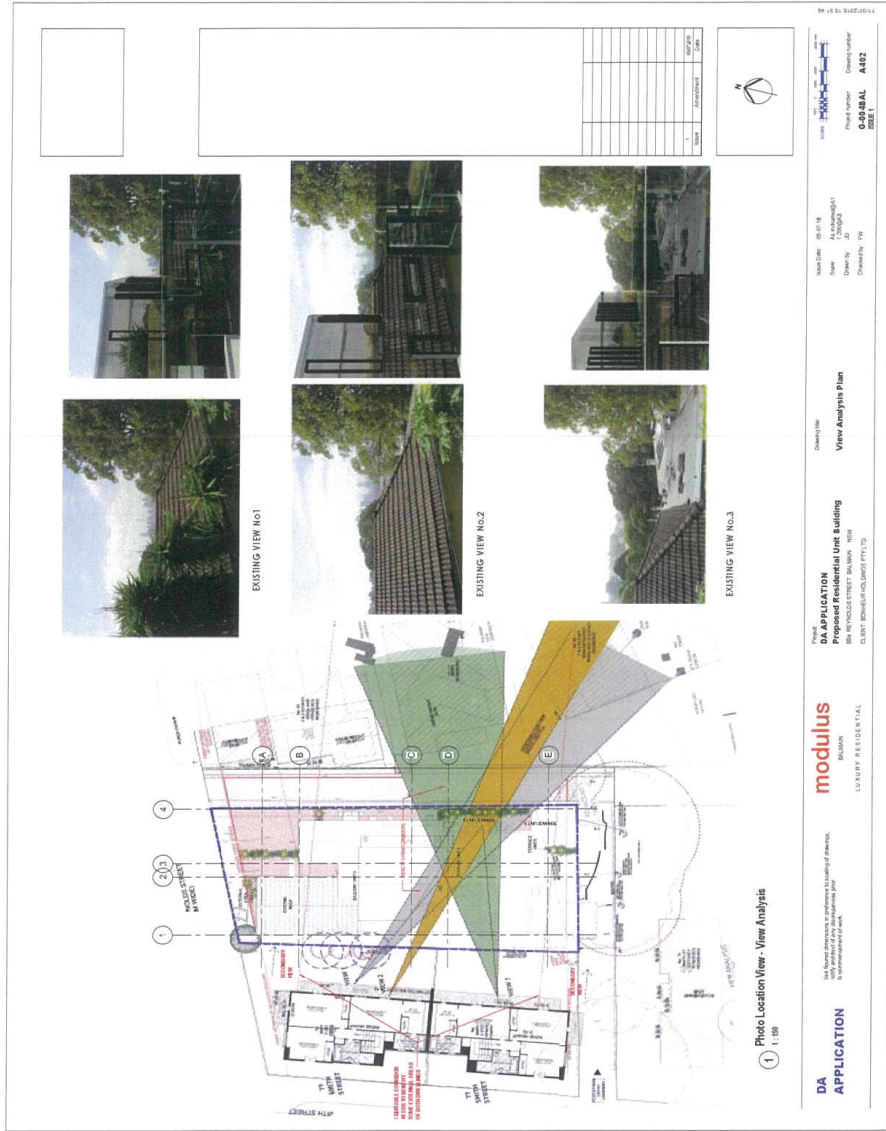


Equitable corridor needs to benefit some external areas of both dwellings





Appendix 5: View corridor analysis and resolution





Appendix 6: Photographic plates: refer to Maps 1 and 2



V1  
Wortley Street near intersection with Davidson Street



V2  
Punch Park view toward site



V3  
Wortley Street near intersection with Ennis Street



V4  
Reynolds Street opposite intersection with Foy Street, view north west toward site



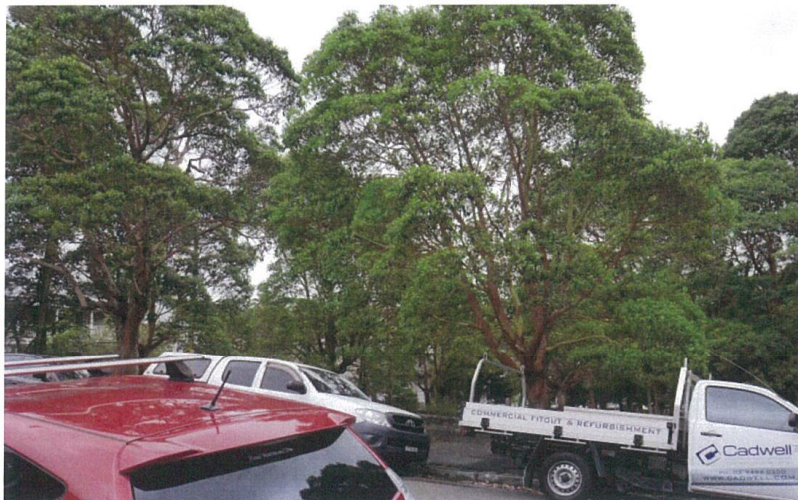
V4  
*Reynolds Street opposite intersection with Foy Street, view south east of heritage Brush Box avenue*



V4  
*Reynolds Street opposite intersection with Foy Street, view south west*



V5  
Reynolds Street north of intersection with Foy Street, view west toward site with first floor balcony of 77-79 Smith Street visible between the two houses (63 and 65 Reynolds Street)



V5  
Reynolds Street north of intersection with Foy Street, view of trees in Punch Park

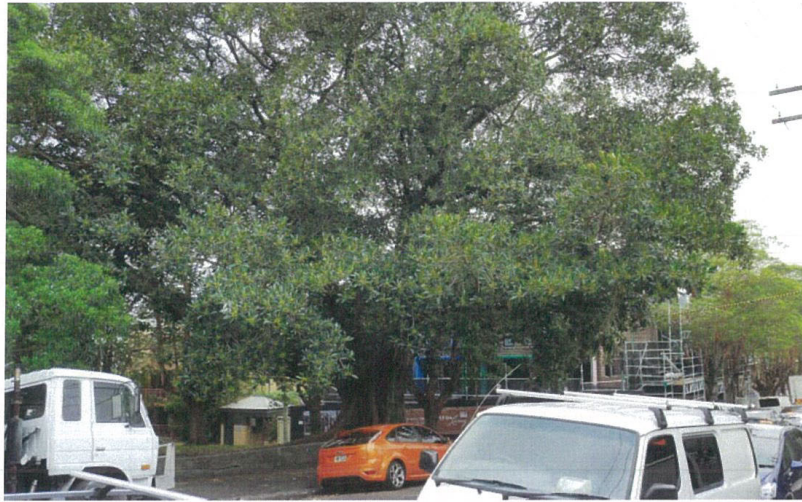


V5  
*Reynolds Street north of intersection with Foy Street, view north west toward intersection of Ramsay and Wortley Streets, with 65 and 67 Ramsay Street, the site's nearest eastern neighbours*



V6  
*Intersection of Reynolds and Wortley Streets looking south east, with the entry to the north end of Rumsay Lane on the left, the existing building on the Site in the centre and 77-79 Smith Street on the right*





V6

*Intersection of Reynolds and Wortley Streets looking east down Reynolds Street toward the former Unilever administration building, under refurbishment, on the right, showing the height and density of vegetation in Punch Park, which is in the view from the first floor southern apartment in 77-79 Smith Street*



V7

*North end of Rumsay Lane, looking south. The tall trees on the right are in the paper road south of the site.*



V7  
*Ramsay Street opposite the site, showing existing building at the centre and 77-79 Smith Street on the right*



V8  
*Intersection of Ramsay Street and Smith Street, looking west toward 55-57 Reynolds Street*



V8  
*Intersection of Ramsay Street and Smith Street, looking north toward 66-70 Reynolds Street*



V8  
*Intersection of Ramsay Street and Smith Street, looking south east toward 77-79 Smith Street*



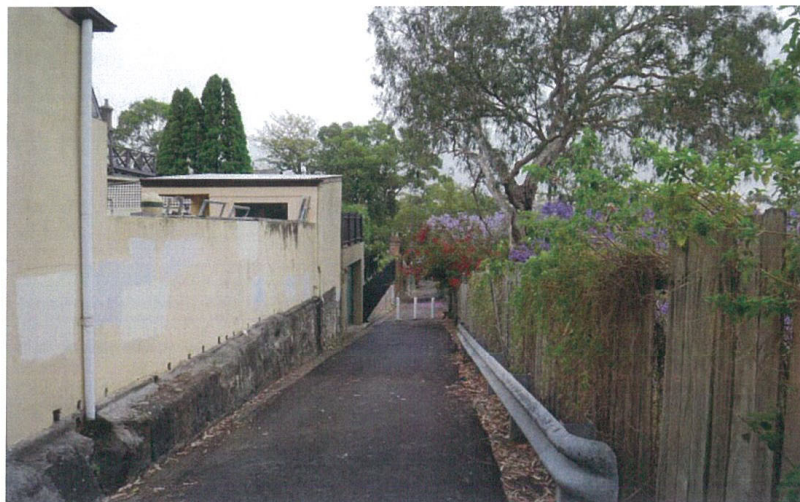
V9  
View of 75 Smith Street



V10  
View of 'Providence' 73 Smith Street



V10  
*Smith Street, streetscape from opposite No.73 looking north east toward the general location of the site*



V11  
*Rumsay Lane, looking north*



V11  
*Rumsay Lane, northern section looking south east toward the rears of 61-63 Reynolds Street*



V13  
*Reynolds Street, opposite 'Kiama', No.80, looking south east toward Anzac Bridge and Broadway area*



Appendix 7: Photographs 77, 79 Smith Street



*Image RLA\_006  
77 Smith Street, first floor balcony off walk-in robe, view east, in foggy conditions*



*Image RLA\_007  
77 Smith Street first floor balcony off walk-in robe, view north-east, in less foggy conditions*



Image RLA\_0015  
79 Smith Street first floor balcony off north bedroom, view south-east



Image RLA\_0019  
79 Smith Street first floor balcony, between studio and south bedroom, view south-east





Appendix 8: Photomontages 77, 79 Smith Street



*Photomontage  
79 Smith Street first floor balcony, between studio and south bedroom, view south-east*



*Image RLA\_0019  
79 Smith Street first floor balcony, between studio and south bedroom, view south-east*



*Photomontage  
79 Smith Street first floor balcony off north bedroom, view south-east*



*Image RLA\_0015  
79 Smith Street first floor balcony off north bedroom, view south-east*



Photomontage  
77 Smith Street, first floor balcony off walk-in robe, view east



Image RLA\_006  
77 Smith Street, first floor balcony off walk-in robe, view east



## Appendix 9: Summary CV Dr Richard Lamb

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**Summary**

- **Qualifications**
  - Bachelor of Science - First Class Honours, University of New England in 1969
  - Doctor of Philosophy, University of New England in 1975
- **Employment history**
  - Tutor and teaching fellow – University of New England School of Botany 1969-1974
  - Lecturer, Ecology and environmental biology, School of Life Sciences, NSW Institute of Technology (UTS) 1975-1979
  - Senior lecturer in Landscape Architecture, Architecture and Heritage Conservation in the Faculty of Architecture, Design and Planning at the University of Sydney 1980-2009
  - Director of Master of Heritage Conservation Program, University of Sydney, 1998-2006
  - Principal and Director, Richard Lamb and Associates, 1989-2017
- **Teaching and research experience**
  - visual perception and cognition
  - aesthetic assessment and landscape assessment
  - interpretation of heritage items and places
  - cultural transformations of environments
  - conservation methods and practices
- **Academic supervision**
  - Undergraduate honours, dissertations and research reports
  - Master and PhD candidates: heritage conservation and environment/behaviour studies
- **Professional capability**
  - Consultant specialising in visual and heritage impacts assessment
  - 30 year's experience in teaching and research in environmental impact, heritage and visual impact assessment.
  - Provides professional services, expert advice and landscape and aesthetic assessments in many different contexts
  - Specialist in documentation and analysis of view loss and view sharing
  - Provides expert advice, testimony and evidence to the Land and Environment Court of NSW on visual contentions in various classes of litigation.
  - Secondary specialisation in matters of landscape heritage, heritage impacts and heritage view studies
  - Appearances in over 270 Land and Environment Court of New South Wales cases, submissions to Commissions of Inquiry and the principal consultant for over 1000 individual consultancies concerning view loss, view sharing, visual impacts and landscape heritage

A full CV can be viewed on the Richard Lamb and Associates website at [www.richardlamb.com.au](http://www.richardlamb.com.au)

**Attachment C Statement of Heritage Significance for the Valley  
(Rozelle and Balmain) HCA**

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**Area 12** The Valley (Rozelle and Balmain)

## Landform

This conservation area comprises a large but tightly formed valley which falls south and east from the Darling Street ridge towards White Bay affording enclosed views to industrial workings of the port city in the bay.

It includes a number of subdivisions/part subdivisions around the highest land in the Leichhardt Municipality on either side of the Darling Street ridge and across Victoria Road. It includes land east of Wellington Street to White Bay. It also includes the civic buildings and the commercial zone of Rozelle on both sides of Victoria Road, the land east of the Darling Street ridge beyond the commercial zone, the civic and commercial buildings of Balmain retail centre, small groups of shops along Darling Street and the former retail area of Evans and Beattie Streets.

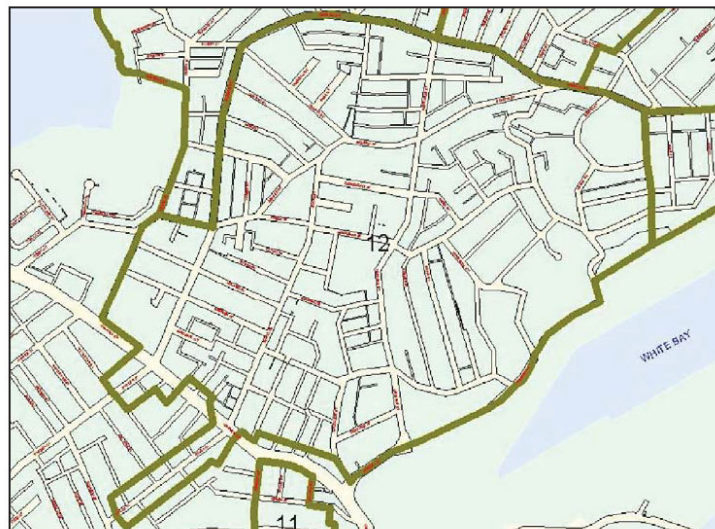


Figure 12.1 The Valley Conservation Area Map.

## History

When sales of John Gilchrist's Balmain 550-acre grant were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections, using existing routes such as Darling Street, and other contour-hugging tracks, such as Beattie Street and Mullens Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

The largest of the estates put together from Langley's subdivisions was the 19 acres of the Merton Estate purchased by piano importers Paling and Starling, druggists George and Frederick Elliott and estate agent Alfred Hancock. It occupied the land between Terry Street and Evans Street. It was subdivided by its owners into 197 allotments generally 30ft x 100ft with 50ft-wide grid

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pattern of roads, and was auctioned by local agent and developer, Alfred Hancock from 1874.

A miscellaneous collection of service and consumer trades servicing these new dwellings appeared along Evans Street in the 1870s making it the main commercial thoroughfare along the upper reaches of the Balmain peninsula.

By the 1880s the growth of industry, including noxious industry, in White Bay and along Whites Creek, made the south and east-facing slopes of the Darling Street ridge unattractive for a more affluent residential market. Those who could find employment in these industries would seek housing within walking distance, as public transport – then the horse drawn bus or later the steam tram – were too expensive. Canny speculators, such as Hancock (later Mayor of Balmain) sold to small builders who constructed very dense workers' housing for rentees or purchasers on small budgets. By 1891 a large part of this area had been built upon.

The arrival of the government-owned steam tram at the junction of Darling Street and Victoria Road in 1892, provided relatively more affluent residents along its route with transport to the city, and a greater choice of employment away from places within immediate walking distance from home. The advent of the tramway probably explains the major impetus to growth in the area particularly to the west of Evans Street, so that in the 1890s much of Terry, Wellington, Merton and Nelson Streets were built upon with one-storey brick semis, pairs or small groups of terraces (two to an allotment) and double-fronted single-storey houses (one to an allotment). Most of these buildings were constructed by local builders such as Robert Gordon, William Whitehorn and James Gibson, whose small-scale operations are indicated by the small groups of similar houses or terraces.

From the 1850s, Booth's Saw Mill on White Bay provided a cheap source of timber and weatherboards, promoting weatherboard houses as the norm for workers' housing throughout Balmain until brick terrace housing became prevalent in the late nineteenth century.

The extension of the steam tram service along Darling Street by 1900 encouraged shopkeepers to relocate there to catch the passing trade, and Evans Street was superseded as a commercial centre.

The Metropolitan Detail Survey Sydney Water Archive<sup>1</sup> suggests that almost all the land east of Wellington Street was built upon by 1905.

By 1907 the precinct was generally known as Rozelle.

#### Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Further information provided by Max Solling.

#### Significant Characteristics

- Contour hugging main roads – Evans, Beattie and Reynolds.

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- Outline of subdivisions, size and aspect of allotments, determined by route of main roads.
- Wider residential roads off Darling Street ridge, with grid subdivision pattern, but
- Generally narrow roads between main access roads.
- Narrow, often shallow allotments.
- Back lanes are rare.
- Dense urban environment.
- Continuous lines of buildings create sharply defined lineal spaces.
- Buildings stepped up and down hill, following the topography.
- Houses sited close to road near Darling Street ridge; and sited onto the road alignment nearer to White Bay.
- Small front gardens near Darling Street; there are fewer gardens towards White Bay.
- Tree planting is minimal except where wider main access roads provide enough room – Langley, Roseberry, Llewelyn and Reynolds Street.
- Large stands of trees in parks and open spaces.
- Small range of housing types: single-fronted, single-storey timber terraces, two-storey terraces, free-standing timber or stone single-storey cottages.
- Some larger villas on high land around Smith Street, and more generous terraces in similar locations.
- Scale predominantly limited to one or two storeys.
- Pubs with verandahs act as punctuation marks in the streetscape.
- Corner stores.
- Commercial premises (and former commercial premises) with attached dwellings along Evans and Darling Streets.
- Small industrial/warehouse buildings occur throughout the area.
- Variety of materials – large number of timber, plastered brick, some later (1890s+) face brick and a few stone buildings.
- Roof materials vary – iron is common, terracotta tiles, some slate.
- Stone retaining walls.
- Remnants of iron palisade fences define some street frontages.
- Suspended awnings to commercial facades along Darling and Evans Streets.
- Sandstone kerbs and gutters.



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#### Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for illustrating development for workers' and artisan housing particularly from 1871-1891 which forms the major element of its identity. It is significant for its surviving development from that period and the later infill development up to World War II (ie pre-1939).
- Retains evidence of all its layers of growth within that period from the late-1870s.
- Through its important collection of weatherboard buildings, including the now rare timber terraces, it continues to demonstrate the nature of this important/major construction material in the fabric of early Sydney suburbs, and the proximity of Booth's saw mill and timber yards in White Bay.
- Through the mixture of shops, pubs and industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.
- Demonstrates through the irregular pattern of its subdivision the small-scale nature of the spec builders responsible for the construction of the suburb.
- Demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

#### Maintenance of Heritage Values

##### Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

##### Retain

- Existing width and alignment of streets: avoid chicanes which cut diagonally across the carriageway.
- Existing back lanes.
- All buildings pre-1939 and particularly all timber buildings
- All original plaster finishes to external walls - reconstruct where necessary.
- All original unplastered face brick walls.
- All original external architectural detail, decorative tiles, plaster mouldings, chimneys, roof ridges and finials, commercial signs etc.

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Encourage replacement of lost elements, but only where evidence is available.

- All remaining sandstone kerbs and gutters.
- All corner stores, corner pubs and industrial buildings within the residential areas, and encourage their restoration. Consider small-scale commercial or professional uses for these buildings, if original uses no longer operate, as a reference to their original uses.
- Street and park planting; reinstate where necessary

Avoid

- Amalgamation that might lead to a change in the densely developed streetscape.
- Demolition of any pre-1939 building, particularly those pre-1910.
- Demolition of any remaining timber building.
- Additional storeys above the existing form of the building.
- Posted-verandahs over footpaths to commercial premises where no evidence can be provided to support their reconstruction. Encourage restoration of verandahs where evidence exists.
- Removal of plaster to external walls, where part of the original construction. Removal of original architectural details.
- Additional architectural detail for which there is no evidence.
- Inappropriate fences such as high brick walls, new iron palisades on high brick bases.
- Interruption to the almost continuous kerb and gutter line.

Endnotes

- <sup>1</sup> Solling & Reynolds, p 81.
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Attachment D – Draft Conditions of Consent

CONDITIONS OF CONSENT

- Development must be carried out in accordance with Development Application No. **D/2018/445** and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Title	Project Number	Drawing Reference	Issue Number	Drawn By	Issue Date
Drawing Register	G-004BAL	A002	1	Modulus	27.07.2018
Site Context	G-004BAL	A003	1	Modulus	27.07.2018
Location Plan	G-004BAL	A004	1	Modulus	27.07.2018
Site Survey	G-004BAL	A005	1	Modulus	27.07.2018
Site Analysis Plan	G-004BAL	A006	1	Modulus	27.07.2018
Site Photos	G-004BAL	A007	1	Modulus	27.07.2018
Demolition Plan	G-004BAL	A008	1	Modulus	27.07.2018
Building Siting Plan Ground Floor	G-004BAL	A101	1	Modulus	27.07.2018
Building Siting Plan Level 1	G-004BAL	A102	1	Modulus	27.07.2018
Building Siting Plan Loft	G-004BAL	A103	1	Modulus	27.07.2018
Basement Plan	G-004BAL	A104	1	Modulus	27.07.2018
Ground Floor Plan	G-004BAL	A105	1	Modulus	27.07.2018
Level 1 Plan	G-004BAL	A106	1	Modulus	27.07.2018
Loft Level Plan	G-004BAL	A107	1	Modulus	27.07.2018
Roof Plan	G-004BAL	A108	1	Modulus	27.07.2018
Elevations	G-004BAL	A201	1	Modulus	27.07.2018
Elevations	G-004BAL	A202	1	Modulus	27.07.2018
Sections	G-004BAL	A301	1	Modulus	27.07.2018
Sections	G-004BAL	A302	1	Modulus	27.07.2018
Deep Soil Plan	G-004BAL	A606	1	Modulus	27.07.2018
Storage Volumes Plan	G-004BAL	A609	1	Modulus	27.07.2018
Materials Board	G-004BAL	A701	1	Modulus	27.07.2018
North & East Elevations	G-004BAL	A702	1	Modulus	27.07.2018
South & West Elevations	G-004BAL	A703	1	Modulus	27.07.2018
Document Title	Reference		Prepared By		Dated
Plan Showing Levels & Details over Lot 7 in D.P. 448513 (2 Sheets)	1701783		Beveridge Williams		09.01.2018
Tree Management Plan	SK01 Issue C		Umbaco Landscape Architects		July 2018
Ground Floor Landscape Plan	SK02 Issue D		Umbaco Landscape Architects		July 2018
Level 1 & Loft Landscape Plan	SK03 Issue C		Umbaco Landscape Architects		July 2018

Statement of Structural Adequacy	N/A	ACOR Consultants Pty Ltd	19.07.2018
Statement of Intent Retaining Wall along Rumsay Lane	N/A	ACOR Consultants Pty Ltd	19.07.2018
Structural Construction Plans Project SY180403	ST.01 Issue C ST.02 Issue A ST.03 Issue A ST.04 Issue A	ACOR Consultants Pty Ltd	26.07.2018 16.07.2018 16.07.2018 16.07.2018
Driveway Plans Project SY180403	C5.01 Issue B C5.02 Issue A C5.03 Issue A	ACOR Consultants Pty Ltd	01.08.2018 25.07.2018 25.07.2018
Stormwater Plans Project SY180403	C1.01 Issue A C1.05 Issue A C1.06 Issue A C3.01 Issue A C3.02 Issue A C4.01 Issue A	ACOR Consultants Pty Ltd	20.07.2018
Construction and Waste Management Plan	N/A	Modulus	Undated
Statement of Environmental Effects	N/A	Andrew Martin Planning	July 2018
SEPP 65 - Design Quality Principles	N/A	Felicia Whiting Registered Architect 6202	Undated
Waste Classification Certificate (Soil Disposal)	02661.01.18.GSW.rpt	EBG Environment Geoscience	31.01.2017
Noise Impact Assessment	20180964.1/1707A/R1/AW Revision 1	Acoustic Logic	17.07.2018
Traffic & Transport Assessment	1800738-TR-REP01-2.0.DOCX	Beveridge Williams	01.08.2018
Waste Management Plan	1800738-TR-WMP01-1.0.DOCX	Beveridge Williams	26.07.2018
Arboricultural Impact Assessment	Ref: 3722.1	Redgum Horticultural	25.07.2018
Access Audit Report	N/A	Sydney Access Consultants	23.07.2018
Hazardous Materials Management Survey	Job No: JN00176	EHO Consulting	11.07.2018
BCA Assessment Report	RE180244V2	Private Certifiers Australia	27.07.2018
Thermal Comfort & BASIX Assessment (Incorporating BASIX Certificate 945584M_02)	18-0969 Issue A	Efficient living	27.07.2018
Lighting Calculation Report & Render	N/A	Light Projects	Undated
Heritage Impact Statement	J2939	Weir Phillips Heritage	July 2018
Geotechnical Investigation	Project: 2018-002.1	Crozier Geotechnical Consultants	23 July 2018

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 partial demolition of the currently existing structures on the property as set out in the plans/documentation listed in Condition 1, 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 Council.
- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
  - d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
  - e) The demolition plans must be submitted to the appropriate Sydney Water 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](http://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. In accordance with the provisions 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.

- 4. Amended plans and additional information is to be submitted incorporating the following amendments or revisions:
  - a) The detail of the front façade of the retained interwar house is to be altered to utilise timber sections and profiles characteristic of the era of construction of the dwelling. Both sides of the verandah are to be open however a timber screen can be provided if required.
  - b) The panelled front door and fanlight is to be retained.
  - c) The full depth of the front two full rooms of the front portion of the house is to be retained. The surviving fibrous plaster ceilings are to be retained throughout the first two rooms of the house and the hallway and are to be protected from damage during any roofing repair works.
  - d) The proposed glazing to separate the hall is to be designed to be totally separate from the timber fretwork.
  - e) Other internal elements not being retained such as the fireplace are to be salvaged.
  - f) A specialist report is to be provided from a suitably qualified and experienced heritage engineer regarding the protection of the retaining wall to Rumsey Lane during construction and the extent of repair works required. Both sandstone sections of the retaining wall are to be retained, as is any sandstone walling currently not visible behind the later concrete wall. The depth of the stone blocks needs to be confirmed, as the blocks are to be retained in their entirety. The sandstone sections can be carefully dismantled but must be rebuilt provided that the blocks are carefully numbered and are replaced in the exact same arrangement (i.e. retaining irregularities in the courses). Evidence of the sandstone bedrock that the walls are founded on should also be retained. The more recent cement repairs should be removed and the wall should be repointed with a suitable mortar mix designed to conserve historic sandstone walls. Hard cement rich mortars are not appropriate.
  - g) Sandstone copings are to be sloped not flat to shed water.
  - h) Regarding landscaping and trees:

- i) Reduction in the extent of crown pruning on Tree 1 – *Corymbia maculata* (Spotted Gum) and Tree 3 *Grevillea robusta* (Silky Oak) located on the neighbouring property to the south to avoid conflict between the crown of the trees and the southern face of the proposed building;
  - ii) Significant reduction in the impact on Tree 5 – *Syzygium* sp. (Lillypilly) and Trees 6, 7 and 8 (described as Cactus in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural) located on neighbouring property to the west of the site;
  - iii) Sufficient above ground space and an adequate volume of soil and water for canopy replenishment tree planting. In addition to the proposed *Elaeocarpus reticulatus* (Blueberry Ash) shown planted in the garden of Unit 1, a minimum of one further canopy tree must be included on the site. The tree must have a minimum mature size of 8 metres x 5 metres, be provided with a minimum soil volume of 12 cubic metres and be planted a minimum of 1.5 metres from proposed structures, site boundaries and services such as stormwater pipes and pits. The minimum container size at planting for both trees must be 150 litres;
  - iv) Provide existing and proposed site levels of all landscape elements (including paving, garden beds, planter boxes, top of step, bottom of step etc) on an amended Ground Floor Landscape Plan;
  - v) Clearly show all landscape elements such as all paving, stepping stone pavers and planters and provide details of all proposed landscape materials;
  - vi) An amended Arboricultural Impact Assessment Report prepared by an arborist with a minimum AQF level 5 qualification in arboriculture who does not remove or prune trees in the Inner West local government area. The report must include all 8 trees included in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural. The report must include a comprehensive assessment of the impact of each element of the proposed design (including landscape and stormwater/services) and include TPZ incursion percentage figures. If the arborist recommends a TPZ incursion of more than 10% they must demonstrate (via eg. root mapping using minimally destructive methods) that the proposed development will not have a detrimental impact on the tree's health, stability and long-term viability. The report must comply with the requirements specified in Council's *Development Fact Sheet – Trees on Development Sites*;
  - vii) A Tree Protection Plan prepared by an arborist with a minimum AQF level 5 qualification in arboriculture who does not remove or prune trees in the Inner West local government area. The report must include all 8 trees identified in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural. The plan must comply with the requirements specified in Council's *Development Fact Sheet – Trees on Development Sites*;
  - vii) A Pruning Specification for Trees 1 to 4 (as identified in the Arboricultural Impact Assessment Report dated 25<sup>th</sup> July 2018, prepared by Redgum Horticultural). The specification must comply with the requirements specified in Council's *Development Fact Sheet – Arborist Reports*.
- i) As the proposed development includes significant excavation within the



zone of influence of the adjacent road reserve, an integrated Structural and Geotechnical Engineering report must be prepared. The report must address the following issues at a minimum:

- i) The basement must be of fully tanked construction such that pump-out systems are not required to drain the subsurface drainage system. Consideration will only be given to the provision of a pump-out system where it can be demonstrated by detailed geotechnical investigation that groundwater flows are minimal/intermittent.
- ii) All components of the structure, including subsoil drainage, must be set back inside the property boundary..
- iii) Retaining walls must be entirely self supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.
- iv) Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment.
- v) Recommendations regarding method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property.
- vi) Relevant geotechnical/subsurface conditions of the site, as determined by full geotechnical investigation.
- vii) The impact of excavation on the structural stability of the adjacent road and detailing how the carriageway would be monitored.
- viii) Details for the transition from the new retaining wall to the existing retaining wall on Rumsay Lane at the south of the site.
- ix) Any other issues that may need to be addressed.

The Report must be prepared by suitably qualified Structural and Geotechnical Engineers. The recommendations of the report must be incorporated into the plans.

- t) Regarding vehicular access and on-site parking:
  - i) The proposed vehicle crossing should comply with Council standard vehicle crossing detail including 900mm wings;
  - ii) The vehicle crossing should be relocated to the west to avoid clash with pram ramp and to provide adequate refuge for pedestrians on the footpath between the vehicle crossing and the pram ramp;
  - iii) The gradient of the driveway for the first 6 metres from the property boundary must not exceed 1 in 20 (5%) in accordance with the requirements of Clause 3.3(a) of AS/NZS 2890.1-2004;
  - iv) The non-standard footpath paving on Reynolds Street shown on the architectural plans is not supported;
  - v) The driveway width should be minimised where necessary to reduce loss of on-street parking;
  - vi) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps. In this regard the driveway is not adequate for a B99 Vehicle and scraping will occur. In addition the footpath levels and gutter invert levels on the long sections

- do not match existing gutter invert levels as shown on the survey;
- vii) A minimum headroom of 2200mm must be provided throughout the access and parking facilities. Note that headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc and at any open garage door. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
  - viii) Access and manoeuvrability to Space 3 and Space 4 is restricted due to the location of the lifts and bicycle parking. The lifts and bicycle parking should be relocated to provide improved access to Space 3 and Space 4 and provide parking facility dimensions that comply with Figure 2.2 of AS/NZS 2890.1-2004 for User class 1A (as a minimum);
  - ix) The parking aisle must comply with the Blind Aisle requirements of the Standard, as defined by Clause 2.4.2(c) of AS/NZS 2890.1-2004.
  - x) A dedicated car wash bay must be provided on site in a location that does not prevent access to the parking facilities or reduce the amount of landscaped area. Details of the car wash bay including bunding and connection to sewer must be detailed on the plans.
- u) Regarding site drainage and stormwater control requirements:
- i) Grated stormwater pits within the enclosed basement are not necessary or supported as they provide access for pollutants from vehicles to enter stormwater system. All grated stormwater pits within the basement excluding the grate at the base of the ramp, should be deleted or include solid/sealed access covers. The subsoil drainage system should be designed to prevent pollutants from cars entering the system;
  - ii) The proposal to discharge water from the site to the existing stormwater pit on Rumsay Lane is supported only for the basement pump-out of subsoil drainage. A stilling pit is required at the boundary from which flows shall drain via gravity to the Council stormwater pit on Rumsay Lane;
  - iii) An overland flow path to drain surface flows from the site to Reynolds Street is required. In this regard it appears proposed levels are flat along western boundary and would be unable to drain to Reynolds Street;
  - iv) The on-site detention (OSD) calculation is based on 100% pre-development impervious. This is not correct as per the survey;
  - v) The on-site detention calculation is based on 65% post development impervious. This is not correct based on the site analysis plan. In addition, Council does not support a green roof to be considered pervious area as the roof as stormwater runoff will drain through the green roof to the stormwater drainage system. On this basis the green roof areas should be included as impervious areas;
  - vi) The OSD tank as proposed would not function as an OSD system as there is no low level connection from the storage to the orifice outlet.
  - vii) OSD inlet pipe discharging to the bottom of the OSD tank is not supported as the pipe will be hydraulically controlled by the OSD tank water level. The inlet must be raised;
  - viii) The plans suggest the OSD tank is to have 1% fall however the levels provided on the detail show the bottom of the tank is flat. Clarification is to be provided;
  - ix) Calculations must be submitted in support of the flow rates and storage volumes proposed in accordance with Section E1.2.3 (C2 and C3) of

- Council's DCP2013. The full model data and results including impervious/pervious areas, rainfall data should be provided;
- x) The proposed 100mm height of the OSD weir will be prone to blockage and does not provide for construction tolerances. The height of the weir must be increased;
  - xi) The use of 100 x 50 x 5 RHS is not supported due to the impact on the heritage stone kerbs. 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 maximum section height of 100mm. New kerb outlets in stone kerb shall be carefully cored through the existing kerb stone such that the kerb outlet is perpendicular (a 90° angle) with the gutter. The pipe under the footpath shall end 30mm within the kerb stone with mass concrete around the pipe connection to the kerb stone. Purpose made pipe fittings and bends or welded joints shall be used where necessary to align the discharge pipe with the kerb outlet;
  - xii) The submitted geotechnical report recommends retaining walls be fully drained with suitable subsoil drains provided at the rear of the wall footings. The proposed subsoil drainage system must be shown on the plans and be located fully within the property boundaries.
- v) The bin room should be relocated to the ground floor for convenient transfer for the bins to Reynolds Street for collection. The bin room must be demonstrated to have adequate area to store the required bins in accordance with the requirements of Leichhardt DCP2013.

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

5. The following Section 94 contributions are to be paid to Council in full prior to release of any Construction Certificate:

Residential Community Facilities Levy	\$16,777.00
Non-Residential Community Facilities Levy	
<b>TOTAL COMMUNITY FACILITIES LEVY</b>	<b>\$16,777.00</b>
Residential Open Space Levy	\$109,772.00
Non-Residential Open Space Levy	
<b>TOTAL OPEN SPACE LEVY</b>	<b>\$109,772.00</b>
LATM	\$601.14
Access to Balmain Peninsula Light Rail	\$3,090.58
Leichhardt Town Centre Bicycle Commercial Carparking	\$96.54
<b>TOTAL TRANSPORT &amp; ACCESS LEVY</b>	<b>\$3,788.26</b>

The total section 94 contribution payable for this development is **\$130,337.26**.

6. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath.
  - c) Mobile crane or any standing plant.
  - d) Skip bins.
  - e) Scaffolding/Hoardings (fencing on public land).
  - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
  - g) Awning or street verandah over footpath.
  - h) Partial or full road closure.
  - i) Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the 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.

7. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
8. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West 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.
9. 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.

10. A stormwater drainage design, incorporating On-site Stormwater Detention storage (OSD) and/or On-site Stormwater Retention/ re-use facilities (OSR), prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate.

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

11. 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.

12. 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.
13. 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.

14. 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.

15. 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.

16. Where applicable, the existing unpainted brick surfaces are not to be painted, bagged or rendered but to remain as original brick work. The Construction Certificate plans must clearly depict all original brickwork with a notation that they are to remain unpainted to the satisfaction of the Principal Certifying Authority.
17. 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.

18. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:
  - The building is to be provided with smoke alarm system that complies with AS3786-1993: *Smoke Alarms* and the smoke alarms must be connected to the

consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

Amended plans and specifications demonstrating compliance with this condition must be submitted to the satisfaction of the Principal Certifying Authority with the application prior to the issuing of a for a Construction Certificate.

Note: Where an existing system complying with the above requirements is already installed in the building, evidence of this should be submitted with the application for a Construction Certificate.

19. 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.

20. 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](http://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.

21. 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.

22. 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.

23. 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 (m<sup>3</sup>) 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.

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

24. 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), Council must be contacted and a security deposit and inspection fee as determined by Council must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works.

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

25. Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services and trees protected under the State Environmental Planning Policy shall be prepared. 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.

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

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

#### **DURING WORKS**

33. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. The pruning shall be undertaken by a minimum Level 3 (AQF 3) qualified Arborist.

Details demonstrating compliance with the requirements of this condition are to be submitted by the Project Arborist undertaking the works to the satisfaction of the Principal Certifying Authority

34. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.
35. 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.

36. 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.

- 37. The site must be appropriately secured and fenced at all times during works.
- 38. 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.

- 39. Unless otherwise approved by Council, 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.

40. 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.
41. 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.
42. 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.
43. 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.
44. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.
45. Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. For vehicular access off rear laneways the level at the boundary shall match the invert level of the adjacent gutter plus 110mm/150mm at both sides of the vehicle entry.
46. 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.

47. 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**

48. 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.
49. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.
50. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever resulting from the development shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works shall be removed before the issue of the Occupation Certificate.
51. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Non-compliance with this condition will result in loss of your security deposit.
52. Light duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.
53. All redundant vehicular crossings to the site shall be removed and replaced by kerb

and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.

54. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
55. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

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

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

56. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities. The Plan must set out the following at a minimum:
- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
  - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

57. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
58. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
59. 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.

60. 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.
61. 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.

#### ONGOING CONDITIONS OF CONSENT

62. The Operation and Management Plan for the on-site detention and/or on-site retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
63. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
64. 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.
65. 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.
66. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. **Residential Flat Building** 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 Dwelling House is defined under the *Leichhardt Local Environmental Plan 2013*.

**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 4.55 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 to 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 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**NOTES**

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 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 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 8.2.
3. If you are unsatisfied with this determination, Section 8.7 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 4.55 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.  
Retained
  - 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.
9. You may need a permit before filling a new or renovated swimming pool which holds more than 10,000 litres of water. You are advised to contact Sydney Water on 132092 to obtain this permit.
10. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.