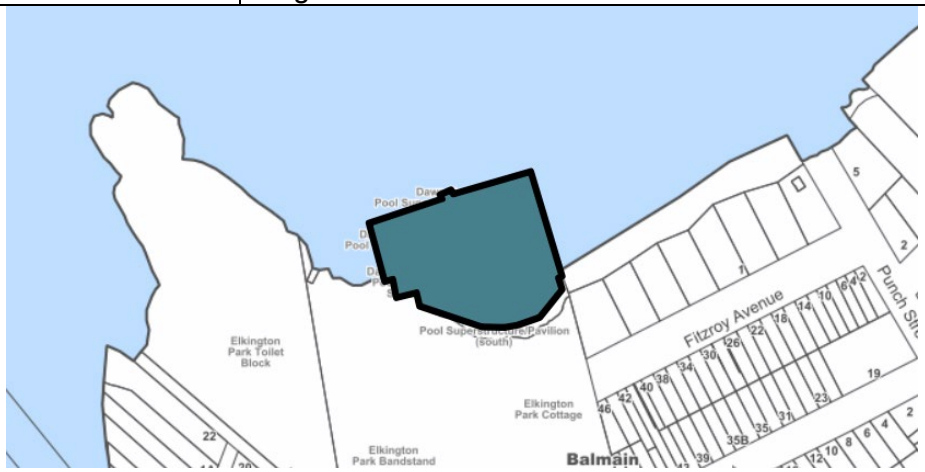
INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT	
Application No.	M/2019/207
Address	Dawn Fraser Baths, Fitzroy Avenue, Balmain (Lot 1 in DP 179092, Lot 639 in DP 752049, Lot 1 in DP 724787, Lot 1 in DP 131599 and Lot 55 in DP 1352)
Proposal	Modification of Development Consent D/2018/450 seeking the deletion of Condition 29, which was imposed in error.
Date of Lodgement	12 November 2019
Applicant	Inner West Council
Owner	Inner West Council
Number of Submissions	Nil
Value of works	$2,000,000
Reason for determination at Planning Panel	Conflict of Interest – Council is applicant and land owner.
Main Issues	No significant planning issues require resolution
Recommendation	Approved with Conditions
Attachment A:	Recommended amendments to consent
Attachment B:	Original Notice of Determination



LOCALITY MAP

Subject Site		N

1. Executive Summary

This application seeks consent to modify Development Consent No. D/2018/450 pursuant to the provisions of Section 4.55(1) of the Environmental Planning and Assessment Act 1979 by way of the following:

- Delete Condition 29 pertaining to the requirement to provide smoke alarms associated with (BCA) Class 1 buildings which was imposed in error.

The application was not required to be notified in accordance with Council's notification policy and no submissions have been received during the assessment period.

As discussed in this report, the consent authority erred in the imposition of Condition 29 and its deletion is supported. The application is therefore recommended for approval.

2. Proposal

The proposal seeks to modify Development Consent D/2018/450 by way of the deletion of Condition 29, which was imposed in error.

The original Development Application D/2018/450 was approved on 2 May 2019 by the Sydney Eastern City Planning Panel. Consent was granted for rectification and upgrade works to address structural, flooding and Building Code of Australia matters and an upgrade of the facilities at the heritage-listed Dawn Fraser baths off 48 Fitzroy Avanue, Balmain.

3. Site Description

The site is located on the northern side of Elkington Park, at the western end of Fitzroy Avenue in Balmain. The site, the subject to this application, consists of an area which extends into Elkington Park and Fitzroy Avenue Reserve and Parramatta River.

4. Background

4(a) Site History

Subject Site

Application	Proposal	Decision & Date
D/2018/450	Rectification & upgrade works to address structural, flooding and Building Code of Australia matters and upgrade facilities. Works include raising boardwalks and ground floor, dismantling and reconstruction of the southern pavilion with new roof, access and facilities, alterations and additions to the entry building of the southern pavilion, repairs and maintenance plus associated works. Provision of sprinkler system and emergency lighting/signage. Installation of new polo lights and solar panels.	Approved 02/05/2019 - Sydney Eastern City Planning Panel

5. Assessment

5(a) Section 4.55(1) Assessment

Section 4.55(1) of the Environmental Planning and Assessment Act 1979 relates to modifications involving minor error, mis-description or miscalculation.

It states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, mis-description or miscalculation.

The applicant has lodged a Section 4.55(1) application seeking to delete Condition 29 which is claimed to be in error. The condition in question reads as follows:

29. 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.

Condition 29 above relates to requirements for installing smoke alarms in Class 1 buildings in accordance with Part 3.7.2 of the BCA Volume 2 - Housing Provisions. The building in this application is a Class 9 building being that it is a building of a public nature and Council's Building Surveyor has confirmed that the consent authority erred in the imposition of Condition 29.

Further, the development was originally conditioned to ensure compliance with the Building Code of Australia. Given the above, Condition 29 is an error and its removal is supported.

The application has been assessed under Section 4.55(1) of the Act and is considered to be satisfactory.

5(b) Section 4.15 Assessment

The proposal seeks to delete a condition imposed in error, and hence, raises no issues that are contrary to planning controls or the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

6. Referrals

6(a) Internal

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

- Building – no objection to the deletion of the condition, which does not relate to the BCA classification of the subject building and has been imposed in error.

6(b) External

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

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal remains compliant with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and Leichhardt Development Control Plan 2013.

Given the modification involves the rectification of a minor error, the development will not result in any impacts on the amenity of the adjoining land, the significance of the heritage item or the streetscape and approval of the proposal is considered to be in the public interest.

The modification application is considered suitable for approval.

9. Recommendation

A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 and s4.55 of the *Environmental Planning and Assessment Act 1979,* grant consent to Development Application No. M/2019/207 for the modification of Development Consent D/2018/450 seeking the deletion of Condition 29 which was imposed in error at Dawn Fraser Baths, off Fitzroy Avenue, Balmain subject to the amendment listed in Attachment A below.

Attachment A – Recommended amendment to consent

~~29.~~ ~~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.~~

[Condition deleted under M/2019/207 on INSERT DATE]

Attachment B – Original Notice of Determination

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Attachment B – Original Notice of Determination

Contact: Brian Kirk
Phone: 9392 5773

4 April 2019

Inner West Council
7-15 Wetherill St
LEICHHARDT NSW 2040

NOTICE OF DETERMINATION OF
DEVELOPMENT APPLICATION NO: D/2018/450
Issued under the Environmental Planning & Assessment Act 1979
(Section 4.18)

Applicant Name:	Inner West Council
Applicant Address:	7-15 Wetherill St LEICHHARDT NSW 2040
Land to be Developed:	**Lot 1 DP 179092, Lease Lot Lease Plan PM 1054XL** **Dawn Fraser Baths, Off 48 Fitzroy Avenue, BALMAIN NSW 2041**
Proposed Development:	Rectification & upgrade works to address structural, flooding and Building Code of Australia matters and upgrade facilities. Works include raising boardwalks and ground floor, dismantling and reconstruction of the southern pavilion with new roof, access and facilities, alterations and additions to the entry building of the southern pavilion, repairs and maintenance plus associated works. Provision of sprinkler system and emergency lighting/signage. Installation of new polo lights and solar panels.
Determination:	Approval
Date of Determination:	2 May 2019
Consent to Operate From:	2 May 2019
Consent to Lapse On:	2 May 2024

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

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CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2018/450 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Title	Reference	Revision	Drawn By	Dated
Cover Page & Site Plan	AR.DA.0000	D	TKD Architects	27.08.2018
Southern Pavilion				
Southern Pavilion Existing/Demolition Ground Floor Plan Cadastral Overlay	AR.SK.1001	A	TKD Architects	02.10.2018
Southern Pavilion Existing/Demolition Ground Floor Plan	AR.DA.1001	D	TKD Architects	27.08.2018
Southern Pavilion Existing/Demolition First Floor Plan	AR.DA.1002	D	TKD Architects	27.08.2018
Southern Pavilion Existing/Demolition Elevations	AR.DA.1101	D	TKD Architects	27.08.2018
Southern Pavilion Existing/Demolition Sections	AR.DA.1201	D	TKD Architects	27.08.2018
Southern Pavilion Proposed Works Ground Floor Plan	AR.DA.2001	D	TKD Architects	27.08.2018
Southern Pavilion Proposed Works First Floor Plan	AR.DA.2002	D	TKD Architects	27.08.2018
Southern Pavilion Elevations Proposed Repair Scope	AR.DA.2101	D	TKD Architects	27.08.2018
Southern Pavilion Existing/Demolition Sections	AR.DA.2201	C	TKD Architects	24.08.2018
Southern Pavilion Perspective Renders & Materials Schedule	AR.DA.3001	C	TKD Architects	27.08.2018
Southern Pavilion Proposed Works Ground Floor Plan (Stormwater Concept)	AR.TD.2001	P1	TKD Architects	September 2018
Northern Pavilion				
Northern Pavilion Existing/Demolition Ground Floor Plan	AR.DA.1003	D	TKD Architects	27.08.2018
Northern Pavilion Existing/Demolition First Floor Plan	AR.DA.1004	D	TKD Architects	27.08.2018
Northern Pavilion Existing/Demolition Elevations	AR.DA.1102	D	TKD Architects	27.08.2018
Northern Pavilion Proposed Works Ground Floor Plan	AR.DA.2003	D	TKD Architects	27.08.2018

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Northern Pavilion Proposed Works First Floor Plan	AR.DA.2004	D	TKD Architects	27.08.2018
Northern Pavilion Elevations Proposed Repair Scope	AR.DA.2102	D	TKD Architects	27.08.2018
Central Pavilion				
Central Pavilion Proposed Works	AR.DA.3000	D	TKD Architects	27.08.2018

Document Title	Prepared By	Dated
Detail and Level Survey (4 Sheets) Plan Reference No: 3520/18	Eric Sceeri & Associates – Land Survey Consultants	Date of survey 08.02.2018
Dawn Fraser Baths Redevelopment – Coastal Assessment	Cardno	11.04.2018
Heritage Council of NSW – Resolution – Integrated Development Application IDA/2018/100 (DOC18/765017)	Heritage Council of NSW	02.01.2019
Statement of Heritage Impact (Issue G)	GBA Heritage	15.10.2018
Conservation Management Plan (Issue B)	GBA Heritage	27.08.2018
Dawn Fraser Baths and Piers Repairs - DA Cost Plan	AECOM Australia	31.07.2018
Statement of Environmental Effects	URBIS	03.10.2018
Dawn Fraser Baths – External Materials and Colour Scheme (Issue A)	TKD Architects	28.08.2018
Dawn Fraser Pool – Fabric Assessment and Recommendations	Shreeji Consultant Structural Civil Engineers	Undated
Site waste minimisation and management plan (Issue B)	TKD Architects	29.08.2018
BCA / Access Capability Statement for Development Application	Design Confidence (Sydney) Pty Ltd	27.08.2018

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. 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

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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.

3. Prior to the issue of any Construction Certificate, any person acting on this consent must submit an application and obtain approval under section 60 the Heritage Act 1977 and include in that application all information as required by the general terms of approval granted by the Heritage Council of NSW as set out in the Resolution Integrated Development Application IDA/2018/100 (DOC18/765017) which is listed in **Condition 1** above, and included at **Appendix A**.

   Any person acting on this consent must also comply with all other requirements of the general terms of approval granted by the Heritage Council of NSW as set out in the Resolution Integrated Development Application IDA/2018/100 (DOC18/765017) which is listed in **Condition 1** above, and included at **Appendix A**.

4. Amended or more detailed plans are to be submitted incorporating the following requirements:

   a) Sandstone to be utilised in the sea walls is to be quartz rich, with a quartz content of at least 70%. The grout is not to have high cement content but is to be specified to be sacrificial and to weather in preference to the sandstone blockwork.

   b) Perimeter lighting and landscaped barrier treatments to concealed spaces are to incorporated into the overall schedule of works having regard to the principles of Crime Prevention Through Environmental Design (CPTED) and minimise opportunities for criminal and anti-social behaviour within the public domain.

   c) A landscape plan is to be prepared for the site and its perimeter with sufficient details to satisfy the Accessibility requirements of the BCA and the Disability Discrimination Act 1992.

   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. An experienced suitably qualified & experienced Heritage Architect must be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the project.

   The heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage architect is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of

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heritage issues throughout the project. Heritage inductions are to be carried out with contractors.

Details of the engagement of the experienced Heritage Architect in accordance with this condition are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

6. An experienced suitably qualified & experienced Heritage Engineer must be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the project.

   The heritage engineer is to be involved in the resolution of all engineering matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

   Details of the engagement of the experienced Heritage Engineer in accordance with this condition are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

7. The approved Architectural plans shall be amended to incorporate the recommendations of the Foreshore Risk Management Plan approved in **Condition 18**. The plans addressing the requirements of this condition shall be provided prior to the issue of a Construction Certificate. The design shall be prepared to make provision for the following:

   a) Specification of materials

   b) Waterproofing works, where applicable.

   No changes to the external form or appearance of the development contrary to the approved plans shall occur except as identified by this condition. Any changes to such shall be subject to separate approval in accordance with Section 96 of the Environmental Planning and Assessment Act.

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

8. Engineering design plans prepared by a qualified practising Structural Engineer shall be prepared and incorporate the following recommendations of the Foreshore Risk Management Plan approved in **Condition 18**.

   The design shall be prepared to make provision for the following:

   a) Structural integrity of all structures from immersion and/or impact of velocity and debris.

   b) Waterproofing works, where applicable.

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

9. Where it is proposed to occupy or carry out works on public roads or Council controlled

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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. 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.

10. 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, including on Fitzroy Avenue, before the issue of a Construction Certificate.

11. 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.

12. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities.

13. The person acting on this consent shall apply for a Work Zone along the site frontage for construction vehicles if necessary. A minimum of 2 months should be allowed for the processing of the application.

14. Consent is granted for demolition of the structures existing on the property as proposed in the approved drawings listed in **Condition 1**, subject to strict compliance with

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the following conditions:

a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.

b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:

   i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.

   ii) A *final* inspection when the demolition works have been completed.

NOTE: If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.

d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.

e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.

f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures.*

g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.

h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.

i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The

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footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.

k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.

l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.

m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.

n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.

o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:

   i) A WorkCover licensed contractor must undertake removal of all asbestos.

   ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.

   iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.

   iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.

   v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

15. A full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any demolition work and prior to the issue of a Construction Certificate.

    The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment & Heritage (Heritage Branch) or by a

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suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Inner West Council Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.

b) Floorplans of the internal layout and directional details of photographs taken.

a) Coloured photographs of:
- each elevation,
- each structure and landscape feature;
- internal images of each room and significant architectural detailing;
- views to the subject property from each street and laneway or public space.

Note: Refer to the NSW OEH Heritage Branch free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at: http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf

16. An illustrated schedule of significant fabric is to be prepared prior to the issuing of a construction certificate which includes the items proposed to be salvaged, noting their original date of construction, location and detail. This schedule is to be included with the Archival Record.

17. A Heritage Interpretation Plan for the Dawn Fraser Baths must be submitted to and approved by Council's Heritage Specialist prior to the issue of a Construction Certificate. The plan is to be prepared by a suitably qualified and experienced heritage practitioner, interpretation specialist or historian in accordance with the '*Heritage Interpretation Policy*' published by the Heritage Council of NSW and the NSW Department of Planning in August 2005 and '*Heritage Information. Series, Interpreting Heritage Places and Items Guidelines*' published by the former NSW Heritage Office in August 2005.

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The interpretation plan must detail how archival, oral and other specific historical information regarding the historical development and significance of the Dawn Fraser Baths to the Balmain area will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, interpretive panels and the display of selected artefacts are some of the means that can be used. The plan must specify the location, type, details, materials and content of the interpretation device/s being proposed.

Prior to an occupation certificate being issued, the interpretation as set out in approved interpretation plan must implemented/installed to the satisfaction of Council's Heritage Specialist.

18. A Foreshore Risk Management Plan, prepared by a qualified practicing Civil Engineer shall be prepared prior to the issue of a Construction Certificate. The Plan shall be prepared / amended to make provision for the following:

    a) The plan shall be generally in accordance with the recommendations of the Dawn Fraser Bath Redevelopment – Coastal Assessment prepared by Cardno and dated 11 April 2018.

    b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations shall be consistent with the approved development. The precautions shall include but not be limited to the following:

        i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.

        ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.

        iii) Flood warning signs/depth indicators for areas that may be inundated

        iv) A flood evacuation strategy.

        v) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

    All works shall be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below.

Building Code of Australia	**Development Control Plan 2013**
Defined flood level (DFL)	*100 year Average Recurrence Interval flood level*
Defined flood event (DFE)	*100 year Average Recurrence Interval flood*
Flood hazard level (FHL)	*Flood Planning Level (FPL)*

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c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

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

19. Approval from NSW Roads & Maritime Services, for the proposed stormwater connection to Sydney Harbour/Parramatta River, shall be obtained prior to the issue of a Construction Certificate. Any requirements of NSW Roads & Maritime Services are to be complied with.

    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.

20. 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.

21. An engineering design and specification of stormwater drainage and civil works in Elkington Park and the subject site shall be prepared by a qualified practising Civil Engineer. The design and specification must be prepared/amended to make provision for the following:

    a) The design shall be generally in accordance with the stormwater drainage concept plan sketch Drawing No. SKC006 prepared by Cardno.

    b) The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands including Elkington Park and along the path between the southern pavilion and embankment to the south. The design shall include the collection of such waters and discharge to the Council drainage system or Sydney Harbour.

    c) Council's piped stormwater drainage system shall be an appropriately sized pipeline(s) (minimum 375mm diameter). The pipeline(s) and pit(s) shall be designed to have the capacity to collect and convey flows from the contributing catchment as generated by a 20 year Average Recurrence Interval storm event.

    d) The design must be accompanied by detailed engineering drawings including relevant long and cross sections, hydraulic grade line analysis and location of utility services, proposed and existing surface levels and existing landscape features including trees.

    e) The site plans shall be amended to accurately show the location of the Council's existing stormwater pipe(s) including Council's drainage system that passes through Elkington Park adjacent to the site.

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f) Plans shall show all existing components and specify that any components of the existing system to be retained shall be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.

g) Provide details of all proposed works including reconstruction of the footpath and any other civil works.

h) All redundant pipelines shall be removed and pathway and/or landscaping reinstated.

i) The stormwater system shall not be influenced by backwater effects or hydraulically controlled by the receiving system.

j) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards and Council's Specifications and Standard Drawings.

k) Detail all hold and witness points and allocate responsibility for undertaking the inspections.

l) The applicant must consult with Council's Parks Capital Works Manager and Council's Infrastructure Planning Manager in relation to the design of all works.

The design and specification shall be endorsed by Council's Parks Capital Works Manager and Council's Infrastructure Planning Manager prior to the issue of a Construction Certificate.

These works shall be constructed in accordance with the approved plans and specification and be completed prior to the issue of an Occupation Certificate.

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

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

22. An integrated structural and geotechnical report that address the proposed works, prepared by a qualified practicing Structural and Geotechnical Engineer, shall be provided prior to the issue of a Construction Certificate. The report and plans shall be prepared/ amended to make provision for the following:

- Assess the stability of the existing embankment adjacent to the site.
- Recommendations regarding method of excavation and construction, vibration emissions and identifying risks to existing embankment.
- Recommendations regarding proposed drainage system and civil works along the path between the structures and the cliff to the south.
- Relevant geotechnical/subsurface conditions of the site, as determined by any necessary geotechnical investigation.

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- Specify the plans which the recommendations have been incorporated.
- Any other issues that may need to be addressed.

The design shall be certified as compliant with the terms of this condition by a suitably qualified practicing Structural and Geotechnical Engineer.

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

23. 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.

24. 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.

25. 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

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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.

26. 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.

27. Where there are existing unpainted brick surfaces, these 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.

28. 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.

29. 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

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installed in the building, evidence of this should be submitted with the application for a Construction Certificate.

30. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:

    a) Minimise the area of soils exposed at any one time.

    b) Conservation of top soil.

    c) Identify and protect proposed stockpile locations.

    d) Preserve existing vegetation. Identify revegetation technique and materials.

    e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.

    f) Control surface water flows through the site in a manner that:
        i) Diverts clean run-off around disturbed areas;
        ii) Minimises slope gradient and flow distance within disturbed areas;
        iii) Ensures surface run-off occurs at non erodable velocities;
        iv) Ensures disturbed areas are promptly rehabilitated.

    g) Sediment and erosion control measures in place before work commences.

    h) Materials are not tracked onto the road by vehicles entering or leaving the site.

    i) Details of drainage to protect and drain the site during works.

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

31. 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.

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32. 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.

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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.

33. 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^3) 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)

34. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee shall 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 and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	$8,056.50
Inspection fee (FOOTI)	$230.65

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, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of

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competent jurisdiction, any costs to Council for such restorations.

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.

35. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)

    a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application

    b) A concrete pump across the roadway/footpath. – A Standing Plant permit

    c) Mobile crane or any standing plant – A Standing Plant Permit

    d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application

    e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application

    f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application

    g) Awning or street verandah over footpath. – Road works Application

    h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

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

PRIOR TO THE COMMENCEMENT OF WORKS

36. The approved plans must be submitted to the Sydney Water Tap in(tm) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in(tm) online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in(tm) service provides 24/7 access to a range of services, including:

- building plan approvals

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- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in(tm) online service is available at:
https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm

37. Prior to any ground disturbance works commencing on site, all staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974, which may be implemented as a heritage induction.

    If unexpected archaeological deposits or Aboriginal objects are found during the works covered by this approval, work must cease in the affected area(s) and the Office of Environment & Heritage must be notified. Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. Inner West Council's Aboriginal Liaison officer is also to be notified.

38. 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.

39. 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.

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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.

40. 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.

41. 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.

42. 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

43. Any works carried out must be detailed (if shop drawings are required) supervised and carried out by appropriately licensed or otherwise skilled tradespeople with a detailed knowledge, skills and experience appropriate to carrying out the work on heritage buildings and with Heritage Conservation Areas.

44. All demolition works are to be carefully undertaken. The approach taken is to be one of 'unbuilding' or dismantling rather than demolition so that adjacent elements are not damaged and that the elements indicated on the architectural plans as being salvaged for re-use are not damaged. A temporary but secure storage facility is to be established on site for all of the elements to be re-used during the building works.

45. Heritage inductions are to be held with all contractors to ensure that the heritage status of the complex is understood and that the aim of salvaging and re-using elements is understood.

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46. If unexpected archaeological deposits are found during the works covered by this approval, work must cease in the affected area(s) and the Office of Environment & Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

    Should any skeletal remains be discovered, work must cease in the affected area(s) and the skeletal remains are to be managed in accordance with the Office of Environment & Heritage Skeletal Remains: Guidelines for Management of Human Skeletal Remains. These guidelines can be ordered by completing the Publications Order Form available at: https://www.environment.nsw.gov.au/resources/heritagebranch/heritage/publicationsorderform.pdf

47. 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.

48. 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 Management 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.

49. 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.

50. 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.

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

52. 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.

53. 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.

54. 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

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minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.

55. 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.

56. 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.

57. 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.

58. 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 Council's public drainage system or directly to Sydney Harbour.

    Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily.

    If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.

59. Water quality filtration basket(s) with screening bag or similar primary treatment device(s) shall be installed on the site stormwater drainage system such that all water entering the site stormwater drainage system is filtered by the device(s).

60. 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.

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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.

61. 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

62. 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.

63. Prior to the issue of an Occupation Certificate the Heritage Architect and the Heritage Engineer are to certify that the works have been carried out in accordance with the Heritage Architect or Heritage Engineer Supervision conditions of Consent.

64. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard plans and specifications. The works shall be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the approved plans and specifications before the issue of the Occupation Certificate.

65. 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 the existing communications pit at the Bungay Street frontage or any other Gas, Water, Sewer, Electricity, Street lighting and Telecommunications services required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

66. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all aspects of the foreshore risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

    Certification by a qualified practicing Civil Engineer this condition has been complied with shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

67. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the site stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

    A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design

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and relevant Australian Standards, shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

68. Prior to the issue of an Occupation Certificate, the Council shall ensure that all approved of stormwater drainage and civil works in Elkington Park and the subject site have been completed in accordance with the plans approved with the Construction Certificate.

    Works-as-executed plans in PDF and CAD format (dwg or dxf files) of the extent of works, including stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practising Civil Engineer to verify that the works have been constructed in accordance with the approved design and relevant Australian Standards, shall be provided to Council prior to the issue of an Occupation Certificate.

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

    Video inspection (CCTV) of completed stormwater drainage works that are to revert to Council shall be carried out in accordance with the WSA Conduit Inspection Reporting Code of Australia to Council's satisfaction and a copy provided to Council to support the certification of those works.

    Written notification from Council's Parks Capital Works Manager and Council's Infrastructure Planning Manager that the works have been satisfactory completed, shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

69. Prior to the issue of an Occupation Certificate a qualified practicing structural and geotechnical engineer shall assess the stability of the existing embankment adjacent to the site and certify that the proposed works have not adversely impacted the stability of the embankment.

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

70. A maintenance schedule is to be prepared for the significant fabric such as joinery that is to be salvaged and reused. This schedule should relate to the Schedule of Significant fabric and should be provided with As Built Drawings before the issue of an Occupation Certificate.

71. 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.

72. 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),

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- approved documentation (as referenced in this consent); and
- conditions of this consent.

ONGOING CONDITIONS OF CONSENT

73. The Foreshore Risk Management Plan approved with the Occupation Certificate, shall be implemented and kept in a suitable location on site at all times.

74. 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.

75. 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 vessels on navigational waters. 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.

76. The water polo flood lights are to be switched off no later than 11pm, seven days per week.

77. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. **Recreation Facility (Outdoor)** 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

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(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

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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.

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7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

   a) Application for any activity under that Act, including any erection of a hoarding.

   b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979.*

   c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979.*

   d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.

   e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.

   f) Development Application for demolition if demolition is not approved by this consent.

   g) Development Application for subdivision if consent for subdivision is not granted by this consent.

   h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.

8. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor shall 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.

9. 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.