	ELOPMENT ASSESSMENT REPORT		
Application No.	DA/2020/1159		
Address	73 Nelson Street Rozelle NSW 2039		
Proposal	Ground and first floor alterations and additions to existing		
	detached dwelling-house, new swimming pool and associated		
	works, including tree removal		
Date of Lodgement	23 December 2020		
Applicant	Raymond Panetta Architects		
Owner(s)	Fillippo Kousis		
	Amy Catherine		
Number of Submissions	27 written submissions (see note)		
Value of works	\$700,000.00		
Reason for determination at	Number of objections		
Planning Panel			
Main Issues	Legal Access (Right of Way)		
Recommendation	Approval with Conditions		
Attachment A	Recommended conditions of consent		
Attachment B	Plans of proposed development		
10 112 2 4 5 5 5 5 5 5 5 5 5 5 5 5 5			
Subject			
Site	Objectors		
Area	Supporters		
NB – Multiple objections were received from the same property (4,5,6,10,14 and 16 York Place) and nine (9) submissions were received with no address provided.			

# 1. Executive Summary

This report is an assessment of an application for alterations and additions to 73 Nelson Street Rozelle. The application seeks ground and first floor alterations and additions to existing detached dwelling-house, new swimming pool and associated works, including tree removal.

The main issues that have arisen from the application include:

• Legal right of way (ROW) from the rear of the site to York Place

Legal access has not been established by the owners as requested by Council and raised by surrounding residents. Conditions will be imposed regarding access to the site during and post construction.

# 2. Proposal

The proposal is to demolish the ground floor weatherboard extension to the original cottage and construct an addition. The addition consists of a new ground floor living areas and utilities, and first floor bedrooms and bathrooms. Also, to the rear of the site the inclusion of a new inground pool and removal of trees to the north west boundary.

# 3. Site Description

The site is approximately 304m<sup>2</sup> in area and has a frontage of approximately 9.8m to Nelson Street and 9.8m to the rear. A portion of the rear boundary of the site fronts York Place and the front side boundary of 16 York Place. Off York place is a thin land parcel known as DP724767. From the subject site over this parcel is a vehicle crossover. The site is located on the northern side of Nelson Street.

The site presently accommodates a single storey dwelling. The adjoining properties consist of mixed single and double storey residential dwellings.

The site is located within the distinctive neighbourhood of Iron Cove Distinctive Neigbourhood and is not a heritage item, however it is located in a conservation area. To the rear of the site to the north is a row of Heritage listed buildings consisting of No 2 through to 16 York Place.



Fig 1: R1 – General Residential Zone – Heritage Conservation Area

# 4. Background

### 4(a) Site history

The following application outlines the relevant development history of the subject site.

### Subject Site

Application	Proposal	Decision & Date
PDA/2020/0434	Alterations and additions to dwelling	Issued 16/12/2020

### 4(b) Application history

Submissions from neighbouring properties questioned the validity of the crossover, access and egress from the rear of the subject site to York Place. Council requested that the applicant provide information in regards to the legal right of way from the site into York Place. The applicant provided documentation that confirmed the following:

BA/90/165 – Approved 2 April 1990 – Single storey alterations and additions and driveway off York Place

BA/96/555 – Approved 6 September 1996 - fence and gate to the rear boundary off York Place

On the 19 June 1991, a letter from council was sent to the then owners advising that the BA had expired as there was no commencement of the works.

There is a parcel of land located between the subject site, 73 Nelson Street and the road reserve being York Place. This parcel of land known as DP724767 is still in ownership of the original land holder, and the deposited plan provides no easement or legal right of way over the land to 73 Nelson Street.

Given the above, Council can not recognise the parking hardstand indicated on the plans as there is no legal access to it off York Place. The application is recommended to be conditioned as below until such time as the owner of 73 Nelson Street obtain legal rights of way over it:

### Public Domain and Vehicular Crossings

This development consent does not authorise vehicular or pedestrian access to the property off York Place. In this regard the applicant must first demonstrate that they have a legal right to attain access. Reason: To ensure the applicant is aware that this consent does not infer approval of access to the site from York Place.

### 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 (Building Sustainability Index: BASIX) 2004
- Leichhardt Local Environmental Plan 2013 (LLEP2013)

The following provides 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. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that "the site is, or can be made, suitable for the proposed use" prior to the granting of consent.

The site has no history of contamination.

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

A BASIX Certificate was submitted with the application and is satisfactory.

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

The site is located in the LR1 Residential Zone. The proposed development is for alterations and additions to a dwelling, which is permissible in the zone.

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

Clause 1.2 – Aims of the Plan

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.7 – Demolition Requires Development Consent

Clause 4.3A(3)(a) – 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 4.5 – Calculation of floor space ratio and site area

Clause 4.6 – Exceptions to development standards

Clause 5.9 – Preservation of trees or vegetation

Clause 5.10 – Heritage Conservation

Clause 6.1 - Acid Sulphate Soils

Clause 6.4 – Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio	0.63:1	N/A	Yes
Required: [0.8:1]	190.9sqm		
Landscape Area	20.4%	N/A	Yes
	62sqm		
Site Coverage	50.6%	N/A	Yes
_	153.2sqm		

## 5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section* 4.15(1)(a)(*ii*) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft IWLEP 2020 are not particularly relevant to the assessment of the application.

### 5(d) Development Control Plans

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

LDCP2013	Compliance
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies,	N/A
Verandahs and Awnings	
C1.17 Minor Architectural Details	Yes
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes	N/A
and Rock Walls	
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.5.4 Iron Cove Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
	Yes
C3.2 Site Layout and Building Design	
C3.3 Elevation and Materials	Yes

C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
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	Yes
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With	Yes
Development Applications	Maa
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site E1.2.3 On-Site Detention of Stormwater	Yes
	Yes N/A
E1.2.4 Stormwater Treatment	
E1.2.5 Water Disposal	Yes N/A
E1.2.6 Building in the vicinity of a Public Drainage System E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
L 1.0.2 1 01001010 1110K Wallayellielil	

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items

The siting, form, bulk and scale of the development is considered acceptable within the Conservation Area and adjacent to Heritage items on York Place. The development was assessed under a PREDA and subsequent Development Application by Councils Heritage

Officers raising no objections to the development, subject to materials and finishes that will be conditioned pertaining to lime mortar for the existing brickwork.

### C1.8 Contamination

The site has not been identified as a contaminated site through Councils records. Removal of lead and asbestos are subject to the usual provisions identified through the relevant Australian Standards.

### C1.11 Parking

Council has not been satisfied that the subject site has legal right of way (ROW) over a residual parcel of land between the subject site and York Place. Conditions are imposed to access to the site pre and post construction via Nelson Street until such time the owners can establish legal access to York Place.

### C1.14 Tree Management

The applicant is proposing to remove trees located on the western boundary. An assessment of the proposed removal was conducted by Council's Urban Forest team and concluded that the trees being removed were non prescribed trees, and those being retained being large non prescribed trees. The trees proposed to be removed are considered acceptable.

### C3.2 Site Layout and Building Design

There is a technical breach of upper floor building line zone to the eastern neighbour at 71 Nelson Street; The rear aligns with an existing first floor levels to No. 75 Nelson Street. Environmental impacts are minimal due to the orientation of the site and the setback to windows located on the western elevation. An assessment of the new shadows cast indicates that objectives and controls pertaining to protection of solar access to north facing living rooms and north facing private open space meets the DCP minimum requirements.

The subject site has a north-south orientation. The orientation results in minimal overshadowing to the East and west adjoining sites as 75 Nelson Street is built to the boundary and 71 Nelson Street is off set from the boundary. New shadows are minimal in elevation to any primary living area at the winter solstice, although some additional shadow is contributed by the breach in side setbacks for the first floor. From 12pm onwards, the West elevation of No. 71 Nelson Street begins to be affected by shadow, with the kitchen window free of shadow until 3pm. The primary living room windows to the rear of the dwellings 71 and 75 and their respective private open space are not impacted by the first-floor addition. Council is satisfied that the breach of rear upper floor BLZ to No. 71 and the side setback breach do not result in significant amenity impacts to the neighbouring properties and can be supported.

### C3.3 Elevation and Materials

The proposed materials and finishes are acceptable on planning grounds. Conditions have been recommended by Heritage officers pertaining to finishes and colours.

### C3.9 Solar Access

Prior to the lodgement of the development application, the design was assessed under a Pre-DA. The conclusion of the assessment required the design to be lowered by 500mm to address overshadowing and Heritage concerns. The design was amended prior to submission of the DA to Councils satisfaction. The proposal meets the objectives and controls regarding the protection of solar access to living room windows and private open space for north facing rear yards.

C3.10 Views

The development does not impact views of significance requiring assessment under the Land and Environment Court planning principles.

C3.11 Visual Privacy

The upper floor bedroom windows meet the test and are considered to be low habitable use and the location of these windows meets the objective and controls under the clause.

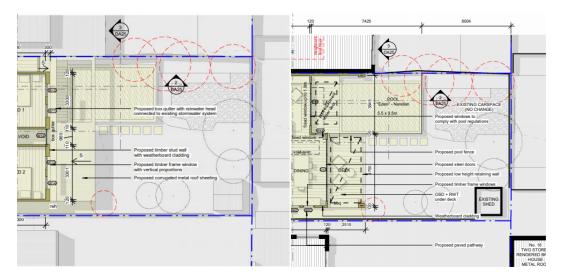
C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway. Measures for screening or obscuring will include one or more of the following:

a. offsetting of opposing windows so that they do not directly face one another;

C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).

The first-floor bedrooms are located over 9m from the front yard of 16 York Place.

The first floor aligns with 75 Nelson Street. The view lines into the POS are acceptable, as above, the bedroom is not a living area and the same amount of privacy from the first-floor bedroom window of 75 Nelson Street and offset, both facing north.



First floor windows are located more than 9m from the front yard of 16 York Place 75 Nelson Street and the subject site first floor windows are in alignment and offset from each other, both facing north.

C3.12 Acoustic Privacy

The dwelling and the pool will not give rise to unreasonable acoustic impacts. The pool and private open space (POS) is aligned with adjacent POS. In this instance the objectives and controls are considered to be met in terms of location and setting. The pool equipment is located under the deck to the south of the pool, and this area is protected by a solid dividing wall between No. 75 Nelson Street and the subject site.

O1 Development creates a high level of residential comfort by containing noise within each dwelling and minimising the transmission of external noise.

C3 Noise generating areas that are not contained within buildings, such as private outdoor open space, parking and service equipment, are located and oriented away from bedroom windows on adjoining sites.

Note: Key parts of the development such as private open space should also be located on site in a manner that is compatible with the prevailing pattern of surrounding development. Council will assess each proposal on its individual merit considering this matter.

C8 Private open space is encouraged to be located away from bedrooms on adjoining properties to ensure minimal acoustic impacts.

### 5(e) The Likely Impacts

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

### 5(f) The suitability of the site for the development

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

### 5(g) Any submissions

The application was notified in accordance with Council's policy for a period of 14 days to surrounding properties. 27 submissions were received in response to the notification.

The application was notified in accordance with Council's policy for a period of 14 days an onsite notice was displayed on the property, and residents/property owners in the vicinity of the property were notified of the development. 27 submissions were received, of the 27 there were multiple objections received from the same property (No. 4,6,10,14 & 16 York Place), with the exception No. 16 York Place, where one was received by the owner and one from the tenant, the number of objections totals twenty one (21). Objectors raised the following concerns which have already been discussed throughout the main body of this report:

- (i) Parking / Access from York Place
- (ii) Tree removal
- (iii) Heritage/Conservation
- (iv) Contamination
- (v) Privacy / Overlooking
- (vi) Overshadowing
- (vii) Design in the conservation area
- (viii) Overall bulk, scale and setbacks

### (ix) Excavation/Pool location

Other items and response below:

- (x) Construction management (dust, traffic, debris, noise, hours of operation) with respect to construction management, standard conditions are recommended to capture items raised in objections relation to noise, dust and debris and managing traffic conflict during the construction phase.
- (xi) Child safety- As above, access to the site will need to occur from Nelson Street mitigating traffic issues and conflicts on York Place.
- (xii) Notification The application was notified in accordance with Council's policy for a period of 14 days an on-site notice was displayed on the property.
- (xiii) Water table The site falls from the East to the West, where the building is proposed to be located on the boundary and the pool some 700mm from the western boundary. The plans indicate an existing retaining wall on the western boundary between 73 and 75 Nelson Street, situated wholly within the allotment of No. 75. The location of the pool and removal of trees on the western boundary will require changes to the ground levels to ensure there is no restriction of natural stormwater flow. Conditions are recommended to ensure the hard surfaces drain away from the western boundary into the OSD tank that is proposed and located to the east of the site.
- (xiv) Pool Location/excavation The proposed pool is not located on the boundary as suggested. The pool is located approximately 600mm from the Western boundary. The proposal will condition a dilapidation report for the class 1 structure (building) and Class 10 (pool) to ensure protection of adjacent structures during and the completion of the build.

### 5(h) The Public Interest

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

The proposal is not considered contrary to the public interest.

# 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.

- Heritage no objections subject to conditions
- Engineers no objections subject to conditions
- Urban Forest no objections subject to conditions

# 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 Contributions are payable for the proposal.

A total contribution of \$7000.00 is included in the recommended conditions in Appendix A.

# 8. Conclusion

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

The development will not result in any significant impacts on the amenity of the adjoining properties or the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

# 9. Recommendation

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, grant consent to Development Application No. D/2020/1008 for alterations and additions to dwelling and rear garage and studio at 138 Young Street Annandale subject to the conditions in the Notice of Determination.

# **Attachment A – Recommended conditions of consent**

### CONDITIONS OF CONSENT

### DOCUMENTS RELATED TO THE CONSENT

### 1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA03 Issue B	existing/demolition floor plan	17/12/2020	Raymond Panetta Architect
DA04 Issue B	existing/demolition roof plan	17/12/2020	Raymond Panetta Architect
DA05 Issue B	existing/demolition elevations	17/12/2020	Raymond Panetta Architect
DA06 Issue B	existing/demolition sections	17/12/2020	Raymond Panetta Architect
DA07 Issue B	ground floor plan	17/12/2020	Raymond Panetta Architect
DA08 Issue B	first floor plan	17/12/2020	Raymond Panetta Architect
DA10 Issue B	south & east elevations	17/12/2020	Raymond Panetta Architect
DA11 Issue B	north & west elevations	17/12/2020	Raymond Panetta Architect
DA12 Issue B	cross section 1 & 2	17/12/2020	Raymond Panetta Architect
DA13 Issue B	long section 1 & 2	17/12/2020	Raymond Panetta Architect
DA14 Issue B	landscape	17/12/2020	Raymond Panetta Architect
DA25 Issue B	pool plans	17/12/2020	Raymond Panetta Architect
DA26 Issue B	materials and finishes	17/12/2020	Raymond Panetta Architect

C01	stormwater layout	16/12/2020	Development engineering Solutions
A400956	BASIX certificate	18/12/2020	Raymond Panetta

As amended by the conditions of consent.

#### FEES

#### 2. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been 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:	\$2,209.00	
Inspection Fee:	\$236.70	

Payment will be accepted in the form of cash, bank cheque, 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 the Council to determine the condition of the adjacent road reserve and footpath prior to and 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 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 initial 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.

#### 3. Section 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020.* 

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions

Payment amount\*:

#### \$7000.00

\*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

#### Payment methods:

The required contribution must be paid either by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

#### 4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid 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.

#### **GENERAL CONDITIONS**

#### 5. Boundary Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

#### 6. Tree Protection

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.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

The trees identified below are to be retained and protected in accordance with the conditions of consent throughout the development.

Tree No.	Botanical/Common Name	Location
1	<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark)	Nelson Street

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

#### a. Green for trees to be retained

#### 7. Noise Levels and Enclosure of Pool/spa Pumping Units

Noise levels associated with the operation of the pool/spa pumping units must not exceed the background noise level (L90) by more than 5dBA above the ambient background within habitable rooms of adjoining properties. Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed within a building so as not to create an offensive noise as defined under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2008.* 

Domestic pool pumps and filters must not be audible in nearby dwellings between 8:00pm to 7:00am Monday to Saturday and 8:00pm to 8:00am Sundays and Public Holidays.

#### 8. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

#### 9. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

#### 10. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

#### 11. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

#### PRIOR TO ANY DEMOLITION

#### 12. Hoardings

The person acting on this consent must ensure the site is 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 roads or Council controlled lands 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. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

#### 13. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining property, 75 Nelson Street Rozelle to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

#### 14. Advising Neighbors Prior to Excavation

At least 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.

#### 15. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

#### 16. Construction Traffic Management Plan

Prior to any demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained. All site access must be off Nelson Street.

#### PRIOR TO CONSTRUCTION CERTIFICATE

#### 17. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

#### 18. Stormwater Drainage System – Minor Developments (OSD is required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The stormwater drainage concept plan on Drawing No. 200811/C01 issue (A) prepared by DEVELOMENT ENGINEERING SOLUTIONS and dated 3 August 2020, must be amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP:
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- e. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
- g. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the

collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;

- Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- i. Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the OSD/OSR. The over flow from the storage tank must be connected under gravity to Nelson Street.
- j. The depth of the underground OSD/OSR must comply with the confined space requirements. Access must be provided over the the inlet pipe and overflow conduit from the OSD/OSR.
- Details of the 100-year ARI overflow route in case of failure\blockage of the drainage system must be provided;
- An overland flow path must be provided within the setback to the eastern side boundary between the rear of the dwelling and the Nelson Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flow path;
- m. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- n. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- o. No nuisance or concentration of flows to other properties;
- p. Plans must specify that any components of the existing system to be retained must 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;
- An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- r. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- s. 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 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
- t. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- u. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- Stormwater drainage must be located such that any waters leaving the pool must drain to pervious areas prior to potentially draining to the site stormwater drainage system;
- w. No impact to street tree(s).

#### 19. Changes to Levels

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans incorporating the following amendments:

a. A 150 mm step up must be provided between the finished surface level of the [external area] and the finished floor level of the [internal rooms.

#### 20. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a 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. The certificate must 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.

#### 21. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program 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.

Note: Please refer to the web site http://www.sydneywater.com.au/tapin/index.htm for details on the process or telephone 13 20 92

#### DURING DEMOLITION AND CONSTRUCTION

#### 22. Lime Mortar Mix for Render

During construction work, a traditional lime mortar mix of 1 part lime putty to 3 parts washed, well graded, sharp sand (1:3) shall be used for the render for the front façade to ensure that no further damage is caused to the bricks and so they can "breathe".

#### 23. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

#### 24. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

#### PRIOR TO OCCUPATION CERTIFICATE

#### 25. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

#### 26. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. 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 Certifier stamped Construction Certificate plans.

#### 27. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

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

#### ADVISORY NOTES

#### Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must 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 veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

#### Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to 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.

#### Consent of Adjoining property owners

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out

approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

#### Tree Protection Works

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

#### Tree Pruning or Removal (including root pruning/mapping)

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and must be retained and protected in accordance with Council's *Development Fact Sheet—Arborist Reports.* 

#### Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000.* 

#### Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
    - the date the work is due to commonce and the expected
- ii. the date the work is due to commence and the expected completion date; and b. a written notice must be placed in the letter box of each directly adjoining property
  - identified advising of the date the work is due to commence.

#### Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

#### **Toilet Facilities**

The following facilities must be provided on the site:

a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and

b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

#### Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. 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 must be undertaken before occupation of the site.

#### Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

#### Failure to comply with conditions

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.

#### Other works

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*.

#### **Obtaining Relevant Certification**

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;
- 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; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

#### National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

#### Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- 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.
- 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.

#### **Dividing Fences Act**

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

#### Swimming Pools

Applicants are advised of the following requirements under the Swimming Pools Act 1992:

- a. The owner of the premises is required to register the swimming pool on the NSW State Government's Swimming Pool Register. Evidence of registration should be provided to the Certifying Authority.
- b. Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the. The pool must not be filled with water or be allowed to

collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012.

- c. A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.
- d. Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
- e. A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with Clause 10 of the *Swimming Pool Regulation 2008*.
- f. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the *Swimming Pools Act 1992* at all times.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa must enter Council's stormwater system.

#### Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must 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; and
- 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. A lease fee is payable for all occupations.

#### Noise

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.

#### Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

#### Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

#### **Useful Contacts**

BASIX Information		1300 650 908 weekdays 2:00pm - 5:00pm
		www.basix.nsw.gov.au
Department of Fair Tr	ading	13 32 20
		www.fairtrading.nsw.gov.au
		Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig		1100
		www.dialprior toyoudig.com.au
Landcom		9841 8660
		To purchase copies of Volume One of "Soils and Construction"
Long Service	Payments	131441
Corporation		www.lspc.nsw.gov.au

NSW Food Authority	1300 552 406
	www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro
	www.diysafe.nsw.gov.au
	Information on asbestos and safe work practices.
NSW Office of Environment and	131 555
Heritage	www.environment.nsw.gov.au
Sydney Water	13 20 92
	www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116
	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50
	www.workcover.nsw.gov.au
	Enquiries relating to work safety and asbestos removal and disposal.
Public Domain and Vehicular Crossing	s

This development consent does not authorise vehicular access to the proposed hardstand via gates off York Place. In this regard the applicant shall satisfy themselves that they have a legal right to attain vehicular access.

<u>Reason:</u> To ensure the applicant is aware that this consent does not infer approval of vehicular access to the proposed structure.



# Attachment B – Plans of proposed development

