



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2017/366
<b>Address</b>	3 Emily Street, ROZELLE NSW 2039
<b>Proposal</b>	Alterations and additions to the existing dwelling house to create a two-storey residence.
<b>Date of Lodgement</b>	28 July 2017
<b>Applicant</b>	Mr G C Richards
<b>Owner</b>	Mr G C Richards and Ms A M Moore
<b>Number of Submissions</b>	No submissions were received.
<b>Value of works</b>	\$267,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation for FSR
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>• Impact to streetscape</li> <li>• Non-compliance with</li> </ul>
<b>Recommendation</b>	Approval, subejct to conditions.



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to the existing dwelling house to create a two-storey residence at 3 Emily Street, ROZELLE NSW 2039. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Impact to streetscape and desired future character of the area
- Non-compliance with FSR development Standard
- Solar Access impacts

The non compliances are acceptable subject to a condition that requires the first floor front boundary setback to be increased by 3 metres (This will result in the deletion of bedroom 2). Subject to this condition, the application is recommended for approval.

## 2. Proposal

The DA proposes the following works:

- Internal alterations at ground floor level, within existing building footprint and
- New first floor addition to create a two-storey residence.

## 3. Site Description

The subject site is located on the western side of Emily Street, between Alfred Street and Evans street. The site consists of 1 allotment and is generally rectangular with a total area of 84.9 m<sup>2</sup> (as per survey) and is legally described as Lot 1 DP 945606.

The site has a frontage to 3.66 metres to Emily Street. The site is affected by a number of easements - 1. Easement for access (A) - Right of Way A89586 - land shown as passage in DP945606 and 2. Proposed easement for overhanging gutter (B) - Variable width - vide DP848732.

The site supports a single storey timber dwelling that reads as a pair with 1 Emily Street. The adjoining properties support a single storey timber dwelling to the south, a brick garage to the north that is associated with No. 48A Denison Street which a two storey dwelling with a primary street frontage to Denison Street and a two storey dwelling to the west.

The subject site is not listed as a heritage item. The property is not located within a conservation area nor is it identified as a flood prone lot.

## 4. Background

### 4(a) Site history

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

## Subject Site

Application	Proposal	Decision & Date
PREDA/2013/74	Alterations and additions to the existing dwelling including construction of a new first floor.	22-Aug-2013 (advice issued)
D/2015/684	Alterations and additions to the existing dwelling including construction of a first floor level. Variations to the Site Coverage and Floor Space Ratio development standards.	18-Mar-2016 (Withdrawn)
PREDA/2016/112	Alterations and additions including second floor addition	03-Aug-2016 (Issued)

## Surrounding properties

Application	Proposal	Decision & Date
D/2006/205	<u>50 Denison Street</u> Alterations and additions to existing dwelling.	11-Jul-2006 (Approved)
D/2016/125	<u>52 Denison Street</u> Demolish rear single storey and construct new single storey addition to rear of dwelling. Construct new front balcony.	04-May-2016 (Approved)
M/2016/130	<u>52 Denison Street</u> Demolish rear single storey and construct new single storey addition to rear of dwelling. Construct new front balcony. S96(1) Modification to remove condition 4a	21-Jul-2016 (Approved)

## 4(b) Application history

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

Date	Discussion / Letter/ Additional Information
16 October 2017	<p><u>Letter requesting amendments sent</u></p> <p>The letter outlined that given that No. 1 and No. 3 Emily Street reads as a pair of small dwellings, the application in its current form is considered to result in unsatisfactory streetscape impacts. The proposed rear enclosed balcony is also considered to be of a form that is unsatisfactory in relation to bulk and scale impacts to No. 1 Emily Street and breaches the maximum dimensions of a first floor balcony that has sightlines into adjoining properties, therefore the proposed rear balcony in its current form cannot be supported. The proposal cannot be considered favourably without the following design changes:</p> <p>a) Reduction in length of the building by setting back the front (eastern) wall of the addition by a further 3 metres to the front boundary (this will require bedroom 2 to be deleted).</p> <p>b) The proposed rear balcony to be deleted.</p> <p>c) The removal of any elements that encroaches beyond the boundaries of the proposed site.</p>

30 October 2017	Applicant submitted the amended design which forms the basis of this assessment report. The rear balcony was deleted and the elements encroaching over the boundaries of the proposed site were deleted but the front elevation was not set back as requested.
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## 5. Assessment

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

### 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

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

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(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 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
<b>Floor Space Ratio</b> Required: [0.9:1]	Proposed: 1.19:1 101m <sup>2</sup>  As recommended: 1.08 92 m <sup>2</sup>	Proposed 32%  As recommended: 20%	No
<b>Landscape Area</b> <b>Minimum 15%</b>	17% (15 m <sup>2</sup> )	Complies	Yes
<b>Site Coverage (60%)</b>	74% (63 m <sup>2</sup> )	23%	No

It can be noted that at the time of report, Leichhardt Local Environmental Plan 2013 (Amendment No. 13) – in relation to the Review of Floor Space Ratio had been formally adopted and the table above reflects the development standards of Amendment No. 13.

The following provides further discussion of the relevant issues:

Clause 4.3A(3)(a) – Site Coverage for residential development in Zone R1

The application has been assessed as having a Site Coverage of 74% thereby resulting in a 23% breach of the development standard for Site Coverage that stipulates a maximum of 60% of the Site Area. It can be noted that the site coverage is consistent with the existing site coverage.

Clause 4.4 – Floor Space Ratio

The application has been assessed as having an FSR of 1.19:1 thereby resulting in a 32% breach of the development standard for FSR in this area that stipulates a maximum of 0.9:1. As recommended, the FSR will be 1.08:1 (20% variation)

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard/s:

- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio

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

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

The proposal involves a breach of the Floor Space Ratio, Site Coverage development standards contained in clause 4.3(a) and 4.4 of LEP2013.

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

The applicant has submitted a request for an exception to the Site Coverage Development standard which contains the following justification of the proposed breaches:

- *The proposed footprint is the same as existing;*
- *The proposed site coverage is consistent with other building footprints in the area*

The applicant has submitted a request for an exception to the maximum FSR standard which contains the following justification of the proposed breach:

- *The proposal would remain consistent with the aims of the Leichhardt LEP 2013; the objectives of the R1 General Residential zone and the objectives of the relevant development standard;*
- *The proposal would ensure a density and a development outcome that is compatible with the existing and future development in the locality;*
- *The proposal would ensure that a modest first floor addition compatible with the existing and future residential character is achieved, notwithstanding the site's development constraints;*
- *The existing development, though modest in size at 58.09 sq m, contravenes the maximum FSR development standard by virtue of the site's smaller than average lot size (84.9 sq m, compared to the minimum 200 sq m lot size in this locality). The first floor addition proposed then further breaches this 0.5:1 maximum FSR development standard, which is considered rudimentary, redundant and theoretical at this site. Strict adherence to the development standard would result in a dwelling containing a maximum GFA of only 42.45 sq m, which would not meet the minimum 50 sqm requirement for a 1-bed apartment, under the Apartment Design Guide.*
- *The architectural designs submitted with the DA demonstrates that the modified dwelling is considered to be acceptable and fit-for-purpose and capable of accommodating the modest addition at the site without any significant adverse amenity impacts in terms of bulk, scale, overlooking, privacy and shadow impact;*
- *There are no heritage impacts as a result of the proposal;*
- *There is no maximum building height limitation and therefore no breaches of any maximum height limit;*
- *With no expansion of the building footprint there is no impact on Acid Sulfate Soils (class 5); and*
- *The proposal would not become a prominent architectural feature of the local skyline and streetscape, as it will sit below other larger 2 and 3-storey developments and screened by mature vegetation.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

- (a) the consent authority is satisfied that:*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Director-General has been obtained.*

The relevant objectives of the standard are:

- (a) to ensure that residential accommodation:*
  - (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
  - (ii) provides a suitable balance between landscaped areas and the built form, and*
  - (iii) minimises the impact of the bulk and scale of buildings, and the objectives for development within the zone.*

In this regard, it is considered that the exceptions to developments can be supported for the following reasons:

#### *Site coverage*

- Despite the non-compliance, the proposed development will retain a private open space that meets the relevant provisions in DCP2013 and is of an acceptable size for recreational purposes.

- The proposal will achieve compliance with the Landscaped Area development standard.
- The proposal will not result in any increase to the existing building footprint.

Floor Space Ratio:

- The proposed development is considered to be reasonable in regards to solar access impacts, complies with visual privacy controls and will not result in the loss of any significant views, therefore, the proposal is considered to be of a form that will not result in adverse amenity impacts to the surrounding properties.
- Subject to the recommended condition that requires the first floor front boundary setback to be increased by 3 metres, the proposed additions is considered to be compatible with the streetscape.
- Given the small size of the lot (approximately 84.9 metres from survey), the approved floor area as recommended (92 m<sup>2</sup>) is considered to be compatible with other developments in the immediate surroundings.

Subject to conditions to the amended proposal, it is considered that the applicant's request for exception to the development standard adequately addresses the matters in subclause (3) and that, subject to appropriate conditions of any consent, the proposal will be in the public interest as it is consistent with the objectives of the standard and the zone.

The Director-General has provided concurrence.

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

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

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

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

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

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

## 5(b) Draft Environmental Planning Instruments

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

- Draft State Environmental Planning Policy (Coastal Management) 2016

The following provides further discussion of the relevant issues:

Public Recreation and associated mapping amendments.

### State Environmental Planning Policy (Coastal Management) 2016

The application has been considered against the Draft SEPP for Coastal Management.

The subject site is not located within “the coastal zone” pursuant to CI 5 of the draft SEPP, as identified on the map to the SEPP. Consequently, the draft SEPP is not applicable.

**CI 17 Development in coastal zone generally – coastal management programs to be considered.**

The proposal is not contrary to any current coastal management program in force for this location.

The proposal is considered to be satisfactory having regard to the Coastal Management draft SEPP.

**5(c) Development Control Plans**

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

<b>Part</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	N/A
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, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	Yes
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
<b>Part C: Place – Section 2 Urban Character</b>	

Suburb Profile	
C2.2.5.2 Easton Park Distinctive Neighbourhood	Yes, subject to conditions
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
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
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	N/A
C4.1 Objectives for Non-Residential Zones	N/A
C4.2 Site Layout and Building Design	N/A
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	N/A
C4.5 Interface Amenity	N/A
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes

E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
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	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
<b>Part F: Food</b>	
Section 1 – Food	N/A
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A
<b>Part G: Site Specific Controls</b>	
Old Ampol land, Robert Street	N/A
Jane Street, Balmain	N/A
Old Balmain Power Station	N/A
Wharf Road Birchgrove	N/A
Anka Site – No 118-124 Terry Street Rozelle	N/A
233 and 233A Johnston Street Annandale	N/A

The following provides discussion of the relevant issues:

#### C2.2.5.2 Easton Park Distinctive Neighbourhood

##### **Desired Future Character**

###### **Objective**

*O1 To facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.*

###### **Controls**

*C1 Preserve the existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture.*

*C2 Preserve view lines to the south and east by stepping buildings with the prevailing topography.*

*C3 Preserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style and prevalence of hipped and pitched roofs. Preserve the established setbacks for each street.*

*C4 Preserve the consistency and simplicity in built form, style and materials of the neighbourhood.*

*C5 Maintain the existing roof forms, setbacks and fencing styles prevalent in each street.*

*C6 Preserve stone cottages and stone walls throughout the neighbourhood.*

*C7 Maintain the established open low timber and iron picket front fences.*

*C8 Cutting into rock face for any purpose including driveway crossings, is to be avoided.*

*C9 The building envelope applying to the neighbourhood is 3.6m.*

*C10 A 6m building envelope may be suitable where two story terraced development is dominant.*

*C11 Front building setbacks within the neighbourhood should be a minimum of 1m deep. However, where the prevailing setbacks in the immediate area of the development site (i.e. the adjoining three (3) sites on either side of the development site) are different, the setback for new development should be compatible with the prevailing setbacks.*

*C12 Maintain roof forms with pitched, gable or hipped roofs.*

*C13 The use of traditional timber, stone or masonry finishes, iron roofing and timber windows is encouraged.*

*C14 Reconstruction of posted verandahs over footpaths may be considered on corner sites where the established setback is nil and the established scale is two storeys.*

*C15 Where structures are proposed to be built on top of exposed rock face(s), they are to be timber or rendered masonry and coloured to complement the sandstone.*

The proposed site at 3 Emily Street is located on the western side of Emily Street which has a predominately service character, serving properties that has a frontage to Denison Street. 1, 3 and 7 Emily Street are the only lots on the western side of Emily Street that have a primary street frontage to Emily Street. All these properties are single storey in nature and 1 and 3 Emily Street form a pair of small houses. There are no formal council records on when these houses were constructed, but appears to have existed before 1943 (source: 6 Maps below).



It is noted that D/2000/1056 approved the demolition of an existing factory building and construction of twelve attached dwellings that are two storeys in nature on a single lot that is 2-12 Emily Street which is located on the eastern side of Emily Street. However, given that

1, 3 and 7 Emily Street, as well as 40, 42, 44, 46, 46A, 48 and 48A are all single storey or have a service character to Emily Street, it is considered that the established scale to Emily Street is single storey.

The proposed first floor addition is of a modern form and is currently proposed to be setback approximately 2280mm from the front wall of the existing dwelling. The resulting streetscape impacts, where No.1 and No. 3 Emily Street reads as a pair, is considered to be unsatisfactory and inconsistent with C1, C4 and C5 of the desired future character controls under this part. In order to maintain a predominately single storey character to the western side of Emily Street, it is recommended that the first floor be reduced in size with the first floor front boundary setback increased by 3 metres. This will result in the deletion of bedroom 2. Refer to condition 3 in attachment A.

The proposed glass blocks (i.e. W8) associated with the staircase on the northern elevation is not supported as it would unnecessarily restrict the development potential of the north-adjointing neighbour – the staircase is already served by skylights and the recommended condition mentioned above (which deletes the bedroom) will result in W5 providing solar access to the staircase. It can be noted that direct solar access is not required for stairs.

### C3.2 Site Layout and Building Design

The proposed first floor additions will result in the establishment of a new building location zone on the first floor level and the establishment of a building location zone can be considered where the proposed development addresses the issues in C5 of this part:

- a. *amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls of this Development Control Plan is achieved;*
- b. *the proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;*
- c. *the proposal is compatible in terms of size, dimensions, privacy and solar access of private open space, outdoor recreation and landscaping;*
- d. *retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and*
- e. *the height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.*

As discussed in a later section of the report, it is considered that the proposed additions would result in reasonable solar access impacts to surrounding properties. The proposed development complies with visual privacy controls of the DCP and there are no issues raised in regards to the obstruction of significant views. It is considered that the amended design will have acceptable impacts in regards to bulk and scale when viewed from the private open spaces of the adjoining properties.

However, as discussed above, it is considered that the current proposal is not satisfactory in regards to compatibility with the existing streetscape and a condition is recommended that requires the first floor front boundary setback to be increased by 3 metres. Subject to this condition, the proposed building location for the first floor level is considered appropriate in the circumstances.

### Side Setback

A technical non-compliance with the side setback control is noted along the southern side of the proposed additions as outlined in the following table:

Elevation	Proposed Maximum Wall Height (m)	Required setback (m)	Proposed setback (m)	Difference (m)
Northern	6.2	2.0	0	2.0
Southern	5.9	1.8	0	1.8

Control C7 under this part states that Council may allow walls higher than that required by the side boundary setback controls where:

- a. *The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*
- b. *The pattern of development within the streetscape is not compromised;*
- c. *The bulk and scale of development is minimised by reduced floor to ceiling heights;*
- d. *The potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*
- e. *Reasonable access is retained for necessary maintenance of adjoining properties.*

As discussed in a later section of the report, it is considered that the proposed additions would result in reasonable solar access impacts to surrounding properties. The proposed development complies with visual privacy controls of the DCP and there are no issues raised in regards to the obstruction of significant views. It is considered that the amended design will have acceptable impacts in regards to bulk and scale when viewed from the private open spaces of the adjoining properties. The proposed additions do not result in additional access issues.

However, as discussed above, it is considered that the current proposal is not satisfactory in regards to compatibility with the existing streetscape and a condition is recommended that requires the first floor front boundary setback to be increased by 3 metres. Subject to this condition, it is considered that this variation can be supported on merit.

### C3.9 Solar Access

#### **Neighbouring Living Room Glazing**

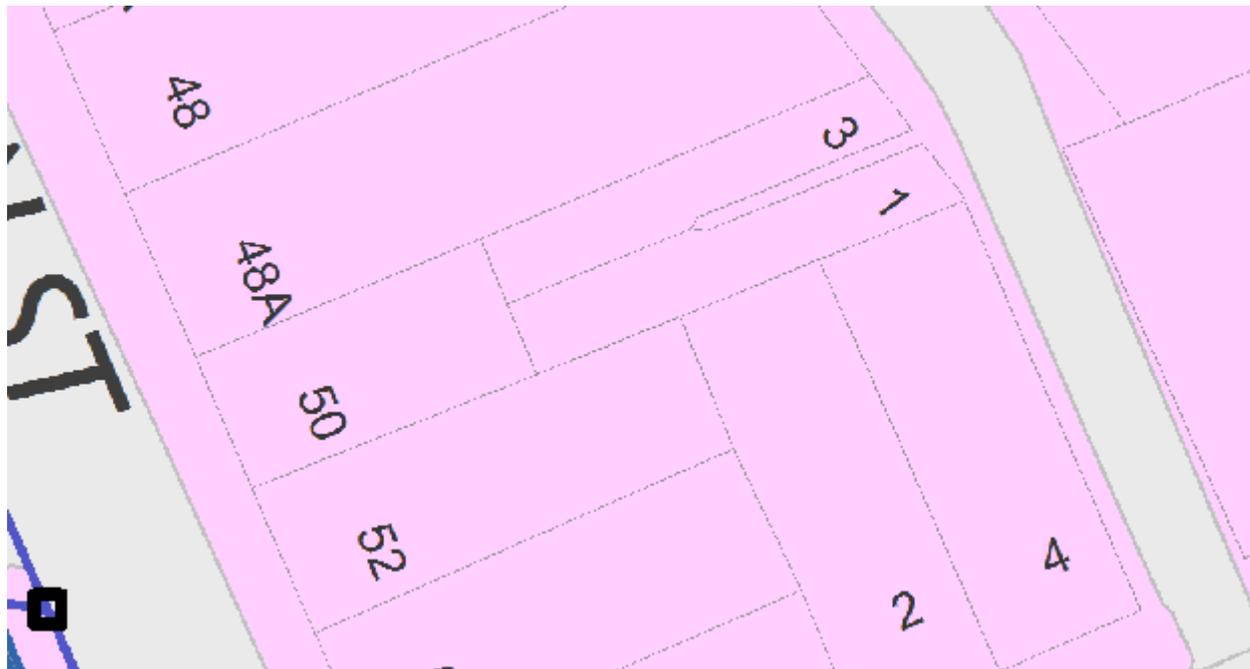
- C12 – Where the surrounding allotments are orientated east/west, *main living room* glazing must maintain a minimum of two hours solar access between 9am and 3pm during the winter solstice.
- C15 – Where surrounding *dwellings* currently receive less than the required amount of solar access to the *main living room* between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

The property most likely to be affected in this regard would be the south adjoining property at 1 Emily Street. Shadow diagrams in elevation were provided in relation to the potential impacts to 1 Emily Street, indicating the impacts at 9am, 12pm and 3pm at Winter Solstice. The shadow diagrams indicate that the window on the northern elevation is already entirely in shadow in the current setting and there are no other windows that would be impacted by the proposed development. Therefore there are no additional overshadowing impacts to any glazing on the south adjoining property.

The other property that could be impacted by this proposal in this regard is 52 Denison Street, which is to the south of No. 1 Emily Street and have east-facing glazing serving an open planned living/dining/kitchen area. The proposed works will result in some impacts to this glazing at 9am, but from 10am to 12pm, solar access will be retained to these windows, therefore, it is considered that solar access requirements in this regard is achieved.

### Impacts to Neighbouring Private Open Spaces

In addition, C3.9 also requires protection of solar access to private open spaces of adjoining properties. The subject site has a East-West orientation, as does No. 1 Emily Street, No. 50 Denison Street and No. 52 Denison Street. However the subdivision pattern in the immediate surroundings is not consistent, with inconsistent lot sizes and length where No. 52 Denison Street has a rear boundary that is approximately 8 metres beyond the rear boundaries of No. 1 and No. 3 Emily Street while 2 and 4 Alfred Street has a north-south orientation (refer to diagram below).



The following solar access controls apply to the proposal in relation to solar access to private open spaces of affected properties:

- C17 - Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.
- C18 - Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.
- C19 – Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm to during the winter solstice, no further reduction of solar access is permitted.

In assessing the reasonableness of solar access impact to adjoining properties, and in particular, in any situation where controls are sought to be varied, Council will also have regard to the ease or difficulty in achieving the nominated controls having regard to:

- a. the reasonableness of the development overall, in terms of compliance with other standards and controls concerned with the control of building bulk and having regard to the general form of surrounding development;
- b. site orientation;
- c. the relative levels at which the dwellings are constructed;
- d. the degree of skill employed in the design to minimise impact; and

e. whether reasonably available alternative design solutions would produce a superior result.

The shadow diagrams submitted indicate that the adjoining properties at No. 50 and No.52 Denison Street will be impacted, but there will not be any additional shadows at 1 Emily Street as any additional shadows will be within the existing shadows in mid-winter. The initial scheme and the amended scheme (which delete the first floor balcony and associated blade walls) would result in following impacts to the adjoining properties as demonstrated in the below tables:

**No. 50 Denison Street**

At Winter Solstice

**Initial Scheme**

Time	POS size (sqm)	Existing Solar Access to POS (sqm)	Existing Solar Access to POS (%)	Proposed Solar Access to POS (sqm)	Proposed Solar Access to POS (%)	Change (sqm)	Existing Solar Access Retained (%)
9:00am	54	2.0	3.7%	0	0%	-2	0%
10:00am	54	2.7	5.0%	1.6	3.0%	-1.1	60%
11:00am	54	1.1	2.0%	1.1	2.0%	0	100%
12:00pm	54	0	0%	0	0%	0	100%
1:00pm	54	0	0%	0	0%	0	100%
2:00pm	54	0	0%	0	0%	0	100%
3:00pm	54	7.8	14.4%	7.8	14.4%	0	100%

**Amended Scheme**

Time	POS size (sqm)	Existing Solar Access to POS (sqm)	Existing Solar Access to POS (%)	Proposed Solar Access to POS (sqm)	Proposed Solar Access to POS (%)	Change (sqm)	Existing Solar Access Retained (%)
9:00am	54	2.0	3.7%	2.0	3.7%	-2	0%
10:00am	54	2.7	5.0%	2.6	4.8%	-0.1	96%
11:00am	54	1.1	2.0%	1.1	2.0%	0	100%
12:00pm	54	0	0%	0	0%	0	100%
1:00pm	54	0	0%	0	0%	0	100%
2:00pm	54	0	0%	0	0%	0	100%
3:00pm	54	7.8	14.4%	7.8	14.4%	0	100%

**No. 52 Denison Street**

At Winter Solstice

**Initial Scheme**

Time	POS size (sqm)	Existing Solar Access to POS (sqm)	Existing Solar Access to POS (%)	Proposed Solar Access to POS (sqm)	Proposed Solar Access to POS (%)	Change (sqm)	Existing Solar Access Retained (%)
9:00am	74	10	13.5%	10	13.5%	0	100%
10:00am	74	24	32.0%	20.3	27.0%	-3.7	85%
11:00am	74	30	40.5%	22.1	29.8%	-7.9	74%
12:00pm	74	36	48.6%	25.6	34.6%	-10.4	71%

1:00pm	74	36	48.6%	25.0	33.8%	-11.0	69%
2:00pm	74	32	43.2%	25.4	6.5%	-6.2	79%
3:00pm	74	1	1.4%	1	1.4%	0	100%

**Amended Scheme**

Time	POS size (sqm)	Existing Solar Access to POS (sqm)	Existing Solar Access to POS (%)	Proposed Solar Access to POS (sqm)	Proposed Solar Access to POS (%)	Change (sqm)	Existing Solar Access Retained (%)
9:00am	74	10	13.5%	10	13.5%	0	100%
10:00am	74	24	32.0%	20.6	27.8%	-3.4	96%
11:00am	74	30	40.5%	23	31.1%	-6.2	77%
12:00pm	74	36	48.6%	31.1	42.0%	-4.9	86%
1:00pm	74	36	48.6%	31.0	42.0%	-5	86%
2:00pm	74	32	43.2%	30.0	40.5%	-2	94%
3:00pm	74	1	1.4%	1	1.4%	0	100%

**No. 4 Alfred Street**

At Winter Solstice

**Initial & Amended Scheme**

Time	POS size (sqm)	Existing Solar Access to POS (sqm)	Existing Solar Access to POS (%)	Proposed Solar Access to POS (sqm)	Proposed Solar Access to POS (%)	Change (sqm)	Existing Solar Access Retained (%)
9:00am	78	24	30.8%	24	30.8%	0	100%
10:00am	78	30	38.5%	30	38.5%	0	100%
11:00am	78	29.5	37.8%	29.5	37.8%	0	100%
12:00pm	78	28.6	36.7%	28.6	36.7%	0	100%
1:00pm	78	26.5	34.0%	26.5	34.0%	0	100%
2:00pm	78	13.2	16.9%	10.6	13.5%	-2.6	80%
3:00pm	78	0	0%	0	0%	0	100%

*50 Denison Street*

The private open space of No. 50 Denison Street is currently heavily overshadowed by 48A Denison Street and does not receive much solar access currently. The proposed works will result in additional overshadowing at 9am and 10am.

As indicated on the above tables, the amended design will reduce the impacts at 10am to 0.1 m<sup>2</sup> which is considered to be negligible, there are no improvements to the overshadowing at 9am (2 m<sup>2</sup> of additional shadows). The reduction in floor-to-ceiling heights would not address the issue and in order to fully mitigate the overshadowing impacts, the rear addition would be required to setback a further 5 metres from the rear boundary. Having considered the site constraints of the small-sized lot and that the first floor level is required to be setback further from the front to address streetscape issues, it is considered that there are no feasible alternative design solutions that could be utilised to address this issue. On balance, it is considered that the solar access impacts proposed is reasonable.

*52 Denison Street*

As demonstrated on the shadow diagrams, No. 52 Denison Street does not received solar access to 50% of its private space at any point in time during winter solstice and the

proposed first floor addition will result in additional overshadowing between 10am and 2pm during the winter solstice. The amended design resulted in some improvements at 10am and significant improvements between 11am and 2pm.

It is considered that given the irregular subdivision pattern where the rear boundary of No. 52 Denison Street extends approximately 8 metres beyond the boundaries shared by 50 Denison Street and 1 & 3 Emily Street, it would be difficult to achieve a development that would result in no additional overshadowing of the private open space at No. 52 Denison Street. It is considered that on balance, the amended design had resulted in significant improvements and given that solar access will be retained to at least 20.6 m<sup>2</sup> of the subject private open space for 4 hours between 10am and 2pm, the proposed impacts are considered to be reasonable given the site constraints (small size lot with narrow width) and orientation and there are no better alternative solutions.

#### *2 Alfred Street*

The only additional overshadowing that would occur is at 2pm. Giving the area of which the additional overshadowing is generated would be on an area that is less than 3 metres in width (and thus is not considered as private open space), it is considered that proposed additions does not result in additional overshadowing to 2 Alfred Street.

#### *4 Alfred Street*

The only additional overshadowing that would occur is at 2pm which results in an additional 2.6 m<sup>2</sup> of overshadowing. As discussed in an earlier section of the report, it is recommended that the first floor front boundary to be setback by increase by 3 metres, this will reduce the impacts to approximately 1 m<sup>2</sup> which is considered to minor given that the private open space at 4 Alfred Street would retain solar access to the private open space for at least 24 m<sup>2</sup> between 9am and 1pm.

In summary, while the proposed first floor additions will result in some additional overshadowing impacts to the surrounding properties, on balance, it is considered that the solar access impacts proposed is reasonable given the site constraints (small size lot with narrow width) with surrounding sites having irregular subdivisions patters and that there are no feasible alternative solutions.

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

The stormwater plan and management statement prepared by James E Allen & Partners indicates that all downpipes are provided at a high level in order to achieve gravity drainage to Emily Street.

It is noted that Council previously indicated that on-site detention was required as part of the development due to the extent of internal demolition, alteration and additions (see PreDA/2016/112). On review of the plans, noting the existing site constraints and that footprint of the building will remain unchanged, on-site detention would not be required as part of this development.

#### 5(d) The Likely Impacts

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

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

The site is zoned R1 General Residential. 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(f) Any submissions

The application was notified in accordance with Leichhardt DCP 2013 for a period of 14 days to surrounding properties. No submissions were received.

### 5(g) The Public Interest

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

The proposal is not 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.

- Development Engineer
- Landscape
- Building

In summary, no objections from the internal sections subject to conditions in Attachment A of the report.

### 6(b) External

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

## 7. Section 94 Contributions

Section 94 contributions are not payable for the proposal.

## 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 adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. The variation to Clause 4.3A(3)(a) and 4.3A(3)(b) Site Coverage and 4.4 Floor Space Ratio of Leichhardt Local Environmental Plan 2013 be supported under the provisions of Clause 4.6 exceptions to development standards.
- B. That Council, as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: D/2017/366 for Alterations and additions to the existing dwelling house to create a two-storey residence. at 3 Emily Street, ROZELLE NSW 2039 subject to the conditions listed in Attachment A below.

**Attachment A – Recommended conditions of consent**

**CONDITIONS OF CONSENT**

1. Development must be carried out in accordance with Development Application No. D/2017/366 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

<b>Plan Reference</b>	<b>Drawn By</b>	<b>Dated</b>
DA 3 Of 16, Issue C – Proposed 1st Floor Plan/Grnd. Floor Alterations	contemporary home design	Oct 17
DA 4 Of 16, Issue C – Rear Elevation/South Elevation/East – Emily Street Elevation/ North Elevation	contemporary home design	Oct 17
DA 5 Of 16, Issue C – Site Plan	contemporary home design	Oct 17
DA 6 Of 16, Issue C – Section A-A	contemporary home design	Oct 17
DA 6 Of 16, Issue B – External Finishes Schedule	contemporary home design	May 17
<b>Document Title</b>	<b>Prepared By</b>	<b>Dated</b>
BASIX Certificate No. A23141 0_02	contemporary home design	24 May 2017
<b>Stormwater Plans</b>	<b>Prepared By</b>	<b>Dated</b>
Drawing No. 2015-20 H-02 Revision P5	James E Allen & Partners	26 July 2017

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

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

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

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

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

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

<b>Elements</b>	<b>Location</b>
Structures associated with the dwelling house	As indicated on the approved drawings

Excluding the following elements which must be retained:

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be

demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.

- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
  - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
  - ii) A *final* inspection when the demolition works have been completed.

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.

- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig [www.1100.com.au](http://www.1100.com.au) should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
  - i) A WorkCover licensed contractor must undertake removal of all asbestos.
  - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
  - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
  - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
  - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

### **PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE**

- 3. Amended plans are to be submitted incorporating the following amendments:
  - a) The first floor addition is to be reduced in size with the first floor front boundary setback increased by 3 metres. This will result in the deletion of bedroom 2.
  - b) The glass block window on the northern elevation (i.e. W8) to be deleted.

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

- 4. 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.

5. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
6. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
  - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
  - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
  - c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

7. 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

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

8. 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.

9. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

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

10. A stormwater drainage design prepared by a Licensed Plumber or qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
- a) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. 2015-20 H-02 Revision P5 prepared by James E Allen & Partners and dated 26 July 2017.
  - b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
  - c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
  - d) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings
  - e) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage*
  - f) 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.
  - g) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
  - h) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
  - i) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.

- j) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

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

11. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
- a) Must preserve and protect the adjoining building from damage
  - b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

12. 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.

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

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

14. The approved plans must be checked online with Sydney Water Tap In 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. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

The Certifying Authority must ensure that the appropriate approval has been provided prior to the issue of a Construction Certificate.

15. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
- a) A plan view of the entire site and frontage roadways indicating:
    - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
    - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
    - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
    - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
    - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
  - b) Noise and vibration  
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) for guidance and further information.
  - c) Occupational Health and Safety  
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
  - d) Toilet Facilities  
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
  - e) Traffic control plan(s) for the site  
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

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

16. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m<sup>3</sup>) or weight (t) of materials that are reused, recycled or removed from site.
  - b) On site material storage areas during construction.
  - c) Material and methods used during construction to minimise waste.
  - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
  - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

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

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

17. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works.

Security Deposit (FOOT)	\$2100.00
Inspection fee (FOOTI)	\$225.00

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

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

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

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

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council’s Fees and Charges in force at the date of payment.

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

18. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
48A Denison Street, Rozelle	Garage

If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

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.

19. 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**

20. 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;

21. The site must be secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

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

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

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

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

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

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

23. 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.
24. 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.
25. 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**

26. 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.

27. 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.

28. 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.
29. 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.

30. The site must be appropriately secured and fenced at all times during works.
31. 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.

32. 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.

33. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
34. 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.
35. 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.
36. 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.
37. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

### **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

39. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:

- Compare the post construction report with the pre-construction report required by these conditions,
- Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

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

41. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.

42. 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.

43. 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.

44. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:

- the approved plans;

- BASIX certificate (where relevant),
  - approved documentation (as referenced in this consent); and
  - conditions of this consent.
45. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.

#### **ONGOING CONDITIONS OF CONSENT**

46. 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.
47. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
48. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. Dwelling House 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 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

##### **B. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**C. Home Building Act**

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
  - a) in the case of work for which a principal contractor is required to be appointed:
    - i) the name and licence number of the principal contractor, and
    - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
  - b) in the case of work to be done by an owner-builder:
    - i) the name of the owner-builder, and
    - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

**D. Site Sign**

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

**E. Condition relating to shoring and adequacy of adjoining property**

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.

- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

## NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.
3. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
  - a) Application for any activity under that Act, including any erection of a hoarding.
  - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
  - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
  - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
  - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
  - f) Development Application for demolition if demolition is not approved by this consent.
  - g) Development Application for subdivision if consent for subdivision is not granted by this consent.

- h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
- 8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.











