







INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2017/299
Address	216 Annandale Street, ANNANDALE NSW 2038
Proposal	Alterations and additions to the rear of the existing house, new detached studio with green roof, conservation works including reinstating the former corner shop.
Date of Lodgement	27 June 2017
Applicant	Alan Bright and Jon Bastin
Owner	Alan Bright and Jon Bastin
Number of Submissions	Objections from 17 properties and Letters of support from 6 properties.
Value of works	\$300,000
Reason for determination at Planning Panel	Number of submissions
Main Issues	<ul style="list-style-type: none"> Impact to heritage item and heritage conservation area Noise generation and parking
Recommendation	Deferred Commencement Approval, subject to conditions



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: Due to scale of map, not all supporters and objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to the rear of the existing house, new detached studio with green roof, and conservation works including reinstating the former corner shop at 216 Annandale Street, Annandale. The application was notified to surrounding properties and Objections from 17 properties and letters of support from 6 properties were received.

The main issues that have arisen from the application include:

- Impact to heritage item and heritage conservation area
- Noise generation and parking

Conditions are recommended to address the abovementioned issues and therefore the application is recommended for approval.

2. Proposal

The proposed development consists of the following elements:

- Reinstatement of the former corner shop as a neighbourhood shop (the floor area of the shop will be approximately 24.4 m²);
- The timber awning over the footpath to be repaired to ensure safety over the public domain;
- Demolish the rear wing of the building, construction of master bedroom, bathroom and a living area on the lower ground floor.
- A stand-alone studio/bedroom at the rear of the site.
- Building elements such as a green roof, rain water tank and solar panels.

The social impact statement dated 24 August 2017 suggests that the proposed hours of operation are 7am to 8pm Monday to Sunday.

3. Site Description

The subject site is located on the corner of Annandale Street and Wisdom Street. The site consists of one allotment and is generally rectangular in shape with a total area of 186.2 m² and is legally described as Lot 13 DP 1030554.

The site has a frontage of 5.75 metres to Annandale Street and a secondary frontage of approximate 32.405 metres to Wisdom Street.

The site supports a two storey dwelling (Ground floor and lower ground floor). The adjoining properties support a similar scale two storey dwelling to the north and a single storey dwelling to the west.

The subject site is listed as a heritage item. The property is located within a conservation area and is not 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
BA/1963/5552	Carport	Approved 26-Feb-1963
PREDA/2007/135	Alterations and additions to existing dwelling including instalment of refreshment room and additions to rear of dwelling.	Advice issued 13-Feb-2008
D/2008/464	Alterations and additions to an existing dwelling.	Approved 17-Dec-2008 (Now lapsed)
M/2012/218	Section 96 modification of D/2008/464, which approved alterations and additions to the existing dwelling. Modification consists of changes at ground and first floor levels.	Approved 09-Apr-2013 (Now lapsed)
M/2013/97	Section 96 application to modify D/2008/464 which approved alterations and additions to existing dwelling. Modification entails addition of car parking space.	Approved 27-Sep-2013 (Now lapsed)

BA/1963/5552 – This application approved a carport at the rear yard which confirms an off-street car parking space had been previously approved on the site. The approved drawings indicated that the premise was a shop/dwelling.

PREDA/2007/135 – The following conclusion was provided as part of the Pre-DA advice for a proposed café:

“The subject site contains a heritage item listed in Schedule 2 of Leichhardt Local Environmental Plan as being of local heritage significance, and the use of the former corner shop as a café is permissible pursuant to the provisions of Clause 23(6) and 23(8) of LEP 2000. Council’s Heritage Advisor has indicated that design changes are required so as to preserve the existing form and fabric of the building, and that the new additions need to be more subservient in design so as not to detract from the overall character of the heritage item. Council anticipates that there will be concerns raised by nearby residents regarding the use of the premises, and the associated issues of noise, parking and the hours of operation and accordingly consideration should be given to limiting the number of seats and restricting the hours of operation in order to minimise any impact on the amenity of neighbours.”

D/2008/464, M/2012/218 and M/2013/97 – These applications were in relation to alterations and additions for a dwelling house (it appears that the café option was never pursued). As the works approved under D/2008/464 were never taken up, these applications are considered to have lapsed and the last approved development application on the subject would be BA/1963/5552.

Surrounding properties**1 Wisdom Street**

Application	Proposal	Decision & Date
BA/1995/288	Small rear brick addition	10-May-1995

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
21 August 2017	Council – Wrote to the Applicant raising the following issues – <ul style="list-style-type: none"> • Demolition of original structures associated with the heritage item • Site Waste Minimisation and Management Plan • Flow Stormwater Management and Car parking • Issues raised by Council's Building Surveyor
1 September 2017	Applicant – Additional information submitted when include amended drawings, additional structural engineering reports, cost estimate of repair works and a social impact statement.
4 October 2017	Attending site with Building surveyor and met with applicant, applicant's town planning consultant and structural engineer.

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

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55.

5(a)(ii) 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 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise
- Clause 6.10 – Use of existing buildings in Zone R1
- Clause 6.11 – Adaptive reuse of existing non-residential buildings in Zone R1

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Required: [0.6:1]	0.79:1 148 m ²	32.5%	No
Landscape Area	28.8 m ² (15.5% of Site Area)	Complies	Yes/No
Site Coverage	137.5 m ² (74% of Site Area)	23%	Yes

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.

Clause 4.4 – Floor Space Ratio

The application has been assessed as having an FSR of 0.79:1 thereby resulting in a 32.5% breach of the development standard for FSR in this area that stipulates a maximum of 0.6:1.

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 existing dwelling has a site coverage of 60.7% which also does not comply with this control. The proposal has a site coverage of 74.2% which allows for a generous area of high quality private open space that satisfies the needs of the dwelling and satisfies the landscaped area control of LEP 2013.

The resulting quantum of open space and its location is also compatible with that found in the locality. As outlined below, the roof of the studio is also proposed to be a green roof planted with Sebum plants to soften the building and create a landscaped space. Although not utilised in any calculations of landscaped area or open space and it is not useable, this roof garden will act to reduce the impacts of increased site coverage caused by this new studio/bedroom building at the western end of the site and has other aesthetic and sustainable outcomes.

Compliance with the site coverage control is considered unreasonable and unnecessary in this circumstance for the reasons outlined above.”

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

“The floor space ratio (FSR) control for this location is 0.6:1 and the existing dwelling on the site has an FSR of 0.66:1. The proposal has an FSR of 0.76:1 and has been carefully designed to ensure the new rear and extension, both at ground and upper level are compatible in bulk, form and scale with the locality. This has been achieved through utilising a contemporary interpretation of rear wing with a generous 1.4 metre setback to Wisdom Street and an upper level setback up to 750mm from the property at 218 Annandale Street.

This achieves a compatible built form that contributes in a positive way to the desired future character of the locality. In relation to (a) (iii) above, the proposal has no additional impact to views or any overshadowing impacts to neighbours in any way, only a minor increase to the street and footways.

The proposal also achieves a suitable balance between landscaped area and built form, with a generous landscaped area between the proposed lower ground living area and the new rear studio. This area adequately caters for the private open space needs of the dwelling. The roof of the studio is also proposed to be a green roof

planted with Sebum plants to soften the building and create a landscaped space when viewed from Annandale Street and the eastern end Wisdom Street and from the upper level of the dwelling.

Council has also recognised that the 0.6:1 control is no longer suitable for the site locality and has prepared a new set of draft FSR controls, that set out a new FSR control of 0.8:1."

- (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 comply with amenity controls in relation to solar access, visual privacy and will not result in any loss of views.

Floor Space Ratio:

- The proposed development complies with the solar access and 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 a deferred commencement condition in relation to materials and finishes, the proposed development will have acceptable impacts to the heritage value of the heritage item and is of a form that is compatible to the desired future character, existing streetscape and scale of developments in the locality.
- The proposed floor space ratio is consistent with the reviewed FSR control intended to apply (i.e. 0.8:1).

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.

Clause 6.8 – Development in areas subject to aircraft noise

As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

A condition will be recommended that requires an acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

5(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
- Review of FSR's – Leichhardt Local Environmental Plan 2013

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.

Review of Floor Space Ratio – Leichhardt Local Environmental Plan 2013

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Required: 0.8:1	0.79:1 148 m ²	Complies	Yes

The application satisfies the provisions of the above Draft Leichhardt Local Environment Plan 2013.

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes, subject to conditions
C1.5 Corner Sites	Yes
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes
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	Yes
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	Yes

Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.1.2 Annandale Street Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	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
Part C: Place – Section 4 – Non-Residential Provisions	N/A
C4.1 Objectives for Non-Residential Zones	N/A
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes, subject to conditions
C4.6 Shopfronts	Yes
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	Yes
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	N/A
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	Yes

Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	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	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	
Section 1 – Food	N/A
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A
Part G: Site Specific Controls	
Old Ampol land, Robert Street	N/A
Jane Street, Balmain	N/A
Old Balmain Power Station	N/A
Wharf Road Birchgrove	N/A
Anka Site – No 118-124 Terry Street Rozelle	N/A
233 and 233A Johnston Street Annandale	N/A

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items and C2.2.1.2 Annandale Street Distinctive Neighbourhood

Initial heritage concerns raised

The subject property is located within the *Annandale Conservation Area* and the subject property is a heritage item. The following statement of significance for the place has been reproduced from Leichhardt Council's Heritage inventory sheet:

"No. 216 Annandale Street has local and aesthetic significance as a good example of a late Victorian former shop and residence constructed during the 1870s to 90s. The distinct corner shopfront with its parapet wall and wide metal awning make a positive contribution to the streetscape."

The site is located on the corner of Wisdom and Annandale Streets and due to the topography and location, the rear section of the building is readily seen from the public domain. The similarity in design and form appears to indicate that it is likely that Nos. 218

and 216 Annandale Street, Annandale were constructed as a pair (also mentioned as a possibility within the submitted HIS) with Nos. 220 and 222 Annandale Street, Annandale potentially also constructed by the same original owner as Nos. 216 and 218 Annandale Street. This has resulted in the rear portions of the attached dwellings having a similar form which contributes to the aesthetic and historic character of the surrounding heritage conservation area.

Page 20 of the submitted Heritage Impact Statement (HIS) by John Oultram Heritage and Design has documented the extent of modifications to the rear wing – see excerpt below, although the time periods when the modifications are likely to have occurred have not been provided. Also included below are external images of the rear wing included on page 12 of the HIS.

“Demolitions: The rear skillion, lavatory and rear steps will be removed. The rear wing is original and is handed with the house to the north but has been previously altered with the undercroft converted to a bathroom. The extent of alteration is outlined in Appendix B that notes:

“The lower ground floor was originally accessed externally and the door to the stair is a later alteration. It was likely a laundry and lavatory originally. The area has been fitted out as bathroom and much of the original fabric replaced. The room has very low ceiling heights and could not be converted to a habitable space.

The passageway between the bedroom and kitchen was originally open and has been infilled and a stair added to the lower ground floor. There is clear evidence of the floor being removed. The opening to the garden has a brick arch over and the door is a later replacement and the arch has been infilled.

The rear room may have been a servant’s bedroom and the door was originally external but has been replaced. The wall to the kitchen has been partly removed and lowered and the external door here removed. The internal stair is not original as the undercroft was originally accessed from the outside. The rear wing has a poor relationship with the garden and little amenity, particularly to the undercroft. Its removal will allow the construction of the new addition.”



Figure 1: View of the rear of the subject site from Wisdom Street. Note the location and prominence of the rear wing and its important historic and visual relationship with the original rear wing of the adjoining dwelling to the north. Image: John Oultram Heritage and Design.



Figure 2: A closer view of the rear wing of the subject dwelling. Image: John Oultram Heritage and Design.

Notwithstanding the documented modifications to the rear wing, it still maintains its original built form (in conjunction with its neighbour) and strongly contributes to the historic and aesthetic significance of the subject heritage item; the neighbouring contributory building to the north; and to the historic and aesthetic significance of the surrounding heritage conservation area. There was insufficient evidence on heritage and structural grounds initially to justify the removal of such an amount of original fabric.

There were also concerns in relation to the proposed materials and finishes. In this regard, with the exception of the main wall colour of the original building; the window trim colour; the details of the coloured glass window replacements; and the proposed finish to the fibre cement cladding, it is considered that the proposed remaining materials and finishes due to their strong contemporary character and appearance would be intrusive in their setting; would have an adverse impact upon the aesthetic significance of the subject heritage item; and would not “maintain the character of the neighbourhood” in conformity with the Desired Future Character Controls – i.e. *C8 of C. Maintain the harmony/character of the neighbourhood by ensuring development is complementary in form and materials, and reflects the cohesiveness of the streetscape.*”

Similarly, zincalume, because of its highly reflective nature, is not a favoured building product within heritage conservation areas, and its proposed use for roofing; for flashing; and for external gates, would therefore not be supported on heritage grounds.

Applicant’s response/additional information

In response to the concerns raised on the council letter dated 21 August 2017, the applicant provided a letter in response, amended drawings and additional information on 1 September 2017. The amended design includes changes to address the engineering issues but remains predominately the same as the originally proposed design.

While the response did not include any additional information to justify the demolition of the rear wing on heritage grounds, the applicant did provide additional structural engineering information in relation to the condition/structural integrity of the rear wing of item in the form of additional structural engineering advice and associated drawings from Valaire and Associates dated 30 August 2017. The applicant had also provided an estimated schedule of additional costs where it is stated that if the rear wing was to be retained as recommended, it would result in an additional cost of \$90,000, excluding any investigative works.

While the potential additional costs alone is not sufficient to justify the demolition of the rear wing, the structural engineering reports suggests that the extent of demolition required to rectify the settlement which includes the bedroom floor and roof structure would require the two original walls to be demolished and new footings and walls rebuilt, which in effect requires removal of the majority of the rear wing if the heritage item.

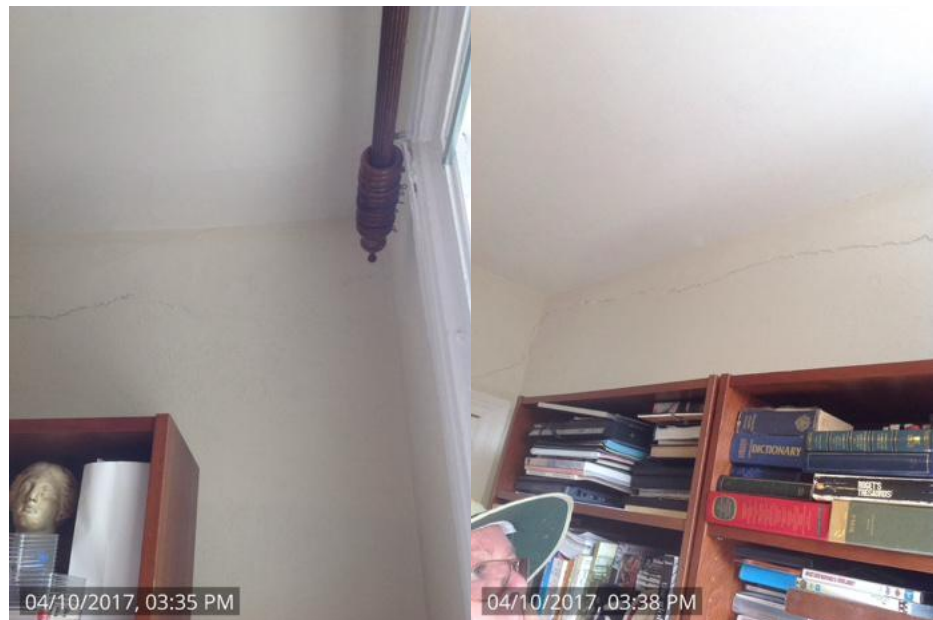
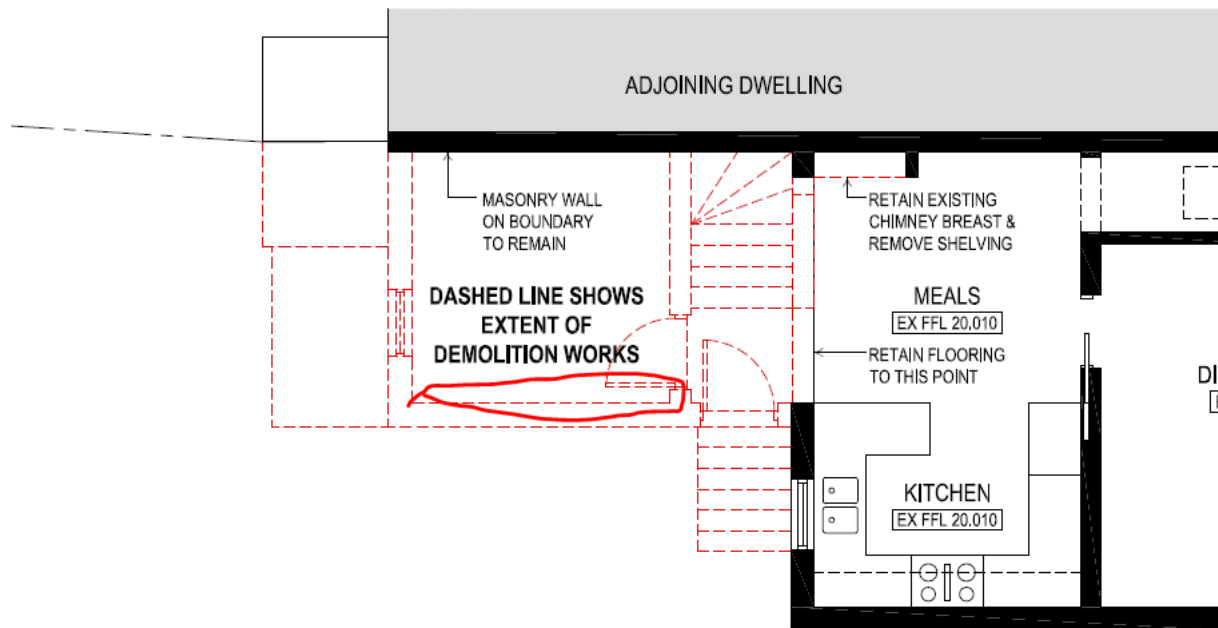
Addition referral from council's building section

An additional site inspection was undertaken on 4 October 2017 where Council's planner and building surveyor and the applicant's town planning consultant, structural engineer and owner were in attendance. Access was provided to the lower ground floor and bedroom at first floor level and the following observations/conclusion were made by council's building surveyor:

"The lower ground floor which contains laundry and bathroom is damp and has water penetration problems through the 230mm wall as the terrace has been constructed at least a 1 metre above floor level and allows for water to penetrate the internal surfaces of the lower ground floor area.

Irrespective of any other matter this terrace would need to be demolished as it is causing stress and deterioration to the rear wing of the dwelling. Access to the bedroom indicates that there is water penetration to the top of the wall as evidenced by salts and there is a horizontal crack along the brickwork several courses below the top of the wall.

The water penetration may be caused by inadequate overhang of the roof sheeting allowing water to blow under the sheeting and penetrate the top of the wall . I consider that this has affected the strength of the mortar joints o the brick work and the loading from the roof rafters and the rigidity of the lower section of the wall from the terrace has created a pivot movement to the top of the wall.



Considering the arrangement of the rear section and the culuminative effects of the building defects and that the party wall is to be retained it is considered that the rebuilding of the rear section would be counter productive and it is recommneded that the rear section be permitted to be demolished subject to the following:

Retention and protection of the 230mm party wall during the demolition and construction phases of the building works under the supervision of the structural engineer."

Additional heritage comments

In light of the conclusion reached by Council's Building Surveyor, additional heritage comments were provided:

Previous outstanding issues:

- A. Demolition of rear wing: Based upon the latest internal building advice from the Inner West Council's Building Services Manager, concerning the failed integrity of the majority of the rear wing (not including the party wall with the adjoining dwelling to the north - No. 218 Annandale Street, Annandale) no further objections are raised to its demolition with the exception of the party wall and chimneys, which are shown to be retained on the submitted plans.
- B. A schedule of repair works are required which fully detail all of the proposed repair works and which are supported by photographic images of each of the items to be conserved/repared: This schedule is still considered warranted given that the amended plans mention restoration works to the southern elevation windows; the rectification of the bases to the front awning posts;

Given the likelihood that this application is to be recommended for approval it is considered that this matter can be satisfactorily addressed by a suitable deferred condition of consent – refer to conditions below;

- C. With the exception of the main wall colour of the original building; the window trim colour; the details of the coloured glass window replacements; and the proposed finish to the fibre cement cladding, it is considered that the proposed remaining materials and finishes due to their strong contemporary character and appearance would be intrusive in their setting; would have an adverse impact upon the aesthetic significance of the subject heritage item; and would not “maintain the character of the neighbourhood” in conformity with the above Desired Future Character Controls. Similarly, zincalume, because of its highly reflective nature, is not a favoured building product, and its proposed use of roofing; for flashing; and for external gates would not be supported on heritage grounds. No change to the originally submitted materials and finishes were provided with the amended plans. Accordingly, it is recommended that the a revised materials and finishes schedule be provided which conform to the Desired Future Character Controls for the Annandale Street Distinctive Neighbourhood in which the subject site is located (under Leichhardt Development Control Plan 2013) and which are more complimentary/sympathetic to the heritage significance of the contributory building on the site:

DP – Downpipe/zincalume finish;

MF – Perforated zincalume metal fence & gate;

MS – Folded and perforated Aluminium metal screen and associated ‘Gum Tip’ Aluminium sheet cladding;

MZ – Metal fascia/zincalume finish;

PD - Painted Solid Timber Door* (*Note: In addition to the proposed colour - which is not considered appropriate for the door to the front shop or to the new opening to the rear for the dwelling, the form and character of any replacement door to the front shop shall be in keeping with the historic construction period of the building.)

It is considered that if the above matters are not satisfactorily addressed, the proposed works will result in the following impacts to the heritage item and conservation area:

1. The addition works would have an overbearing visual impact on the retained front original portions of the building;

2. The addition works would have an adverse visual impact upon the other contributory buildings within the vicinity; and
3. The proposed works would set an undesirable precedent for future works to heritage items within the Annandale heritage conservation area.

Therefore standard and deferred commencement conditions will be recommended to address the outstanding matters above. Refer to condition 1 in Attachment A of the report.

In regards to the existing party wall that separates the properties between 216 and 218 Annandale Street, owner's consent from 218 Annandale Street had been given in relation to the construction of a fire-rated frame party wall but there were no specific party wall consent in relation to allowing the use of the party wall for support of loads, therefore a standard condition will be recommended that requires, prior to the issue of a construction certificate, certification from a structural engineer that the proposed additions do not require or rely on the party wall for lateral or vertical support.

C1.7 Site Facilities

Direct and internal access between the proposed shop and the waste storage area has not been provided. Given the small scale of the proposed shop and the constraints of the site, a shared waste storage in the proposed location is considered to be acceptable.

C1.11 – Parking and C4.5 Interface Amenity

There are a number of objections that were submitted during the notification period which raised concern in relation to the establishment of a commercial premise in a residential zone and in particular, the potential noise and parking impacts. On Council's records, there are no records of any formal development approval for the shop and dwelling to be converted to a single dwelling. Notwithstanding this, Neighbourhood shop is a permissible development under the R1 General Residential zoning.

Neighbourhood shops are defined as: *Premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.*

In regards to parking rates, the requirements are outlined in C1.11 – Parking of Leichhardt DCP 2013 where the following are applicable:

Parking Rates				
Land Use	Residents		Visitors	
	Minimum	Maximum	Minimum	Maximum
Residential				
Single dwelling house	Nil	2 spaces per dwelling house	Nil	Nil
Shops / supermarkets	1 space per 50m ² If the premises are located on a "Recognised Shopping Street" the first 50m ² are exempt from parking provision (Refer to note 3)		1 space per 50m ²	

There are no minimum requirements for parking for a single dwelling. The proposed shop has a floor area of appropriately 24.4 m² and therefore generates a parking demand of

approximately 0.49 parking spaces. Therefore the proposal, which includes one off-street parking technically complies with the parking requirements listed above.

It is noted that the proposed off-street parking is associated with the residential parts of the application and therefore it would be beneficial to deduce whether there is sufficient on-street parking to absorb the additional 0.49 parking spaces generated by the development. Site inspections were conducted at various times between 9am and 5.15pm over a number of days (10 Aug, 16 Aug, 17 Aug, 24 Aug, 6 Sep, 11 Sep, 13 Oct, 14 Oct, 17 Oct, 18 Oct, 19 Oct, 21 Oct) and it was evident that there were at least two-four available off-street parking spaces within 20 metres of the subject site on Wisdom Street and Annandale Street with more carparking available further away. In light of this, it is considered that the proposal is satisfactory in this regard.

In regards to interface amenity, the immediate surrounding properties are all residential in nature. The social impact statement suggests that the hours of operation will be between 7am and 8pm, Monday to Sunday. While it is acknowledged that the proposed use (i.e. neighbourhood shop) is permissible in the residential area and the area of the shop is small (24.4 m²), the hours of operation between 7am and 8pm may result in adverse amenity impacts to the immediate, predominately residential surroundings. Therefore a condition recommended that restricts the hours of operation to 9:30am – 5.30pm Monday to Friday, a trial period of 9.30am to 4pm on Saturday (which will be reverted to 9.30am to 1pm after the trial period). Standard conditions will also be recommended that regulates noise from plants/air-conditioning units etc. and the number of deliveries allowed. Refer to the recommended on-going conditions in Attachment A of the report.

It must be noted that the current application does not seek the consent to use the front of the building as a café/restaurant – such a use would require the lodgement of a new development application with supporting information.

C3.2 Site Layout and Building Design

The proposed first floor additions will result in a variation to the building location zone on the first floor and the variation 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.*

The proposed development complies with the solar access and 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 proposed development will have acceptable impacts in regards to bulk and scale as the first floor is setback from the northern boundary and the northern wall has a floor to ceiling height of approximately 2400mm at first floor level. The materials and finishes are not satisfactory, but subject to a deferred commencement condition that addresses those issues, the development will be considered to be of a form that is compatible to the existing streetscape, desired future character and scale of developments in the locality.

In light of the above, 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)
South Eastern	7.1	2.5	1.4	2.1
North Western	6.1	1.9	0.7	1.2

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

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

The non-compliance occurs at the additions located at the rear of the heritage item. It is considered that this variation can be supported on merit for the following reasons:

- It is considered that given the proposed additions, subject to a deferred commencement condition in regards to materials and finishes (the currently proposed materials and finishes are not acceptable), the proposal will be compatible with the heritage item and the pattern of development in the locality and the streetscape is not compromised.
- The proposed development complies with controls in regards to solar access and visual privacy and there are no issues raised in regards to the obstruction of significant views.
- The floor to ceilings heights are considered to be minimised.

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. *Neighbourhood shops* is a permissible use within this zoning. 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. Objections from 17 properties and Letters of support from 6 properties were received.

The following issues raised in submissions have been discussed in this report:

- Issues relating to impact to heritage item and streetscape - see Section 5(c) - Heritage Conservation Areas and Heritage Items and C2.2.1.2 Annandale Street Distinctive Neighbourhood.
- Car parking and Interface amenity impacts (e.g. noise) – see Section 5(c) – C1.11 – Parking and C4.5 Interface Amenity.

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

An isolated store so close to my home may lead to increase robbery in the area.

Comment: The subject and surrounding sites are zoned R1 General Residential where non-residential uses such as health consulting rooms, child-care facilities, cafes and restaurants, takeaway food and drink premises etc. are permissible. Notwithstanding this, given the proposed neighbourhood shop would be less than 25sqm in area, it is unlikely the proposed will result in adverse impacts in this regard.

The proposed building changes and conversion of the living room into a shop/café/restaurant without submission of a DA for such purposes should be disallowed.

Comment: Agreed. The proposed development for this application involves the reinstatement of a neighbourhood shop only. If a future occupant intends to utilise the premise as a café/restaurant, the future occupant will need to submit a separate development application which will be assessed on its own merits.

Already the owners are using the public footpath space as their own, with the presence of tables and chairs and potted plants indicating their present lack of respect for neighbours and for the public ownership of the footpath

Comment: This matter will be referred to Council's compliance division for investigation.

Already the owners are using the public footpath space as their own, with the presence of tables and chairs and potted plants indicating their present lack of respect for neighbours and for the public ownership of the footpath

Comment: This matter will be referred to council's compliance division for investigation. Any proposal to place items on council's footpath will require a separate approval in the form of a footpath occupation application.

The repeated use of the term 'shop' in the development application is misleadingly inaccurate as the front room has functioned as a living room for more than the last 50 years, that being for over half the life of the dwelling. Therefore this DA does not accurately represent a re-activation of a 'shop', but a new proposal.

Comment: As outlined in an earlier section, given that D/2008/464 had now lapsed, the only active development application for the subject property is BA/1963/5552, which is in relation to a carport associated with a Dwelling/shop. While it is acknowledged that the subject premise had been used as a single dwelling for a lengthy period of time, given that there were no formal approvals that had been activated for the subject premise to be used as a single dwelling, there are no issues in the application use of terms such as 'reinstatement' or 'reactivation' of a shop.

The new construction of a bedroom/studio in the rear yard complete with a full bathroom, would indicate another proposed commercial use as short term letting such as AirBnB, and again it should not be approved without the submission of a DA for such a proposed use.

Comment: Agreed. A condition will be recommended where *“The proposed studio is ancillary to the residential use of the premises and is to be used by the permanent residents of the dwelling only. The studio must not incorporate kitchen facilities. No approval is given for the use of the studio as a self contained dwelling or secondary dwelling. The studio shall not be separately leased.”* Refer to condition 52 in Attachment A.

It can also be noted that at this point in time, AirBnb, which is considered to be a short-term visitor accommodation use, is currently prohibited in the R1 General Residential zoning.

The development proposes to demolish the original rear wing of the main dwelling thereby changing the original heritage streetscape. The Council's own heritage assessment is to retain the original rear wings of heritage buildings and therefore the demolition of the rear wing should not be approved. The two story addition on the Wisdom Street frontage is excessive in bulk and out of character with the streetscape. It effectively will be a three storey building with an attic level, ground level and lower ground level, and presents as unsightly and inappropriate in a heritage area.

Comment: While there is no strong justification to demolish the rear wing on heritage grounds, additional structural engineering information was provided and after further site inspections from Council's Building Surveyor, it was concluded that the demolition of the rear wing can be supported due to the current structural conditions of the rear wing. However, the proposed materials and finishes are not considered to be compatible with the heritage item and therefore a deferred commencement condition will be recommended in this regard.

Off-street parking is necessarily lost from the building, despite claims to the contrary, due to site coverage, floor space ratio, landscaped area and private open space controls and should not be allowed as it will necessitate the resident's on-street parking, so further limiting residential street parking.

Comment: The proposal seeks to retain the existing off-street car parking space.

Concerned about the fact there is no commercial waste designated to this area and additional sewage from this kind of business may pose an issue. There is no room in this dwelling to house the kind of additional waste that would be generated from such a business.

Comment: Due to the site constraints, the applicant had proposed a shared waste storage room (approximately 6 m²) to store the residential and commercial waste. This matter was referred to council's engineers who concluded the proposed arrangement is acceptable:

“Direct and internal access between the proposed shop and the waste storage area has not been provided. Given the small scale of the proposed shop and the constraints of the site, a shared waste storage in the proposed location is considered to be acceptable.”

Objection to any plans to reinstate the corner shop on historical and heritage grounds without further clarification as to what type of business is approved/ Population & Vehicle growth has been exponential since the commercial operation of these premises. The immediate surrounding properties require on street parking without garaging facilities. Assessment should be given as to why the commercial premises ceased and its impact on other business owners within Annandale/There are two functioning shops (cafes) already in Annandale Street and another 3 within adjoining streets

Comment: As approved, the commercial premise would be a neighbourhood shop only. Issues in relation to parking is discussed in an earlier section of the report. Neighbourhood shops is a permissible use within the R1 General Residential zoning, it is not necessary for

the applicant to provide a business case for a proposed development that is permissible within the zoning.

Parking - impact assessment of parking around Revolver (Annandale Street) of 4 cars per hour is severely under underestimated. Casual observation can already see crowded pavements and in excess of 10 cars per hour on weekends.

Comment: This is noted. As outlined in an earlier section of the report, if the intention is to operate the premise as a café, this will be subject to a separate development application where will be assessed on its own merits.

Sewer - It is our understanding that the houses 216/218/220/222 and 1 & 3 Wisdom Street rely on the same sewer connection. Depending on the type of commercial premises the impacts to this system could be severe/We also believe this DA forms part of the "shop development" (extract below) given incorporated construction plans and ask that the proposed use form part of this DA to incorporate sewer, plumbing and waste assessments

Comment: From 1 July 2012, NSW Fair Trading became the state's plumbing and drainage regulator. The applicant will need to obtain approval from NSW Fair Trading in regards to plumbing and drainage matters before the building is occupied.

Prior to purchasing this house, we were aware that a DA for 216 with a shop/café had previously been rejected. We felt this provided a precedent which would be upheld by the council in future.

Comment: As outlined in an earlier section of the report, there are no council records that would indicate an application of this nature (i.e. Development Application for a shop/café) had been refused. There was record of a previous Pre-DA application seeking to use the subject premise as café which concluded that the proposed use is permissible and the amenity of surrounding properties is to be protected by limiting hours of operation, noise and parking etc. The lapsed development application (D/2008/464) was for residential only.

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.

Subject to conditions, the proposal is not considered to be contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage Officer
- Development Engineer
- Landscape

6(b) External

The application was not required to be referred to any 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. Subject to conditions, the development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

9. Recommendation

- A. The variation to Clause 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/2017/299 for Alterations and additions to the rear of the existing house, new detached studio with green roof, conservation works including reinstating the former corner shop. at 216 Annandale Street, Annandale subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

DEFERRED COMMENCEMENT

1. The following deferred commencement conditions must be complied with to the satisfaction of Council, prior to the issue of an operational Development Consent.

- a) Prior to this consent being operational the following heritage related issues are required to be addressed by additional information/amended plan information and submitted to the Inner West Council for approval:

A schedule of repair works are required which fully detail all of the proposed repair works and which are supported by photographic images of each of the items to be conserved/repared; and

A revised schedule of materials and finishes which provide alternative finishes for the following matters, which conform to the Desired Future Character Controls for the Annandale Street Distinctive Neighbourhood in which the subject site is located (under Leichhardt Development Control Plan 2013) and which are more complimentary/sympathetic to the heritage significance of the contributory building on the site:

DP – Downpipe/zincalume finish;

MF – Perforated zincalume metal fence & gate;

MS – Folded and perforated Aluminium metal screen and associated 'Gum Tip' Aluminium sheet cladding;

MZ – Metal fascia/zincalume finish;

PD - Painted Solid Timber Door* (*Note: In addition to the proposed colour - which is not considered appropriate for the door to the historic front shop or to the new opening to the rear for the dwelling, the form; and character; and colour of any replacement door to the front shop shall be in keeping with the historic construction period of the building.)

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

If the applicant fails to satisfy Council as to the above matters within 5 years from the date of determination this consent will lapse.

CONDITIONS OF CONSENT

2. Development must be carried out in accordance with Development Application No. D/2017/299 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Revision B, Drawing Number: DA01 – Site Plan (Including Water Management Plan)	CBF	28.08.17

Revision B, Drawing Number: DA03 – Ground Floor Level & Lower Ground Level Demolition Plans	CBF	28.08.17
Revision B, Drawing Number: DA10 – Ground Floor Level & Lower Ground Level Proposed Plans	CBF	28.08.17
Revision B, Drawing Number: DA11 – Roof Proposed Plan & Areas	CBF	28.08.17
Revision B, Drawing Number: DA12 – Landscaped Plan	CBF	28.08.17
Revision B, Drawing Number: DA20 – Elevations 1	CBF	28.08.17
Revision B, Drawing Number: DA21 – Elevations 2	CBF	28.08.17
Revision B, Drawing Number: DA30 – Sections	CBF	28.08.17
Revision A, Drawing Number: WM01 – Lower Ground Level Storage Area	CBF	28.08.17
Document Title	Prepared By	Dated
BASIX Certificate No. A276783	Charbel Bou-Francis	07 June 0217

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.

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

Elements	Location
The rear section of the dwelling	As indicated on the approved drawings.

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

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

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

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 4. An Access Management Plan must be provided by an Accredited Access Consultant prior to the issue of a Construction Certificate. Details of the Access Management Plan must include:
 - a) Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether an upgrade of the 'Affected part' is required
 - b) Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia.
 - c) Conduct an assessment and identify any non-compliances with the Disability Standards 2010 and/or the Building Code of Australia where applicable and provide recommendations to achieve compliance with the relevant performance requirements.
 - d) If the building is located within a heritage conservation area or is a heritage item, any changes required to the external fabric of the building that are outside the approved works will require additional development consent from the consent

authority. If the building is a listed heritage item, any works outside the approved works (external, internal etc) will require development consent from Council.

5. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

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

6. An experienced suitably qualified & experienced Heritage Architect must be commissioned to assist and to provide advice on the following elements of the approved development, and to oversee the construction works for the duration of the project:

All repair/conservation works shown in the submitted and approved schedule of repair works including the restoration works to the fireplaces and missing section of the decorative cornice to the hallway.
The form; colour and materials of the proposed replacement door to the front shop.
The proposed works to install a water closet in the front ground floor shop.
The installation of coal gas burners within the existing fireplaces of the building.

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

Prior to the issue of an Occupation Certificate the Heritage Architect is to certify that the works have been carried out in accordance with these requirements.

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

7. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
8. 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.

9. 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.

10. Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard AS 1158.3:2005 *Pedestrian area (Category P) lighting – Performance and design requirements* and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.
11. 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

12. 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) 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. Charged or pump-out stormwater drainage systems are not permitted.
 - b) 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.
 - c) 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
 - d) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2003 *Plumbing and Drainage – Stormwater Drainage*
 - e) 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.
 - f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets
 - g) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
 - h) 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.

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

13. The design of the vehicular access and off street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 *Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:
- a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary match the existing footpath levels for the full width of the vehicle crossing. The garage slab or driveway must then rise within the property to be above the adjacent boundary level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
 - b) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest

projection from the ceiling, such as lighting fixtures, and to open garage doors.

- c) Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- d) The parking space must have minimum clear internal dimensions of 5700 x 2700mm (length x width).
- e) The external form & height of the approved structures must not be altered from that depicted on the approved plans.

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

- 14. Prior to the issue of a Construction Certificate, Architectural Plans accompanied by a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the architectural plans that are the subject of the Construction Certificate application do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to the consent authority and all owners of the party wall/s.
- 15. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must be designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater-Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:
 - a) Minimise the area of soils exposed at any one time.
 - b) Conservation of top soil.
 - c) Identify and protect proposed stockpile locations.
 - d) Preserve existing vegetation. Identify revegetation technique and materials.
 - e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
 - f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
 - g) Sediment and erosion control measures in place before work commences.
 - h) Materials are not tracked onto the road by vehicles entering or leaving the site.
 - i) Details of drainage to protect and drain the site during works.

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

16. 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.

17. 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.
 - iii) 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.
 - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - vii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.

- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

18. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:

- a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
- b) On site material storage areas during construction.
- c) Material and methods used during construction to minimise waste.
- d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
- e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

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

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

19. 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.

20. 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
218 Annandale Street	Main Dwelling

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.

21. 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

22. 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.

23. 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.

24. 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.
25. 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.
26. 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.

27. The location and facilities for the collection, storage and disposal of waste generated within the premises shall be submitted to and approved by Council prior to the commencement of works.

DURING WORKS

28. 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.

29. 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.

30. 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.

31. The site must be appropriately secured and fenced at all times during works.
32. 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.
33. 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.

34. 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.
35. 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.
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. Construction material and vehicles shall not block or impede public use of footpaths or roadways.
38. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environment Operations Act 1997*.

Any soil, which fails to meet the criteria, is not to be disposed of off-site unless agreed to in writing by the NSW Environmental Protection Authority (EPA). Results of the testing are to be forwarded to Leichhardt Council and the Environmental Protection Authority (EPA) for acknowledgement before any off-site disposal and before proceeding with any construction works.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

39. 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.

40. A second Dilapidation Report addressing the public infrastructure identified in condition/s of this consent, including a CCTV survey, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council prior 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.

41. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be satisfied that a Fire Safety Certificate for all essential fire or other safety measures has been completed.
42. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
43. 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.
44. 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.

45. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

Proof of actual destination of demolition and construction waste shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

ONGOING CONDITIONS OF CONSENT

46. The premises to be open for business and used for the purpose approved within the following hours.

Trial Period	Indoor Area
Monday to Friday	9.30am – 5.30pm
Saturday	9.30am – 4pm
Sunday	No trading

The above operating hours are for a trial period of 12 months from the date of Occupation Certificate/date of this consent (whichever occurs later). At the cessation of the trial period the hours of operation are to be as follows.

After Trial Period	Indoor Area
Monday to Thursday	9.30am – 5.30pm
Friday and Saturday	9.30am – 1pm
Sunday	No Trading

All doors and windows must remain closed during set up and cleaning where possible.

In the event that the operator wishes to seek consent for permanent late trading hours or a further trial period a Section 96 application is to be lodged and approved by the consent authority. The application should seek to modify this condition accordingly and be accompanied by supporting documentation.

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. To ensure minimal impacts on surrounding properties, commercial waste and recyclable material generated by the premises must not be collected between the hours of 9pm and 9.00am.
49. **Owner's obligations**

The owner / registered proprietor from time to time (as required) of the subject site ("Owner") must:

- maintain the awnings over the footpath and all supporting and related structures in a good and safe condition and repair which must include all structural and other repairs and maintenance reasonably required by Council; and
- give to Council every 12 months (commencing from the date of issue of the Occupation Certificate) a certificate from a structural engineer that the awnings over the footpath and all supporting structures are in a good and safe condition and state of repair; and
- not alter the awnings or any supporting or related structure without Council's prior approval; and
- not do anything on or around the awnings over the footpath which in Council's reasonable opinion may be annoying, dangerous or offensive; and

- e) not put up signs, notices, advertisements (other than as required by law), exterior blinds, antennae or receiving dishes without Council's prior approval.

Risk and insurance

- f) Own Risk and Releases

The Owner constructs and maintains the awnings over the footpath at its own risk and releases Council from, and agrees that Council is not liable for liability or loss arising from, and costs incurred in connection with damage, loss, injury or death except to the extent that it is contributed to by Council's wrongful act or omission, negligence or default.

Indemnities

- g) The Owner is liable for and indemnifies Council against liability or loss arising from, and costs incurred in connection with damage, loss, injury or death occurring on, in, by or in connection with the awnings over the footpath or any supporting or related structure or the Owner's land or improvements thereon or business conducted by the Owner or arising from or in connection with the awnings, any supporting or related structure or the Owner's property or business or caused or contributed to by the Owner's act, omission, negligence or default or the act, omission, negligence or default of any of the Owner's lessees, employees, agents or invitees, except to the extent that it is contributed to by Council's wrongful act or omission, negligence or default. Each indemnity is independent from the Owner's other obligations. Council may enforce an indemnity before incurring expense.

Insurance

- h) The Owner must:
 - i) maintain with insurers and on terms approved by Council, noting the respective interests of the owner and Council, public liability insurance for at least \$20 million (as varied by notice from Council to the Owner from time to time); and
 - ii) give to Council, Every 12 months (commencing from the date of commencement of construction), evidence that the Owner has the required public liability insurance; and
 - iii) notify Council immediately if the insurance policy is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the awnings or any supporting or related structures.
50. No goods or furniture are to be displayed or placed outside the boundaries of the site, unless separate approval and a licence under the *Roads Act 1993* is obtained from Council.
51. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. Dwelling House and Neighbourhood Shop 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 and a Neighbourhood Shop, is defined under the *Leichhardt Local Environmental Plan 2013*.

52. The proposed studio is ancillary to the residential use of the premises and is to be used by the permanent residents of the dwelling only. The studio must not incorporate kitchen facilities. No approval is given for the use of the studio as a self contained dwelling or secondary dwelling. The studio shall not be separately leased.
53. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be 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).

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

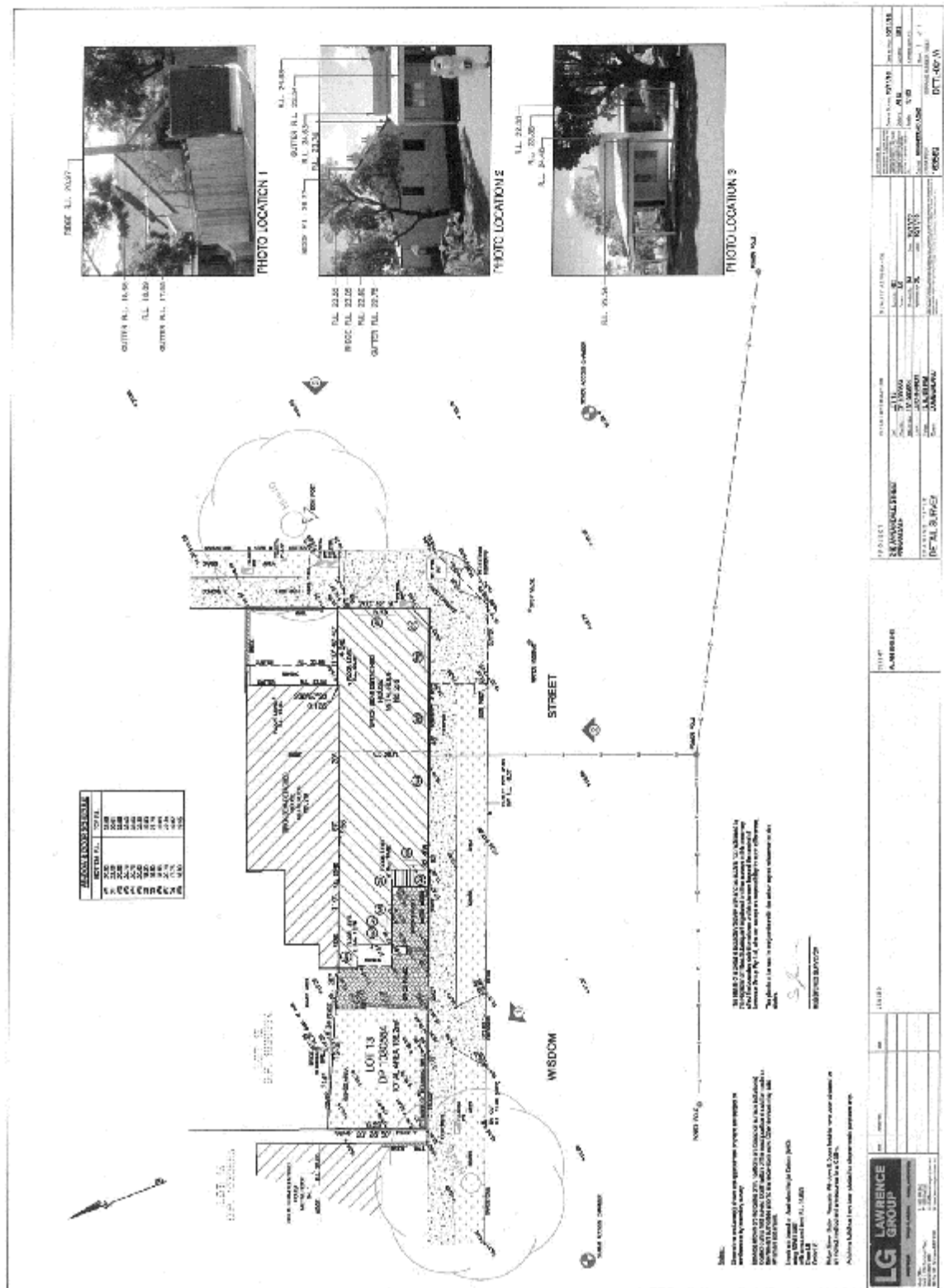
- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent 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.

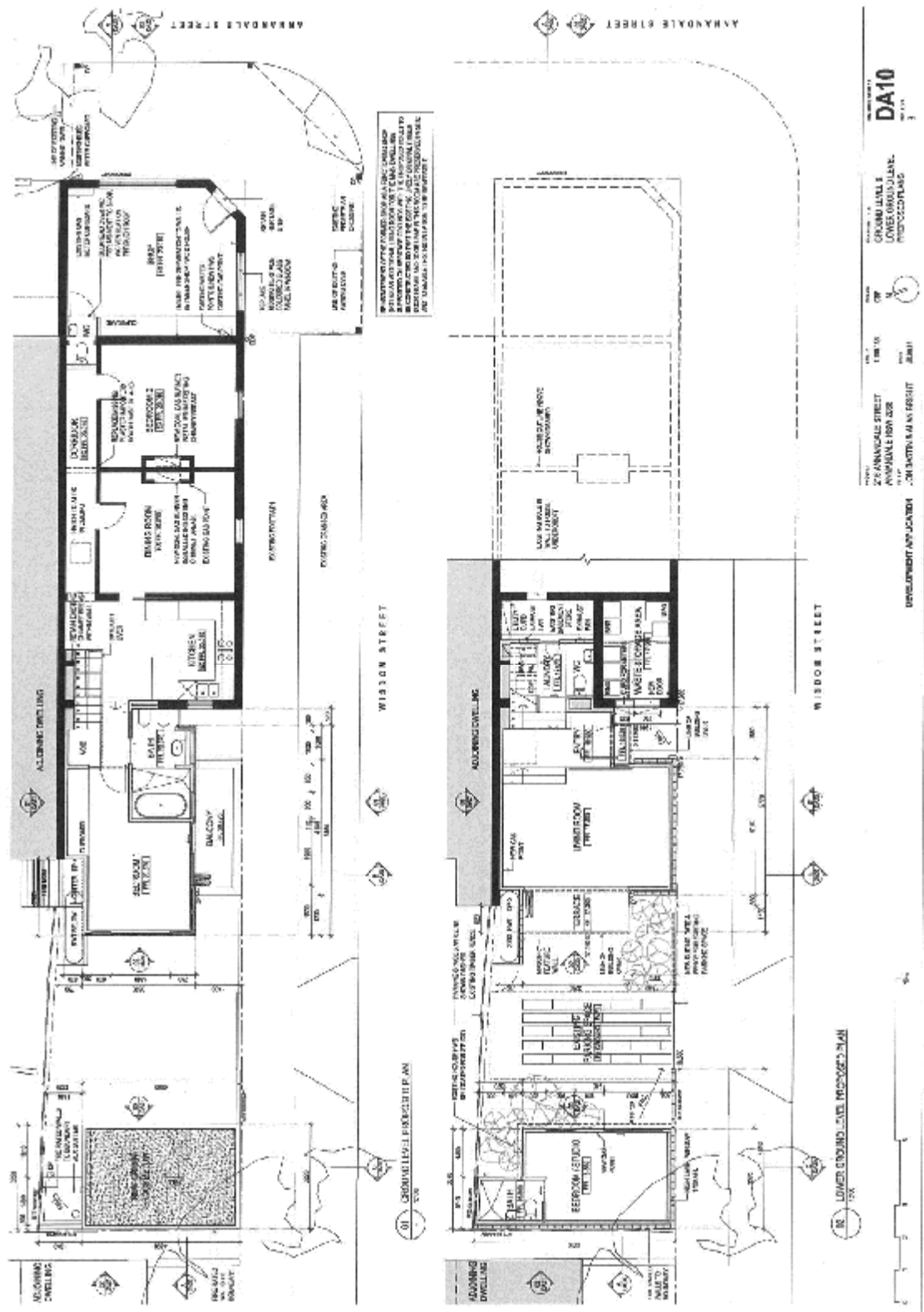
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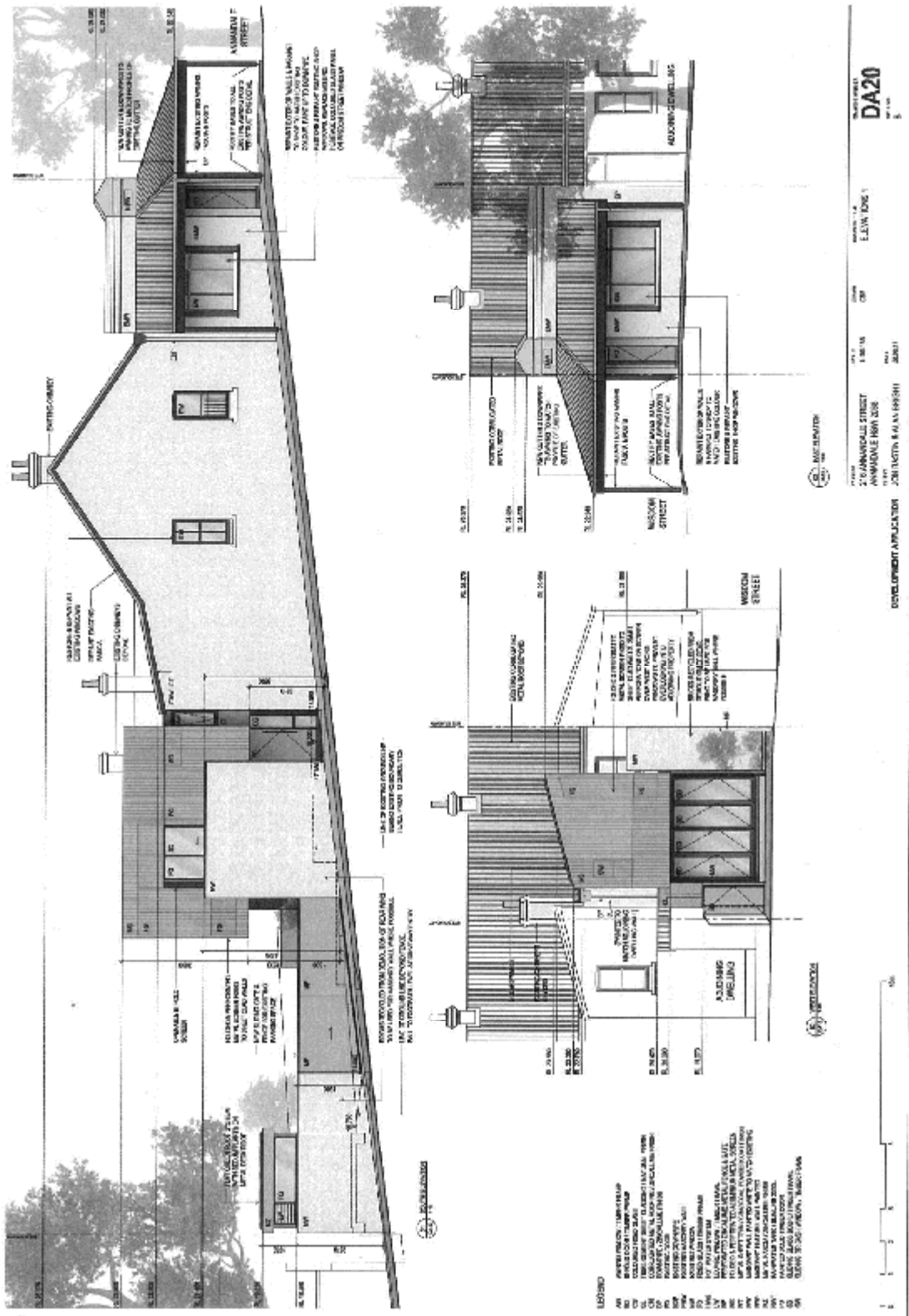
1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, 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.

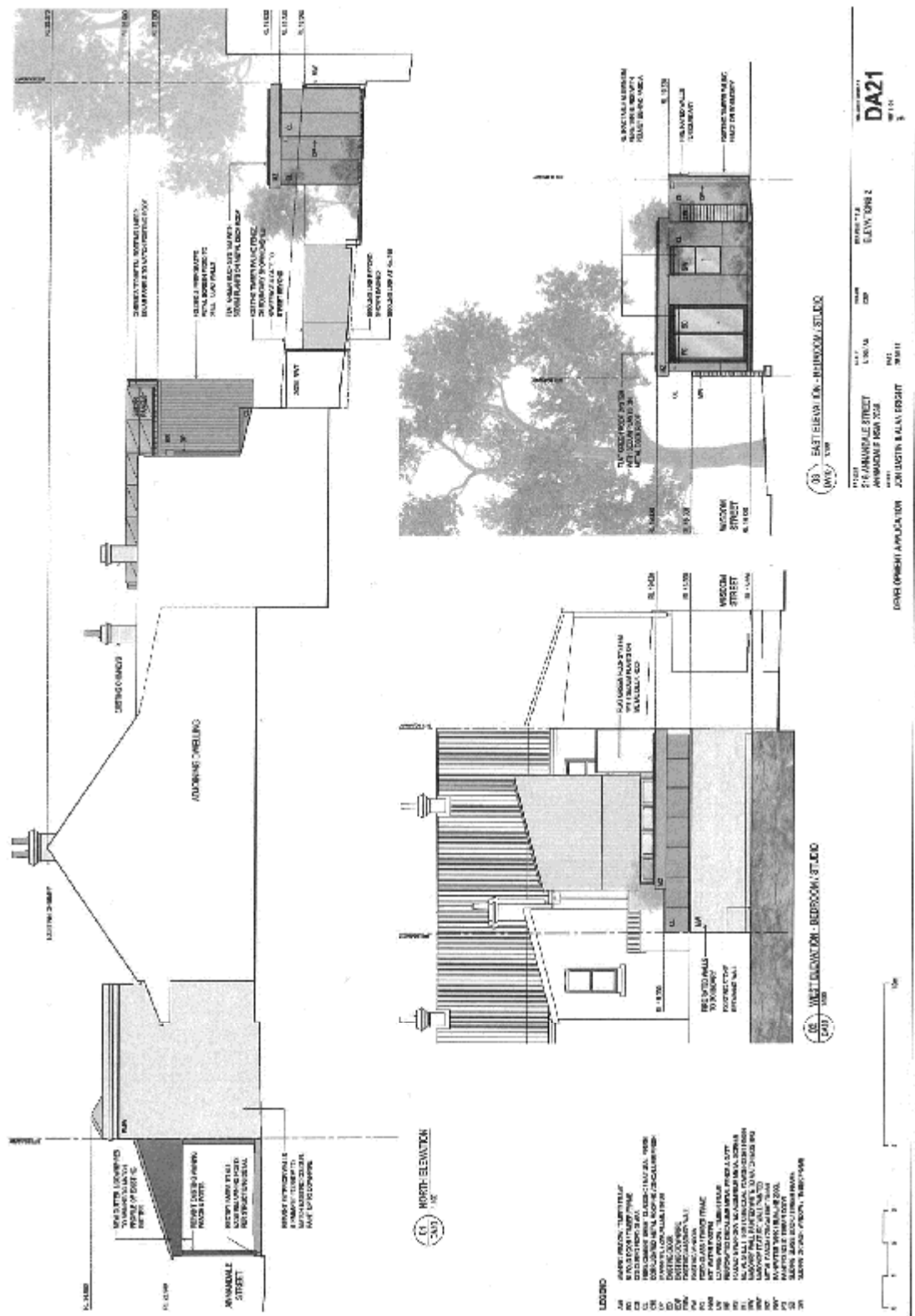
- h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
- 8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) 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.

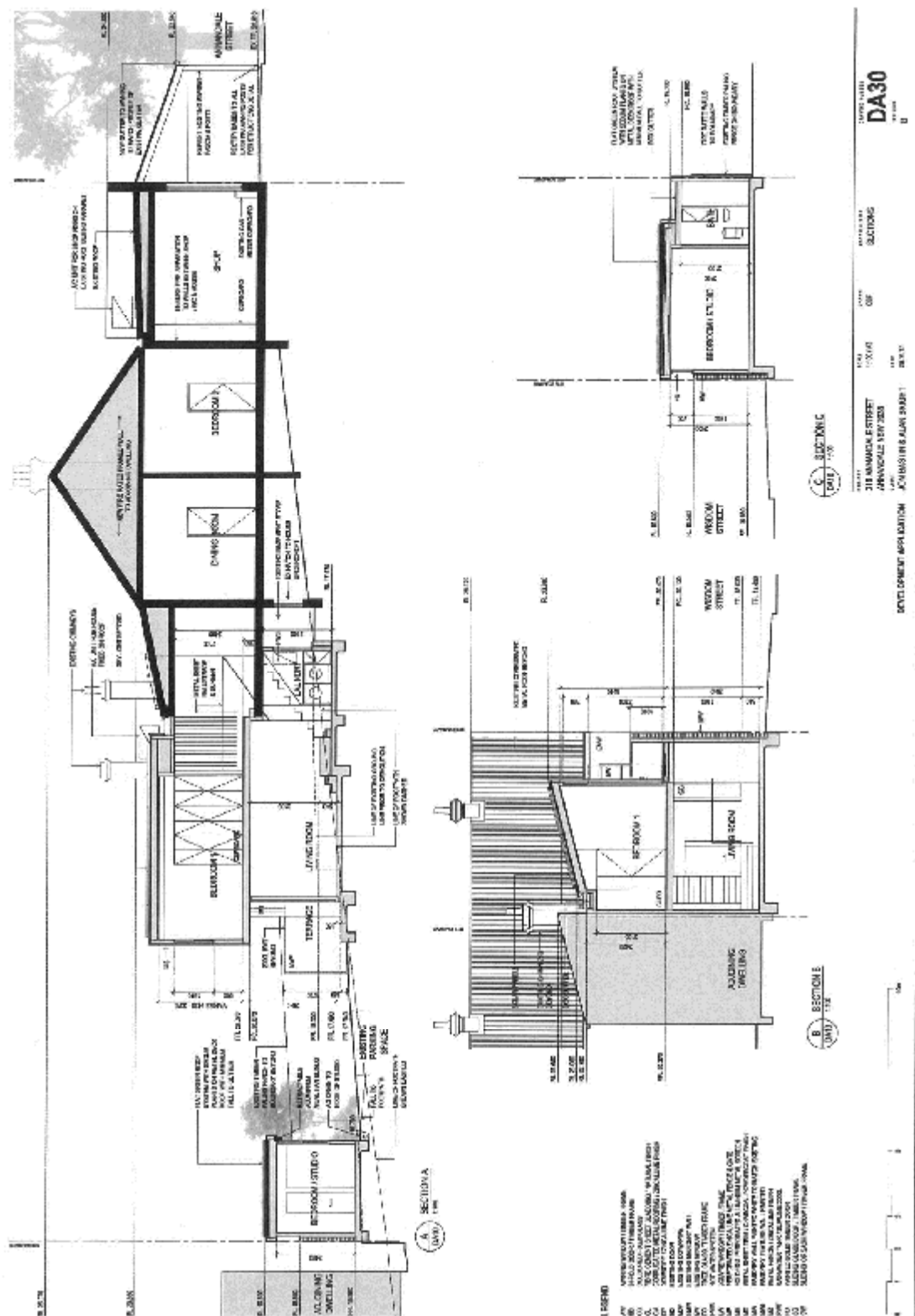
Attachment B – Plans of proposed development

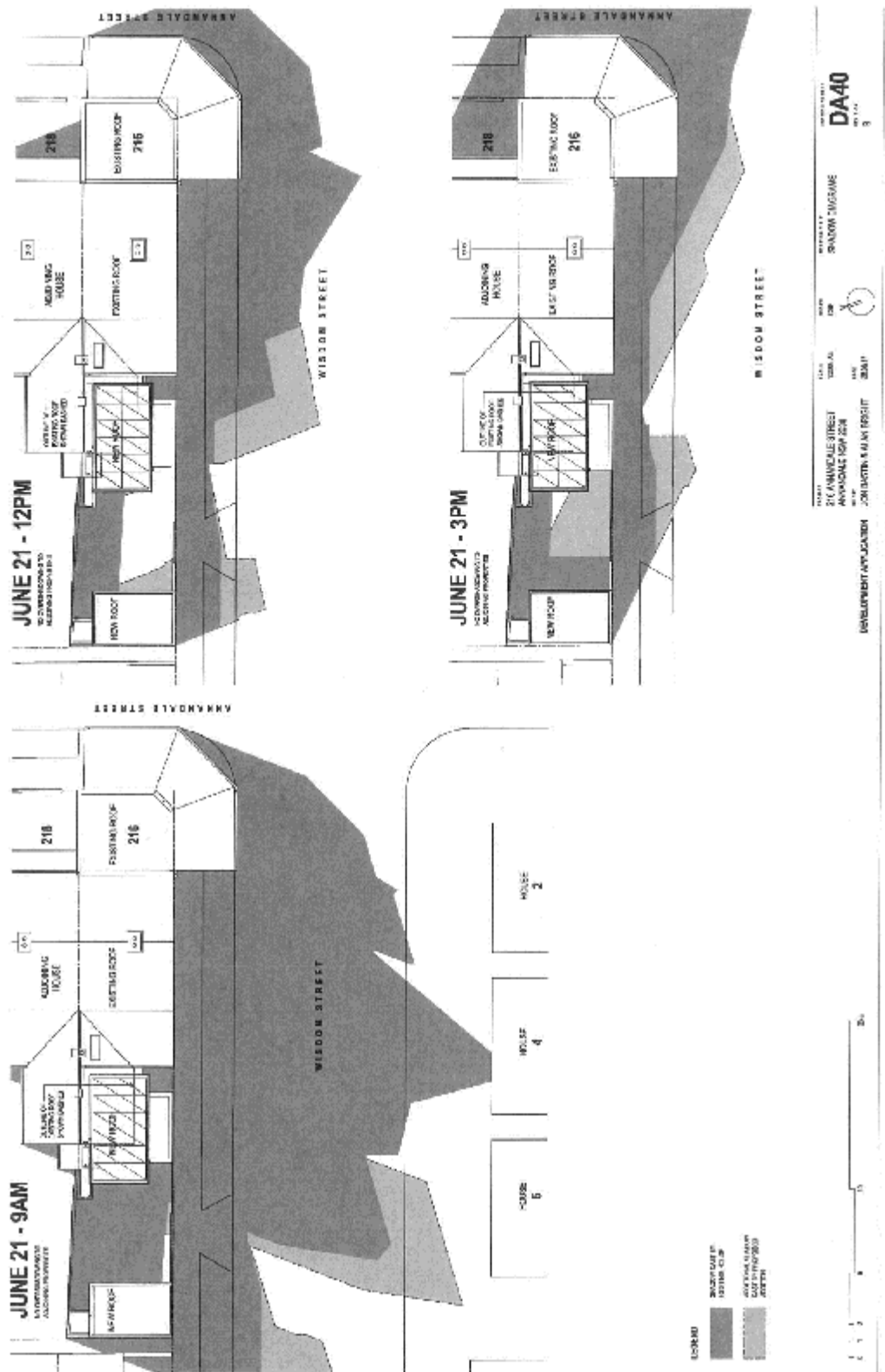














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