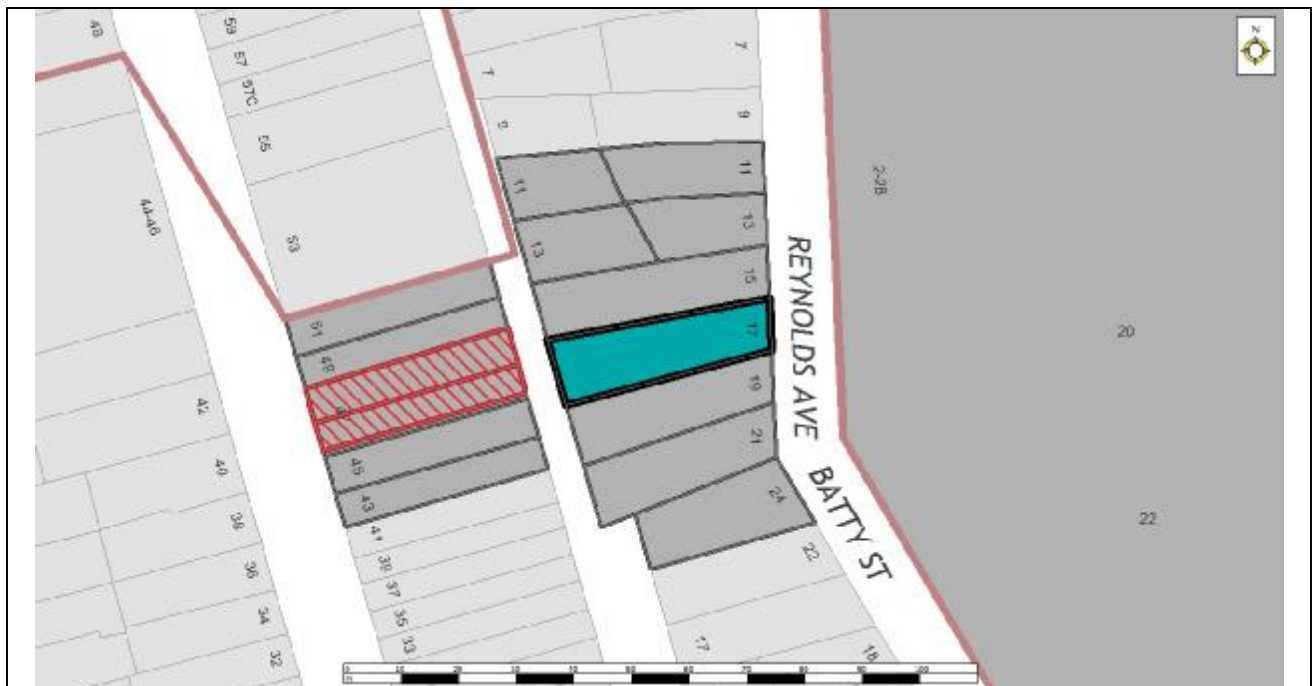




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DAREV/2017/10
Address	17 Reynolds Avenue, ROZELLE NSW 2039
Proposal	Review conditions of approval pertaining to D/2016/405 regarding lower level gym.
Date of Lodgement	27 February 2017
Applicant	Jeff Madden Associates
Owner	Mr G Dubois
Number of Submissions	1
Value of works	\$75,000
Reason for determination at Planning Panel	Recommendation is the same as original Development Application
Main Issues	Demolition of front main staircase Inadequate provision of soft landscaping on site
Recommendation	Approval subject to conditions including retention of staircase



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for review of conditions of approval pertaining to D/2016/405 regarding lower level gym at 17 Reynolds Avenue, Rozelle. The application was notified to surrounding properties and one submission was received.

The main issues that have arisen from the application include:

- Heritage conservation
- Soft landscaping provision

The above issues can be addressed by recommended conditions of consent and therefore the application is recommended for approval subject to conditions.

2. Proposal

The proposal seeks consent for the infilling of the existing understorey of the deck above to create a workshop and gym. The proposed works include demolition of the existing original front entrance external staircase, minor excavation works and removal of some existing landscaped area to create a terraced area adjacent to the workshop/gym and changes to existing external side staircase.

3. Site Description

The subject site is located on the western side of Reynolds Avenue, between Mansfield Street and Reynolds Street. The site consists of one allotment and is generally rectangular shaped with a total area of 378.8m² and is legally described as Lot 1 DP 964765.

The site has a frontage to Reynolds Avenue of 9.145 metres and a secondary frontage of 10.975 to Rumsay Lane.

The site supports a two storey detached dwelling and 2 carports at the rear of the site accessed from Rumsay Lane. The adjoining properties support a single storey substation building to the north of the site and a detached dwelling over 3 levels to the south of the site.

The site is not listed as a heritage item however is located within a conservation area. The site is not identified as a flood prone lot.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
BA/1992/249	Alterations and additions to existing dwelling comprising installation of windows, extension of laundry, pergola and new carport to rear together with brick paving retaining wall and	Approved 4.5.1992.

	landscaping of side and rear yard areas.	
DA/127/95	A two storey addition to the existing dwelling house	Appeal dismissed by L&E Court 24.10.1995
BA/1996/588	Alterations and additions to existing dwelling comprising a new patio to the ground floor, and a first floor extension containing bedroom, dining room, kitchen, bathroom, front patio and rear deck.	Appeal upheld by L&E Court 30.4.1997

Surrounding properties

15 Reynolds Avenue

No existing development history or relevance to this application.

19 Reynolds Avenue

Application	Proposal	Decision & Date
PREDA/2009/22	Demolition of the existing dwellings and construction of a new dwelling	Advice Issued 27.3.2009
D/2010/197	Demolition of existing dwelling at the rear of the site, lower ground, ground and first floor alterations and additions to the existing dwelling located at the front of the site, new carport, storage shed and pool at the rear of the site and associated works, including new fencing and landscaping.	Approved Operational Consent 20.6.2011
M/2011/166	Section 96 application to modify D/2010/197 which approved demolition of existing dwelling at the rear of the site, lower ground, ground and first floor alterations and additions to the existing dwelling located at the front of the site, new carport, storage shed and pool at the rear of the site and associated works, including new fencing and landscaping. Modification seeks to correct errors in the consent to reflect Court Order resulting in the amendment or deletion of Conditions 1(c), 1(d), 1(e), 3(b)(ii), 3(b)(iii), 55 and 56	Approved 23.9.2011
D/2013/218	Demolition of existing structures and construction of a new three storey dwelling with detached double carport and swimming pool.	Approved 21.6.2013
M/2013/124	Demolition of existing structures and construction of a new three storey dwelling with detached double carport and swimming pool. Modification includes deletion of conditions 6 and 20 requiring demolition of existing structures; and alter condition 13	Approved 26.7.2013

4(b) Application history

The following table outlines the relevant history of the subject application and associated original application (D/2016/405).

Date	Discussion / Letter/ Additional Information
19/09/2016	Council request for additional information for D/2016/405: <ul style="list-style-type: none"> • Amendment to design to allow the retention of the existing stairs; • Dimensioned architectural plans; • Accurate FSR, Site Coverage and Landscaped Area calculations, or submission of Clause 4.6 Exceptions; • External finishes and materials schedule; • Amended BASIX certificate to reflect architectural changes.
20/10/2016	Applicant submitted Clause 4.6 Exceptions for FSR and Landscaped Area, but did not make any changes to the overall design in response to the RFI letter.
9/12/2016	D/2016/405 approved subject to conditions
27/2/2017	S82A DA Review application lodged. The applicant provided the following justification for the proposal to remain as originally submitted: <ul style="list-style-type: none"> • <i>Council in its determination of the aforementioned Development Application has failed to take into consideration that the property is not a heritage item, although it is within a Conservation Area, nor the diverse nature of development in this part of Reynolds Avenue.</i> • <i>Also, Council's decision to require the retention the steps to the street is not supported by any logical reasoning and appears to be arbitrary as is the 200mm setback requirement.</i> • <i>Further, the requirement to amend the doors and windows is similarly not supported or justified with any logical argument.</i> • <i>The determination appears to be based on a personal preference and has failed to determine the application on its singular merits, and for this reason by itself is sufficient reason for reconsideration of this matter.</i>
14/3/2017	Site inspection undertaken.
21/3/2017	Internal referral panel meeting held. Application to be determined by IWPP as original recommendation to stand.

The following non-standard conditions were included in the Determination Notice of D/2016/405:

3. Amended plans are to be submitted incorporating the following amendments:

- a) A minimum 42 square metres of the site is to be landscaped area. Landscaped area is defined under Leichhardt Local Environmental Plan as *part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area*. The landscaped area is to be a minimum 1m in width.
- b) Existing central stairway fronting Reynolds Avenue shall remain unaltered.
- c) To minimise its impact upon the streetscape, the proposed eastern elevation of the gym/workshop shall be setback approximately 200mm in from the front face of the verandah above.
- d) The extent of masonry to glazing to the eastern elevation of the gym/workshop shall be increased to be more sympathetic to the built context. The proposed windows and doors are to be amended to have similar proportions and character to the French doors and window above at first floor [original ground floor level].

- e) The proposed windows and doors are to be timber framed.

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

5. DA Review

Section 82A of the Environmental Planning and Assessment Act, 1979 allows an applicant to request Council to review the determination of an application. The review is to be carried out in accordance with the requirements discussed in the following:

A review of a determination cannot be carried out on a complying development certificate, or a determination in respect of designated development, or a determination in respect of integrated development, or a determination made by the council under section 116E in respect of an application by the Crown.

The subject application was not complying development, designated development, integrated development or an application made by the Crown.

A determination cannot be reviewed after the time limit for making an appeal under Section 97 expires, being 6 months from the original determination.

The subject application was determined on 9 December 2016. The request for review was received by Council on 27 February 2017.

In requesting a review, the applicant may make amendments to the development described in the original application, provided that Council is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The applicant has chosen to submit the same plans as originally submitted with the original development application D/2016/405.

The review of determination has been notified in accordance with the regulations, if the regulations so require, or a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations.

The application was advertised for a period of 14 days from 6 March to 20 March 2017.

Consideration of any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan.

Following public notification one (1) submission was received. The issues raised in the submission are addressed in Section 6(f) of this report.

As a consequence of a review, Council may confirm or change the determination.

After reviewing the determination of the application, it is recommended that Council maintain its original determination of approval subject to conditions including retention of the existing front staircase.

The review must not be made by the person who determined the original but is to be made by another delegate of the council who is not subordinate to the delegate who made the determination. If the original determination was made by the Council then the review is also to be considered by the Council.

The review of the application is reported to Council's Planning Panel meeting in accordance with the above requirement.

6. 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.

6(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:

6(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.

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

A BASIX Certificate was submitted with the original application.

6(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities for the following reasons:

- The proposed works would not be overly visible from the harbour and is therefore considered acceptable with regard to the matters for consideration of the SREP.

6(a)(iv) 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 5.9 – Preservation of trees or vegetation
- Clause 5.9AA – Trees or vegetation not prescribed by development control plan
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Required: [0.7:1] [265.16m2]	0.59:1 223.93m2	N/A	Yes
Landscape Area Required: 20%	7.25% 27.47m2	63.74% 48.29m2	No
Site Coverage Maximum: 60%	54.15% 205.11m2	N/A	Yes

The following provides further discussion of the relevant issues:

Clause 1.2 – Aims of the Plan

The proposed demolition of the front staircase is not considered to satisfy the following aim of the plan:

1.2 (2)(c) to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt.

As discussed further below under 5.10 – Heritage Conservation the building is considered to be contributory within the Conservation Area and the front staircase is original to the building. A condition is therefore recommended that the front staircase is retained. Additionally, conditions are recommended regarding reduction of the extent of windows to the gym/workshop and for these windows to be timber framed.

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1

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 application requests that development consent be granted for the development even though the proposal will contravene the minimum landscaped area development standard prescribed under Part 4 of Leichhardt Local Environmental Plan 2013.

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 written request outlining why compliance with the development standards is unnecessary and unreasonable in this case, and has provided sufficient environmental planning grounds to justify a variation to the development standards. The following justification has been provided:

- *The standard calls for 20% of the site area to be set aside as landscaped area and a 60% site coverage which does not impact the adversely on the objects of the standard, as set out previously in point 2.*
 - *The existing soft landscaping on the site 11.39 percent of the site area and this will be reduced to 8.06 percent to provide a hard area outside the proposed doors; further the leased property to the north provides ample landscaped area for the enjoyment of the residents of the property.*
 - *This situation has arisen from the nature of the site and its steepness. In other respects the proposed addition is complementary to the existing building form and does not alter the overall existing pattern or density of the area.*
 - *We submit that the proposed reduction in soft landscaping is irrelevant to the enjoyment of the site by the residents, and does not interfere with the existing character, form or scale of the area. The addition, which is to the front of the property, is of reasonable form/size relative to the existing bulk and scale of adjacent properties, as it is situated in an existing sub-floor area which cannot be seen from the street and the streetscape remains unaffected by this proposal.*
 - *We believe that the existing site and building holds potential for the proposed alterations and additions and that the proposal includes what is considered an acceptable utilization of available space and improves amenities to the existing cottage.*
 - *Given the aforementioned lack of detrimental impact of this proposal, the fact that the existing development exceeds Councils site cover requirements, and has less than the required soft landscaping areas for new development, and the fact it conforms with other Council policy controls, we consider it is unreasonable and unnecessary in this case to adhere to the requirements of the LEP in this instance, and ask for Council's support in this objection which can be approved under Clause 4.6 of Leichhardt DCP.*
- (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 Secretary has been obtained.*

Council being the consent authority in this instance, is not satisfied that the applicant has satisfactorily addressed the matters required under Clause 4.6 Exceptions to development standard, and is not considered to be well founded in this instance. The applicant is seeking to rely upon the adjoining leased property to support the current lot in becoming further deficient in landscaped area as required by this clause. It is stated that further non-compliance is a direct result of the additional hard paving forward of the proposed gym/workshop. The loss of landscaped area may not affect the amenity and enjoyment of the site by existing occupants, but it is contrary to the following objectives of the standard:

- (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water*

As such it is recommended that alternative landscaped area be provided on the site to offset the loss of landscaping resulting from the subject development. A condition is recommended to be imposed requiring a minimum 39.5 square metres of landscaped area (existing amount of landscaped area) to be provided on the site, that is consistent with the definition for landscaped area as outlined under Leichhardt Local Environmental Plan 2013.

Although this approach will still result in a significant variation to the development standard, it maintains the status quo, and will allow existing opportunities for stormwater run-off and planting of trees to be retained.

The Secretary has provided concurrence.

- (5) In deciding whether to grant concurrence, the Secretary 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*

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, subject to the recommended condition of consent being satisfactory complied with. In this regard, there is no material public benefit to the enforcing compliance with the current development standard, but instead retaining the existing non-compliance with the standard.

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

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

5.10 Heritage Conservation

The proposal in its current form is inconsistent with the objectives of this clause as it does not allow for the conservation of contributory building elements within the conservation area. As discussed in detail under C1.4 Heritage Conservation Areas and Heritage Items (refer to 6(c) of this report), the loss of the original stair from a contributory building is unacceptable, and furthermore the proposal could be made suitable through the imposition of several conditions, which relate to the retention of the existing staircase and reduction of glazing to the proposed gym/workshop. It is therefore concluded that the proposal could be supported on heritage grounds, subject to compliance with the recommended conditions of consent.

6(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

The following provides further discussion of the relevant issues:

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	Compliance
Floor Space Ratio Required: Rozelle - Lot size 0-149.9 - FSR 0.9 Lot size 150 – 299.9 - FSR 0.8 Lot size 300-449.9 – FSR 0.7 Lot size 450+ - FSR 0.7	0.57:1 217.8m2	N/A	Yes

The application satisfies the draft review of Floor Space Ratio of the Leichhardt Local Environmental Plan 2013.

6(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	No
C1.4 Heritage Conservation Areas and Heritage Items	No
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes

C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	No
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.5.1 The Valley 'Rozelle' Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No
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	No
C3.6 Fences	N/A
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	
C4.1 Objectives for Non-Residential Zones	N/A
C4.2 Site Layout and Building Design	N/A
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	N/A
C4.5 Interface Amenity	N/A
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A

C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
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	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	N/A
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	
E1.2.1 Water Conservation	N/A
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	Yes
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:

C1.3 – Alterations & Additions

The proposed alterations and additions in their proposed form are not considered to satisfy the following Objectives and Controls:

Objectives

O1 To ensure that development:

- b. where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
- h. retains existing fabric wherever possible and maintains and repairs, where necessary, rather than replaces the fabric.*

Controls

C1 The overall form of alterations and additions shall:

- d. maintain the integrity of the streetscape and heritage significance;*
 - e. be considered from all public vantage points from which the additions will be visible;*
- For alterations and additions to the front of existing dwellings*

C7 Alterations and/or additions to the front of an existing dwelling must ensure that important elements of the original character of the building and its setting are retained, restored or reconstructed, where it contributes to the desired future character, including but not limited to:

- a. balconies and verandahs;*
- b. front gardens and landscaping;*
- c. fences and walls;*
- d. fenestration;*
- e. roof forms*

The proposed removal of the original front staircase is not considered to be a sympathetic alteration to the dwelling. A condition is therefore recommended for the retention of the staircase.

C1.4 – Heritage Conservations Areas and Heritage Items

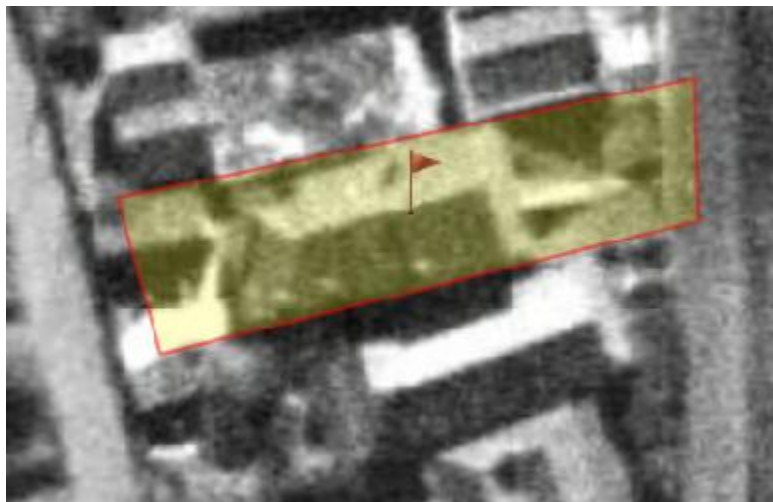
The subject property is located within The Valley (Balmain & Rozelle) conservation area. A photo of the previous unaltered appearance of the subject Californian Bungalow styled dwelling as viewed from Reynolds Avenue, prior to the construction of an additional storey directly above the primary roof form is below. The location and prominence of the central stairs to the original architectural composition of the dwelling is noted in the following photo:



The below photo shows the current appearance of the dwelling from Reynolds Avenue. Despite the additional storey significant components of the original Californian Bungalow are still evident, including the central stairway; ground floor verandah and distinctive timber and masonry supports and ground floor fenestration.



The 1943 aerial provided below clearly demonstrates the prominence of the elevated steps to Reynolds Avenue, which remains a significant streetscape feature to this day.



It is considered that the original stairs which have historically been located in this position and contribute to the streetscape should be retained and a condition is recommended as such accordingly. There appears to be scope to provide access to the proposed rooms behind the stairs. The extent of masonry to glazing to the eastern elevation is also required to be increased which is more sympathetic to the built context. The windows/doors to the basement level are recommended to be conditioned to be reduced in width to a central glazed panel and be timber framed.

With a view that the proposal can be supported on heritage grounds, subject to conditions which amend the form of the works so that they will be more sympathetic to the historic built context that remains on the site and within the surrounding heritage conservation area, it is recommended that the colour scheme for the works match/maintain the existing colour scheme.

C1.12 - Landscaping

As discussed under Clause 4.3A in section 6(a)(iv) of this report, the proposed loss of existing landscaped area as a result of the additional paving and remodelling of the existing stairs is not supported, as it results in a further non-compliance with the development standard, further minimises the ability for the on-site stormwater infiltration and limits the opportunity for existing and new vegetation to be retained. As such it is recommended that a condition be imposed requiring the 39.5 square metres of landscaped area to be provided on-site, which matches the existing level. The recommended condition requires the landscaped area to comply with definition for landscaped area in Leichhardt LEP 2013, and be a minimum 1m wide.

C3.1 – Residential General Provisions

The proposed alterations and additions in their proposed form are not considered to satisfy the following Objectives and Controls:

Objectives

O3 To ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting.

Controls

C1 Residential development is not to have an adverse effect on:

b. the relationship of any Heritage Item or Heritage Conservation Area to its place, setting and cultural significance.

C2 Additions to an existing building are generally:

b. subservient to the form of the existing building; and

c. maintain the form, fenestration, roof forms and chimneys of the existing building when viewed from the principal street frontage; and

d. of a design which is compatible with but does not compete with the architectural character of the existing building or the Building Typologies;

The proposed removal of the original front staircase is not considered to meet the above objectives and controls as the staircase is considered to contribute to why the building is considered contributory within the conservation area. It is considered that a gym/workshop area would still be able to be achieved with retention of the existing staircase. Accordingly, a condition is recommended requiring the existing front staircase to be retained.

C3.5 – Front Gardens and Dwelling Entries

The proposed removal of the front staircase is not considered to comply with the following objectives and controls:

Objectives

O1 Front gardens and dwelling entries:

e. are legible and easily identified.

f. can form an integral part of the architectural composition of historic dwellings and should be preserved and enhanced.

Controls

C5 Dwelling entries are clearly visible and easily identifiable from the street.

C8 Original front entries to the dwellings are preserved.

The owner has advised that he utilises Rumsay Lane as his main entry point to the dwelling and not Reynolds Avenue. However Rumsay Lane is not supported as an alternate main entrance for the dwelling due to the historical pattern of development in the area, the historical orientation of the subject dwelling and the historical hierarchy of streets within the conservation area. Additionally, the address of the property is Reynolds Avenue and this is where casual visitors would expect to gain entry to the. A condition is therefore recommended requiring the existing front stairs to be retained.

6(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.

6(e) The suitability of the site for the development

The site is zoned R1 General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

6(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan for a period of 14 days to surrounding properties. A total of one submission was received.

The submission raised the following concerns which are discussed below:

Issue: The narrow laneway at the rear of the property is used by many Smith Street residents with rear parking facilities. Concern for continued flow of Rumsay Lane access during the proposed works as it will be most likely used for parking by builders on site.

Comment: Rumsay Lane is a public lane and there are “no parking” signs directly opposite the site. It is expected that people adhere to street signs and parking rules when parking. If a driver parks illegally the matter can be reported to Council and investigated by Council’s parking officers. Roads & Maritime (RMS) general parking rules state that parking is not permitted on or across a driveway.

6(g) The Public Interest

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

The proposal is not contrary to the public interest subject to appropriate conditions.

7 Referrals

7(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 – original DA D/2016/05 was referred to engineering which had no objections to the proposal subject to a standard condition being imposed. The current Section 82A Review application was therefore not required to be re-referred and the same standard engineering condition is recommended to be imposed.

7(b) External

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

8. Section 94 Contributions

Section 94 contributions are not payable for the proposal.

9. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

10. Recommendation

- A. The variation to Clause 4.3A(3)(a) Landscape Area of Leichhardt Local Environmental Plan 2013 be supported, subject to a recommended condition requiring additional soft landscaping provision, 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: DAREV/2017/10 for review conditions of approval pertaining to D/2016/405 regarding lower level gym at 17 Reynolds Avenue, ROZELLE NSW 2039 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. DAREV/2017/10 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Architectural Plan numbered 806 – DA – 132B	Madden Associates	Oct 2005
Document Title	Prepared By	Dated
BASIX Certificate numbered A257879	Jeff Madden	16 August 2016

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

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

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

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

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

2. Consent is granted for the demolition works as shown on the approved architectural plans subject to strict compliance with the following conditions:

Excluding the following elements which must be retained:

Elements to be retained	Location
Front central staircase	Eastern side of dwelling

- 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 RELEASE OF A CONSTRUCTION CERTIFICATE

- 3. Amended plans are to be submitted incorporating the following amendments:
 - a) A minimum 39.5 square metres of the site is to be landscaped area. Landscaped area is defined under Leichhardt Local Environmental Plan as *part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area*. The landscaped area is to be a minimum 1m in width and length;
 - b) Main central entrance stair from Reynolds Street to be retained;

- c) The extent of masonry to glazing to the eastern elevation of the gym/workshop shall be increased with a single glazed panel being a window or door to each side of the staircase. The single glazed panels shall be centrally located and have a maximum width of 1m;
- d) The proposed windows/doors are to be timber framed;
- e) All new external colours to match existing colours in comparable building elements.

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

4. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
 - i) 10:00pm to 7:00am on Monday to Saturday: and
 - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

5. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
6. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:

- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the “Principal Certifying Authority.”
- b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
- c) At least two days notice, in writing has been given to Council of the intention to commence work.

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

7. 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.

8. 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 demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority’s satisfaction prior to the issue of any Construction Certificate.
9. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
 - a) Must preserve and protect the adjoining building from damage
 - b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

10. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:

- The building is to be provided with smoke alarm system that complies with *AS3786-1993: Smoke Alarms* and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

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

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

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

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

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

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.

- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences.
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

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

13. 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.

14. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.

- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

15. 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)

- 16. 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)	\$2015.00
Inspection fee (FOOTI)	\$219.00

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.

- 17. 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

18. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the property boundaries must be set out by or the location certified by a registered surveyor in accordance with the approved plans, prior to the commencement of works.

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the:

- a) location of the building with respect to the boundaries of the site;

19. 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.

20. 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.

21. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
22. 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.
23. 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.
24. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for

business purposes and outside working hours.

- c) The name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

DURING WORKS

25. 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.

26. 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.

27. The site must be appropriately secured and fenced at all times during works.
28. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or

agricultural activities and which do not contain sulphate ores or soils.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority.

29. 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.

30. 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.

31. 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.
32. 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.
33. 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.
34. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

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

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

35. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

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

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

36. No trees on public property (footpaths, roads, reserves etc) are to be removed

or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

37. 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.

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

39. 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.

40. 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.

41. 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.

ONGOING CONDITIONS OF CONSENT

42. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.

43. 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.

44. The proposed gym/workshop is ancillary to the residential use of the premises and is to be used by the permanent residents of the dwelling only. The gym/workshop must not incorporate kitchen facilities. No approval is given for the use of the gym/workshop as a self-contained dwelling or secondary dwelling. The gym/workshop shall not be separately leased.
45. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling house without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

The use of the premises as a dwelling house, is defined under the *Leichhardt Local Environmental Plan 2013*.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A(3) 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 the building work or demolition work is being carried out, but must be removed when the work has been completed.

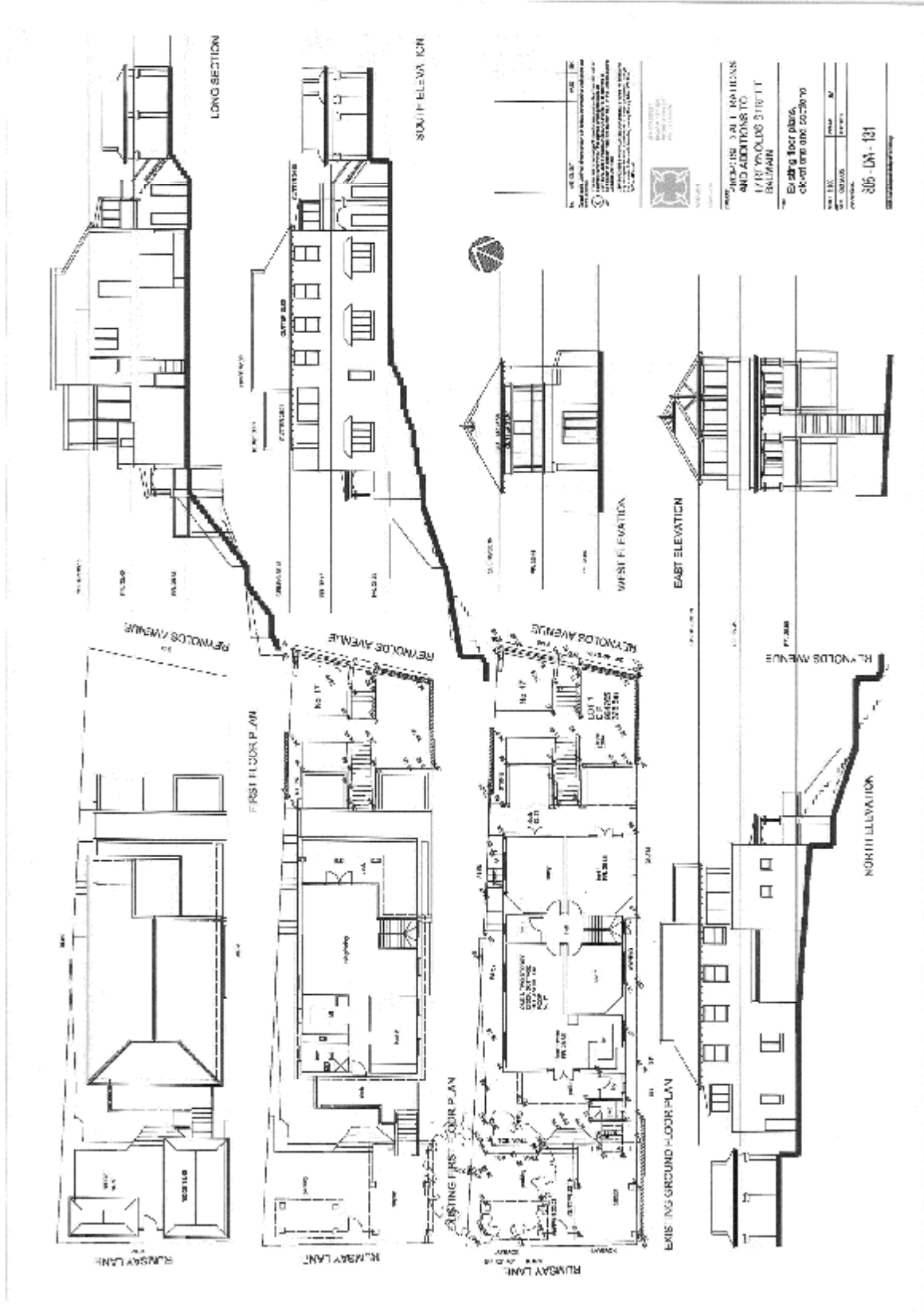
E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

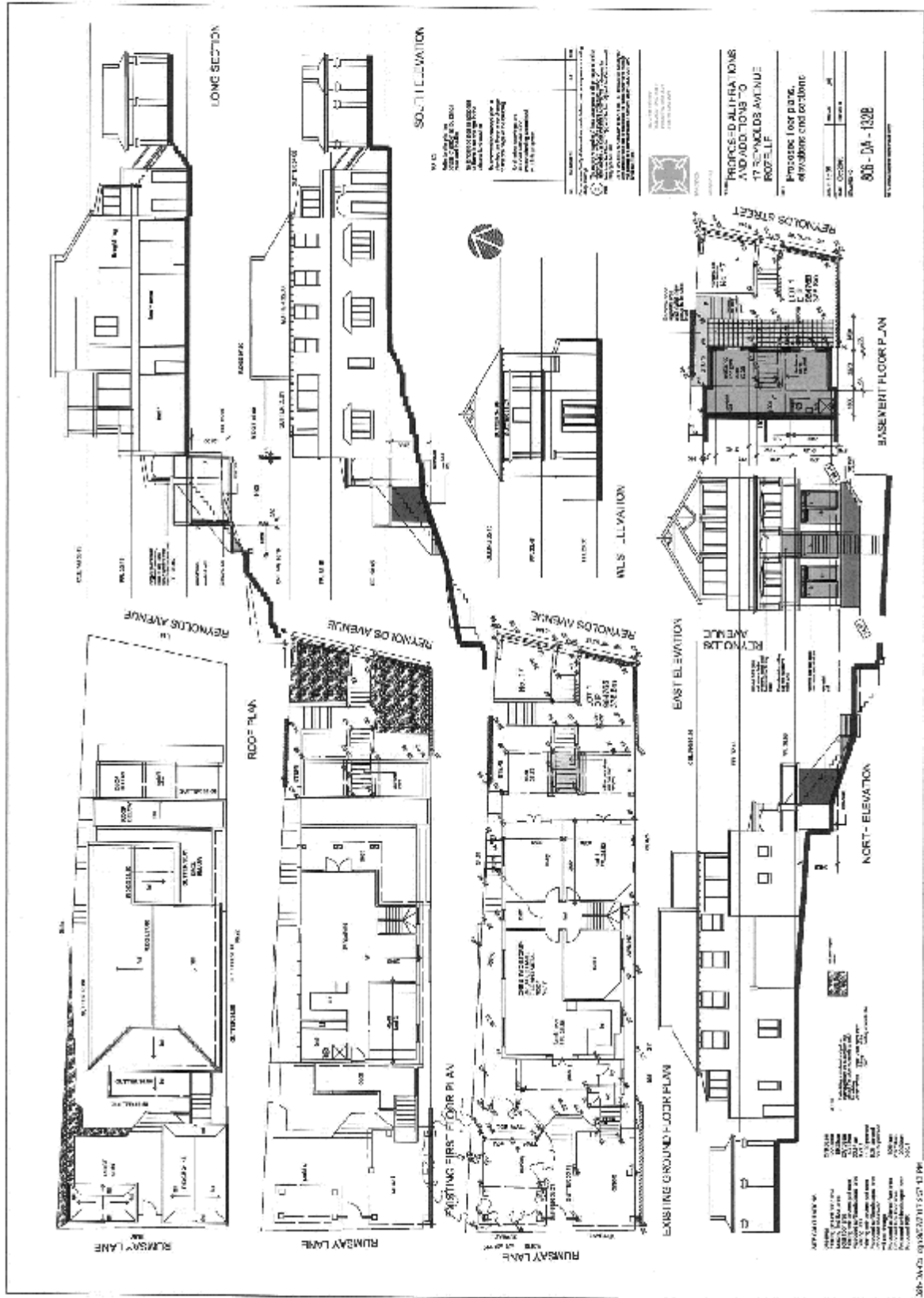
NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of determination

2. If you are dissatisfied with this determination, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the NSW Land and Environment Court within six (6) months of the original determination date.
3. 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.
4. 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*.
5. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
6. 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 Place of Public Entertainment. Further building work may be required for this use in order to comply with the Building Code of Australia.
 - c) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - e) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - f) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - g) Development Application for demolition if demolition is not approved by this consent.
 - h) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - i) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
7. 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.



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