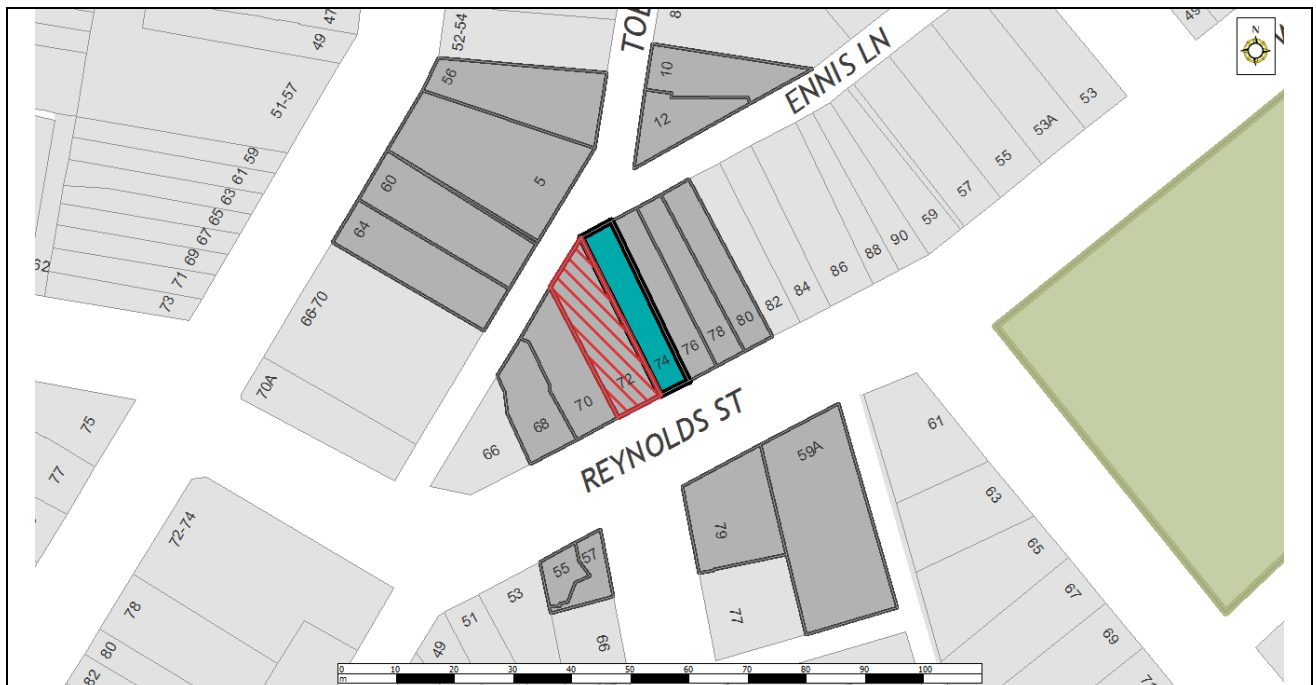




# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2017/510
<b>Address</b>	74 Reynolds Street, BALMAIN NSW 2041
<b>Proposal</b>	Alterations and additions to existing dwelling and new carport.
<b>Date of Lodgement</b>	29 September 2017
<b>Applicant</b>	Thodey Design
<b>Owner</b>	Mr D Bradbury and Ms S A Knox
<b>Number of Submissions</b>	One submission
<b>Value of works</b>	\$499,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation to site coverage exceeds officer delegation
<b>Main Issues</b>	Heritage Conservation Amenity
<b>Recommendation</b>	Approval subject to draft conditions



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for the replacement of an existing carport with a new garage, and alterations and additions to ground floor, first floor and attic level at 74 Reynolds Street, Balmain. The application was notified to surrounding properties and one submission was received.

The main issue that has arisen from the application include:

- Proposed non-compliance with the Floor Space Ratio and Site Coverage development standards which are supported by clause 4.6 exceptions that justify why compliance with the development standards are unreasonable and unnecessary in this instance.

The non-compliances are acceptable given the amended proposal does not result in any unreasonable impacts upon the amenity of the surrounding residential properties or streetscape as described in this assessment report. As such, the application is recommended for approval.

## 2. Proposal

The original application sought consent for alterations and additions to the existing dwelling and rear carport, and in particular proposed the following works:

- New double garage;
- Alterations and additions to the existing ground floor by extending the external walls to boundary and replacing the existing glazing to rear, and introducing an internal lightwell/courtyard;
- Alterations and additions to the existing first floor by further extending the external wall to the rear and incorporating a rear balcony, replacing the glazing to the rear elevations, and alterations to the existing bathroom and bedroom;
- Addition of a new front and rear dormer to the existing attic; and
- Minor landscaping works.

The proposal was subsequently amended in response to Council correspondence, which resulted in the following changes:

- The deletion of front rear dormer to the attic;
- Reduction in the size of the first floor rear addition; and
- Provide new carport in-lieu of double garage.

The amended proposal is the subject of this assessment report.

## 3. Site Description

The subject site is located on the northern side of Reynolds Street. The site consists of one allotment and is generally rectangular shaped with a total area of 156.5 square metres and is legally described as Lot 1 DP 101493.

The site has a frontage to Reynolds Street of 5.6 metres and a secondary frontage of approximate 5.31m to Ennis Lane. The site is affected by one cross easement for support with No. 76 Reynolds Street of which the property shares a party wall. Consent has been provided by the owners of the adjoining property in this regard, and appropriate conditions are recommended to ensure the integrity of party wall is maintained.

The site supports a one and two storey rendered semi-detached residence. The adjoining properties support a three storey rendered semi-detached residence to the east and two storey cladded dwelling to the west.

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

There are significant trees located on the site.

## 4. Background

### 4(a) Site history

There is no relevant development history in relation to the subject site or No. 76 Reynolds Street, Balmain.

The following table outlines the relevant applications for No. 72 Reynolds Street, Balmain:

Application	Proposal	Decision & Date
D/2011/388	Alterations and additions to the existing dwelling including a two-storey rear addition and new boundary fencing and roller door.	Approved – 7/10/2011
M/2013/29	Modification involve various changes, including a weatherhood over the dormer on the first floor southern elevation, a conservatory to replace an alcove space in the first floor study, a skylight to the first floor bathroom and other miscellaneous changes	Approved – 25/03/2013
D/2014/42	Alterations to existing dwelling including replacing roofing, gutters and downpipes in front section of dwelling with zincalume products	Approved 19/03/2014
M/2014/196	Modification seeks changes to window openings of the eastern elevation.	Approved – 18/12/2014
M/2016/21	Modification includes amendments to windows and addition of a carport	Approved – 1/07/2016

### 4(b) Application history

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

Date	Discussion / Letter/ Additional Information
27/10/2017	<p>Council correspondence raised concerns with the following aspects of the proposal:</p> <ul style="list-style-type: none"> <li>• Heritage impact of front dormer;</li> <li>• Rear dormer proposed non-conformance with dormer control;</li> <li>• Excessive FSR non-compliance</li> <li>• Lack of landscaping;</li> <li>• Amenity impact as result of BLZ non-compliance at first floor;</li> <li>• Stormwater impact;</li> <li>• Parking provision and compliance with Australian Standard AS2890.1; and</li> <li>• Colour scheme unsympathetic within conservation area.</li> </ul>

17/11/2017	Applicant submitted revised architectural plans and Statement of Environmental Effects incorporating the amendments as outlined in Section 2 of this report.
29/1/2018	Council requested: <ul style="list-style-type: none"> <li>• Additional plans correcting plan anomalies;</li> <li>• Additional shadow diagrams confirming the shadow impacts from the carport; and</li> <li>• Amended Clause 4.6 Exceptions request addressing recently amended Floor Space Ratio control (increased from 0.7:1 to 0.9:1).</li> </ul>
30/1/2018	Amended plans received in response to request of 30/1/2018.
31/1/2018	<ul style="list-style-type: none"> <li>• Council requested amended accurate shadow diagrams.</li> <li>• Applicant provided requested shadow diagrams.</li> </ul>

The amended plans and additional information received form the basis of this report. The amended plans lodged did not require re-notification as they were considered to fall within *Control C5. Section A3.13 - Specific Circumstances Where Notification Is Not Required, Part A: Introduction, Leichhardt Development Control Plan 2013*, which does not require the re-notification of amended plans to an undetermined application which, inter alia, constituted a lesser development have been proposed in order to address the concerns raised by Council.

## 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
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- 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.

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

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

A BASIX Certificate was submitted with the application and demonstrated appropriate compliance with the BASIX requirements for a residential dwelling and can therefore be supported in this regard subject to compliance with the recommended conditions of consent.

### 5(a)(ii) 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 of the locality and wider local government area, and can therefore be supported in this regard.

### 5(a)(iii) 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 6.4 – Stormwater Management

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

Standard (maximum)	Proposal	% of non-compliance	Compliance
<b>Floor Space Ratio</b> Maximum: 0.9:1	0.94:1	7.15sqm or 5.1%	No
<b>Landscape Area</b> Minimum 15%	15%	-	Yes
<b>Site Coverage</b> Maximum 60%	74%	23sqm or 24%	No

The following provides further discussion of the relevant issues:

#### Clause 4.6 Exceptions to Development Standards

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

- 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 and 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 building has an inherent breach of site coverage. The added area which is proposed for the design (which adds an additional 7% to the existing) comes in the form of extending the ground floor building line to the boundary. This is essential for a growing family for the need for useable living and functional space. We believe it is impossible to maintain a 60% site coverage (especially as there is an inherent non-compliance to begin with). The only way to meet this LEP standard [would] be to demolish existing built external form which for many reasons, economically and locality concerned; is not economically and logically feasible.*
- *We believe we have increased merit of the design and useable space by deleting outdoor elements (low masonry planter walls to western edge) to reclaim landscaped outdoor space.*
- *The proposal does not contravene any other development substantially besides FSR; (refer to subsequent Section 4.6 Exception to a Development Standard submission relating to FSR). Once again, this development standard forms part of an existing and inherent non-compliance issue.*
- *The development as a whole retains council's DCP controls for setbacks in it reflects the neighbouring properties of building to their boundary edge also.*

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

- *The proposal's increase in bulk takes into consideration the contribution of the existing building and enhances the character of the area by maintaining and not altering the principal street frontage of Reynolds Street. The change in bulk only occurs where there is building bulk in the adjoining structure. The increase in bulk and scale reflects the typology in the street.*
- *Our proposal will not disrupt the amenity or privacy of any neighbours. The windows provided to the ground and first floor look over the rear of the property. New window*

to side elevation for existing bathroom replaces existing window and is placed at 1600 mm FFL.

- There will be no adverse overshadowing to any neighbours as the structure of the garage will be built in place of existing. New ground floor extension provides minimal extra shadowing but only to ground floor of property. New level 1 bulk and proposed dormers are minimal in terms of increased bulk. Refer to Shadow Diagrams prepared by Thodey Design.
  - The scale of the proposal is modest, and we believe it is impossible to maintain the FSR for a contemporary home for a growing family. This can be seen as the existing property already contravenes this standard by 0.02:1. The additional space occurs mainly on ground floor; a level which has little to no impact on any neighbouring properties. The addition of the dormers only enable an existing space to be used legally and effectively (as can be seen in 76 Reynolds Street). The reason for the increased FSR is the fact that the garage is now proposed to be a sheltered and closed area where it used to be an open carport (as can be seen in 76 Reynolds Street). The proposal seeks to copy 76 Reynolds street in bulk and scale and therefore maintains the typology to the street already created. As can be seen by the two and a half storey bulk and typology within Reynolds Street; we believe that
  - we are not proposing a design that is unreasonable or unlike the same demands of those properties within the same street. The additional space in the proposal is needed to maximise the utility of the existing building for a growing family and provide ample living areas for the demands of a growing family. As can be seen by the two and a half storey bulk and typology within Reynolds Street; we believe that we are not proposing a design that is unreasonable or unlike the same demands of those properties within the same street. The additional space in the proposal is needed to maximise the utility of the existing building for a growing family and provide ample living areas for the demands of a growing family.
  - The development as a whole retains council's DCP controls for side setbacks in it reflects the neighbouring properties of building to their boundary edge also.
- (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.

The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and it is considered to be well founded in this instance. The proposal will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standards and General Residential zoning as demonstrated below:

- The proposal is compatible with the desired future character of the area in relation to building bulk, form and scale;
- The proposal complies with the Landscaped Area standard, providing a suitable balance between landscaped areas and the built form, and a suitable private open space area for use by the occupants;
- The siting of the building is consistent with the established building location zones, where it can be reasonably assumed development can occur on the site; and
- The proposal does not result in any undue adverse amenity impacts to the surrounding properties in terms of solar access, visual and acoustic privacy;

- The proposed site coverage and FSR are commensurate with those characteristic of the street and wider area (see aerial photo below showing typical site coverages of the six terrace row).



- (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 standards will not compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this instance, the application was submitted prior to the currently applicable FSR control and Council had previously indicated that it had no objection to the gross floor area proposed prior to the adoption of the new standards.

- (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.

#### Clause 5.10 – Heritage Conservation

The subject property is a good example of a two storey Late Victorian era terrace with an intact primary form that makes a notable contribution to the heritage values of the conservation area. The original proposed was assessed with consideration of Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013, with the following comments/recommendations being made by Councils Heritage Adviser:

- *Dormer to front roof plane not supported as it would be incongruous and inappropriate with regard to authentic heritage setting of conservation area streetscape. It is noted intrusive elements in conservation areas are not appropriate precedence.*
- *Skillion dormer to rear roof plane of terrace to be set down a min of 300mm from ridge and a min. of 200mm up from inside face of rear wall of primary form below. Skylight to rear roof plane to be a max. of 700 by 900mm*
- *Clerestory light to garage to be deleted as the form is unsympathetic to the heritage values of the conservation area*



- *Additions to rear wing acceptable on heritage grounds*
- *Black colour proposed for garage doors, roof, awnings and rainwater goods and mid grey colour proposed for walls not supported as they would be unsympathetic to the heritage values of the conservation area*

The applicant subsequently amended the proposal in response to the Council's recommendations, which included deletion of the proposed front dormer and amendment to the rear dormer as recommended above. Where the above advice was not incorporated into the amended proposal, the above recommendations will be imposed as conditions of consent as outlined in Attachment A.

### 5(b) Draft Environmental Planning Instruments

There is no Draft Environmental Planning Instruments applicable to this development application.

### 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
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	Yes
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
<b>Part C: Place – Section 2 Urban Character</b>	
Suburb Profile	
C2.2.2.4 ‘The Valley’ Balmain Distinctive Neighbourhood, Balmain	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – see below
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	N/A
C3.7 Environmental Performance	N/A
C3.8 Private Open Space	Yes
C3.9 Solar Access	No – see below
C3.10 Views	N/A
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
<b>Part D: Energy</b>	
Section 1 – Energy Management	
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
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	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	N/A
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

<b>Part F: Food</b>	<b>N/A</b>
<b>Part G: Site Specific Controls</b>	<b>N/A</b>

The following provides discussion of the relevant issues:

### C3.2 Site Layout and Building Design

The amended application seeks to rely upon a variation to the side setback control along the eastern and western elevations as a result of the staircase and aluminium glazed framing addition to the existing attic accommodation. Given that the proposed non-compliance is not visible from Reynolds Street and does not cause any direct amenity impacts to the surrounding properties, a variation to the control in this instance is considered acceptable on merit.

### C3.9 Solar Access

The subject site and adjoining properties are orientated north-south, and as such the following controls are applicable to this application:

- C13 Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.
- C15 – Where surrounding *dwelling*s currently receive less than the required amount of solar access to the *main living room* between 9.00am and 3.00pm during the winter solstice, no further reduction of solar access is permitted.
- C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.
- C19 – Where surrounding *dwelling*s currently receive less than the required amount of solar access to their *private open space* between 9.00am and 3.00pm during the winter solstice, no further reduction of solar access is permitted.

The application is supported by shadow diagrams which demonstrate that the amended proposal will not result in any additional overshadowing to the main living room glazing of the adjoining residential properties contrary to Controls C13 and C15, and is therefore acceptable in this regard.

However the shadow diagrams confirm that, ignoring the shadows cast by the existing shade sail at the rear of 74 Reynolds Street and trees at 72 Reynolds Street, the proposal may result in an increase in overshadowing into the rear private open space of No. 72 Reynolds Street which would breach Controls C17 and C19. At 9:00am in mid-winter, additional shadows would be cast onto a rear parking area of No. 72, however at 12:00pm, minor overshadowing (approximately 1 sqm in area) of the rear private open space of this adjoining property would occur. At 3:00pm, no additional shadows would be cast; however, almost the entire rear yard of the property is already in shadow.

The planning principle in regard to retention of sunlight is found in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082, and has been considered to test the reasonableness of the overshadowing impact and requiring compliance with the solar access controls, and in this regard, the following factors are to be considered:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at*

*low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The adjoining site impacted in terms of overshadowing has a north-south orientation with a northern facing rear yard, and hence, is potentially vulnerable to overshadowing from any development on the site to its east (i.e. the subject site). However, the proposal would have an acceptable and compatible density within 'The Valley' Balmain Distinctive Neighbourhood, its siting is in a location where a car parking structure can be reasonably expected to be carried out (its siting being adjacent to and / or similar to parking structures at adjoining properties), and it is considered to be of an appropriate scale in its context (being similar to adjoining and nearby laneway structures).

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: The additional overshadowing of a morning at 9:00am would be cast onto an existing rear parking area of No. 72 Reynolds Street, while at 12:00pm, there is some additional overshadowing of the private open space of this adjoining site (approximately 1 sqm). The amount of sunshine lost to the private open space of the adjoining property is considered to be minor and indiscernible as the rear yard would still retain almost all of its current solar access and light at 12:00pm. Furthermore, any additional overshadowing cast by the proposed new carport would be similar to existing shadows cast by the shade sail currently located at the rear of the subject site.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposal is considered to be of an appropriate footprint which minimises amenity impacts on neighbouring properties. The standard of the design / scale is considered satisfactory in this instance.

In light of the above, the siting and scale of the proposal is considered acceptable and additional overshadowing in mid-winter is minor and not considered to be unreasonable.

### C3.11 Visual Privacy

Concern was raised by the adjoining property owner in relation to the potential for the loss of visual privacy to their principal living areas as a result of a proposed first floor balcony. It is noted that a balcony is not proposed at first floor level, but rather, a bay window extension to the existing bedroom. Notwithstanding the above, the amended proposal reduced the size and extent of the extension, which is now of similar dimensions to the attached terrace at 76 Reynolds Street, Balmain and consistent with the prescribed maximum size of 1.2 depth by 2m width for rear facing balconies.

In light of the above assessment, the proposal is considered to be satisfactory with regard to the visual privacy controls, and is supported on merit in this regard.

### C3.12 Acoustic Privacy

Concern has been raised in relation to the location of the existing and installation of a new air-conditioning condenser on the subject site. In relation to the existing A/C unit, Councils environmental compliance department will be consulted and review undertaken of existing approvals or exempt provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to determine if the system has been installed correctly.

The Statement of Environmental Effects confirms that no new A/C condenser units will be installed as part of the proposed development. Accordingly Council is unable to impose any conditions in this regard, as it does not relate directly to the proposed development. The applicant is however required to comply with the exempt provisions described above, should any new systems be installed.

#### Part E – Water

The proposal was considered against Part E Water by Councils Stormwater and Development Engineer who initially raised concern with the proposed stormwater solution as no overland flow path was able to be provided on-site, and is further reduced due to the extension of the ground floor to the boundary.

In relation to the stormwater solution, the Councils Stormwater and Development Engineer is now satisfied that the proposed drainage will have sufficient capacity safely drain the site to Reynolds Street and Ennis Lane, subject to compliance with the recommended conditions of consent.

#### 5(d) The Likely Impacts

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

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

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

#### 5(f) Any submissions

The application was notified in accordance with Leichhardt DCP 2013 for a period of 14 days to surrounding properties. A total of one submission was received in response to the notification period.

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

- The increase in visual bulk from the development – see Section 5(c) – C3.9
- Privacy implications from the new balcony and proposed first floor glazing – see Section 5(c) – C3.11
- Loss of sunlight – See Section 5(c) – C3.9.
- Details of proposed air-conditioning condenser units, and visibility when viewed from living room – See Section 5(c) – C3.12.
- Concerns with heritage impact – See Section 5(a) – Clause 5.10

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

#### Issue: General adequacy of the submitted documentation

Comment: The submitted plans did not include the proposed openings in the western elevation and amended plans were submitted to rectify this. The amended plans include a first floor bathroom window with a sill height of 1.6 m and ground floor glazed doors with face a boundary fence with a height of 1.8 m. As neither of the openings are considered to result in adverse privacy impacts it is considered that the submitted information provides a sufficient level of detail to enable the assessment and determination of the proposal in consideration of the relevant planning controls.

Issue: Lack of detail in relation to parapet wall, in particular fire rating, stormwater and materials and finishes.

Comment: Further detail will be submitted as part of the Construction Certificate stage in relation to the structural, stormwater and other elements of the proposal. In any case, the proposal is required to be constructed in accordance with the Building Code of Australia and relevant standards, as imposed in the draft conditions of consent.

Issue: Lack of detail in relation to finishes.

Comment: The amended proposal is supported by a Schedule of External Finishes which outlines the proposed materials and colours for each element of the external building.

Issue: Architectural plans are not dimensioned. Unable to verify consistency with submitted BASIX certificate.

Comment: The architectural plans include dimensions which allow the BASIX certificate to be verified using Councils internal assessment systems. Standard BASIX conditions are also imposed at the Construction Certificate and Occupation Certificate stage to ensure compliance with the submitted BASIX certificate is achieved.

Issue: Accuracy of submitted shadow diagrams.

Comment: Amended shadow diagrams have been provided and reviewed, and these revised shadow diagrams are considered to provide an accurate reflection of the resultant building shadows at the winter solstice. An assessment of the overshadowing implications of the proposal has been provided previously in this report.

Issue: Existing satellite dish to be relocated so it is not visible from living room.

Comment: The proposal has not made reference to the relocation of the existing satellite dish, and as such Council cannot impose a condition in this regard. If the owners are to relocate the existing satellite dish, they must have consideration of the exempt provisions under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Issue: Proposed Skylight to the Kitchen - compliance with the NCC (BCA): The proposed skylight appears to be bigger than 20% of that part of the roof over the Kitchen in which it is located. The skylight also seems to be too close to the vertical projection of the boundary wall. (I understand that the BCA require it should be more than 900mm from the inside face of the parapet wall.)

Comment: A standard condition of development consent includes demonstrating that the plans comply with the BCA prior to the issue of the Construction Certificate. The kitchen receives sufficient light and ventilation without the skylight, thus if necessary the size of the skylight can be reduced to achieve compliance with the BCA before the Construction Certificate is issued.

Issue: Existing Garden Beds: The construction of the parapet wall and the carport wall will significantly impact on our established raised garden beds that are currently formed with treated pine retaining planks that are integral to the existing paling fence. Any damage to the beds and paving on the boundary should be reinstated.

Comment: A condition requiring a dilapidation report to be undertaken prior to works commencing on site is recommended in the draft conditions of consent, and specifically includes the raised garden bed and paling fence. Should any damage occur during construction, this will be noted in the final dilapidation report, and require appropriate remedy prior to an occupation certificate being issued.

### 5(g) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Heritage Officer
- Development Engineer

### 6(b) External

The application was not referred to any external bodies for comment.

## 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 the recommended conditions, the development will not result in any significant impacts on the amenity of adjoining premises and / or the streetscape. The application is therefore considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. The variation to Clauses 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/2017/510 for alterations and additions to ground floor, first floor and attic level and new rear carport at 74 Reynolds Street, Balmain subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2017/510 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA-00 Issue C (Site and Roof Plan)	Thodey Design	30/1/2018
DA-02 Issue C (Ground and First Floor Plan)	Thodey Design	30/1/2018
DA-03 Issue C (Attic Floor Plan)	Thodey Design	30/1/2018
DA-04 Issue C (Street, Rear and Garage Elevations)	Thodey Design	30/1/2018
DA-05 Issue C (Side Elevations)	Thodey Design	30/1/2018
DA-06 Issue B (Sections)	Thodey Design	17/1/2018
DA-08 Issue C (Schedule of External Finishes)	Thodey Design	30/1/2018
Document Title	Prepared By	Dated
BASIX Certificate numbered A291847_02	Thodey Design	4 September 2017

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

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

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

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

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

2. Consent is granted for the demolition as shown on the approved plans, subject to strict compliance with the following conditions:
  - a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
  - b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the



demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:

- i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
- ii) A *final* inspection when the demolition works have been completed.

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

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

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

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

- 3. Amended plans are to be submitted incorporating the following amendments:
  - a) The skylight to rear roof plane to be a maximum of 700mm by 900mm orientated vertically with slope of roof.
  - b) The clerestory light to the carport is to be deleted

- c) Profile of all new roof sheeting to be similar to profile of traditional corrugated steel roof sheet. Colour to be similar to Colorbond Windspray or Wallaby
- d) All new external colours to be similar to existing colours on similar building elements.
- e) The side elevational drawings are to be amended to reference the property addresses of adjoining properties correctly.

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. Prior to the issue of a Construction Certificate, a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the structural integrity of the existing "Party Walls" are adequate to accept the additional loads imposed thereon by the proposal. A copy of the Certificate must be provided to the consent authority and all owners of the party wall/s.
- 5. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared 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) As there is no overland flow/flood path available from the rear and central courtyards to the Reynolds Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
    - i) Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe.
    - ii) The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building. Note that the kitchen/dining may need to be raised or the rear yard lowered to provide sufficient depth.
    - iii) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.

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

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

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

6. 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.
7. 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.

8. An application must be made to Council for the issue of a Levels Certificate. The certificate, issued by Council, must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The certificate specifies the surface levels in the road reserve adjacent to the property that must be used as the basis for the design of vehicle or pedestrian accesses, finished floor levels, fences, vents and any structures in the vicinity of the property boundary.

The architectural & engineering plans must be updated to reflect the information in the levels certificate and submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The overall height of the external form must not alter from that depicted within the approved plans and/specified by this consent.

The levels certificate may specify that levels in the adjacent road reserve are required to be changed.

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

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

10. 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.
11. The existing unpainted brick surfaces are not to be painted, bagged or rendered but to remain as original brick work. The Construction Certificate plans must clearly depict all original brickwork with a notation that they are to remain unpainted to the satisfaction of the Principal Certifying Authority.
12. 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 comply with those obtained in the Levels Certificate issued by Council. The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter 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 single parking space must have minimum clear internal dimensions of 6000 x 3000mm (length x width).
- e) Where the drop adjacent to the end of the parking module(s) exceeds 600mm, structural barriers must be provided. Where the drop is between 150-600mm, wheel stops must be provided. These physical controls must be installed in accordance with the requirements of Section 2.4.5 of AS/NZS2890.1-2004.
- f) 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.

13. 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.

14. The applicant must bear the cost of construction of the following works:

- a) Construction of a concrete vehicle crossing at the Tobruk Avenue / Ennis Lane frontage of the site.

Development Consent does NOT give approval to undertake any works on Council property. **An application must be made to Council and a Roadworks Permit issued under Section 138 of the Roads Act 1993 prior to construction of these works.**

The Roadworks Permit must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

These works must be constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of an Occupation Certificate.

Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

15. 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.

16. 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](http://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.

17. 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.

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



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

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

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

19. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m<sup>3</sup>) or weight (t) of materials that are reused, recycled or removed from site.
  - b) On site material storage areas during construction.
  - c) Material and methods used during construction to minimise waste.
  - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal

and retention of waste docket 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)**

- 20. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued (whichever occurs first), a security deposit as set out below must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.

<b>Works</b>	<b>Security Deposit</b>
Vehicle Crossing (ROADWB)	\$ 2,100
<b>Total</b>	<b>\$ 2,100</b>

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

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.

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. 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)	\$2,100
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.

22. 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
72 Reynolds Street, Balmain	Dwelling, including raised garden beds and paling boundary fence.
76 Reynolds Street, Balmain	Dwelling and Party Wall

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.

23. 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**

24. 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;

25. 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.

26. 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.

27. 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.
28. 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.
29. 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.
30. 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**

31. 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.

32. 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.

33. The site must be appropriately secured and fenced at all times during works.
34. 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.

35. 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.

36. 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.
37. 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.
38. 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.
39. 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.
40. 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.

41. 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.

42. 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**

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

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

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

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 the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
46. 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.
47. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

48. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council Roadworks Permit approval.

Written notification from Council that the works approved under the Roadworks Permit have been completed to its satisfaction and in accordance with the conditions of the Permit, must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.

49. 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.

50. 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

51. 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.
52. 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.
53. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling 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, is defined under the *Leichhardt Local Environmental Plan 2013*.

### PRESCRIBED CONDITIONS

#### A. BASIX Commitments

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
- i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is

modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

- ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

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

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

## **C. Home Building Act**

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

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

## **D. Site Sign**

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited;

- b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while 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**

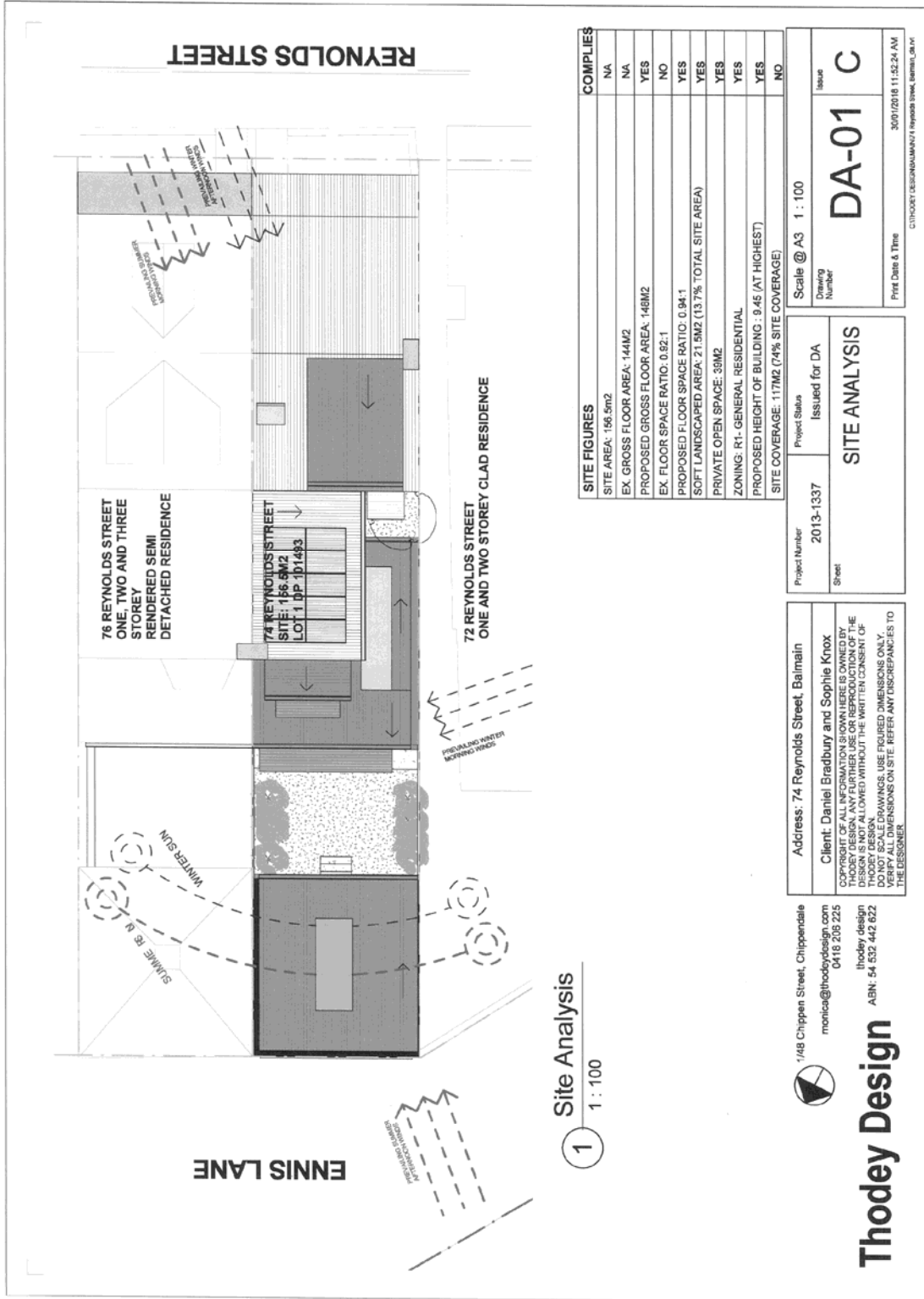
- 1) For the purposes of [section 80A](#) (11) of [the Act](#), it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development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

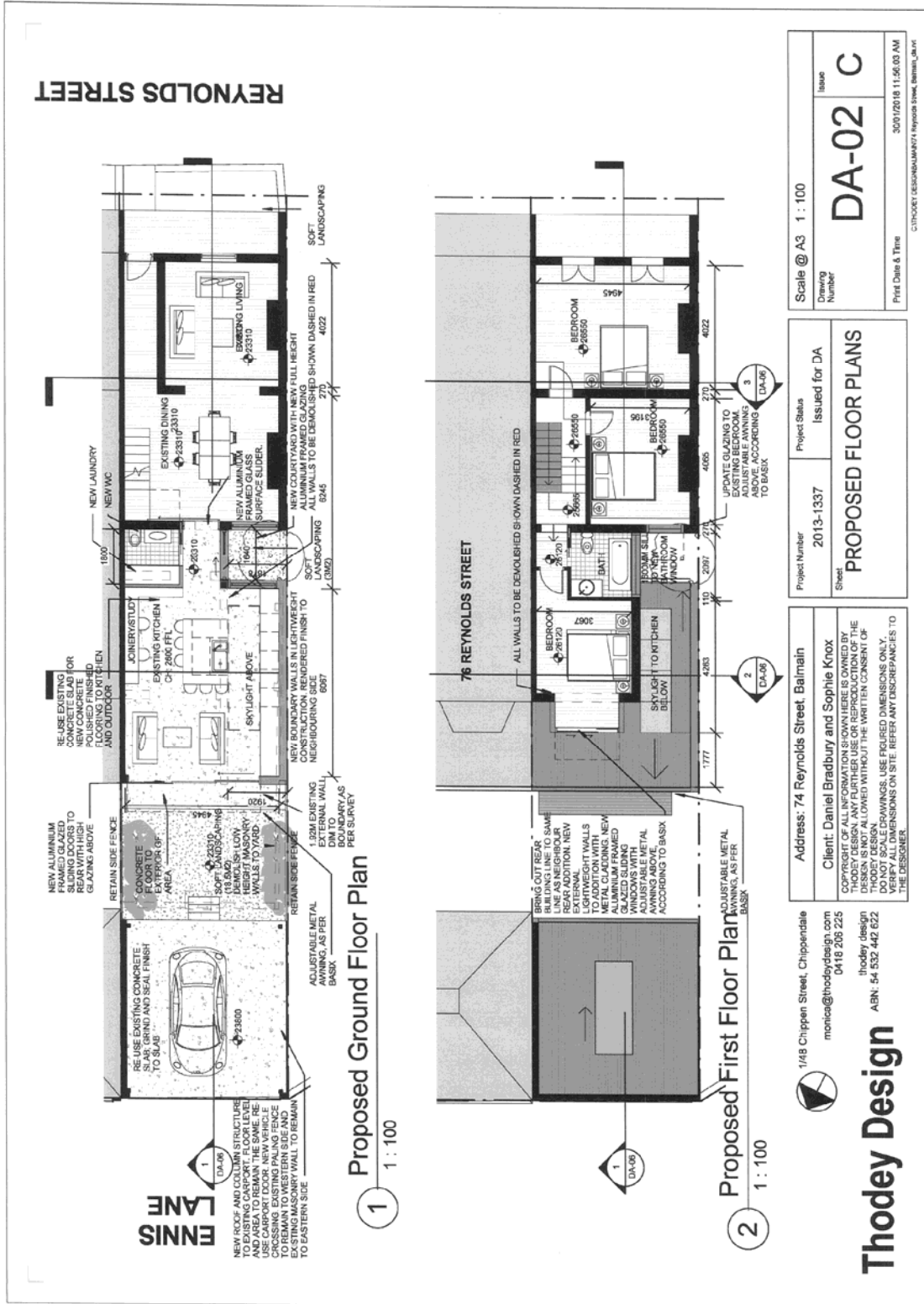
1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown,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







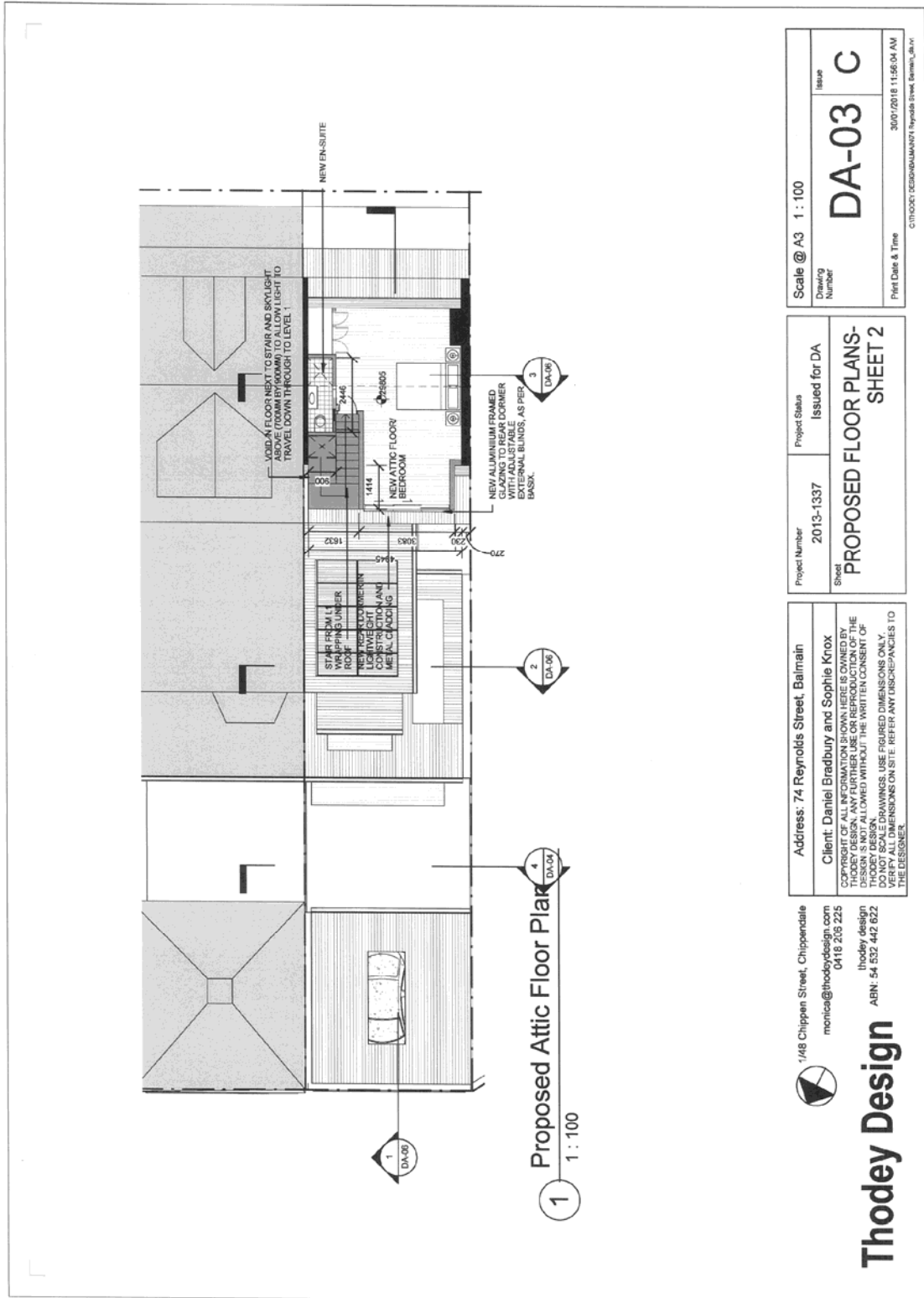


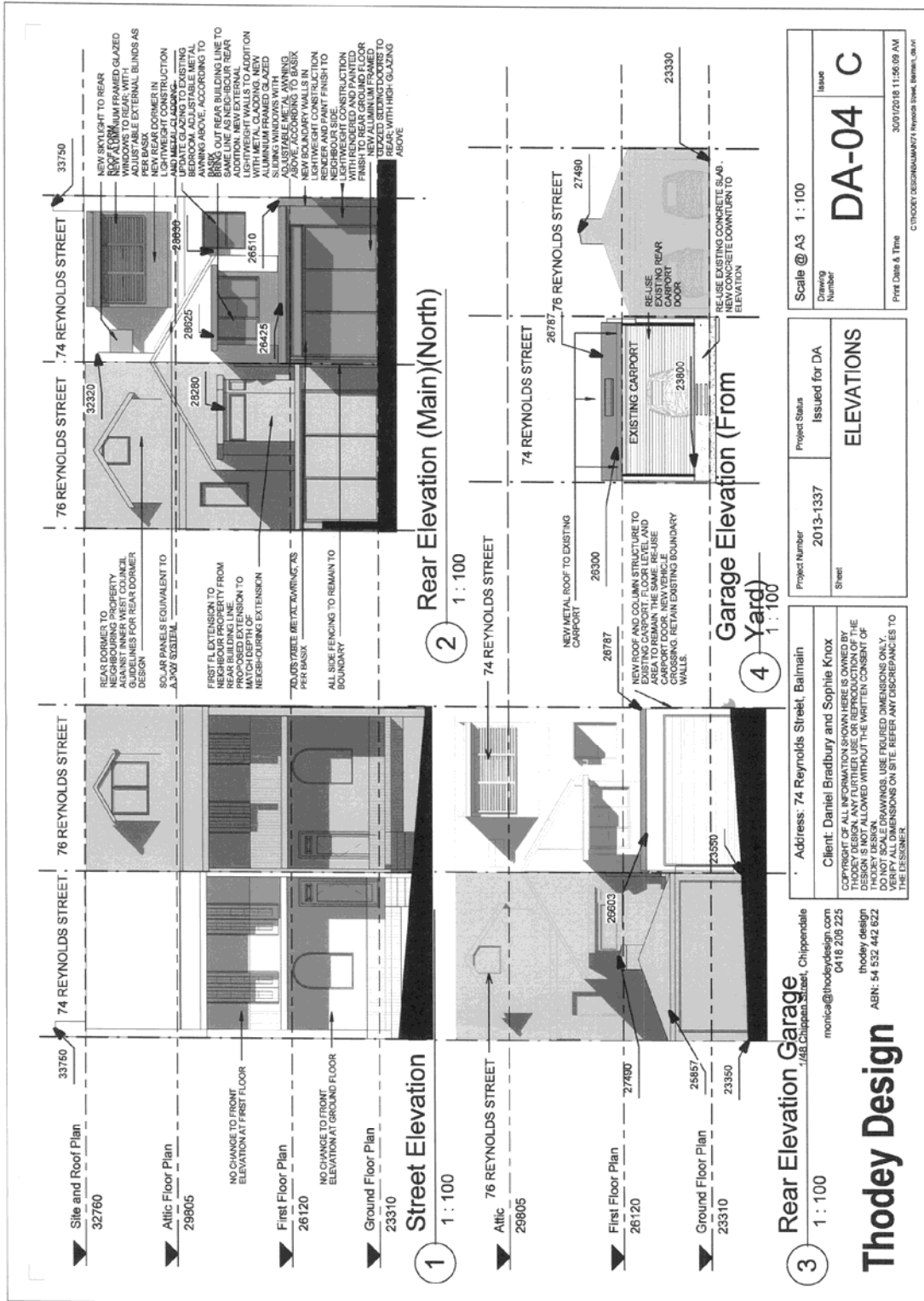
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Project Number	2013-1337
Project Status	Issued for DA
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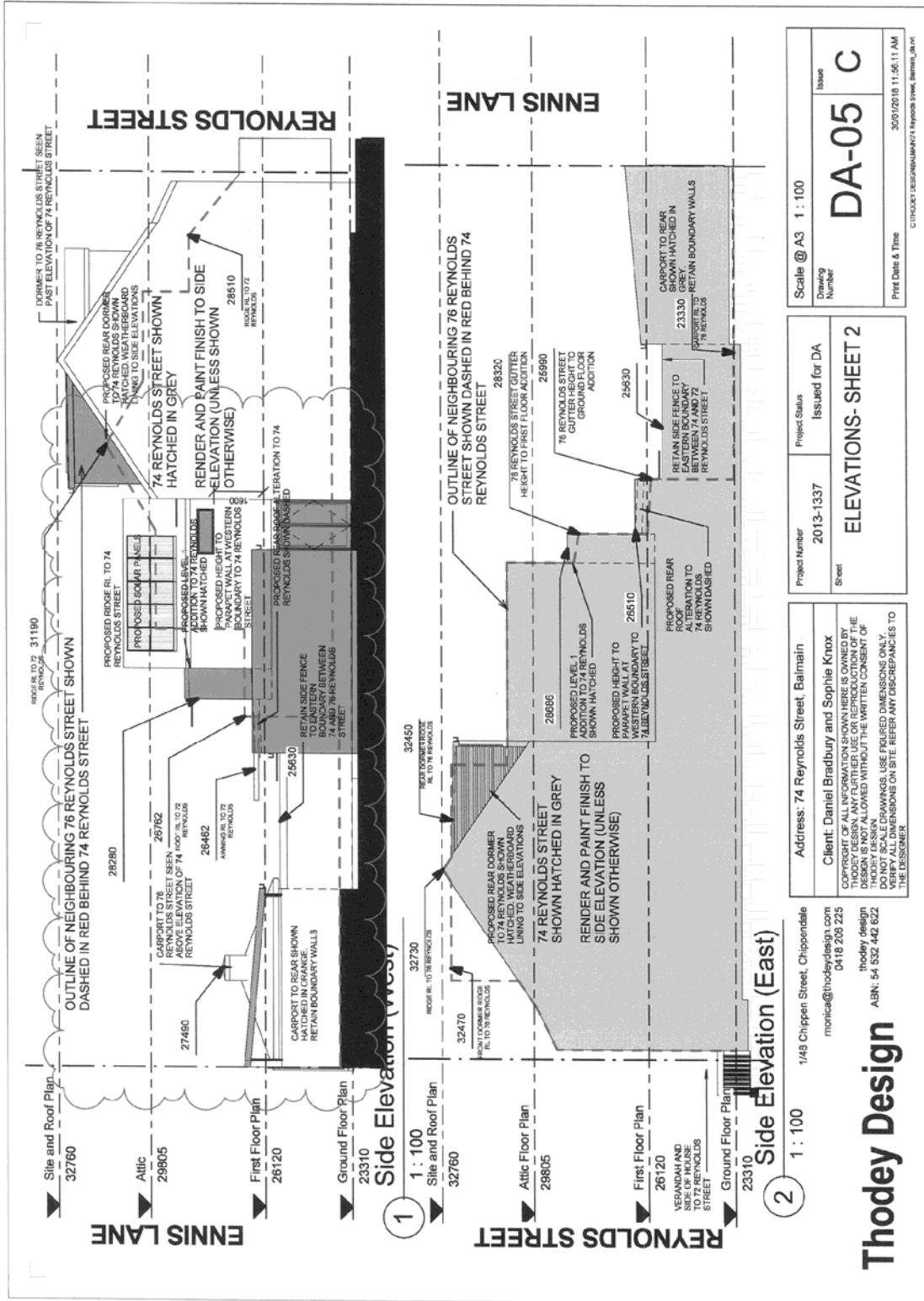
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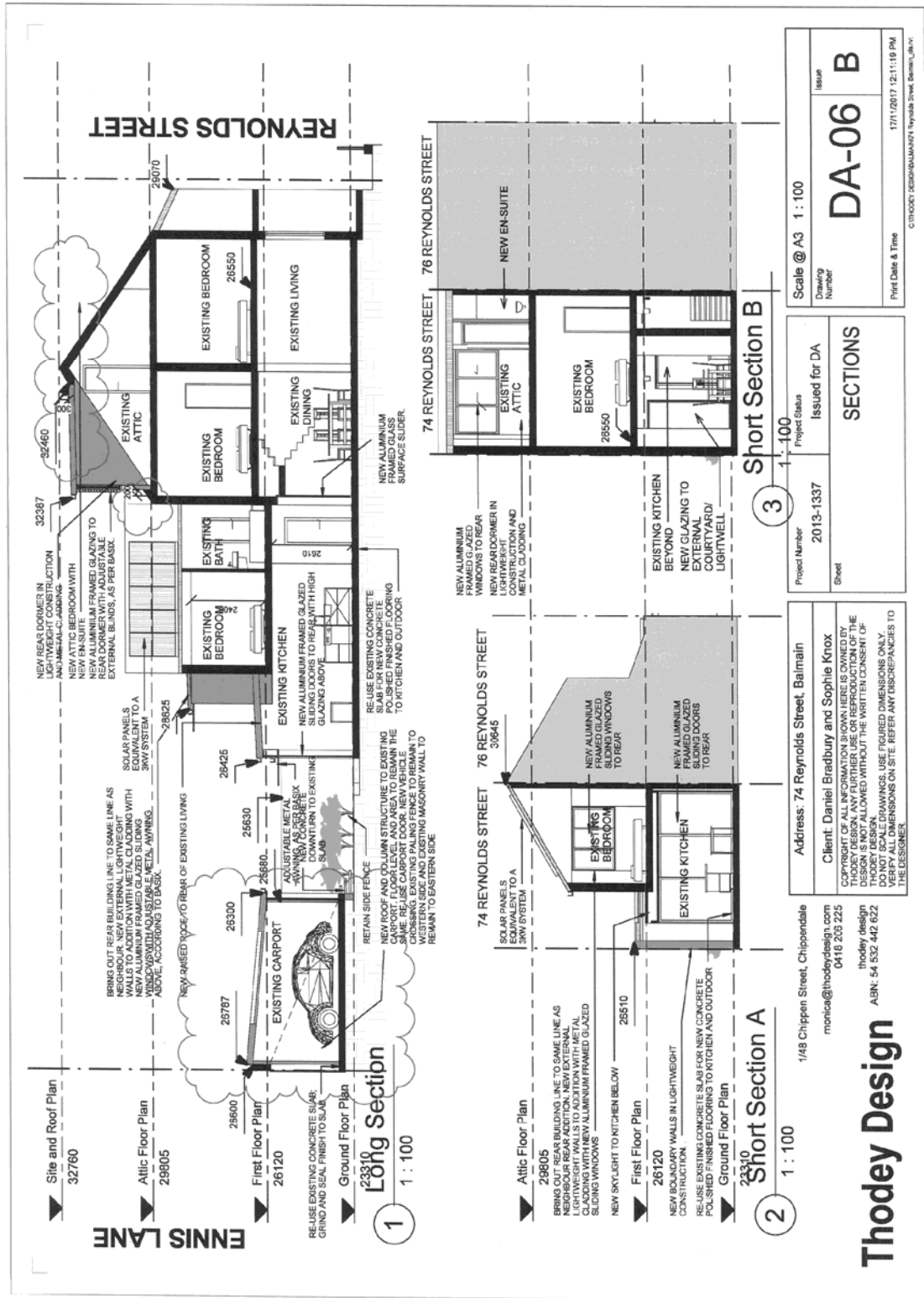
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Project Number	2013-1337
Sheet	<b>ELEVATIONS</b>

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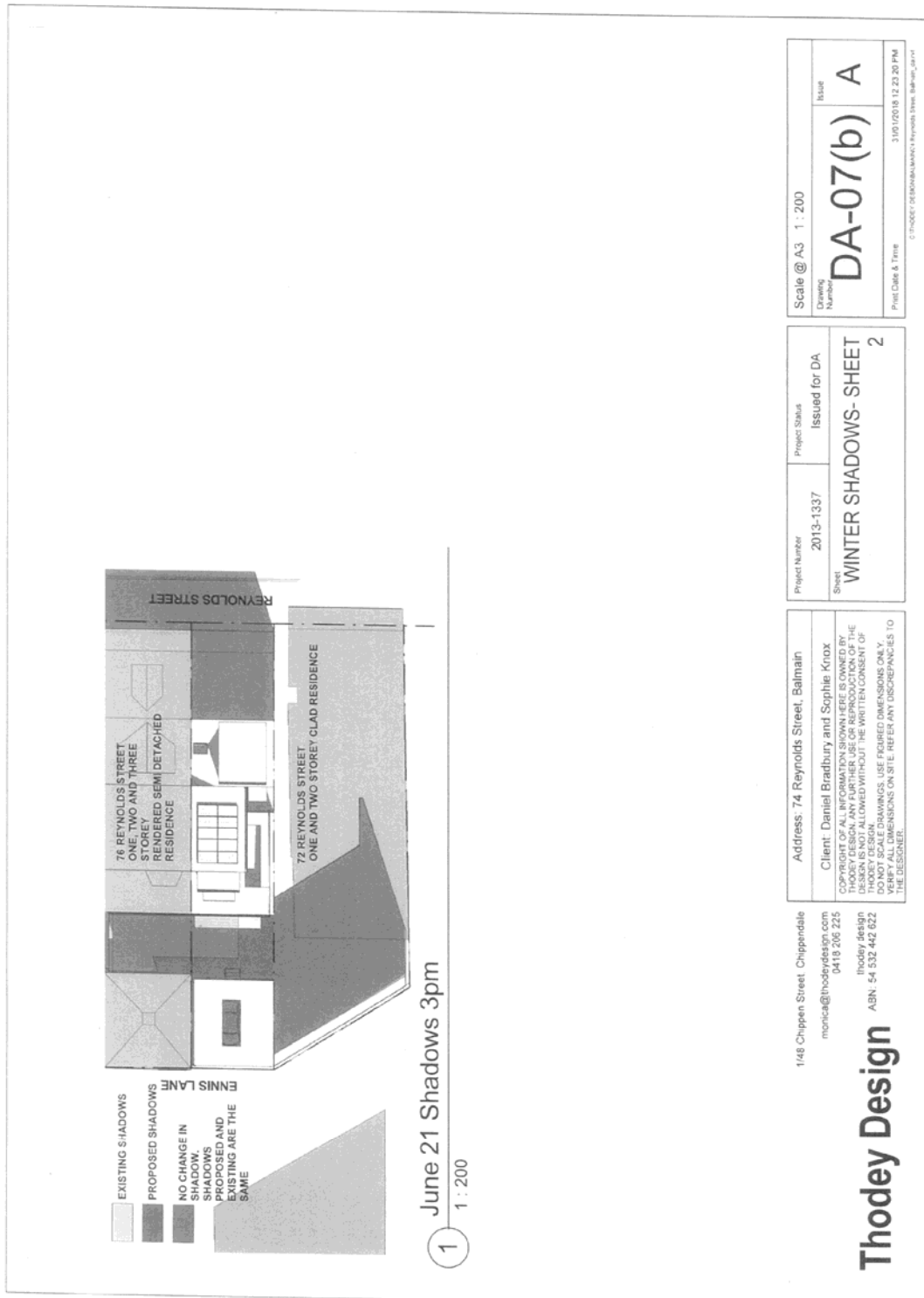
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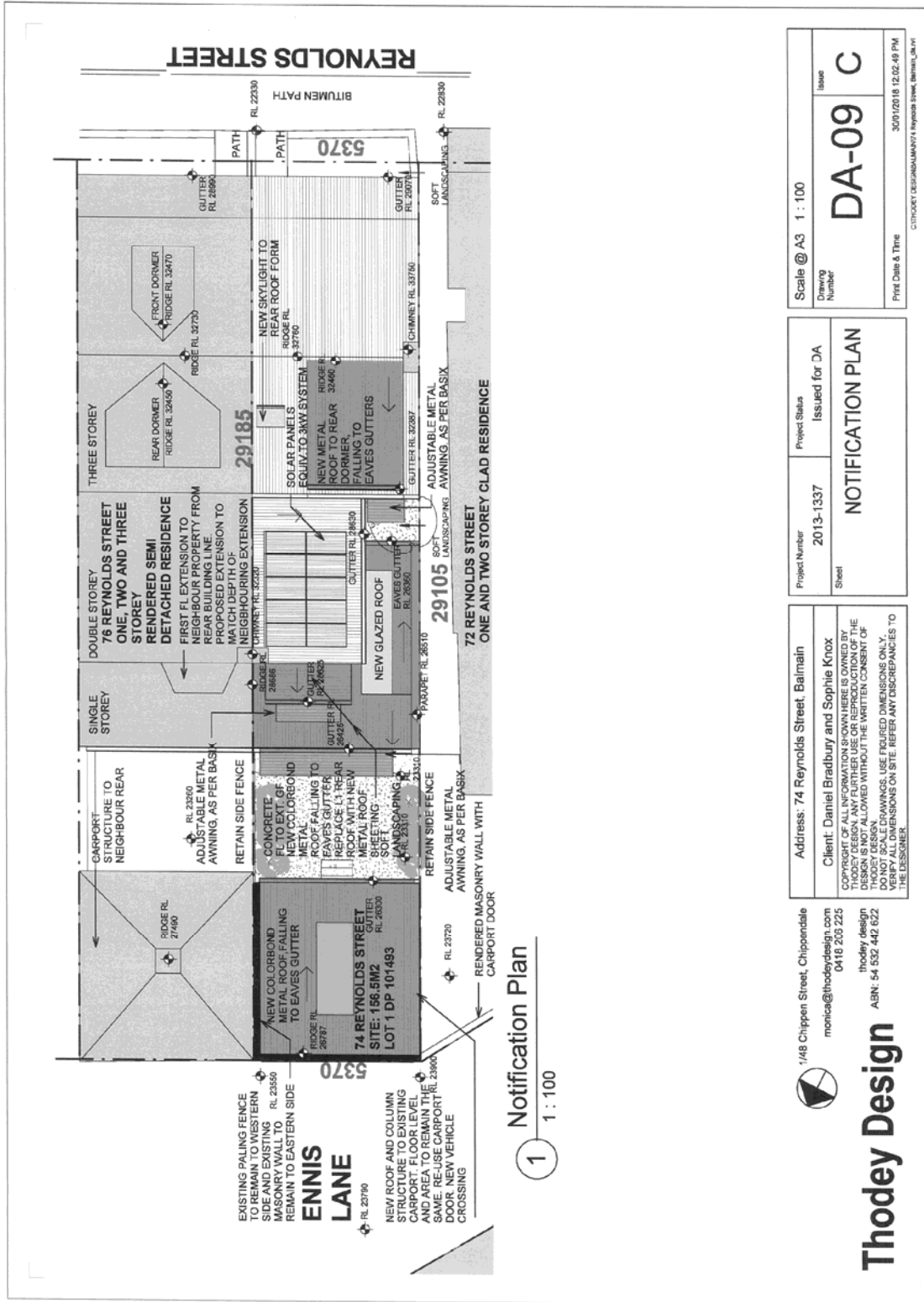
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Project Status	Issued for DA
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1 Notification Plan  
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Project Number	2013-1337
Project Status	Issued for DA
Sheet	NOTIFICATION PLAN

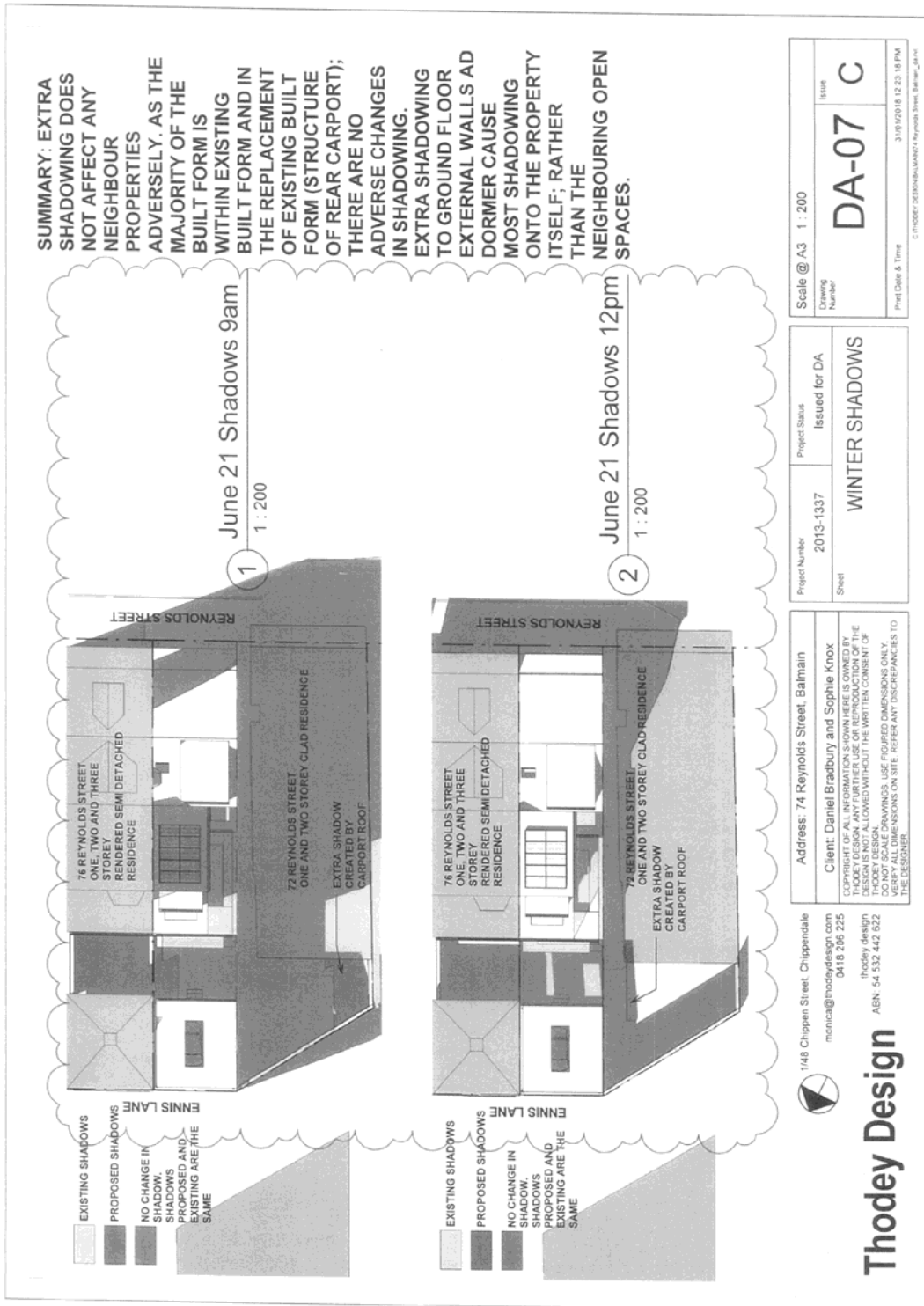
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**Thodey Design**







## Attachment C – Clause 4.6 Objections

### Section 4.6 Exception to a Development Standard (Site Coverage)

**Council:** Inner West Council

**Address:** 74 Reynolds Street, Balmain

**Dated:** 04/09/17

This letter is appended to the Development Application for the above property and is written in request to contravene a development standard in accordance with Clause 4.6 of Leichhardt LEP.

#### Applicant Details

**Name of applicant:** Thodey Design

**Contact person:** Monica Thodey

**Postal Address:** 14 Bridge Road, Queenscliff, NSW.

**Phone:** 0418206225

**Email:** monica@thodeydesign.com

#### Development Standard

**Clause 4.3A(3)(b):** Site Coverage

**LEP Standard:** 60% Site Coverage

**Existing Condition:** 67% (Inherent Breach of 7%)

**Proposed Variation:** 74% (Breach of 14%; addition of 7% Site Coverage Area)

Thodey Design  
ABN: 54 532 442 622  
14 Bridge Road, Queenscliff  
0418206225

04/09/17

## Statement

### Part 1: Demonstrates why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

- a) The existing building has an inherent breach of site coverage. The added area which is proposed for the design (which adds an additional 7% to the existing) comes in the form of extending the ground floor building line to the boundary. This is essential for a growing family for the need for useable living and functional space. We believe it is impossible to maintain a 60% site coverage (especially as there is an inherent non-compliance to begin with). The only way to meet this LEP standard were to be to demolish existing built external form which for many reasons, economically and locality concerned; is not economically and logically feasible.
- b) We believe we have increased merit of the design and useable space by deleting outdoor elements (low masonry planter walls to western edge) to reclaim landscaped outdoor space.
- c) The proposal does not contravene any other development substantially besides FSR; (refer to subsequent Section 4.6 Exception to a Development Standard submission relating to FSR). Once again, this development standard forms part of an existing and inherent non compliance issue.
- d) The development as a whole retains council's DCP controls for setbacks in it reflects the neighbouring properties of building to their boundary edge also.

### Part 2: Demonstrates that there are sufficient environmental grounds to justify contravening the development standard.

The inherent site coverage breach, as demonstrated in part 1, will have no environmental effects on the principal Street streetscape. There will be minimal environmental effect to either neighbour as their will be no visible difference to them in regards to site coverage; only that the western external wall will move towards the boundary only for a portion of the rear living area. We see this as not causing any adverse effect to the western neighbour. There are therefore sufficient grounds to justify contravening the development standard of Site Coverage.

### Part 3: Explains how the proposed development will be in the public interest because of its consistency with the objectives of the particular standard and the objectives of the zone in which the development is proposed to be carried out.

As demonstrated in part 1 and part 2, adverse environmental impacts on adjoining properties and the public domain have been minimised in the proposal. We believe the house to meet foreseeable future needs the increase in floor space and in turn, an effect on the site coverage, to accommodate a growing family. The proposal does not exceed the maximum building height. The proposal is in keeping with the existing bulk, scale, streetscape of Reynolds Street and uses materials to emulate the existing character of the locality. The increase in building site coverage and therefore bulk and scale will not affect the environmental amenity of properties along Reynolds Street whose bulk and scale mimic what is proposed within this proposal. Site coverage in this proposal is inherently in breach; we believe we have not added adversely to this breach and this will not cause any public interest due to its minimal impact to neighbouring properties.

#### The Objectives of the Residential zone (LLEP 2013) are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*

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ABN: 54 532 442 622  
14 Bridge Road, Queenscliff  
0418206225

04/09/17

- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

We believe the proposal is not in conflict or contradictory to any of the objectives of the Residential Zone (LLEP2013).

**Part 4: Comments on whether contravening of the development standard will raise any matter of significance for state or regional planning.**

The proposal will not raise any matter of significance for state or regional planning.

**Part 5: Explains why there is no public benefit in maintaining the development standard.**

Since the proposed development achieves all objectives of the zone set out in the LEP, retains a consistent streetscape of Reynolds Street, and has little adverse environmental impact on either neighbour, there is no benefit in maintaining the development standard and the proposal should be allowed on these grounds.

**Section 4.6 Exception to a Development Standard (FSR)**

**Council:** Inner West Council

**Address:** 74 Reynolds Street, Balmain

**Dated:** 30/01/18

This letter is appended to the Development Application for the above property and is written in request to contravene a development standard in accordance with Clause 4.6 of Leichhardt LEP.

**Applicant Details**

**Name of applicant:** Thodey Design

**Contact person:** Monica Thodey

**Postal Address:** 14 Bridge Road, Queenscliff, NSW.

**Phone:** 0418206225

**Email:** monica@thodeydesign.com

**Development Standard**

**Clause:** Clause 4.4 Floor Space Ratio

**LEP Standard:** 0.9:1

**Existing Condition:** 0.92:1 (already exceeds FSR by 0.02:1)

**Proposed GFA:** 148m<sup>2</sup> (0.94:1)

**Proposed FSR/Variation from Permissible FSR:** 0.04:1 (Addition of 0.02:1 from current condition, and exceeding the permissible LEP Standard by 0.04:1)

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30/01/18

## Statement

### Part 1: Demonstrates why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

- a) The proposal's increase in bulk takes into consideration the contribution of the existing building and enhances the character of the area by maintaining and not altering the principal street frontage of Reynolds Street. The change in bulk only occurs where there is building bulk in the adjoining structure. The increase in bulk and scale reflects the typology in the street.
- b) Our proposal will not disrupt the amenity or privacy of any neighbours. The windows provided to the ground and first floor look over the rear of the property. New window to side elevation for existing bathroom replaces existing window and is placed at 1600mm FFL.
- c) There will be no adverse overshadowing to any neighbours as the structure of the garage will be built in place of existing. New ground floor extension provides minimal extra shadowing but only to ground floor of property. New level 1 bulk and proposed dormers are minimal in terms of increased bulk. Refer to Shadow Diagrams prepared by Thodey Design.
- d) The scale of the proposal is modest, and we believe it is impossible to maintain the FSR for a contemporary home for a growing family. This can be seen as the existing property already contravenes this standard by 0.02:1. The additional space occurs mainly on ground floor; a level which has little to no impact on any neighbouring properties. The addition of the dormers only enable an existing space to be used legally and effectively (as can be seen in 76 Reynolds Street). The reason for the increased FSR is the fact that the garage is now proposed to be a sheltered and closed area where it used to be an open carport (as can be seen in 76 Reynolds Street). The proposal seeks to copy 76 Reynolds street in bulk and scale and therefore maintains the typology to the street already created. As can be seen by the two and a half storey bulk and typology within Reynolds Street; we believe that we are not proposing a design that is unreasonable or unlike the same demands of those properties within the same street. The additional space in the proposal is needed to maximise the utility of the existing building for a growing family and provide ample living areas for the demands of a growing family.
- e) The development as a whole retains council's DCP controls for side setbacks in it reflects the neighbouring properties of building to their boundary edge also.

### Part 2: Demonstrates that there are sufficient environmental grounds to justify contravening the development standard.

The increase in FSR, as demonstrated in part 1, will have no environmental effects on the principal Street streetscape. There will be minimal environmental effect to either neighbour. There are therefore sufficient grounds to justify contravening the development standard of Floor Space Ratio.

### Part 3: Explains how the proposed development will be in the public interest because of its consistency with the objectives of the particular standard and the objectives of the zone in which the development is proposed to be carried out.

As demonstrated in part 1 and part 2, adverse environmental impacts on adjoining properties and the public domain have been minimised in the proposal. We believe the house to meet foreseeable future needs the increase in floor space to accommodate a growing family. The proposal does not exceed the maximum building height. The proposal is in keeping with the existing bulk, scale, streetscape of Reynolds Street and uses materials to emulate the existing character of the locality. We don't believe the bulk and scale will affect the environmental amenity of neighbouring properties whose bulk and scale mimic what is proposed within this proposal.

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The Objectives of the Residential zone (LLEP 2013) are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To improve opportunities to work from home.
- To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- To provide landscaped areas for the use and enjoyment of existing and future residents.
- To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.
- To protect and enhance the amenity of existing and future residents and the neighbourhood.

**Part 4: Comments on whether contravening of the development standard will raise any matter of significance for state or regional planning.**

The proposal will not raise any matter of significance for state or regional planning.

**Part 5: Explains why there is no public benefit in maintaining the development standard.**

Since the proposed development achieves all objectives of the zone set out in the LEP, retains a consistent streetscape of Reynolds St, and has little adverse environmental impact on either neighbour, there is no benefit in maintaining the development standard and the proposal should be allowed on these grounds. The only other LEP condition the proposal contravenes is site coverage but as in this case, site coverage is already a non compliance in the existing building. Refer to Objection 4.6 Exception to a Development Standard for Site Coverage.

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