

## COUNCIL ASSESSMENT REPORT

Panel Reference	2018ECI013
DA Number	D/2018/450
LGA	Inner West
Proposed Development	Upgrade and refurbishment of the existing Dawn Fraser Baths facility involving partial demolition and reconstruction of structures in the south of the facility and the installation of new solar panels and flood lights.
Street Address	Dawn Fraser Baths, Fitzroy Avenue, Balmain
Applicant/Owner	Inner West Council
Date of DA lodgement	27 August 2018
Number of Submissions	Four (4)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<b>Council related development over \$5 million</b> Section 4.55 application for development having a capital investment value (CIV) of \$6.3 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>State Environmental Planning Policy No 55—Remediation of Land</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> <li>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>Leichhardt Local Environmental Plan 2013</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>plans</li> <li>essential documentation</li> </ul>
Report prepared by	Planning Urban Earth Pty Ltd
Report date	18 April 2019

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not Applicable**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

**Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes**

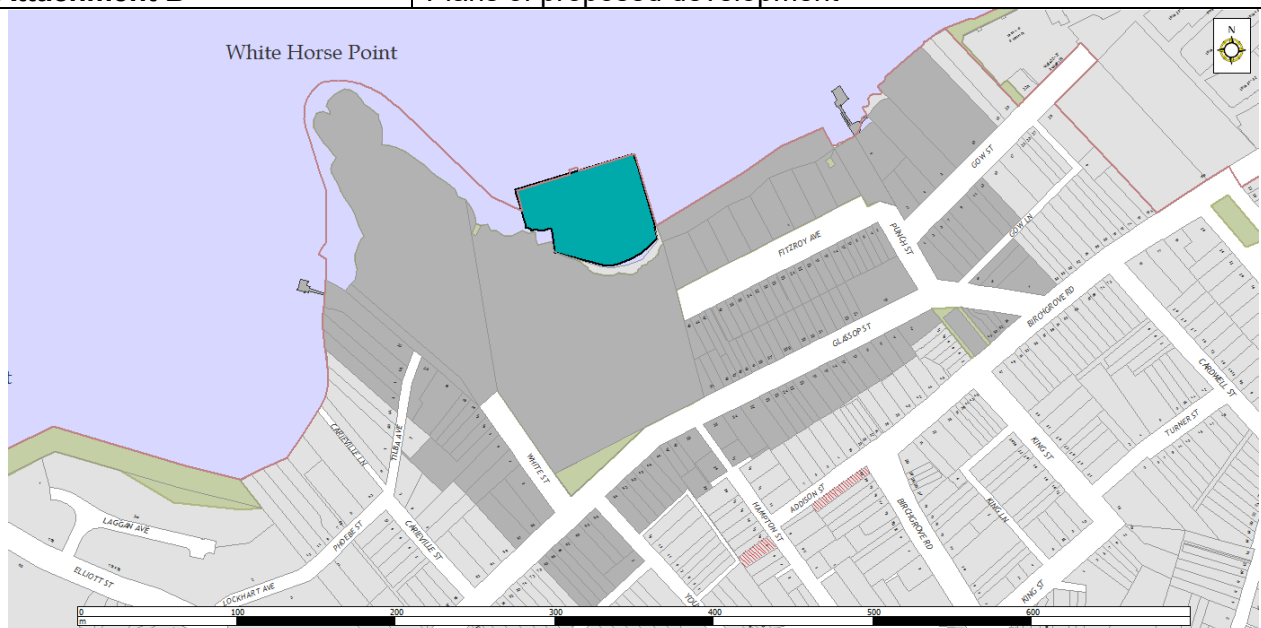
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*







# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2018/450
<b>Address</b>	Dawn Fraser Baths, Fitzroy Avenue, Balmain (Lot 1 in DP 179092, Lot 639 in DP 752049, Lot 1 in DP 724787, Lot 1 in DP 131599 and Lot 55 in DP 1352)
<b>Proposal</b>	Upgrade and refurbishment of the existing Dawn Fraser Baths facility involving partial demolition and reconstruction of structures in the south of the facility and the installation of new solar panels and flood lights.
<b>Date of Lodgement</b>	27 August 2018
<b>Applicant</b>	Inner West Council
<b>Owner</b>	Inner West Council and Roads and Maritime Services
<b>Number of Submissions</b>	Three (3) submissions from two (2) individuals
<b>Value of works</b>	\$6.3m
<b>Reason for determination at Planning Panel</b>	Council is land owner and capital investment value is over \$5m
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>• Demolition and reconstruction of State Heritage Item</li> <li>• Foreshore location subject to inundation and sea level rise</li> </ul>
<b>Recommendation</b>	Approval subject to conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development



LOCALITY MAP

Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report relates to a Development Application lodged under Section 4.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to undertake refurbishment and upgrade works to the Dawn Fraser Baths. This work is summarised as follows:

1. Raising boardwalks and ground floor levels of the Entry Building and Southern Pavilion
2. Demolition and reconstruction of the Southern Pavilion at the new raised ground level
3. Retention, alteration and repair of the Entry Building to the Southern Pavilion
4. Installation of new solar panels to the Northern Pavilion and four water polo lights
5. Installation of fire sprinkler system and emergency upgrades
6. Associated alterations to the perimeter paths, seawalls and eastern perimeter entry

In addition to standard documents and plans for works, the application is accompanied by a Heritage Impact Statement, Conservation Management Plan, Fabric Salvage and Reuse Methodology, Structural Engineers Report and an Oceanographic Report which assesses coastal flood risk.

The application is Integrated Development under Section 4.46 of the EP&A Act and requires approval from the NSW Office of Environment and Heritage (OEH) under Section 58 of the Heritage Act 1977. The application has been referred to the OEH and General Terms of Approval (GTAs) have been issued, which include, *inter alia*, matters to be addressed in an application to be made under s. 60 of the *Heritage Act 1977*.

The application was referred to Fisheries NSW who has advised that the proposed works do not include any activity that would require a permit under Part 7 of the *Fisheries Management Act 1994*.

The application has also been referred to Sydney Water, the Foreshore and Waterways Planning and Development Advisory Committee and relevant internal units within Council.

The application for refurbishment and upgrade of the Dawn Fraser Baths facility was notified in accordance with Council's notification policy for 30 days from 25 September to 24 October 2018 and three (3) submissions from two (2) individuals were received.

The application relates to a Council asset, the Dawn Fraser Baths, situated within public foreshore parkland. Accordingly, the application was referred to Planning Urban Earth Pty Ltd (town planning consultants) to carry out an independent assessment of the application.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

It is noted that the proposed works are consistent with the draft master plan, which was endorsed by Council on 28 August 2018 and publicly exhibited during August and September 2018. The aim of the master plan is to:

*"... develop a ten year plan of improvements for the Baths users and staff, while maintaining the existing character and sense of place."*

The master plan is to be used as the principal guiding document for future improvements at the Baths.

## 2. Proposal

The proposal is for the upgrade and refurbishment of the existing Dawn Fraser Baths facility (the site), which principally involves partial demolition and reconstruction of structures in the south of the facility, with the salvaging and reuse of sound fabric. A *Fabric Salvage and Reuse Methodology* has been submitted with the application.

The proposal also proposes the installation of new solar panels and light poles in the north of the facility.

According to the Statement of Environmental Effects submitted with the application, *“the intent of the proposal is to upgrade the existing facilities, resolve structural issues and improve BCA compliance. The Southern Pavilion is susceptible to periodic flooding in king tides...and...the proposed works have been designed to address increased flooding events to 2050.”*

The most recent flooding event was experienced at the site during the “supermoon” king tide events of December 2017 to March 2018. It is recorded that on one instance during this period, the water level flooded some areas of the Southern Pavilion including the changing rooms and a store room, and rose to be almost level (within 0.15 m vertically) with the kiosk floor. Small waves then overtopped the kiosk floor.

The proposal specifically includes:

### Southern Boardwalk and Ground Level

- Raising of the southern boardwalk and ground floors of the Entry Building and Southern Pavilion by approximately 1 metre with a suspended slab; providing a new ground floor level of 2.21m AHD which allows for anticipated sea level rise to 2050.
- Raising of the sandstone seawall on the southern side of the swimming baths by approximately 1m.
- Reconstruction and extension of the existing stone sea wall steps.
- Modification of the eastern and western boardwalk ramps and surrounding landscape, transitioning the new southern boardwalk levels to the northern boardwalk.

### Southern Pavilion

- Demolition of the Southern Pavilion, including the circa 1984 bathroom annexes, change rooms, office and first aid room, but excluding the 1926 Entry Building.
- Salvage and reuse of sound fabric according to “Fabric Salvage & Reuse Methodology”.
- Reconstruction of the Southern Pavilion above the new raised ground level, substantially in-keeping with the original 1900 design, with 500mm (approx.) higher raised timber balcony and 400mm higher roof.
- Reconstruction of the balcony roof adjacent to the Entry Building with a lower pitch so to have the same connection point below the top of the parapet.
- Installation of a new roof over the entry courtyard and equitable access and egress entry through perimeter of southern pavilion at the entry courtyard.
- Installation of a first aid room and accessible toilet and shower facility in the reconstructed annex.

### 1926 Entry Building

- Retention and repair of the 1926 Entry Building with ground floor level raised by 0.7m (approx.).
- Raising of the first-floor storage room level by 0.5m (approx.) and modification of roof framing within existing profile to accommodate raised first floor.
- Removal and reinstatement of doors and windows 0.2m-0.4m higher to allow for raised floor levels.
- A new ground floor fit-out and opening of one internal wall.

### Northern Pavilion and Pool

- Installation of 15 x 1KW photo voltaic cells (solar panels) on the roof and roof access static line maintenance system.
- Installation of four new light poles; two in the Northern Pavilion Structure and two adjacent to the south side of pool pontoon.
- Routine repairs and maintenance.

### Facility Perimeter

- Raising of the perimeter pathway around the Dawn Fazer Baths in Elkington Park.
- Alteration to the eastern perimeter entry from Fitzroy Park with a replacement maintenance/ emergency double gate and new accessible entry gate.
- Raising of the sea wall to Fitzroy Park with matching sandstone.

### Essential Safety Measures

- Installation of fire sprinkler systems and upgrade of all emergency lighting, exit signs, extinguishers and hose reels within the facility for Building Code of Australia (BCA) compliance.
- Installation of a fire sprinkler booster and valves adjacent the rear fence of the Caretaker's Cottage in adjacent Elkington Park.

**Note:** – The extent of works outside of the existing Baths includes raising the 'sea wall in Fitzroy Park' and installing a fire sprinkler booster and valves at the rear of the Caretaker's Cottage in Elkington Park.

There is no proposed increase to the footprint, gross floor area (GFA) or intensity of the existing facility. While the application does propose lights for evening water polo use, the Statement of Environmental Effects states that "*existing operation of the pool will continue*" and no change to the current hours of operation are sought.

**Figures 1 to 4** are photomontage representations of the existing and proposed Southern Pavilion and Boardwalk. The blue dash line marking the king tide event of 2018, the red dash line indicative of the existing boardwalk.





View 1: Existing South Pavilion  
Blue dash indicative of king tide 2018  
Water shown at existing normal level

**Figure 1:** Existing Southern Pavilion (Source: Applicant's submission)





**Figure 2:** Proposed Southern Pavilion (Source: Applicant's submission)





**Figure 3:** Existing Southern Pavilion (Source: Applicant's submission)





**Figure 4:** Proposed Southern Pavilion (Source: Applicant's submission)

### 3. Site Description

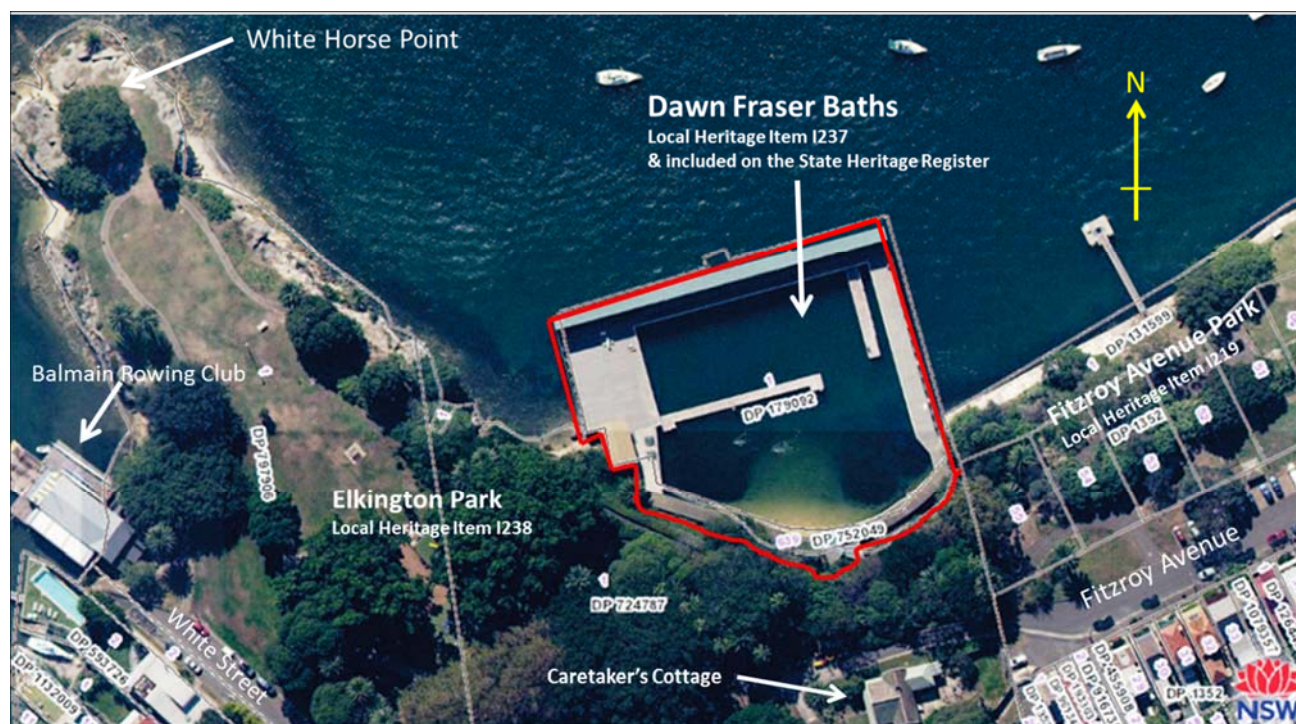
The site is located on the northern side of Elkington Park, at the western end of Fitzroy Avenue in Balmain. The site, the subject to this application, consists of an area which extends into Elkington Park and Fitzroy Avenue Reserve and Parramatta River.

The proposed works will extend over the land described in **Table 1**:

**Table 1:** Description of land within the proposed works zone

Description	Works over this land	Area (m <sup>2</sup> ) <i>Estimate</i>
Lot 1 in DP 179092	The principal <b>water zone</b> occupied by the baths including the land/water interface	4,319
Lot 639 DP 752049	The principal <b>land-based lot</b> on which most of the Southern Pavilion and Entry Building are situated	299
Lot 1 in DP 724787	Elkington Park. The Southern Pavilion and Entry Building partly extend into Elkington Park	14,470
Lot 1 in DP 131599	The perimeter path extends into the Fitzroy Avenue Park lot and raising the seawall at the eastern end is proposed to transition to the new levels of the path	1,703
Lot 55 in DP 1352	A small section of the perimeter path extends into this lot	599
<b>Total area (m<sup>2</sup>)</b>		<b>21,390</b>

**Figure 5** shows the site and immediate surrounds.



**Figure 5:** Site outlined in red (Source: Six Maps)

**Figure 6** shows the cadastral boundaries of the lots overlaid by the proposed works zone.

The area of the lots which constitute the land-based component of the proposal (i.e. excluding Lot 1 in DP 179092) have a total area of approximately 17,071m<sup>2</sup>.

The site has an approximate 160m frontage to Parramatta River. Access to the site is available via Fitzroy Avenue Park and via Elkington Park. The site is affected by a number of easements and includes an area of waterway over which Council holds a lease.

The site supports the established public tidal pool with associated building structures in a river foreshore park setting. The continued use of this site as a public recreation facility is considered appropriate and desirable from a social and heritage perspective. The surrounding properties comprise low to medium density residential and low rise buildings.

Parts of the site are listed as local and State heritage items. The site is identified as a flood prone (foreshore flood control) lot.

Roads and Maritime Services (RMS) is the owner of Lot 1 DP 179092, being the land on which the water-based component of works is to be carried out. RMS provided landowner's consent for the lodgement of the Development Application on 12 September 2018.

Land outside of Lot 1 DP179092 that is within the proposed works zone is owned by the State of NSW administered by Crown Lands NSW. Management of this land has devolved to Council which is responsible for care, control and management. Clause 49(2) of the *Environmental Planning and Assessment Regulation 2000* does not require the consent in writing of the owner of the land for a Development Application made by a public authority if notice of the application is made by written notice to the owner of the land before the application is made. Council have advised that appropriate written notice was provided to Crown Lands NSW.





## 4. Site History

The Dawn Fraser Baths is a public tidal baths in the Parramatta River. It opened in 1882 and continues to operate to this day.

More details on the history of the baths are included in the referral response from Council's Heritage Advisor in **Section 6(a)**.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with s. 4.15 of the Environmental Planning and Assessment Act 1979.

### 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides discussion of relevant considerations:

#### 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. Leichhardt Development Control Plan 2013 (LDGP) provides controls and guidelines for remediation works. SEPP 55 requires planning authorities to consider the potential for land to be contaminated based on past activities and requires the consent authority to be satisfied that the land is, or can be made, suitable for the proposed use prior to the granting of consent.

The site is not known to have been used in the past for activities which could have potentially contaminated the site. The Statement of Environmental Effects (SEE) states that *"the site is not likely to be contaminated due to its existing and historic (1882) use as a tidal bath. There is no history to suggest any contaminating uses previously occurred on this Site."* A preliminary investigation has not been required and it is considered that the site will not require remediation in accordance with SEPP 55.

#### 5(a)(ii) State Environmental Planning Policy (State and Regional Development) 2011

The cost of works associated with the development are estimated at \$6.3 million and as such the capital investment value (CIV) exceeds \$5 million. Clause 20 and associated Schedule 7 of the State and Regional Development SEPP provide that Council related development with a CIV of more than \$5 million is declared to be regionally significant development. Accordingly, as per s.4.5 of the EP&A Act, this Development Application is referred to the Sydney Eastern City Planning Panel for determination.

### 5(a)(iii) State Environmental Planning Policy (Costal Management) 2018

The Coastal Management SEPP 2018 aims to ensure that future coastal development is appropriate and sensitive to its coastal location and category. The site is categorised as 'Coastal Environment Area' and 'Coastal Use Area'.

The development proposal will not adversely affect any coastal processes or values. The proposal addresses sea level rise and stability issues and is needed to ensure ongoing use of the facility. The proposal does not adversely alter access to public open space and foreshores and will not have adverse impacts on Aboriginal cultural heritage.

The development will ensure the ongoing use of a public recreation facility and this is considered to be in the public interest. It also provides for continued and improved public access to the foreshore within the facility and maintains the foreshore walk link around the facility. The changes to the overall height of buildings and structures has been limited as far as practicable to not more than 400mm, which is considered to be minimal in the circumstances. The facility, as proposed, would continue to respect the coastal scenic nature on this location, and would not result in significant overshadowing, or noteworthy view loss or visual impacts.

### 5(a)(iv) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Sydney Harbour Catchment SREP provides planning principles, development controls and matters for consideration which apply to the subject development proposal.

This application has been considered by the Foreshores and Waterways Planning and Advisory Committee in accordance with the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The Committee has not raised any issue in relation to the proposed development and has not recommended any conditions be imposed.

Consideration of the matters relevant to this application is provided below.

## **Part 2 – Planning Principles**

An assessment has been made of the proposed development against the planning principles listed under Part 2 of the Sydney Harbour Catchment SREP. It is considered that the carrying out of the proposed development is generally consistent with the objectives and principles of the Plan.

The development will not adversely impact on the natural assets of the catchment, or on hydrological, ecological and geomorphological processes; or on acid sulfate soil and urban salinity processes. It will improve water collection and disposal from the perimeter of the facility and maintain the current natural tidal and drainage systems. The proposed approach of partial demolition and rebuild with sound salvaged fabric will ensure that when viewed from the waterway or foreshore, the unique visual qualities will be maintained and enhanced. The development will provide for continued public access to the waterway and the water-based facility itself; and will not reduce access to the foreshore. Accessibility into the facility is proposed to be improved for the public recreational purpose of swimming, consistent with the foreshore and waterway principles.

The proposed development will not increase surface run-off but rather the proposed works will reduce the current risk of flooding and accommodate the increased risk associated with sea level rise. In the circumstances of this culturally significant site, it is not considered practicable to rehabilitate the foreshore to its pre-existing natural state. Appropriate



conditions of consent (**Conditions 46, 47, 57, 58, 59 & 60**) are recommended to ensure that work is undertaken in such a manner that protects the waterway, surrounding landforms and vegetation during construction.

The proposal satisfies the Sydney Harbour Catchment SREP heritage conservation principles in that it ensures the longer-term protection of the heritage significance of the Dawn Fraser Baths, and proposes an approach which, as far as practicable, retains significant fabric, the settings, relics and views associated with the heritage significance.

### **Division 1 – Development Control (Zoning)**

The water-based component of the site is identified as being located within the **W5 Water Recreation** zone under Division 1 of the Sydney Harbour Catchment SREP. The development is defined as a “recreational or club facility” under the SREP, being *“a building or place used exclusively for sporting or leisure activities, whether operated for the purpose of gain or not.”* This use and the proposed works to such a facility are permitted in the W5 zone, with development consent. The objectives of the W5 zone are focussed on public access to and enjoyment of the water, public water-dependent development and minimising structures. The SEE states that *“the objectives of the zone are satisfied because the proposal does not restrict use of the waterway and continues to allow people to use public waterway facilities.”*

### **Division 2 – Matters for Consideration**

An assessment of the development has been made against matters set out in Division 2 of the Sydney Harbour Catchment SREP. On consideration of these matters, the carrying out of the proposed development is found to be satisfactory and generally consistent with the objectives and principles of the Plan.

The development involving upgrade and refurbishment of an existing harbour pool recreational facility will have a neutral effect on biodiversity, ecology and environment protection. Works inside the tidal salt water pool are limited to the raising and extension of the three sets of entry steps (associated with the raising of the southern seawall) and two 300mm concrete driven piles to support water polo light poles.

The proposal maintains current public access to, and use of, the foreshores and waterways. The form and siting of renewed and restored buildings is substantially maintained and any increase in scale resulting from raised floors will be imperceptible, ensuring views are protected and foreshore and waterways scenic quality is protected.

### **Division 3 – Foreshores and Waterways Planning & Development Advisory Committee**

The Development Application has been referred to the Foreshores and Waterways Planning and Development Advisory Committee and no issues have been raised in relation to this application.

### **5(a)(v)Leichhardt Local Environment Plan 2013 (LLEP 2013)**

The application was assessed against the relevant clauses of the Leichhardt Local Environmental Plan 2013. In particular:

- |            |   |
|------------|---|
| Clause 1.2 | Aims of the Plan                        |
| Clause 2.3 | Zone objectives and Land Use Table      |
| Clause 2.7 | Demolition requires development consent |
| Clause 4.4 | Floor space ratio                       |

Clause 4.5	Calculation of floor space ratio and Site area
Clause 5.7	Development below mean high water mark
Clause 5.10	Heritage conservation
Clause 6.1	Acid sulfate soils
Clause 6.2	Earthworks
Clause 6.3	Flood planning
Clause 6.5	Limited development on foreshore area
Clause 6.6	Development on the foreshore must ensure access
Clause 6.14	Development control plans for certain development

## Clause 1.2 - Aims of the Plan

The proposed development, being for the upgrade and refurbishment of the existing Dawn Fraser Baths facility, involving partial demolition and reconstruction of structures in the south of the facility and the installation of new solar panels and light poles in the north of the facility, is considered to be consistent with the stated aims of LLEP 2013 because the development:

- is generally consistent with the principles of ecologically sustainable development and does not exacerbate land use conflict in its environment;
- improves the standard of urban design in the public domain;
- protects and enhances the amenity, vitality and viability of the urban environment for existing and future communities;
- maintains public access to recreation facilities and the waterfront open space; protects views and vistas of Sydney Harbour and the Parramatta River from public vantage points;
- remains compatible with the existing and desired future character of the area and reasonably conserves and enhances the character and identity of the place, and of the Sydney Harbour foreshore;
- improves community equity, inclusiveness and well-being and achieves safer spaces and responds appropriately to the natural aquatic environment;
- incorporates good energy conservation and water cycle management practices and protects existing landforms and natural drainage systems; and
- mitigates community risk to hazards associated with climate change and sea level rise, as well as building fire and emergency response.

Importantly, the proposed development is a considered response to ultimately protect, conserve and enhance the cultural heritage of the facility and site for the longer term. While the development does involve demolition and reconstruction, it is a holistic approach to the facility, guided by a comprehensive Conservation Management Plan (CMP) and the draft master plan. The principal purpose of the CMP is to prevent undesirable incremental change that cumulatively can substantially diminish the heritage significance of the site. This is generally considered to be consistent with the particular LLEP 2013 aims in relation to heritage.

## Clause 2.3 - Land Use Table and Zone Objectives

The land-based component of the site is within the **RE1 Public Recreation** zone under the provisions of LLEP 2013. *Recreation facilities (outdoor)* are permissible with development consent.

The development is considered acceptable having regard to the objectives of the RE1 Public Recreation zone, which are:

### **Zone RE1 - Public Recreation**

#### **1 Objectives of zone**

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To maximise the quantity and quality of open space areas to meet the existing and future needs of the community.*
- *To ensure the equitable distribution of, and access to, open space and recreation facilities.*
- *To retain, protect and promote public access to foreshore areas and to provide links between open space areas.*
- *To provide opportunities in open space for public art.*
- *To conserve, protect and enhance the natural environment, including terrestrial, aquatic and riparian habitats.*

Specifically, the development enables the land to be used for public recreational purposes, provides for a range of compatible recreational activities, protects recreational enjoyment of the natural foreshore environment, improves access to the recreation facility and retains public access to foreshore areas.

### **Clause 2.7 - Demolition requires development consent**

The proposed demolition of the Southern Pavilion building and other works identified for reconstruction may be carried out with development consent.

## **Part 4 – Principal Development Standards**

### **Clause 4.4 - Floor space ratio and Clause 4.5 - Calculation of floor space ratio and Site area**

The proposed development complies with the applicable principal development standard – Floor Space Ratio - under Part 4 of LLEP 2013 and this is demonstrated in **Table 2**.

The total area of the lots which constitute the land-based component of the proposal have a total area of approximately 17,073m<sup>2</sup>.

The area of buildings includes the Dawn Fraser Baths South and Central (Entry) Pavilions (partially on Lot 639 DP 752049 and DP 724787). Note that the existing and proposed areas are the same.

**Table 2: Gross Floor Area (GFA) and Floor Space Ratio (FSR)**

<b>Site Area (m<sup>2</sup>)</b>	Excluding Lot 1 DP 179092 (water zone)	17,073
<b>GFA (m<sup>2</sup>)</b>	Baths Ground Floor	358
	Baths First Floor	289.5
	Caretaker's Cottage	119
	<b>Total</b>	<b>766.5</b>
<b>Floor Space Ratio (FSR)</b>	Maximum Permissible	1;1
	<b>Existing and Proposed</b>	<b>0.045</b>



## **Clause 5.7 - Development below mean high water mark**

Development consent is required to carry out development in the subject location which includes land below the mean high water mark and a body of water subject to tidal influence.

## **Clause 5.10 - Heritage conservation**

The Dawn Fraser Baths are listed in Schedule 5 of the Leichhardt LEP 2013 and in the State Heritage Register as an item of State heritage significance. Elkington Park and the Fitzroy Avenue Park, which adjoin the facility, are listed as items of Local heritage significance in LLEP 2013. The Dawn Fraser Park, Elkington Park and Fitzroy Avenue Park are also located within the Iron Cove Conservation Area.

A Conservation Management Plan (CMP) has been prepared for the Dawn Fraser Baths by GBA Heritage in August 2018. The CMP establishes the heritage significance of the property, identifies the original features and surviving fabric, and recommends appropriate detailed policies to conserve these in any future plans to upgrade the building. The CMP has been provided to the Office of Environment and Heritage. The proposed works are generally consistent with the CMP.

With regards to the subject development proposal, the submitted Heritage Impact Statement (HIS), also prepared by GBA Heritage, concluded that:

- *"The proposed demolition of the Southern Pavilion is required due to its poor structural condition. The pavilion currently cannot be certified and its retention is not feasible.*
- *The raising of the southern section of the site, including a reconstructed Southern Pavilion and the surrounding boardwalk, is required to address projected sea level rise to 2050.*
- *The proposed works have been developed in conjunction with extensive specialist input and heritage advice and represents what is understood to be the best available approach to protecting the long-term viability of the site while minimising negative impacts on heritage significance.*
- *The proposed works would retain and in some ways enhance the social significance of the baths, related to its long association with aquatic sports, which is of exceptional heritage significance."*



**Figure 7:** Image of the existing Baths taken from Elkington Park (Source: Applicant's Visual Impact Photomontage and Methodology Report)





**Figure 8:** Image of the proposed rebuilt Baths taken from Elkington Park (Source: Applicant's Visual Impact Photomontage and Methodology Report)





**Figure 9:** Extract Image (from **Figure 4**) of the proposed Baths taken from Elkington Park (Source: Applicant's Visual Impact Photomontage and Methodology Report)



The CMP accepts that it is not reasonable to simply repair the Southern Pavilion building and provides detailed policies for reconstruction. Demolition, materials and fabric are discussed further in **Section 5 (c)**.

The HIS notes that listed heritage items in the wider locality, other than those listed above, are separated from the site by distance, steep topography and local development, and have no direct visual connection to the site.

Council has notified the Heritage Council of the proposal via referral of the application to the NSW Office of Environment and Heritage (OEH). Comments received from the OEH are discussed in **Section 5 (f)(ii)**. The Heritage Council Approvals Committee have resolved to issue General Terms of Approval (GTAs) to the development, with some design amendments required to be submitted with an application under s.60 of the *Heritage Act 1977*.

The development, as proposed, will generally maintain the architectural appearance and form of the existing pool, including materials and finishes. The landmark character of the baths will be maintained, and its on-going use and conservation are ensured. The proposed new photo voltaic cells on the roof of the Northern Pavilion will be a new addition but will be dark coloured and will appear as a part of the roof structure. While the proposed water polo lights will be on 12.4m high poles they will not be a visually apparent addition to the baths as the poles will be thin (200mm diameter tapering to the top) with a colour that will minimise visual impact when viewed from outside the site and this is demonstrated in the comparison of photomontages of the existing Baths and the proposed development in **Figures 7, 8 & 9**. The HIS reasons that “...the lights are considered acceptable because they are consistent with the site’s ongoing association with aquatic sports (social significance), which has exceptional heritage significance.”

The proposal is considered to be acceptable from a heritage perspective and consistent with the objectives of the LEP to conserve the heritage significance of the item and its setting.

#### **Clause 6.1 - Acid sulfate soils**

The site is within the area of Class 5 acid sulfate soils. The development does not involve any works that would cause the water table to be lowered, and as such, an acid sulfate soils management plan is not required.

#### **Clause 6.2 - Earthworks**

The proposed development involves minimal earthworks, limited to small core drilling for screwed piles and strip footings raised concrete slabs, 300mm core drilling for two light poles on driven poles and a limited area of fill up to a depth of 600mm at the perimeter area external of the entry. These works are not likely to cause disruption of, or any detrimental effect on, drainage patterns, soil stability or water quality. A condition of consent (**Condition 51**) is recommended to address the source of the fill material and ensure the quality of the fill.

#### **Clause 6.3 - Flood planning**

The site is identified as land at or below the projected sea level rise and the development has been assessed against relevant impact considerations. Given the need to plan for projected sea level rise, and the fact that the existing southern pavilion currently experiences rare, but periodic tidal inundation, it is proposed that the floor levels of the southern pavilion be raised as part of the development. To determine the height of the proposed new floor levels, a coastal flood risk assessment report, prepared by Cardno, has been submitted with the Development Application. The submitted report has assessed the likely extent and frequency of inundation for a series of proposed floor levels for the redeveloped southern pavilion, as well as potential wave overtopping depths, and draws upon the results of the 2009 study by Cardno which provides Estuary Planning Levels for this site based on design waves and water levels.

The report advises that a survey of the site prepared for Inner West Council by Eric Scerri & Associates (2018) shows that the floor level of the kiosk is about 1.54m AHD and the reported estuarine water level was about 1.4m AHD.

Cardno's 2009 study demonstrated that the present-day 100-years ARI (average recurrence interval) estuarine still water level at this site is 1.51m AHD (which does not include the effects of waves); and the 2050 design 100-years ARI to be 1.91 m AHD. Therefore, even with floor levels of 1.54 m AHD, floors may still experience tidal inundation several days per year, even though at 2050 Highest Astronomical Tide (HAT) would be 1.50 m AHD (below 1.54 m AHD), because additional oceanographic processes such as coastal trapped waves (particularly those generated from ferries) and atmospheric effects (King Tides) may result in higher water levels several times a year. Tidal inundation events will persist for about 1 to 2 hours duration but may also cause ponding that will remain for longer.

In addition, the existing Baths are subject to identified flooding that occurs during periods of heavy rainfall. It is reported that water has entered the rear of the kiosk (consistent with overland nuisance flows), and the stormwater drainage at the rear of the south pavilion has been identified as being inadequate and has caused damage to the rear wall.

Cardno advise that a freeboard be included that acknowledges all of these processes and a value of 0.3m is considered appropriate. The recommended design floor level for 2050 should therefore be 2.21 AHD – (1.91 m AHD + 0.3 m (freeboard) = 2.21m AHD).

The submitted design proposes to raise the seawall, boardwalk and floor levels above the 2050 flood planning level to RL 2.24. This provides a freeboard that acknowledges that other processes can also cause water level increases.

As such, the development addresses current flood hazards and future risks associated with sea level rise. With the exception of two 300mm diameter piles and 2m extension to the entry steps, the proposal does not increase obstructions in the waterway. The development will not significantly affect flood behaviour, nor cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river bank.

#### **Clause 6.5 - Limited development on foreshore area**

While the proposed development is permissible under this clause within the “foreshore area”: (being the land between the foreshore building line and the mean high water mark of the nearest natural waterbody shown on the [Foreshore Building Line Map](#)), the objective of the clause is to ensure that development in the foreshore area will not adversely impact on natural foreshore processes or affect the significance and amenity of the area.

To ensure that the objective of this clause is met, Clause 6.5 (3) requires that the consent authority be satisfied that:

- a) *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- b) *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- c) *the development will not cause environmental harm such as:*
  - (i) pollution or siltation of the waterway, or*
  - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
  - (iii) an adverse effect on drainage patterns, and*
- d) *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*

- e) *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- f) *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- g) *sea level rise or change of flooding patterns as a result of climate change has been considered.*

The development satisfies this clause, being a considered response to sea level rise and the significance of the Baths on the foreshore. In particular, the development will achieve the stated objectives of the RE1 Public recreation zone; generally maintain the appearance along with the historical significance of the Baths. The function of the Baths will not alter and there is no expected additional environmental harm while maintaining compatible built form, drainage patterns, public access and amenity.

#### **Clause 6.6 - Development on the foreshore must ensure access**

The development is for the refurbishment and upgrade of an existing facility on the foreshore. Public foreshore access and open space link are maintained adjacent to the proposed development.

#### **Clause 6.14 - Development control plans for certain development**

This clause applies to a site with an area of at least 3,000m<sup>2</sup>, or with a water frontage of at least 20 metres. The site exceeds both parameters.

The objective of this clause is to ensure that certain development occurs in a logical and cost-effective manner only after a development control plan (DCP) that includes specific controls has been prepared.

Cl. 6.14 (5) makes provision for the requirement to prepare a DCP to be put aside if the consent authority is satisfied that such a plan would be unreasonable or unnecessary in the circumstances or that the development involves only alterations or additions to an existing building that:

- (i) *do not significantly increase the height or gross floor area of the building, and*
- (ii) *do not have significant adverse impacts on adjoining buildings or the public domain, and*
- (iii) *do not significantly alter any aspect of the building when viewed from public places, ...*

It is considered that a site specific development control plan is unreasonable and unnecessary in this instance as:

- firstly, the proposed works are informed by an adopted Master Plan, and
- the proposed works satisfy (i) to (iii) listed above.

#### **5(b) Draft Environmental Planning Instruments**

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

- Draft State Environmental Planning Policy for the Remediation of Land
- Draft State Environmental Planning Policy (Environment)

The following provides further discussion of the relevant issues and considerations under the Draft State Environmental Planning Policies (SEPPs):

## 5(b)(i) Draft State Environmental Planning Policy for the Remediation of Land

The draft Land Remediation SEPP will replace SEPP 55, maintaining the objectives and key aspects of the existing framework, but adding new category provisions and introducing certification and operational requirements for remediation works that can be undertaken without development consent. Again, the SEE provided with the application states that *“the site is not likely to be contaminated due to its existing and historic (1882) use as a tidal bath. There is no history to suggest any contaminating uses previously occurred on this Site.”* No remediation works are proposed, and it is considered that the site will not require remediation.

## 5(b)(ii) Draft State Environmental Planning Policy (Environment)

The draft State Environmental Planning Policy (Environment) aims to protect and manage the natural environment and consolidates seven SEPPs, including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The draft SEPP contains general heads of consideration for consent authorities, which seek to protect and maintain: water quality and flows within watercourses; native plants, animals, habitats and ecosystems; and, recreational, scenic and environmental amenity.

The proposal is considered to be generally consistent with the draft heads of consideration in that it: will provide for continued public access to the waterway and the water-based facility itself; will not reduce access to the foreshore; will not significantly impact on the riparian land, remnant vegetation or ecological communities; will maintain water quality and improve drainage around the facility; and generally enhance the recreation, heritage, cultural and local tourism value of this section of the Parramatta River.

## 5(c) Development Control Plans

Two Development Control Plans (DCPs) apply to the site. The application has been assessed against the relevant DCPs listed below:

- Sydney Harbour Foreshores and Waterways Area DCP 2005
- Leichhardt Development Control Plan 2013

The following provides further discussion of the relevant considerations:

### 5(c)(i) Sydney Harbour Foreshores and Waterways Area DCP 2005

The Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (SHDCP) applies to the Foreshores and Waterways Area as identified in the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The SHDCP includes design guidelines for development, assessment criteria for marinas (including guidelines for undertaking visual impact assessments), and criteria for natural resource protection.

An assessment of the development against the performance-based criteria and guidelines of the SHDCP has been undertaken. Given the nature of proposed upgrade and refurbishment works to an existing facility, limited provisions of the SHDCP apply. Consideration of relevant provisions are discussed below.

## Part 2 Ecological Assessment

The site is identified as falling within a ‘Mixed Sandy Intertidal and Rock Platform’ aquatic ecological community and ‘Grassland’ terrestrial ecological community.

This mixed intertidal/platform aquatic ecological community is of medium conservation value. Assessment of the application against performance criteria confirms that impacts on communities



from shading has been minimised and the proposal will not increase urban run-off, pollutants or nutrients entering the intertidal zone. Neither reclamation, nor dredging are proposed.

The grassland terrestrial ecological community is of low conservation value. Mature tree vegetation is maintained by the development and the rock face is unaffected. A condition of consent (**Condition 30**) is recommended requiring the preparation of a Soil and Water Management Plan to ensure that soil erosion and siltation is minimised and pollutant run-off is prevented during construction.

### **Part 3 Landscape Assessment**

The site falls within *Landscape Character Type 7* which applies to the Balmain Area. Development within this landscape area is to satisfy the following relevant performance criteria:

- Retains the vitality of the area by retaining the mixture of land uses.
- Integrate vegetation within the development to minimise the contrast between natural and built elements.
- Introduce measures to mitigate noise and amenity impacts between incompatible land uses.

The proposed development retains and refurbishes the public recreation facility within the mixture of uses at this location, maintaining and improving the vitality of the area. The Dawn Fraser Baths have been located on the site since 1882 and integrate well with surrounding residential and recreation uses.

Existing vegetation around the site is maintained and will not be significantly impacted by the development. The capacity of the facility is not increased. The installation of light poles will increase the potential hours for which the 'pool' is used, though this would not likely result in significant noise or amenity impacts. Such impacts to nearby residential dwellings are reasonably mitigated by the installation of modern, directional floodlights (i.e. minimal light spill) and reasonable separation (nearest residential property is approximately 50m from the entrance to the Baths) and significant ground level difference. The proposed reconstructed Southern Pavilion will be a minimal 400mm taller than the existing structure, which will be practically imperceptible, and additional mitigation measures are not considered to be necessary in the circumstances.

### **Part 4 Design Guidelines for Water-Based and Land/Water Interface Developments**

Clause 4.3 encourages improved public foreshore access. The proposed development provides for continued and improved public access to the foreshore within the facility and maintains the public foreshore walk link around the facility.

Clause 4.4 guides the siting, orientation and form of buildings to protect vegetation, views and vistas. The location and siting buildings is retained and as such vegetation, views and vistas will not be significantly impacted. The increase in height of the Southern Pavilion building has been limited as far as practicable to not more than 400mm, which is considered to be minimal in the circumstances, given that it is set against the backdrop of a circa 5-metre-high rock outcrop and substantial tree canopy.

Clause 4.5 provides that buildings and structures should generally be of the same scale and of a design sympathetic to their surroundings. The scale, location and siting of the reconstructed and refurbished buildings within the facility is proposed to be substantially retained. The works have been guided by a Heritage assessment and Conservation Management Plan and are considered to be sympathetic to the heritage significance of the item, ensuring its long-term retention. The proposed water polo lighting is designed to minimise any potential adverse impacts from light spill and glare in accordance with the relevant Australian Standards and this is reinforced by a recommended condition of consent (**Condition 75**). These lights are to be directed downwards

and internally facing away from navigational waters. A condition is recommended (**Condition 76**) requiring the lighting to be turned off by 11pm on any night.

Clause 4.14 applies to proposed swimming enclosures and seeks to ensure that enclosures do not impede the tidal flow, interfere with watercraft or alienate the public. These provisions are not relevant to the existing Baths, and no expansion of the footprint is proposed. The facility is nevertheless a safe, established, publicly accessible tidal pool.

Clause 4.17 provides guidelines for seawalls and specifies that, where existing sandstone seawalls are being extended or upgraded, similar sandstone coursing to match existing walls should be used. The development involves raising of the southern seawall and adjoining sections, with matching sandstone block facing. This is consistent with and satisfies the requirement.

### 5(c)(ii) Leichhardt DCP 2013

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

Part	Compliance
<b>Part A: Introduction</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Not applicable The proposal is not a new or redeveloped recreation facility as it is a rebuild maintaining the essential status quo of the facility.
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
B3.3 Public Act	Not applicable
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes – discussed further below
C1.3 Alterations and additions	Yes – discussed further below
C1.4 Heritage Conservation Areas and Heritage Items	Yes – discussed further below
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Not applicable
C1.12 Landscaping	Not applicable
C1.13 Open Space Design Within the Public Domain	Yes
C1.14 Tree Management	Not applicable
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable

C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	No – discussed further below
C1.20 Foreshore Land	Yes
C1.21 Green Roofs and Green Living Walls	Not applicable
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.6 Birchgrove distinctive neighbourhood, Birchgrove	Yes – discussed further below
<b>Part C: Place – Section 3 – Residential Provisions</b>	
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management (D2.1, D2.2 and D2.4)	Yes
<b>Part E: Water</b>	
<b>Part F: Food</b>	
<b>Part G: Site Specific Controls</b>	
	Not applicable

The following provides discussion of the relevant issues:

### C1.2 Demolition

The controls provide that demolition of a Heritage Item or contributory buildings should not be approved unless:

- i. *the existing building is found to be structurally unsafe; and*
- ii. *cannot be reasonably repaired; and*
- iii. *the proposed replacement building is consistent with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan; and*
- iv. *the quality of the proposed replacement building will be compatible with the Heritage Conservation Area or streetscape in terms of scale, materials, details, design style and impact on streetscape.*

A structural assessment of the condition of buildings on the site was undertaken by Shreeji Consultant Structural Engineers in May 2017. The report provided found that “...the majority of the (required) work observed to date is concentrated on the older Southern Pavilion. There are areas of repair that need to be carried out to ensure that the stability of the structure is maintained.” The structural engineers report commented that “Significant problems are being caused by the inundation of the building during times of very high tides, this cyclical wetting and drying of the timber is causing the timber to degrade. This degradation of the timber is affecting the cladding and the structural timber posts. It may be worthwhile to investigate alternative solutions... as the damage being caused by this occurrence is significant.”

The report recommends numerous priority structural works to the Southern Pavilion. These include replacing substantial damaged sections of the front posts, replacing timber decking & fixings, replacing the first-floor balustrades and fixings, and replacing structurally compromised fixings on

the structure, repairing timber bearers and repairing damaged sections of cladding. While not explicitly stated, it is reasonable to conclude that left in this condition, the structure is currently unsound or otherwise would become so in the near future. The damaged structural components to be replaced are mostly located at the base of the structure, making reconstruction more practicable.

The development application proposes the reconstruction of the Southern Pavilion, rather than repairs which would not reasonably resolve the underlying cause of the degradation, nor its longer-term use and conservation.

According to the Heritage Impact Statement submitted with the application *“the proposed... demolition and reconstruction of the Southern Pavilion... is required due to its poor structural condition and projected sea level rise.”* The CMP accepts that the building may not be reasonably repaired and provides policies for reconstruction. The Heritage Impact Statement comments that:

- *“three independent structural engineering specialists have identified major issues with the condition and structural design of the Southern Pavilion, such that an estimated 70-80% of the fabric must be replaced. The loss of significant fabric is minimised by a detailed “Fabric Salvage & Reuse Methodology”*
- *“the proposed works have been carefully considered and well designed to ensure the bath’s significance is conserved, consistent with the Conservation Policies in the CMP.”*

The CMP provides detailed guidance on specific built elements of the Southern Pavilion and the proposed works generally meet these CMP policies. The proposed replacement building will be generally in keeping with its original 1900 form, ensuring compatibility with the heritage setting and character of the locality.

The proposed replacement building is compliant with the FSR development standard contained in LLEP 2013 and numerical controls in LDCP 2013. The proposed replacement building has substantially the same footprint, but removes later enclosure additions along the covered boardwalk. This will result in a reduced Gross Floor Area (GFA) which is significantly below the 1:1 maximum FSR standard applying to the wider site. The increase in overall height is limited to 400mm and the resulting wall height remains below 6 metres above both existing and finished ground level.

### C1.3 Alterations and additions

The controls require alterations and additions to be compatible with the adjoining dwellings, retain any building consistencies which add to neighbourhood character, maintain heritage significance and achieve the desired future character. The controls also require that the integrity of the original form or detail of buildings should be enhanced and any new materials and fenestrations of alterations and additions should be compatible with the existing building.

The proposed development does not increase the footprint of buildings and does not alter the topography, subdivision pattern, or landscape setting of the locality. The reconstructed Southern Pavilion will be a substantially similar form with a minor increase in scale, which in this location would not affect streetscape. The upgrade and refurbishment, as proposed, is consistent with the desired character for the site and will visually improve neighbourhood character.

The reuse of salvaged materials in a reconstructed Southern Pavilion is supported by the Heritage Impact Statement and CMP as maintaining heritage significance. The form and new materials reflect the original form, consistent with the detailed CMP policies. It is considered that integrity is maintained and compatibility with the existing buildings is achieved.

### C1.4 Heritage Conservation Areas and Heritage Items



The controls specify that the fabric of an existing building is to be the subject of appropriate conservation practices, including: retention of original detail and finishes; conservation of original elements; reconstruction or restoration of original elements where deemed appropriate; retention of the original materials where viable; and suitable replacement materials based on original material.

The proposed development is supported by a Heritage Impact Statement and is consistent with the Conservation Management Plan prepared for the Dawn Fraser Baths heritage item. As mentioned earlier in this report, the Heritage Impact Statement advises that *“the proposed works have been carefully considered and well designed to ensure the bath’s significance is conserved, consistent with the Conservation Policies in the CMP”*.

In relation to the LDCP heritage provisions, the HIS comments that:

*“The materiality and design of the reconstructed Southern Pavilion is largely compatible with its original (1900) design and subsequent evolution. Three specialist structural engineering surveys have determined that the majority of the Southern Pavilion’s fabric is no longer viable. The proposed works include a “Fabric Salvage & Reuse Methodology”, which aims to identify, salvage and reuse all viable significant fabric.*

*The proposed works are compatible with the heritage significance of the Iron Cove Heritage Conservation Area (HCA) and Elkington Park as they would largely retain the use, general architectural imagery and sense of enclosure that is central to its existing character.*

*The proposed works largely retain existing views within the public domain. The proposed raised Southern Pavilion wings and lighting poles would incur the minor loss of some views to Elkington Park’s historic trees from parts of the baths and to the Fitzroy Avenue park rock walls from White Horse Point, neither of which are identified as significant views. All existing views of the baths are generally retained. The proposed works would have an acceptable impact on existing views.*

*The proposal would reconstruct the majority of the Southern Pavilion’s balcony’s original 1900 form and detailing. The roof to the Entry Building’s balcony would have a reduced pitch to accommodate the raised building level while retaining views of the Entry Building’s parapet and pyramidal roof. Retention of the Southern Pavilion’s original architectural imagery would ensure the existing format and setting of Elkington Park’s lower walkway and stairs would be generally retained.*

*The raised walkway within Fitzroy Avenue Park would retain viable sandstone fabric and introduce new sandstone where required, in keeping with the existing design.”*

The original detail and finishes will be retained and restored as far as possible. Materials salvaged from structures to be demolished will be reused in a reconstructed form, substantially consistent with the original design. It is considered that the proposed development satisfies the DCP heritage controls.

### C1.9 Safety by Design

The controls require that buildings are designed to provide surveillance of paths and laneways which are not located along a primary street frontage, appropriate lighting is included within the design, and signage and ‘way finding’ is legible.

The Dawn Fraser Baths facility is bound by a walkway which connects two parks and public foreshore access. The existing path is situated between the southern perimeter buildings and a high rock wall, and has a 40m long section with narrow width of less than 2 metres and concealed spaces. The development appropriately maintains the footprints of the buildings and the rock face. While this is an existing design issue, the upgrade development is an opportunity to improve safety in this location. The CMP provides that no new window openings can be introduced into the

southern elevations of the Southern Pavilion, eliminating the potential for additional surveillance. However, perimeter lighting and landscaped barrier treatments to concealed spaces could be incorporated into the overall schedule of works for the Baths and a suitable condition (**Condition 4**) is recommended to be imposed.

#### C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls

The controls specify that development in proximity to rock faces is to avoid filling the site in any way that would obscure the rock features.

The proposed development does not involve any disturbance to the rock face adjacent to the immediate south of the Dawn Fraser Baths facility. The development does include raising and filling a section of ground at the entrance area by up to 600mm for continuous level access into the facility at the new floor level. Despite the non-compliance, the extent to which this would obscure the rock feature is considered to be minor and reasonable in the circumstances.

In relation to the proposed seawall steps associated with the raising of the seawall, the DCP controls provide that such reconstruction of rock walls may be undertaken where it is required to ensure safety and serviceability.

#### 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 RE1 Public Recreation and W1 Water Recreation, and consists of foreshore parkland and tidal waterway. The public recreational tidal pool facility is existing and culturally significant. The proposed works are considered essential for the long term survival of the Baths to avoid further damage, and potential destruction, caused by flooding from both tidal inundation and stormwater overland flows.

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

##### 5(f)(i) Public Submissions

The application was notified in accordance with Leichhardt DCP 2013 for a period of 30 days to surrounding properties from 25 September to 24 October 2018. Notice of the application was published in the Inner West Courier newspaper and a sign was placed on the front of the site. 275 surrounding property owners and residents were notified of the application by letter. A total of three (3) submissions were received from two (2) individuals.

One (1) late submission was received by Council on 9 April 2019 from the UTS-Balmain Water Polo Club, critical of the proposed changes to showers, toilet facilities and dry change areas as not best for the specific needs of various regular user groups (including water polo).

The following is a summary of issues raised in all submissions and are discussed under the respective headings below:

- Issue: *The proposed family change rooms are too small and do not include a shower. A combined disabled /family facility would better cater for these users. The amount of space (dry change area) for general (regular) users is undersupplied.*
- Comment: The amenity facilities proposed are accommodated within the original building footprints, which is important to maintain the heritage significance of the Dawn Fraser Baths. A substantially increased number of external showers, with privacy panels, are proposed to accommodate demand.
- Issue: *Timber panel/ screens should be reinstated to the change 'cubicles' to provide some privacy.*
- Comment: In addition to male and female change facilities, 4 separate bathrooms are proposed, providing flexibility for individuals.
- Issue: *The number of external showers is unclear and these are essential to relieve pressure from the change facilities as many people just want to rinse off after a swim.*
- Comment: The Dawn Fraser Baths facility currently has 0 external showers and 8 internal showers. The proposal will provide 5 external showers and 5 internal showers, one of which is universally accessible. The increase in external showers seeks to address the concern raised in relation to current demand.
- Issue: *The entrance area is small and gets congested. The proposal will make this even more congested as people currently crowd to pay in part of the section which will be included in the entrance /kiosk.*
- Comment: The design proposes to change the arrangement at the entrance so that the kiosk is extended to the outside wall of the entry building and a counter will face the larger entry courtyard which will have a new roof cover. This will eliminate the need for the public to enter via the small entry space and will address the concerns raised in relation to congestion.
- Issue: *The perimeter path from Fitzroy Park (and disabled parking) is proposed in sandstone, which is difficult for wheelchairs & strollers.*
- Comment: The proposal seeks to make the facility accessible and the application is accompanied by an access compatibility statement. In order to maintain the integrity of the heritage significant site it is important to use original or compatible materials. However, sandstone can be planed and shaped to provide a continuous even surface. A condition (**Condition 4**) of consent will require the submission of a landscape plan with such details and that the development be certified as satisfying the Accessibility requirements of the BCA and the Disability Discrimination Act 1992.
- Issue: *East and west ramps to the boardwalk need to ensure they are adequate for disabled access.*
- Comment: A condition of consent (**Condition 4**) will require the submission of a landscape plan with such details and that the development be certified as satisfying the Accessibility requirements of the BCA and the Disability Discrimination Act 1992.
- Issue: *Further design details need to be provided with regards to services, colours and the Southern and Northern Pavilion (internal and external).*

Comment: The application has been submitted with the relevant plans, elevations and schedule of colours and materials. A photomontage has subsequently been submitted. Following development approval, technical plans such as for water and electrical services would be submitted to a certifier for certification.

### 5(f)(ii) Agency Submissions

In accordance with s. 4.47 of the Environmental Planning and Assessment Act 1979, the application was referred to the Office of Environment and Heritage (OEH) and the Department of Primary Industries - Fisheries NSW (DPI Fisheries), for general terms of approval (GTAs).

#### Office Environment and Heritage:

OEH advised Council on 3 January 2019 of the Heritage Council Approvals Committee resolution, which included GTAs concerning various matters (including design amendments) which are to be addressed and submitted with the s.60 application.

#### Fisheries NSW:

Fisheries NSW has reviewed the proposal and advised on 25 October 2018 that the proposed works do not include any activity that would trigger the requirements for a permit under Part 7 of the FM Act, and as such Fisheries NSW has no objections to this proposal.

The application was also referred to other relevant agencies as required by EP&A Regulations and State policy:

#### Foreshores and Waterways Planning and Development Advisory Committee:

Foreshores and Waterways Planning and Development Advisory Committee, consisting of the NSW Department of Planning & Environment and Transport for NSW (Roads and Maritime Services), advised Council on 29 January 2019 that the Committee raises no issues in relation to the application and does not wish to make any further comment.

#### Sydney Water:

Sydney Water advised Council on 10 October 2018 that due to the proximity of the proposed development to Sydney Water assets, has recommended a condition of consent (**Condition 36**) requiring the approved plans to be submitted to the Sydney Water Tap in(tm) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement.

### 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 considered to be in 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](#)

### **Heritage Listing:**

The “Dawn Fraser Swimming Pool and Interiors” are listed on Schedule 5 of the Leichhardt LEP 2013 as an item of State Heritage significance (I237). The corresponding State Heritage Register listing is SHR 01398. No Site specific exemptions have been gazetted.

The surrounding parks, Elkington Park (I238) and Fitzroy Avenue Park (I219). are also listed as heritage items but are both of local significance. All three items are located within the Iron Cove Heritage Conservation Area.

### **Significance**

The Statement of Significance for the Dawn Fraser Swimming Pool reproduced from the State Heritage Register listing is as follows:

*“The pool is a complete swimming complex extending back to the turn-of-the century. It is an excellent example of pool architecture no longer practiced and a well known Sydney landmark set in an attractive harbourside location which has become a feature of the pool. It is representative of the development of a harbourside recreational and social facility and is associated with prominent swimming identities and world champions. It provides evidence of the major popularity of swimming as a competitive and recreational sport in Australia. (EJE Landscape 1994) (Walker 1991)”*

Details of the statement of heritage significance for the Iron Cove Heritage Conservation Area (listed under Part 2 of Schedule 5 of Leichhardt Local Environmental Plan 2013) can be found at the following address on Leichhardt Council’s website:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/heritage-conservation-areas>

### **Previous Comments**

A preDA heritage referral was prepared for the Dawn Fraser Baths in June 2018 which noted that

*“In principle the aim of undertaking a program of works to the Dawn Fraser Pool to allow the longstanding pattern of use of the place to continue is acceptable on heritage grounds.”*

Of the four options proposed, Option 2 has been selected to address both the maintenance issues and the issues relating to rising sea levels.

### **Discussion**

The growth of the complex has been summarised in the December 2017 Statement of Heritage Impact

*“The Dawn Fraser Baths is a public tidal baths in the Parramatta River. It opened in 1882 as an original feature of the newly established Elkington Park and was the first Municipal baths in Balmain. The Baths has been operational to the present day. It has been modified many times over its lifespan, most notably in 1888, 1900, 1910, 1926, c.1984, 1993-95 and 2015, when the Baths were expanded and new facilities were constructed. The southern pavilion built in 1900 survives relatively intact. The pool’s current format was established in 1926, when the entry building, western shed and northern pavilion were constructed, the latter having been sympathetically replaced in 1993-95.”*

This summary is based on a more detailed Conservation Plan prepared for the Dawn Fraser Pool by Schwager Brooks and Partners in 1993 and an updated Conservation Management Plan prepared by Graham Brooks in 2017.

The following amendments to the application were sought:

<b>PreDA Heritage Advice (IWC)</b>	<b>DA</b>	<b>Comment</b>
<i>Justification as to why significant details that are to be altered, such as rooflines.</i>	<i>The SOHI notes that the proposed roof over the entry courtyard would improve the entry's amenity. The roof would be sympathetic with the building's design by continuing the adjacent bathroom annex's roof line. Views to significant aspects of the Southern Pavilion and Entry Building, particularly from the adjacent Elkington Park steps and including the 'Municipal Baths' sign and two string courses, would not be interrupted.</i>	<i>A comparison between the before (demolition) and after elevations indicates that the resulting form is a sympathetic adaptation necessary to address the rise in sea levels.</i>
<i>Details as to how the sea wall is to be raised (in such a manner that the existing sandstone seawall is retained).</i>	<i>The seawalls are to be extended to match the existing. Sandstone paving is to be salvaged.</i>	<i>To be conditioned - Selection of a durable sandstone for use in the seawall</i>
<i>Details as to how the raising of the levels of the openings in the entry building will be treated.</i>	<i>The architectural drawings indicate the new positions of openings. The extent of fabric to be salvaged is indicated on the architectural drawings and in the 'Fabric and Salvage Re-Use Methodology'</i>	<i>To be conditioned – Detailed Schedule of Fabric, including Salvaged elements</i>
<i>A schedule of materials and finishes for the significant fabric.</i>	<i>A schedule of paint colours has been provided which is similar to the existing.</i>	<i>No additional condition required</i>
<i>A maintenance schedule for surviving significant elements will also be required.</i>	<i>There is no specific requirement for a maintenance plan in the CMP or the S60 application.</i>	<i>To be conditioned – Maintenance Plan</i>
<i>Provision of interpretation of the growth and change of the complex and the associations with prominent Balmain residents, sportsmen and women and longstanding sporting clubs/teams.</i>	<i>Interpretation is only referred to in terms of altered layouts. A heritage interpretation plan has been included as a condition of the S60</i>	<i>To be conditioned – Interpretation Plan</i>
<i>Detailed tables that identifies the date of construction and significance of individual</i>	<i>Not included in the CMP or SOHI Not mentioned in the</i>	<i>To be conditioned – Detailed</i>

<b>PreDA Heritage Advice (IWC)</b>	<b>DA</b>	<b>Comment</b>
<i>components eg floors, joinery, roof structure and lantern, sandstone sea walling. These can form an appendix to the CMP and should clearly identify where original details were modified by later works.</i>	<i>S60 provisions</i>	<i>Schedule of Fabric including Salvaged Elements</i>
<i>As the building is a heritage item a full archival recording will be required.</i>	<i>Not mentioned in the CMP, SOHI or S60 provisions</i>	<i>To be conditioned – Archival Recording</i>

*The CMP does not contain a detailed schedule of significant fabric, the significance has been established for particular areas of the complex. A more detailed schedule of fabric is to be prepared which includes the elements to be salvaged and relocated. This details schedule should also form the basis of the maintenance plan and will serve to indicate which existing elements have been incorporated into the new structure.*

*Whilst there is a provision for an interpretation plan in the conditions issued by the Heritage Division, this does not refer to the significance of the item to the locality of Balmain. The Interpretation Plan needs to consider not only the history of the item, and the significance of the name, but also its importance to the Balmain community. In other respects the Interpretation Plan required to be lodge with the Council Local Studies Collection is the Heritage Interpretation Plan as required by the Heritage Office (prepared according to their publication "Interpreting Heritage Places and Items Guidelines").*

*In regards to the Heritage Division Clause relating to nominating a Heritage Consultant, Council's requirement is that for the architectural component of the project ie development of the detailed design and supervision of the works, that a Heritage Architect be utilised, rather than a more general heritage consultant. In addition a Heritage Engineer is also to be engaged to ensure that engineering decisions are compatible with the retention of the significant fabric.*

*The proposal includes the extension of the sea walls. To ensure the durability of the sea walls care needs to be taken when specifying the sandstone, and a high quartz rich sandstone is to be utilised such as Appin Sandstone. The series of works undertaken to repair the sea walls at the State Heritage Register listed Wollongong harbour have developed techniques suitable for use in the repair of historic sea walls generally, including the development of suitable mortars, methods to limit mortar loss through wave action and specification and sourcing of durable sandstone. In this regard a heritage engineer with experience in the repair of historic sandstone walls is to assist with the development of the details for the treatment of the existing sea walls and their extension.*

*The Fabric Salvage and Reuse Methodology is to be extended to include secure storage for the tagged / labelled salvaged elements. Heritage Inductions are to be held to ensure that all contractors working on the site understand that salvage and re-use is an integral part of this process. Past experience with works to significant heritage buildings has found that fabric has been lost due to a lack of understanding of all of those working on Site that the aim is salvage not demolition.*

## **Recommendation**

*In principle the aim of undertaking a program of works to the Dawn Fraser Pool to allow the longstanding pattern of use of the place to continue whilst altering the existing building to cope with rising sea levels in such a manner that salvages and re-uses elements capable of being reused and retaining the established character of the baths is acceptable on heritage grounds. A number of conditions of consent are recommended to ensure that the process is undertaken*

*according to heritage conservation best practice and that records of the configuration of the building area created for future reference.*

## **Conditions**

Conditions have been recommended dealing with the following matters:

- Durability of Sandstone in Seawalls
- Schedule of Significant Fabric (including Salvaged Elements)
- Care with Demolition
- Heritage Inductions
- Maintenance Schedule (including Salvaged and Relocated Elements)
- Heritage Architect Supervision
- Heritage Engineer Supervision
- Heritage Architect and Engineers Certification
- Heritage Interpretation Plan
- Recording of significant or contributory buildings prior to any demolition or alteration
- **Development Engineer**

*It is noted that Iron Cove beyond the HWM is owned by Roads and Maritime Services (RMS) and the area within Elkington Park is owned by Inner West Council with Council's Parks Team the relevant asset owner.*

*The documentation indicates that the proposed works are on both RMS land and Council Land and access to the site is via an access road within land owned by Planning and Infrastructure which is accessed from Fitzroy Avenue.*

*It is recommended that the subject development application is referred for comments to RMS, Council's Parks team and Planning and Infrastructure where works and access to the site is reliant on their land. \**

*\* Planner's comment: This application was referred to the RMS and landowner's consent for the lodgement of the application was provided. The application has also been considered by the Foreshores and Waterways Planning and Development Advisory Committee. Relevant internal Divisions of Council's have contributed to the draft master plan and are aware of this application.*

## **Conditions**

Conditions have been recommended dealing with the following matters:

- Permits from Council to carry out works on public roads or Council controlled lands
- Dilapidation reports
- Public liability insurance
- Security deposits
- Stormwater drainage design
- Foreshore risk management report
- Geotechnical report
- Alignment levels for the site at all pedestrian and vehicular access locations
- Encroachments onto Council's road or footpath
- Waste storage areas
- Vehicular crossing and/or footpath works



- **Building Officer**

*The following information is provided from a building point of view for the refurbishment of the Dawn Frazer Pool which will need to be determined by the Sydney Eastern City Planning Panel.*

- *Stage 1 of 10 year works program for Council refurbishment of the heritage baths – substantially timber structures for the decking's and the river side 2 story buildings and entry building and change rooms and walkways to the park side of the pool.*
- *Will require alternative solutions including sprinkler systems and emergency lighting and access to upgrade the buildings to meet the performance standards of the NCC (National Construction Code).*
- *Prescribed conditions require the NCC to be satisfied– alternative solutions will be required to be part of a Fire Design Brief to ensure that all stakeholders recognise the challenges with upgrading a heritage timber building to ensure adequate fire safety and access for the pool and buildings.*
- *Will not be able to comply with the new standards.*
- *Located at the base of the steep park and road system - current disabled access from the lower levels and pathways will need to be assessed as to suitability for disabled access and performance report from an access consultant and recommendations are included as part of the DA package.*
- *Increase height of the decking around southern pavilion due to rising sea levels.*
- *Will salvage and re-use as much of the original materials as possible.*
- *Structural integrity of the existing piling in the seabed is to be assessed and determine if the renewal of the structural elements is necessary and ensure adequacy.*
- *Have looked at briefing notes to the planning panel for the issues and solutions to be raised as part of the redevelopment.*
- *The required checks and balances will need to be implied in the conditions of consent and in the detailed drawings and reports for the construction certificate.*
- *It is likely due to the nature of the building and the heritage value of the building and the required works that alternative solutions will need to be included as part of the redevelopment and documentation for the construction certificate.*
- *Ensure that a pest inspection has been undertaken to the existing building and structural report is provided for those areas which may not be visible as the costs and issues associated with design and build may blow out the costs of the project and the existing timber buildings are likely to have been affected by termite infestations due to low maintenance , there may be sea worm damage and wet rot damage to piles which may need replacing were immersed in the sea for extended periods of time and the exposure of timber and other elements to sea winds and the elements over many years.*
- *Ensure that the water mains pressure is adequate to service and hydrant or sprinkler pump system for the buildings and referral to the Fire and Rescue should be undertaken early in the project to determine if the essential fire services can be accessed by Fire and Rescue as the upgrading is reliant on a sprinkler and hydrant system to ensure fire safety and preservation of heritage fabric in the case of a fire or vandalism.*
- *Security measures and protection for the asset should be a consideration for the redevelopment considering its heritage value and the isolated location on the river side.*
- *Consideration should also be given as the construction and site management plans requested as part of the CC documentation that take into consideration the proximity of the development to the Waterways and the extensive works and construction traffic that will need to be accommodated during the build time. Measures to protect the ingress of stormwater runoff and site run of will need to be carefully monitored.*

## 6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in **Section 5** above.

- NSW Office Environment and Heritage
- Fisheries NSW
- Foreshores and Waterways Planning and Development Advisory Committee (NSW Department of Planning and Environment and Transport NSW)
- Sydney Water

## 7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, the Leichhardt Local Environmental Plan 2013, the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 and the Leichhardt Development Control Plan. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape and is considered to be an appropriate response to the heritage significance of the site. The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. That the Sydney East City Planning Panel, pursuant to s. 4.16 of the Environmental Planning and Assessment Act 1979, approve Development Application D/2018/450 for the refurbishment and upgrade of the Dawn Fraser Baths at Fitzroy Avenue Balmain, subject to the following conditions:

### CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2018/450 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Title	Reference	Revision	Drawn By	Dated
Cover Page & Site Plan	AR.DA.0000	D	TKD Architects	27.08.2018
<b>Southern Pavilion</b>				
Southern Pavilion Existing/Demolition Ground Floor Plan Cadastral Overlay	AR.SK.1001	A	TKD Architects	02.10.2018
Southern Pavilion Existing/Demolition Ground Floor Plan	AR.DA.1001	D	TKD Architects	27.08.2018
Southern Pavilion Existing/Demolition First Floor Plan	AR.DA.1002	D	TKD Architects	27.08.2018

Southern Pavilion Existing/Demolition Elevations	AR.DA.1101	D	TKD Architects	27.08.2018
Southern Pavilion Existing/Demolition Sections	AR.DA.1201	D	TKD Architects	27.08.2018
Southern Pavilion Proposed Works Ground Floor Plan	AR.DA.2001	D	TKD Architects	27.08.2018
Southern Pavilion Proposed Works First Floor Plan	AR.DA.2002	D	TKD Architects	27.08.2018
Southern Pavilion Elevations Proposed Repair Scope	AR.DA.2101	D	TKD Architects	27.08.2018
Southern Pavilion Existing/Demolition Sections	AR.DA.2201	C	TKD Architects	24.08.2018
Southern Pavilion Perspective Renders & Materials Schedule	AR.DA.3001	C	TKD Architects	27.08.2018
Southern Pavilion Proposed Works Ground Floor Plan (Stormwater Concept)	AR.TD.2001	P1	TKD Architects	September 2018
<b>Northern Pavilion</b>				
Northern Pavilion Existing/Demolition Ground Floor Plan	AR.DA.1003	D	TKD Architects	27.08.2018
Northern Pavilion Existing/Demolition First Floor Plan	AR.DA.1004	D	TKD Architects	27.08.2018
Northern Pavilion Existing/Demolition Elevations	AR.DA.1102	D	TKD Architects	27.08.2018
Northern Pavilion Proposed Works Ground Floor Plan	AR.DA.2003	D	TKD Architects	27.08.2018
Northern Pavilion Proposed Works First Floor Plan	AR.DA.2004	D	TKD Architects	27.08.2018
Northern Pavilion Elevations Proposed Repair Scope	AR.DA.2102	D	TKD Architects	27.08.2018
<b>Central Pavilion</b>				
Central Pavilion Proposed Works	AR.DA.3000	D	TKD Architects	27.08.2018
<b>Document Title</b>		<b>Prepared By</b>		<b>Dated</b>
Detail and Level Survey (4 Sheets) Plan Reference No: 3520/18		Eric Sceeri & Associates – Land Survey Consultants		Date of survey 08.02.2018
Dawn Fraser Baths Redevelopment – Coastal Assessment		Cardno		11.04.2018
Heritage Council of NSW – Resolution – Integrated Development Application IDA/2018/100 (DOC18/765017)		Heritage Council of NSW		02.01.2019
Statement of Heritage Impact (Issue G)		GBA Heritage		15.10.2018
Conservation Management Plan (Issue B)		GBA Heritage		27.08.2018
Dawn Fraser Baths and Piers Repairs - DA Cost Plan		AECOM Australia		31.07.2018
Statement of Environmental Effects		URBIS		03.10.2018

Dawn Fraser Baths – External Materials and Colour Scheme (Issue A)	TKD Architects	28.08.2018
Dawn Fraser Pool – Fabric Assessment and Recommendations	Shreeji Consultant Structural Civil Engineers	Undated
Site waste minimisation and management plan (Issue B)	TKD Architects	29.08.2018
BCA / Access Capability Statement for Development Application	Design Confidence (Sydney) Pty Ltd	27.08.2018

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. In accordance with the provisions 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.

3. Prior to the issue of any Construction Certificate, any person acting on this consent must submit an application and obtain approval under section 60 the Heritage Act 1977 and include in that application all information as required by the general terms of approval granted by the Heritage Council of NSW as set out in the Resolution Integrated Development Application IDA/2018/100 (DOC18/765017) which is listed in **Condition 1** above, and included at **Appendix A**.

Any person acting on this consent must also comply with all other requirements of the general terms of approval granted by the Heritage Council of NSW as set out in the Resolution Integrated Development Application IDA/2018/100 (DOC18/765017) which is listed in **Condition 1** above, and included at **Appendix A**.

4. Amended or more detailed plans are to be submitted incorporating the following requirements:
  - a) Sandstone to be utilised in the sea walls is to be quartz rich, with a quartz content of at least 70%. The grout is not to have high cement content but is to be specified to



be sacrificial and to weather in preference to the sandstone blockwork.

- b) Perimeter lighting and landscaped barrier treatments to concealed spaces are to be incorporated into the overall schedule of works having regard to the principles of Crime Prevention Through Environmental Design (CPTED) and minimise opportunities for criminal and anti-social behaviour within the public domain.
- c) A landscape plan is to be prepared for the site and its perimeter with sufficient details to satisfy the Accessibility requirements of the BCA and the Disability Discrimination Act 1992.

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

5. An experienced suitably qualified & experienced Heritage Architect must be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the project.

The heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage architect is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. Heritage inductions are to be carried out with contractors.

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

6. An experienced suitably qualified & experienced Heritage Engineer must be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the project.

The heritage engineer is to be involved in the resolution of all engineering matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

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

7. The approved Architectural plans shall be amended to incorporate the recommendations of the Foreshore Risk Management Plan approved in **Condition 16**. The plans addressing the requirements of this condition shall be provided prior to the issue of a Construction Certificate. The design shall be prepared to make provision for the following:

- a) Specification of materials
- b) Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans shall occur except as identified by this condition. Any changes to such

shall be subject to separate approval in accordance with Section 96 of the Environmental Planning and Assessment Act.

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

8. Engineering design plans prepared by a qualified practising Structural Engineer shall be prepared and incorporate the following recommendations of the Foreshore Risk Management Plan approved in **Condition 16**.

The design shall be prepared to make provision for the following:

- a) Structural integrity of all structures from immersion and/or impact of velocity and debris.
- b) Waterproofing works, where applicable.

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

9. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:

- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
- b) A concrete pump across the roadway/footpath
- c) Mobile crane or any standing plant
- d) Skip bins
- e) Scaffolding/Hoardings (fencing on public land)
- f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity. 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.

10. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site, including on Fitzroy Avenue, before the issue of a Construction Certificate.
11. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an

interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

12. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities.
13. The person acting on this consent shall apply for a Work Zone along the site frontage for construction vehicles if necessary. A minimum of 2 months should be allowed for the processing of the application.
14. Consent is granted for demolition of the structures existing on the property as proposed in the approved drawings listed in **Condition 1**, 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.

15. A full archival record of the building and landscape elements to be altered is to be



submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any demolition work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment & Heritage (Heritage Branch) or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	<u>Inner West Council</u> Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- a) Coloured photographs of:
  - each elevation,
  - each structure and landscape feature;
  - internal images of each room and significant architectural detailing;
  - views to the subject property from each street and laneway or public space.

**Note:** Refer to the NSW OEH Heritage Branch free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at:  
<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf>

16. An illustrated schedule of significant fabric is to be prepared prior to the issuing of a construction certificate which includes the items proposed to be salvaged, noting their original date of construction, location and detail. This schedule is to be included with the Archival Record.
17. A Heritage Interpretation Plan for the Dawn Fraser Baths must be submitted to and approved by Council's Heritage Specialist prior to the issue of a Construction Certificate. The plan is to be prepared by a suitably qualified and experienced heritage practitioner, interpretation specialist or historian in accordance with the '*Heritage Interpretation Policy*' published by the Heritage Council of NSW and the NSW Department of Planning in August 2005 and '*Heritage Information. Series, Interpreting Heritage Places and Items Guidelines*' published by the former NSW Heritage Office in August 2005.

The interpretation plan must detail how archival, oral and other specific historical information regarding the historical development and significance of the Dawn Fraser Baths to the Balmain area will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, interpretive panels and the display of selected artefacts are some of the means that can be used. The plan must specify the location, type, details, materials and content of the interpretation device/s being proposed.

Prior to an occupation certificate being issued, the interpretation as set out in approved interpretation plan must implemented/installed to the satisfaction of Council's Heritage Specialist.

18. A Foreshore Risk Management Plan, prepared by a qualified practicing Civil Engineer shall be prepared prior to the issue of a Construction Certificate. The Plan shall be prepared / amended to make provision for the following:

- a) The plan shall be generally in accordance with the recommendations of the Dawn Fraser Bath Redevelopment – Coastal Assessment prepared by Cardno and dated 11 April 2018.
- b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations shall be consistent with the approved development. The precautions shall include but not be limited to the following:
  - i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
  - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
  - iii) Flood warning signs/depth indicators for areas that may be inundated
  - iv) A flood evacuation strategy.
  - v) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

All works shall be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below.

<b>Building Code of Australia</b>	<b>Development Control Plan 2013</b>
<i>Defined flood level (DFL)</i>	<i>100 year Average Recurrence Interval flood level</i>
<i>Defined flood event (DFE)</i>	<i>100 year Average Recurrence Interval flood</i>
<i>Flood hazard level (FHL)</i>	<i>Flood Planning Level (FPL)</i>

- c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

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

19. Approval from NSW Roads & Maritime Services, for the proposed stormwater connection to Sydney Harbour/Parramatta River, shall be obtained prior to the issue of a Construction Certificate. Any requirements of NSW Roads & Maritime Services are to be complied with.

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.

20. Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services and trees protected under the State Environmental Planning Policy shall be prepared. Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

21. An engineering design and specification of stormwater drainage and civil works in Elkington Park and the subject site shall be prepared by a qualified practising Civil Engineer. The design and specification must be prepared/amended to make provision for the following:

- a) The design shall be generally in accordance with the stormwater drainage concept plan sketch Drawing No. SKC006 prepared by Cardno.
- b) The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands including Elkington Park and along the path between the southern pavilion and embankment to the south. The design shall include the collection of such waters and discharge to the Council drainage system or Sydney Harbour.
- c) Council's piped stormwater drainage system shall be an appropriately sized pipeline(s) (minimum 375mm diameter). The pipeline(s) and pit(s) shall be designed to have the capacity to collect and convey flows from the contributing catchment as generated by a 20 year Average Recurrence Interval storm event.
- d) The design must be accompanied by detailed engineering drawings including relevant long and cross sections, hydraulic grade line analysis and location of utility services, proposed and existing surface levels and existing landscape features including trees.
- e) The site plans shall be amended to accurately show the location of the Council's existing stormwater pipe(s) including Council's drainage system that passes through Elkington Park adjacent to the site.
- f) Plans shall show all existing components and specify that any components of the existing system to be retained shall be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- g) Provide details of all proposed works including reconstruction of the footpath and any other civil works.

- h) All redundant pipelines shall be removed and pathway and/or landscaping reinstated.
- i) The stormwater system shall not be influenced by backwater effects or hydraulically controlled by the receiving system.
- j) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards and Council's Specifications and Standard Drawings.
- k) Detail all hold and witness points and allocate responsibility for undertaking the inspections.
- l) The applicant must consult with Council's Parks Capital Works Manager and Council's Infrastructure Planning Manager in relation to the design of all works.

The design and specification shall be endorsed by Council's Parks Capital Works Manager and Council's Infrastructure Planning Manager prior to the issue of a Construction Certificate.

These works shall be constructed in accordance with the approved plans and specification and be completed prior to the issue of an Occupation Certificate.

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.

22. An integrated structural and geotechnical report that address the proposed works, prepared by a qualified practicing Structural and Geotechnical Engineer, shall be provided prior to the issue of a Construction Certificate. The report and plans shall be prepared/ amended to make provision for the following:

- Assess the stability of the existing embankment adjacent to the site.
- Recommendations regarding method of excavation and construction, vibration emissions and identifying risks to existing embankment.
- Recommendations regarding proposed drainage system and civil works along the path between the structures and the cliff to the south.
- Relevant geotechnical/subsurface conditions of the site, as determined by any necessary geotechnical investigation.
- Specify the plans which the recommendations have been incorporated.
- Any other issues that may need to be addressed.

The design shall be certified as compliant with the terms of this condition by a suitably qualified practicing Structural and Geotechnical Engineer.

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

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



The system/s shall be operated as follows:

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

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

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

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

24. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:

- a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

25. 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.

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

27. Where there are existing unpainted brick surfaces, these 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.

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

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

29. 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.

30. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction Volume 1 (2004) available at [www.environment.nsw.gov.au](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.

31. The approved plans must be submitted to a Sydney Water Quick Check agent 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. For Quick Check agent details please refer to the web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents/index.html>

The Principal Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.

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.

32. 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.

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

- a) Estimated volume (m<sup>3</sup>) or weight (t) of materials that are reused, recycled or removed from site.
- b) On site material storage areas during construction.
- c) Material and methods used during construction to minimise waste.
- d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
- e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

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

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

34. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a

security deposit and inspection fee shall 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 and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$8,056.50
Inspection fee (FOOTI)	\$230.65

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, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

The amount nominated is only current for the financial year in which the 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.

35. 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**

36. The approved plans must be submitted to the Sydney Water Tap in(tm) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in(tm) online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in(tm) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in(tm) online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

37. Prior to any ground disturbance works commencing on site, all staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974, which may be implemented as a heritage induction.

If unexpected archaeological deposits or Aboriginal objects are found during the works covered by this approval, work must cease in the affected area(s) and the Office of Environment & Heritage must be notified. Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. Inner West Council's Aboriginal Liaison officer is also to be notified.

38. 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.

39. 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.

40. 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.
41. 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.
42. 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**

43. Any works carried out must be detailed (if shop drawings are required) supervised and carried out by appropriately licensed or otherwise skilled tradespeople with a detailed knowledge, skills and experience appropriate to carrying out the work on heritage buildings and with Heritage Conservation Areas.
44. All demolition works are to be carefully undertaken. The approach taken is to be one of 'unbuilding' or dismantling rather than demolition so that adjacent elements are not damaged and that the elements indicated on the architectural plans as being salvaged for

re-use are not damaged. A temporary but secure storage facility is to be established on site for all of the elements to be re-used during the building works.

45. Heritage inductions are to be held with all contractors to ensure that the heritage status of the complex is understood and that the aim of salvaging and re-using elements is understood.
46. If unexpected archaeological deposits are found during the works covered by this approval, work must cease in the affected area(s) and the Office of Environment & Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Should any skeletal remains be discovered, work must cease in the affected area(s) and the skeletal remains are to be managed in accordance with the Office of Environment & Heritage Skeletal Remains: Guidelines for Management of Human Skeletal Remains. These guidelines can be ordered by completing the Publications Order Form available at: <https://www.environment.nsw.gov.au/resources/heritagebranch/heritage/publicationsorderform.pdf>

47. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.
48. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

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

49. 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.

50. 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.

51. The site must be appropriately secured and fenced at all times during works.
52. 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.

53. Unless otherwise approved by Council, 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.

54. 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.

55. 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.
56. 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.

57. 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.

58. 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 Council's public drainage system or directly to Sydney Harbour.

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.

59. Water quality filtration basket(s) with screening bag or similar primary treatment device(s) shall be installed on the site stormwater drainage system such that all water entering the site stormwater drainage system is filtered by the device(s).

60. 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.

61. 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**

62. 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.
63. Prior to the issue of an Occupation Certificate the Heritage Architect and the Heritage Engineer are to certify that the works have been carried out in accordance with the Heritage Architect or Heritage Engineer Supervision conditions of Consent.
64. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard plans and specifications. The works shall be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the approved plans and specifications before the issue of the Occupation Certificate.
65. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including the existing communications pit at the Bungay Street frontage or any other Gas, Water, Sewer, Electricity, Street lighting and Telecommunications services required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
66. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all aspects of the foreshore risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer this condition has been complied with shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

67. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the site 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, shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

68. Prior to the issue of an Occupation Certificate, the Council shall ensure that all approved of stormwater drainage and civil works in Elkington Park and the subject site have been completed in accordance with the plans approved with the Construction Certificate.

Works-as-executed plans in PDF and CAD format (dwg or dxf files) of the extent of works, including stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practising Civil Engineer to verify that the works have been constructed in accordance with the approved design and relevant Australian Standards, shall be provided to Council prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) shall show the as built details in comparison to those shown on the plans approved with the Construction Certificate. All relevant levels and details indicated shall be marked in red on a copy of the Council stamped plans.

Video inspection (CCTV) of completed stormwater drainage works that are to revert to Council shall be carried out in accordance with the WSA Conduit Inspection Reporting Code of Australia to Council's satisfaction and a copy provided to Council to support the certification of those works.

Written notification from Council's Parks Capital Works Manager and Council's Infrastructure Planning Manager that the works have been satisfactory completed, shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

69. Prior to the issue of an Occupation Certificate a qualified practicing structural and geotechnical engineer shall assess the stability of the existing embankment adjacent to the site and certify that the proposed works have not adversely impacted the stability of the embankment.

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

70. A maintenance schedule is to be prepared for the significant fabric such as joinery that is to be salvaged and reused. This schedule should relate to the Schedule of Significant fabric and should be provided with As Built Drawings before the issue of an Occupation Certificate.

71. 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.

72. 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**

73. The Foreshore Risk Management Plan approved with the Occupation Certificate, shall be implemented and kept in a suitable location on site at all times.
74. 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.
75. 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 vessels on navigational waters. 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.

76. The water polo flood lights are to be switched off no later than 11pm, seven days per week.
77. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. **Recreation Facility (Outdoor)** without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

The use of the premises as a Dwelling House is defined under the *Leichhardt Local Environmental Plan 2013*.

## **PRESCRIBED CONDITIONS**

### **A. BASIX Commitments**

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

In this condition:

- a) Relevant BASIX Certificate means:
  - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 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 4.17(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 8.2 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 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 8.2.

3. If you are unsatisfied with this determination, Section 8.7 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 4.55 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. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor shall complete an application for 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
9. 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.



## Appendix A

### General Terms of Approval granted by the Heritage Council of NSW



Level 6, 10 Valentine Avenue  
Parramatta NSW 2150  
Locked Bag 5020  
Parramatta NSW 2124

Telephone: 61 2 9873 8500  
Facsimile: 61 2 9873 8599  
[heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au)  
[www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au)

DOC18/765017

Mr Harjeet Atwal  
Group Manager  
Development Assessment & Regulatory Services  
Inner West Council  
PO Box 14  
Petersham NSW 2049

By email to: Brian Kirk <[Brian.Kirk@innerwest.nsw.gov.au](mailto:Brian.Kirk@innerwest.nsw.gov.au)>

Dear Mr Atwal

#### HERITAGE COUNCIL OF NSW – RESOLUTION INTEGRATED DEVELOPMENT APPLICATION IDA/2018/100

RE: Dawn Fraser Swimming Pool, Glassop Street, Balmain SHR No 01398  
Proposal: Rectification and upgrade works to address structural, flooding and Building Code of Australia matters and upgrade facilities.

At its meeting on 5 December 2018 the Heritage Council Approvals Committee considered the above noted integrated development application and resolved the following:

In accordance with Section 91A of the Environmental Planning and Assessment Act 1979, the following terms of approval are granted:

GENERAL TERM OF APPROVAL	DESCRIPTION
1. APPROVED DEVELOPMENT	Development must be in accordance with the documents as listed in Attachment B.
2. FURTHER INFORMATION	<p>a. Fire and access upgrade works including installation of fire sprinkler systems, emergency lighting, fire exit signs and hose reels must be detailed to minimise impact on significant views and built fabric. The final proposal along with a heritage assessment must be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application. <i>Reason: To ensure that the works are detailed to minimise impact on significant fabric.</i></p> <p>b. Proposed solar panels on the northern pavilion roof are approved in principle. Details including a photomontage must be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application. The panels must be installed to follow the slope of the existing roof with minimal elevation to minimise visual impacts.</p>

	<p><i>Reason: The submitted information does not provide adequate details to enable assessment of the heritage impacts posed by this component of proposal.</i></p> <p>c. The water polo light poles must be treated in a sympathetic colour scheme in keeping with the colour scheme and character of the southern and northern pavilions. The final colour scheme should be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.</p> <p><i>Reason: To minimise visual impact.</i></p> <p>d. New roof over the main entrance area should be redesigned and detailed appropriately to avoid/minimise impact on the building's significant elevations. Final design should be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.</p> <p><i>Reason: To minimise impact on significant fabric.</i></p> <p>e. Alterations and additions to the proposed main entrance must be detailed to minimise impact on significant fabric. Details must be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.</p> <p><i>Reason: To ensure that the works are detailed to minimise impact on significant fabric.</i></p> <p>f. Proposed works to the Central Pavilion on the ground floor should interpret the 1926 entry passage appropriately. Proposed opening to the eastern wall of the entry passage should be reduced in size to minimum required. Methods of interpretation should be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.</p> <p><i>Reason: To ensure that proposed design incorporates appropriate interpretation methods to mitigate impacts.</i></p> <p>g. Alterations and additions including modified openings on the northern elevation of the Southern Pavilion and the northern and western elevations of the Central Pavilion should interpret existing original openings appropriately in the proposed design. Methods of interpretation should be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.</p> <p><i>Reason: To ensure that proposed design incorporates appropriate interpretation methods to mitigate impacts.</i></p> <p>h. Details of the double maintenance gates and the single accessible gates to the eastern perimeter should be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.</p> <p><i>Reason: To ensure the detailed design is sympathetic to the character of the Dawn Fraser Baths.</i></p>
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	<p>i. Details of the location and design of the proposed handrail shall be submitted to and approved by the Heritage Council or its delegate with the section 60 application. <i>Reason: To ensure the detailed design is sympathetic to the character of the Dawn Fraser Baths.</i></p> <p>j. The Conservation Management Plan prepared by GBA Heritage should be updated and submitted for endorsement by the Heritage Council of NSW (or its delegate) after completion of works. The CMP should acknowledge and document the changes made to the facility. <i>Reason: To ensure future management of the site is guided by an updated Conservation Management Plan endorsed by the Heritage Council of NSW or its delegate.</i></p>
<b>3. HERITAGE INTERPRETATION PLAN</b>	<p>a. An interpretation strategy must be prepared in accordance with the Heritage Division publication 'Interpreting Heritage Places and Items Guidelines' (2005) and should be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.</p> <p>b. A detailed interpretation plan must be prepared in accordance with the Heritage Division publication 'Interpreting Heritage Places and Items Guidelines' (2005) and should be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) prior to the issue of a Construction Certificate/ Government certification. The interpretation plan must detail how information on the history and significance of name of item will be provided for the public. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate. <i>Reason: Interpretation is an important part of every proposal for works at heritage places.</i></p>
<b>4. SPECIALIST TRADESPERSONS</b>	<p>All work to or effecting significant fabric shall be carried out by suitably qualified tradespersons with practical experience in construction, conservation, and restoration of similar heritage items. <i>Reason: To ensure works are undertaken using appropriate construction methods and techniques pertinent to the place.</i></p>
<b>5. HERITAGE CONSULTANT</b>	<p>A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and supervise the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.</p> <p>The heritage consultant must provide a statement of completion for all works associated with the project including the</p>

	<p>implementation of the interpretation plan prior to the issue of an occupation certificate.</p> <p><i>Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.</i></p>
<b>6. SITE PROTECTION</b>	<p>a. Significant built elements and heritage fabric are to be protected during site preparation and works from potential damage. Protection systems must ensure significant fabric is not damaged or removed.</p> <p><i>Reason: To ensure significant fabric and vegetation are protected during construction.</i></p> <p>b. Any significant fabric removed must be labelled and stored safely for possible future reinstatement.</p> <p><i>Reason: To ensure significant fabric is appropriately stored and protected.</i></p> <p>c. Significant features including existing covered ceiling light fixtures in the Southern Pavilion, and existing door and window hardware should be salvaged and reused in the reconstructed pavilion.</p> <p><i>Reason: To ensure significant fixtures are retained and reused.</i></p> <p>d. The installation of new services shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features. Any penetrations through heritage fabric should be prevented.</p> <p><i>Reason: To minimise impact on heritage fabric.</i></p>
<b>7. UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS</b>	<p>The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p><i>Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.</i></p>
<b>8. ABORIGINAL OBJECTS</b>	<p>Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment &amp; Heritage is to be informed in accordance with Section 89A of the <i>National Parks and Wildlife Act, 1974</i> (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the <i>National Parks and Wildlife Act, 1974</i>.</p> <p><i>Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.</i></p>



9. COMPLIANCE	If requested, the applicant and nominated Heritage Consultant may be required to participate in audits of Heritage Council approvals to confirm compliance with conditions of consent. <i>Reason: To ensure that the proposed works are completed as approved.</i>
10. SECTION 60 APPLICATION	An application under section 60 of the <i>Heritage Act 1977</i> must be submitted to, and approved by, the delegate of the Heritage Council of NSW prior to work commencing. <i>Reason: To meet legislative requirements.</i>
ADVICE	Section 148 of the <i>Heritage Act 1977</i> (the <i>Act</i> ), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Please be advised that minutes of the Heritage Council Approvals Committee meeting can also be accessed on the Office of Environment and Heritage website (Refer link <https://www.environment.nsw.gov.au/Heritage/heritagecouncil/approvalminutes.htm>).

If you have any questions regarding the above matter please contact Shikha Jhaldiyal, Acting Senior Team Leader, at the Heritage Division, Office of Environment and Heritage, on 9873 8545 or at [shikha.jhaldiyal@environment.nsw.gov.au](mailto:shikha.jhaldiyal@environment.nsw.gov.au).

Yours sincerely



**Shikha Jhaldiyal**  
Acting Senior Team Leader  
Regional Heritage Assessments South  
Heritage Division, Office of Environment and Heritage  
**As Delegate of the Heritage Council of NSW**  
2 January 2019

Enclosed: Attachment B



## ATTACHMENT B

List of supporting documentation including drawings and reports

- a) Architectural drawings, prepared by Tanner Kibble Denton (TDK) Architects as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: Dawn Fraser Baths and Piers – Essential Works, Repairs & Reconstruction			
AR.DA.1003	Northern Pavilion Existing/Demolition Ground Floor Plan	27/08/18	D
AR.DA.1004	Northern Pavilion Existing/Demolition First Floor Plan	27/08/18	D
AR.DA.1001	Southern Pavilion Existing/Demolition Ground Floor Plan	27/08/18	D
AR.DA.1002	Southern Pavilion Existing/Demolition First Floor Plan	27/08/18	D
AR.DA.1102	Northern Pavilion Existing/Demolition Elevations	27/08/18	D
AR.DA.1101	Southern Pavilion Existing/Demolition Elevations	27/08/18	D
AR.DA.1201	Southern Pavilion Existing/Demolition Sections	27/08/18	D
AR.DA.2102	Northern Pavilion Elevations Proposed Repair Scope	27/08/18	D
AR.DA.2101	Southern Pavilion Elevations Proposed Repair Scope	27/08/18	D
AR.DA.2201	Southern Pavilion Existing/Demolition Sections	27/08/18	D
AR.DA.2003	Northern Pavilion Proposed Works Ground Floor Plan	27/08/18	D
AR.DA.2004	Northern Pavilion Proposed Works First Floor Plan	27/08/18	D
AR.DA.2001	Southern Pavilion Proposed Works Ground Floor Plan	27/08/18	D
AR.DA.2002	Southern Pavilion Proposed Works First Floor Plan	27/08/18	D
AR.DA.3000	Central Pavilion Proposed Works	27/08/18	D
AR.DA.3001	Southern Pavilion Perspective Renders and Material Schedule	27/08/18	D

- b) Survey drawings, prepared by Eric Scerri & Associates Pty Ltd as listed below:

Dwg No	Dwg Title	Date	Rev
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Project Name: Dawn Fraser Baths' Tidal Swimming Baths			
Sheet 1 of 4	Detail & Level Survey	8/02/18	-
Sheet 2 of 4	Detail & Level Survey	8/02/18	-
Sheet 3 of 4	Detail & Level Survey	8/02/18	-
Sheet 4 of 4	Detail & Level Survey	8/02/18	-

- c) Schedule of External Materials and Paint Colours, Issue A, prepared by Tanner Kibble Denton Architects, dated 28 August 2018.
- d) Report titled *Statement of Heritage Impact, Dawn Fraser Baths, Balmain*, Issue G, prepared by GBA Heritage Pty Ltd, dated October 2018.
- e) Letter, *Statement of Environmental Effects: Dawn Fraser Baths*, prepared by URBIS, dated September 2018.
- f) Letter, *Dawn Fraser Baths Redevelopment – Coastal Assessment*, prepared by Cardno (NSW/ACT) Pty Ltd, dated 6 November 2018.
- g) Report titled *Dawn Fraser Pool Fabric Assessment and Recommendations*, prepared by Shree ji Consultants Structural Engineers.
- h) Memorandum, *Dawn Fraser Baths and piers, Water polo lighting – Options examined*, prepared by Tanner Kibble Denton (TDK) Architects, dated 20 November 2018.
- i) Memorandum, *Fabric Salvage & Reuse Methodology*, prepared by Tanner Kibble Denton (TKD) Architects, dated 23 August 2018.
- j) Report titled *Water Polo Lighting Assessment, Dawn Fraser Baths (Elkington Park, NSW)*, prepared by ACOR Consultants, dated 17 May 2018.
- k) Letter, *Water Polo Lighting options Concise Discussion Paper Dawn Fraser Baths, Balmain*, prepared by GBA, dated 22 May 2018.
- l) Memorandum, *Responses to comments from August Heritage Council Approvals Committee*, prepared by Tanner Kibble Denton (TDK) Architects, dated 19 November 2018.