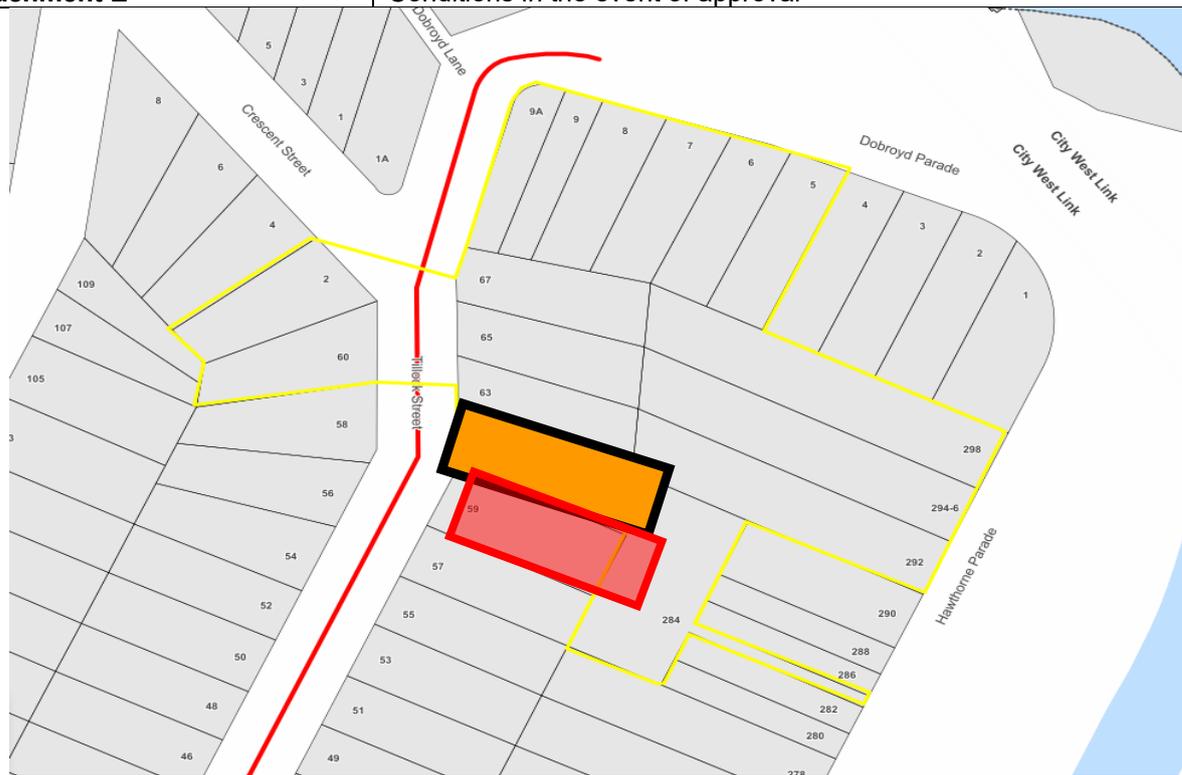


# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2022/0847
<b>Address</b>	65 Tillock Street HABERFIELD NSW 2045
<b>Proposal</b>	Alterations and additions to existing dwelling including a rear addition and lateral extension
<b>Date of Lodgement</b>	12 October 2022
<b>Applicant</b>	Adrian Elterman
<b>Owner</b>	Mr Angus RN MacDonald Mrs Keren R MacDonald
<b>Number of Submissions</b>	Initial: 1
<b>Value of works</b>	\$685,000.00
<b>Reason for determination at Planning Panel</b>	Section 4.6 variation exceeds 10%
<b>Main Issues</b>	Non-compliance with LEP standards, non-compliance with values of the HCA.
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Reasons for refusal
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Section 4.6 Exception to Development Standards
<b>Attachment D</b>	Statement of Heritage Significance
<b>Attachment E</b>	Conditions in the event of approval



**LOCALITY MAP**

Subject Site		Objectors		↑ N
Notified Area		Supporters		

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

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to existing dwelling including a rear addition and lateral extension at 65 Tillock Street Haberfield.

The application was notified to surrounding properties and 1 submission was received in response to the initial notification.

The main issues that have arisen from the application include:

- The applicant seeks a variation to Section 4.3 – Height of Buildings of 37% or 2.6m. No section 4.6 objection to vary the Height of Buildings Development Standard has been provided.
- The applicant seeks a variation to the Development on Land in Haberfield Heritage Conservation Area under Section 6.20(3)(ii) of the *IWLEP 2022* by 245% or 98sqm. The provided justification to vary the standard is not well-founded and the variation is not recommended for support.
- The current proposal results in a direct variation to section 6.20(3)(c) which does not permit the installation of dormer or gablet windows. The proposal currently seeks consent to install significant gablet windows.
- The current application results in a variation to clauses 2.3(b), 2.6(e), and 2.12 of Chapter E2 – Haberfield Heritage Conservation Area within the Inner West Comprehensive Development Control Plan 2016. These controls require new development to be located at the rear of the site, maintain similar development pattern and size established by the original development and retain existing front and side setbacks so as to not dominate or detract from the original dwelling and streetscape. The proposed additions are considered to dominate the existing built form and result in a significant variation from the historic pattern of development.
- The current proposal results in a variation to DS9.1 of the IWCDCP 2016, in that the proposed ground floor principle private open space is not directly accessible from the primary living areas.

The non-compliances are not acceptable and the application is recommended for refusal.

## 2. Proposal

The current application seeks consent for alterations and additions to an existing dwelling including a rear addition and lateral extension. Specifically, the proposal seeks consent for the following works:

- Demolition of the existing rear wall of the dwelling house,
- Construction of a new lower ground floor and ground floor rear extension
- Construction of a new gable at the rear of the site
- Construction of a new lateral extension to the southern boundary accommodating a study with carport below
- Internal works to create a new rumpus room, en-suite to bedrooms, kitchen, living and dining room

## 3. Site Description

The subject site is located on the eastern side of Tillock Street, between Tillock Street and Crescent Street. The site consists of one (1) allotment and is generally rectangular shaped with a total area of 754.7sqm.

The site has a frontage to Tillock Street of 15.2 metres and a maximum depth of 47.8 metres. The site supports a 2 storey brick and tile dwelling house. The adjoining properties support single and two storey dwelling houses.

The subject site is located within the Haberfield Heritage Conservation Area.



Figure 1: Site Zoning – R2 Low Density Residential

## 4. Background

### 4(a) Site history

Not applicable

### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
24 November 2022	<p>Council Officer wrote to the applicant and outlined a request for additional information and amended plans addressing the following:</p> <ul style="list-style-type: none"> <li>• Amended plans demonstrating compliance with the 50% landscaped area requirement of the IWLEP 2022.</li> <li>• Submission of a clause 4.6 variation request to vary clause 6.20(3)(a)(ii) of the IWLEP 2022.</li> <li>• Amended plans outlining the removal of the proposed study space on the ground floor and all additions setback in-line with the existing dwelling house (no lateral extension)</li> <li>• Amended plans detailing the removal of the proposed gable roof to the rear and replacement with a hipped roof form</li> <li>• Additional information outlining that the proposed bay window to the front of the dwelling is historically accurate</li> <li>• Amended plans detailing a revised pattern of fenestration in keeping with the pattern of the existing dwelling house.</li> <li>• Amended plans detailing a reduction to the extent of glazing to the rear</li> <li>• Amended plans detailing the location of any A/C units</li> <li>• Amended plans detailing all windows being timber and not aluminium</li> </ul>
14 December 2022	<p>The applicant provided amended plans addressing some of the points raised within Council's letter. The majority of Council's concerns remain outstanding and have failed to be addressed.</p>
14 December 2022	<p>Council Officers contacted the applicant and outlined that the amended proposal did not adequately respond to Council's additional information letter and would not be supported. It was recommended that the application be withdrawn.</p>

### 4(c) Significance of Haberfield Heritage Conservation Area

The Haberfield Heritage Conservation Area is significant to the state of NSW and is currently recommended for a state heritage listing (final determination on the listing is currently with the Heritage Council of NSW). Should the listing proceed the area will be one of two within NSW which is state heritage listed. This highlights the overall significance of the area and the importance placed on compliance with development controls. On 13 September 2021 an independent report by GML Heritage Architects was commissioned to provide an overall analysis of the locality's significance. This report specifically outlined that one of the reasons for state listing is the intactness of area, with little uncharacteristic development and overall

landscape design and original pattern of development remaining. The report then goes on to outline that it is Council's strict enforcement of these controls which has led to this positive outcome and the overall significance of the suburb being preserved. For this reason it is imperative that compliance with key controls be maintained to ensure the significance of the area is continued.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

### 5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The following provides further discussion of the relevant issues:

#### 5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

##### Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

*“(a) it has considered whether the land is contaminated, and  
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and  
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

The application involves does not involve category 1 remediation under *SEPP (Resilience and Hazards) 2021*.

#### 5(a)(ii) *BASIX) 2004*

A BASIX Certificate was submitted with the application.

5(a)(iii) *Inner West Local Environmental Plan 2022 (IWLEP 2022)*

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.5 - Additional permitted uses for land
- Section 2.7 – Demolition requires development consent
- Section 4.3 – Height of buildings
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater management
- Section 6.20 – Development on land in Haberfield Heritage Conservation Area

Section 2.3 Land Use Table and Zone Objectives

The site is zoned R2 – Low Density Residential under the *IWLEP 2022*. The *IWLEP 2022* defines the development as:

**dwelling house** means a building containing only one dwelling

The development is permitted with consent within the land use table. The development is not consistent with the objectives of the R2 zone as it fails to provide residential development that maintains the character of the built features in the surrounding area.

Section 4 Principal Development Standards

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

Standard	Proposal	Non compliance	Complies
<b>Height of Buildings</b> Maximum permissible: 7m	9.6m	37% or 2.6m	No
<b>Floor Space Ratio</b> Maximum permissible: 0.5:1 or 377sqm	0.4:1 or 298sqm	N/A	Yes
<b>Haberfield Development Standards – Clause 6.20</b>			
<b>Landscaping - 50% of site</b>	50.5% or 380.8sqm	N/A	Yes
			No

<b>Development below existing ground floor will not exceed 25% of the GFA of the existing ground floor</b>	138sqm of lower ground floor area	245% or 98sqm	
<b>Development will not involve excavation in excess of 3m</b>	Less than 3m	N/A	Yes
<b>Development will not involve the installation of dormer or gable windows</b>	Gable end at rear incorporates extensive gable windows	No	No

Section 4.6 Exceptions to Development Standard – Height of Buildings

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

- 4.3 - Height of Buildings

The applicant seeks a variation to the height of buildings development standard under Section 4.3 of the *IWLEP 2022* by 37% (2.6 metres). Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

At this time the applicant has not provided a section 4.6 variation request to vary the development standard. The consent authority therefore has no power to approve the variation or the application, as such the application must be refused.

Regardless Council Officers have undertaken an assessment of the variation to determine if strict numeric compliance is unreasonable and unnecessary in this circumstance.

It is considered the development is not in the public interest because it is inconsistent with the objectives of the R2 zone, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The variation does not substantially improve resident amenity as high levels of amenity could be achieved through a compliant design. A revised compliant scheme could readily be achieved upon the site.
- The subject site is located within the Haberfield Heritage Conservation Area. This is a locality with significant historical value. This value is directly linked to the single storey nature of dwellings and the garden setting. The 7 metre maximum building height has been tightly enforced by Council (as noted in the GML report, discussed below). The significance of the single storey nature is even noted in the objectives of section 6.20 of *IWLEP 2022* where it states, “to maintain the single storey appearance of dwellings”. The existing dwelling currently has a significant 2 storey form and the proposed variation (directly linked to the new rear gable) significantly exacerbates this form,

resulting in a proposal which moves further away from the current and desired character of the area which is expressly outlined by the objectives of section 6.20. The proposal therefore does not result in a form which maintains the character of the area. It is considered the development is not in the public interest because it is inconsistent with the objectives of the height of buildings development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- As outlined above the proposed height of the development as a result of the rear gable is not compatible with the character of the locality, where historical significance is directly linked to the single storey nature of dwelling houses.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal does not accord with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from Height of Buildings Development Standard and it is recommended the Section 4.6 exception not be granted.

#### Section 4.6 Exceptions to Development Standard – Development Below Existing Ground

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

- Section 6.20(3)(ii) – Development below existing ground level

The applicant seeks a variation to the Development on Land in Haberfield Heritage Conservation Area under Section 6.20(3)(ii) of the *IWLEP 2022* by 245% or 98sqm.

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposed development is consistent with the objectives for the Haberfield Heritage Conservation Area as demonstrated in the accompanying heritage assessment.*
- *The apparent scale, height, and bulk of the dwelling is unchanged because the extension is located at the rear and side of the dwelling on a site which slopes away from the road, and*

- *The proposed development does not exceed any development standard for GFA in IWLEP or any other environmental planning instrument*
- *The resultant development reflects the development density of residential development in the locality, and*
- *There are no objectives for the development standard at clause 6.20 (3)(a)(ii) of IWLEP*

The applicant's written rationale has not adequately demonstrated that compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is not in the public interest because it is inconsistent with the objectives of the R2 zone, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The proposed variation does not provide additional housing to meet the needs of the community. The variation does not substantially improve resident amenity and high levels of amenity could be achieved through a compliant design. A revised compliant scheme could readily be achieved upon the site.
- The subject site is located within the Haberfield Heritage Conservation Area. This is a locality with significant historical value, which is directly linked to the single storey nature of dwellings and the garden setting. The significance of the single storey nature is even noted in the objectives of section 6.20 of *IWLEP 2022* where it states, "to maintain the single storey appearance of dwellings". The existing dwelling currently has a significant 2 storey form and the proposed variation significantly exacerbates this form, resulting in a proposal which moves further away from the current and desired character of the area which is expressly outlined by the objectives of section 6.20 of *IWLEP 2022*. The proposal therefore does not result in a form which maintains the character of the area.

It is considered the development is in the public interest because it is consistent with the objectives of the development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The significance of the single storey nature is noted in the objectives of section 6.20 where it states, "to maintain the single storey appearance of dwellings". The existing dwelling currently has a significant 2 storey form, and the proposed variation significantly exacerbates this form, resulting in a proposal which moves further away from the current and desired character of the area which is expressly outlined by the objectives of section 6.20. The proposal therefore does not result in a form which maintains the character of the area

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal does not accord with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from Development on Land in Haberfield Heritage Conservation Area Development Standard and it is recommended the Section 4.6 exception not be granted.

#### Section 5.10 – Heritage Conservation

The current proposal has been reviewed by Council's Heritage Advisor who outlined that the subject site is not listed as an individual heritage item but is located within the Haberfield Heritage Conservation Area (HCA) listed under Schedule 5 of the *IWLEP 2022* and is a contributory building. Council's Heritage Advisor has outlined that the proposal is not in-keeping with the significance of the area. The proposal is noted to deviate from the LEP and DCP to produce a development that is out of character with the existing dwelling and streetscape at large. The proposal provides a sizable lateral extension with attached carport and adopts extensive glazing with a gable roof to the rear. Overall, the proposal is not considered to meet the requirements of section 5.10 (4), in that the development will unreasonably impact the heritage significance of the dwelling and the area as a whole. The proposed lateral extension and new gable roof result in a built form which deviates from the historically significant pattern of development and presents a clear two storey form.

The applicant's justification that the lateral extension will improve the dwellings contribution to the streetscape and heritage conservation area is unfounded given that specific controls to prevent such an outcome are currently adopted.

The examples of other lateral extensions currently in existence, which the applicant is reliant upon to justify the current proposal, all date back to previous local planning controls and have not been approved under current controls. 67 Tillock Street (which currently employs a lateral extension) was approved in 2011, this approval pre-dates currently planning controls and even the planning controls before that (which were brought in in 2013). It is considered that current planning controls looked at the resulting outcomes from permitting lateral extensions and sought to directly prevent them from continuing through the introduction of current controls.

The current proposal can be readily re-designed to accommodate all the desired spaces, while also protecting and maintaining the heritage significance of the locality. However instead the proposal seeks to contravene the strongly upheld development controls and result in potentially significant impacts on the heritage conservation area. In particular it must be noted that the proposed lateral extension seeks to accommodate the second study space for the dwelling house with one already being located upon the lower ground floor of the dwelling.

Section 6.20 (3)(c) – Dormer or Gable Windows

The current proposal results in a direct variation to section 6.20(3)(c) which states:

*(3) Development **consent must not be granted** to development for the purposes of dwelling houses on land to which this clause applies **unless the consent authority is satisfied that—***

*(c) the development will not involve the installation of dormer or gable windows*

As illustrated on the proposed eastern elevation the new rear facing gable incorporates an extensive amount of glazing and results in a built form directly contrasting to the development standards and objectives of the area. As stated above the objectives of section 6.20 is “to maintain the single storey appearance of dwellings”. This is further enforced through section 6.20(3)(c). The proposed installation of the gable windows presents a clear 2-3 storey form to the rear of the dwelling and results in a built form directly prohibited by the LEP. In this instance the consent authority cannot be satisfied having regard to the requirements of Clause 6.20(3)(c) of IWLEP 2022 and as such consent to the proposed development cannot be provided. The application is therefore recommended for refusal.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

IWCDCP2016	Compliance
<b>Section 2 – General Guidelines</b>	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	No – see discussion
8 - Parking	Yes
15 - Stormwater Management	Yes
B – Public Domain	
C – Sustainability	
1 – Building Sustainability	Yes
3 – Waste and Recycling Design & Management Standards	Yes
6 – Tree Replacement and New Tree Planting	Yes
E2 – Haberfield Heritage Conservation Area	
1 – Preliminary	No – see discussion
2 – Detailed Planning measures for Residential properties	No – see discussion
F – Development Category Guidelines	
1 – Dwelling Houses and Dual Occupancy	No – see discussion

The following provides discussion of the relevant issues:

### Lateral Extension

The current application results in a variation to clauses 2.3(b), 2.6(e), and 2.12 of Chapter E2 – Haberfield Heritage Conservation Area within the Inner West Comprehensive Development Control Plan 2016. These controls require new development to be located at the rear of the site, maintain similar development pattern and size established by the original development and retain existing front and side setbacks as to not dominate or detract from the original dwelling and streetscape.

The current proposal seeks consent for the creation of a new lateral extension along the southern boundary of the site, relating to the proposed study and pantry. This lateral extension results in a modern and conflicting built form presentation to the streetscape and is not in-keeping with the objectives or controls of the Haberfield Conservation Area. Analysis of the provided survey plan and proposed floor plans has revealed that the proposed lateral extension is to be setback roughly 17m from the front boundary, have a finished floor level 2.8m higher than the ground level below and result in an overall height of 7.5m.

Such a design outcome results in a direct contrast to the values of the conservation area, which has had a high degree of emphasis placed upon retaining and enforcing existing front and side setbacks to ensure that the original dwelling house is the focus point of the streetscape.

In this instance acceptance of the proposed lateral extension results in a development pattern not in keeping with the values of the original garden suburb and current planning controls which have consistently and strongly required the retention and protection of original garden suburb pattern of development (detailed in figure 2 below). As seen within figure 2 below the original garden suburb pattern of development actively seeks to have side boundaries unobstructed by development, in order to accommodate a driveway down one side and landscaping/ pedestrian access down the other. A “landscaped setting” and adequate open space between buildings is not maintained in the current design.

This pattern of development directly attributed to the garden suburb setting and historical significance of separate houses on individual lots, with the suburb originally marketed as the antithesis of the unhealthy crowded inner suburbs of the period. Acceptance of the proposed lateral extension will result in a built form which removes this significant pattern of development through a built form.

Council’s Heritage Advisor has reviewed this proposed lateral extension and outlined strong objection to such a design scheme, outlining that acceptance of such an outcome will significantly disrupt and diminish the established pattern of development and garden suburb nature which Haberfield is recognised for. The proposed lateral extension is not supported, and the application is therefore recommended for refusal.

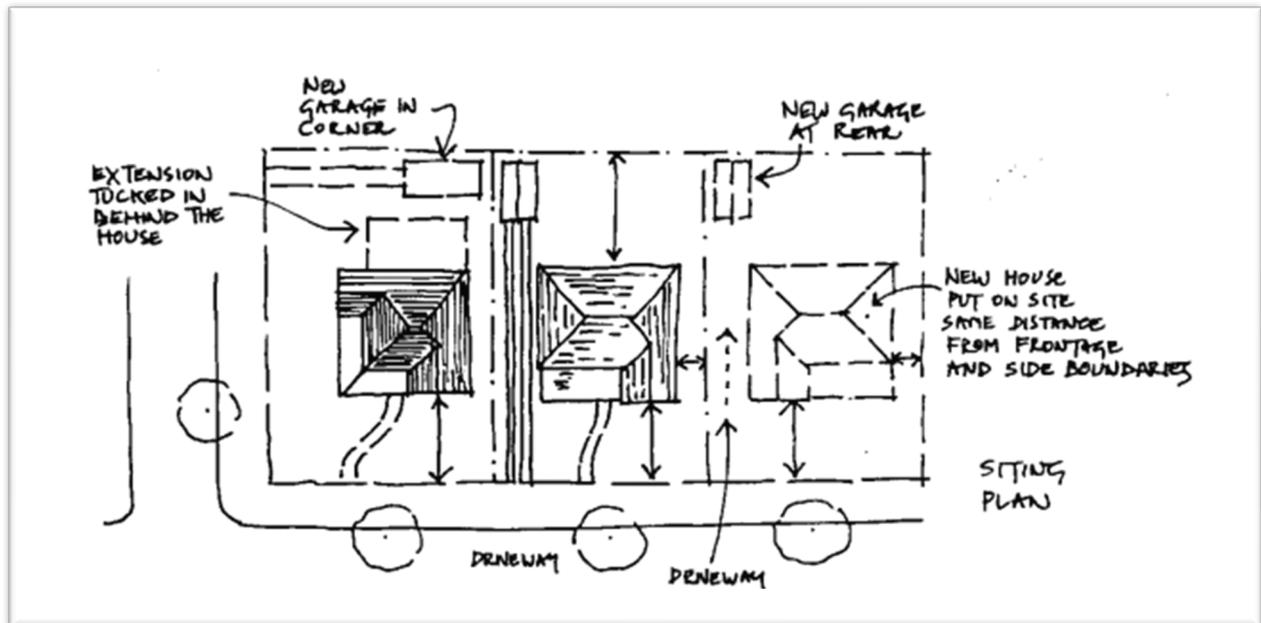


Figure 2 – Established and desired development pattern

### Principle Private Open Space

The current proposal results in a variation to DS9.1 of the IWCDP 2016, in that the proposed ground floor principle private open space is not directly accessible from the primary living areas. The intent of this control is to ensure that dwellings have access to the principle area of private open space to provide a high level of amenity. The current proposal does not provide any direct access to private open space from the ground floor and is considered to result in poor amenity. This is a direct change from the existing situation where an elevated rear deck directly accessible from the primary living areas of the ground floor currently resides. The proposal is recommended for refusal due to the poor amenity to the principle living areas.

### 5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

#### Impact on Haberfield Heritage Conservation Area

As noted by Council's Heritage Advisor and highlighted by the non-compliances with LEP and DCP controls, the proposal is not in-keeping with the existing values or desired future character for the Haberfield Heritage Conservation Area. Acceptance of the proposal will result in a development which will erode and undermine the historical significance of the locality and the strength of current planning controls which have been consistently applied to dwelling houses within the HCA.

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

It is considered that the proposal will have an adverse impact on the adjoining properties and the Haberfield HCA as a whole. Therefore, it is considered that the site is unsuitable to accommodate the proposed development.

### 5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. 1 submission was received in response to the initial notification.

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Overshadowing to lower ground floor north facing windows at No. 67 Tillock Street

Comment: A review of the provided shadow diagrams has highlighted that currently these north facing windows do not receive any solar access due to the site's orientation and existing development at the subject site. As such the proposal does not result in a non-compliance with solar access. The proposal does not result in any additional solar access loss to north facing windows on the ground floor of 67 Tillock Street. Regardless the proposal is recommended for refusal based on the concerns outlined above.

Issue: Privacy impacts from ground floor study window

Comment: The proposed southern elevation window (window W8) relating to the ground floor study is expected to provide sightlines into the family and dining room of No. 67 Tillock Street. Should the proposal be approved a design change condition deleting this window is recommended.

### 5(h) 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 contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Development Engineers – Council's Development Assessment Engineers have reviewed the proposal and outlined no objection, subject to suitable conditions of consent regarding security damage bonds, stormwater and driveway crossovers.

- Urban Forests – The proposal has been referred to Council's Urban Forests Team who outlined no objection to the proposal, subject to suitable conditions of consent.
- Heritage Advisor – The proposal was referred to Council's Heritage Advisor who outlined an objection to the proposal. This referral and the concerns raised are discussed within the body of the report.

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development would result in significant impacts on the significance of the HCA and the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## 9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are insufficient environmental grounds to support the Height of Building and Development below existing ground level variations. The proposed development will not be in the public interest because the exceedance is inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2022/0847 for alterations and additions to the existing dwelling including a rear addition and lateral extension at 65 Tillock Street, Haberfield for the reasons outlined in attachment A.

## Attachment A – Reasons for Refusal

The Inner West Local Planning Panel, as the responsible authority, hereby refuses Development Application No. DA/2022/0847 for alterations and additions to the existing dwelling including a rear addition and lateral extension at 65 Tillock Street HABERFIELD for the following reasons:

1. The proposal is inconsistent with the aims set out in section 1.2(2) of the Inner West Local Environmental Plan 2022 as the proposal does not protect or conserve the cultural heritage of the Inner West, particularly Haberfield.
2. The proposal is inconsistent with the aims set out in section 4.3(1)(a) and development standard 4.3(2) of the Inner West Local Environmental Plan 2022 as the proposal does not comply with the height of buildings development standard and does not result in a development compatible with the area.
3. The proposal is inconsistent with section 4.6(3) of the Inner West Local Environmental Plan 2022 as the application is not accompanied by a written request to vary the height of buildings development standard.
4. The proposal is inconsistent with section 4.6(3) of the Inner West Local Environmental Plan 2022 the provided written request to vary section 6.20(3)(ii) of the Inner West Local Environmental Plan 2022 as the application has not demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
5. The proposal is inconsistent with the aims set out in section 5.10(1) and 5.10(4) of the Inner West Local Environmental Plan 2022 as the proposal does not conserve the heritage significance of the heritage conservation area including fabric, settings and views.
6. The proposal is contrary to Section 6.20(3)(a)(ii) of the of the Inner West Local Environmental Plan 2022 as the proposal results in a lower ground floor area GFA greater than 25% of the existing ground floor.
7. The proposal is contrary to Section 6.20(3)(c) of the Inner West Local Environmental Plan 2022 as the proposal seeks the addition of gable windows.
8. The proposal is contrary to Sections 2.3(b), 2.6(e), and 2.12 of Chapter E2 – Haberfield Heritage Conservation Area of the Comprehensive Inner West Development Control Plan 2016 as the proposal does not maintain a similar development pattern and size established by the original development nor does it retain existing front and side setbacks.
9. In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would have adverse environmental impacts on both the natural and built environments in the locality.
10. Pursuant to the provisions of Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would not be in the public interest.

Attachment B – Plans of proposed development

ALTERATION AND ADDITION TO EXISTING DWELLING



LOCATION: 65 TILLOCK STREET, HABERFIELD

LOT 36  
SECTION 9  
DP 7508  
LOT AREA: 754.7 SQM  
COUNCIL: INNER WEST  
LAND ZONING: R2  
MAXIMUM BUILDING HEIGHT: 7m  
MAXIMUM FLOOR SPACE RATIO: 0.5:1  
HERITAGE: HABERFIELD HERITAGE CONSERVATION AREA



Project No:  
DEVELOPMENT APPLICATION  
Client:  
KAREN & ANGUS

Project No:  
ALTERATION & ADDITION TO EXISTING DWELLING  
COVER PAGE  
Address:  
65 TILLOCK ST HABERFIELD  
2015 NSW

Project No:  
NA@A3  
AMITRAN  
Project No:  
L SUBILLS  
Date:  
1/11/2022



EXISTING DWELLING

DRAWING NO	COVER PAGE	DRAWING TITLE	SCALE
DA00	COVER PAGE		NA
DA01	SITE PLAN		1:200
DA10	EXISTING LOWER FLOOR		1:100
DA11	EXISTING GROUND FLOOR		1:100
DA12	EXISTING ROOF PLAN		1:100
DA20	PROPOSED LOWER FLOOR		1:100
DA21	PROPOSED GROUND FLOOR		1:100
DA22	PROPOSED ROOF PLAN		1:100
DA30	PROPOSED EAST & WEST ELEVATIONS		1:100
DA31	PROPOSED NORTH & SOUTH ELEVATIONS		1:100
DA32	PROPOSED SECTIONS 1		1:100
DA33	PROPOSED SECTIONS 2		1:100
DA40	LANDSCAPE PLAN		1:200
DA41	FSI CALCULATION		1:100
DA30	SHADOW DIAGRAMS EXISTING		1:500
DA31	SHADOW DIAGRAMS PROPOSED		1:500
DA32	ELEVATION SHADOW DIAGRAMS EXISTING		NA
DA33	ELEVATION SHADOW DIAGRAMS PROPOSED		NA
DA60	EXTERNAL FINISHES AND MATERIALS		NA
DA70	WINDOW & DOOR SCHEDULE		1:100
DA71	STORMWATER DRAINAGE PLAN		1:100
DA80	NOTIFICATION PLAN 1		1:200
DA81	NOTIFICATION PLAN 2		1:200
DA81	SURVEY PLAN		1:100











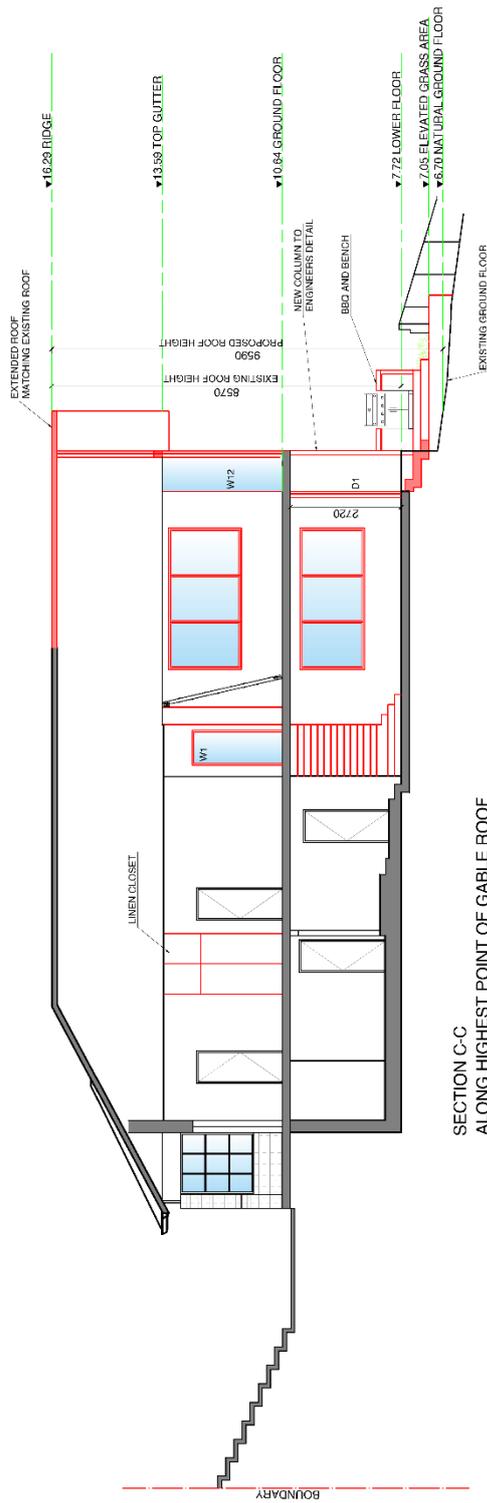












SECTION C-C  
ALONG HIGHEST POINT OF GABLE ROOF

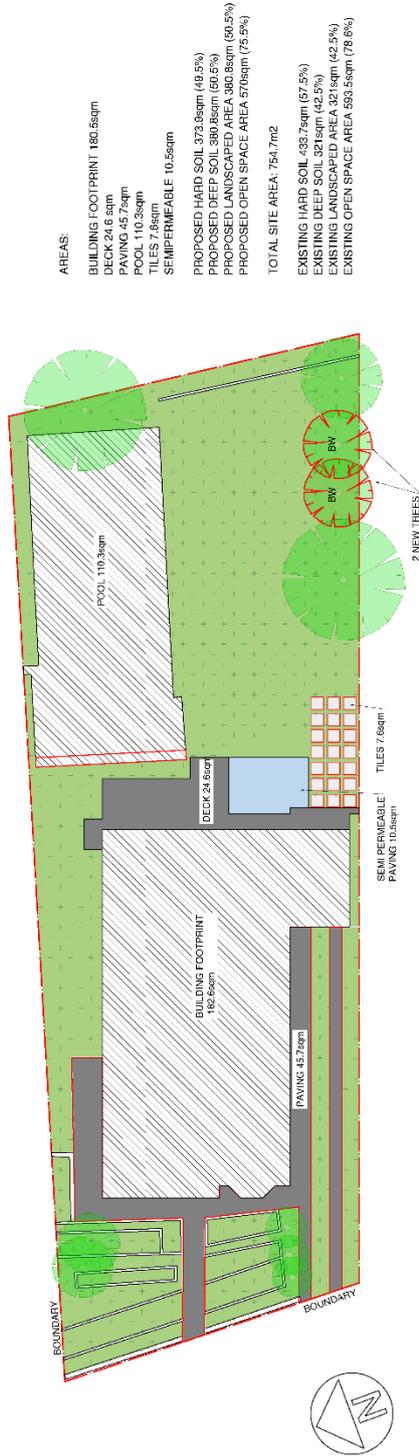
**LEGEND**

<span style="color: red;">█</span>	NEW STRUCTURE
<span style="border: 1px solid black; display: inline-block; width: 10px; height: 10px;"></span>	EXISTING TO REMAIN

- GENERAL NOTES**
- ALL CONSTRUCTION TO VERIFY ALL LEVELS, HEIGHTS AND DIMENSIONS ON SITE.
  - ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND ANY APPLICABLE STANDARDS.
  - DISCREPANCIES SHOULD BE REPORTED TO THE DESIGNER.
  - TO MATCH SCALE PERMISSIBLE USE FOR HEIGHT DIMENSIONS IN MILLIMETERS ONLY.
  - ALL CONSTRUCTION TO MAINTAIN STRICT ACCORDANCE WITH COUNCIL CONDITIONS & REQUIREMENTS.
  - ALL CONSTRUCTION SHALL BE CARRIED OUT IN ACCORDANCE WITH THE BUILDING CODE OF PRACTICE (AS 1912) LOCAL COUNCIL AND SHALL COMPLY WITH THE BUILDING CODE OF PRACTICE (AS 1912) LOCAL COUNCIL AND THE RELEVANT STANDARDS.
  - CONCRETE FOUNDATIONS AND THE RELEVANT STANDARDS.
  - ALL CONSTRUCTION TO BE CARRIED OUT IN ACCORDANCE WITH THE BUILDING CODE OF PRACTICE (AS 1912) LOCAL COUNCIL AND THE RELEVANT STANDARDS.
  - ALL CONSTRUCTION TO BE CARRIED OUT AS PART OF THE CONTRACT.
  - READ THE PLAN IN CONNECTION WITH ASSOCIATED CONSULTANT ENGINEERS' LOCAL REGULATIONS AND SPECIFICATIONS.

THIS PLAN IS FOR APPROVALS PURPOSES ONLY. NOT FOR CONSTRUCTION.

Project No: DEVELOPMENT APPLICATION	Project No: KAREN & ANGUS	Project No: PROPOSED SECTIONS 2	Project No: AMITRAN	Project No: 1:100@A3	Project No: D2	Project No: DN33
				Project No: 85 TILLOCK ST HABERFIELD 2045 NSW	Project No: SUBSILS	Project No: 1411222



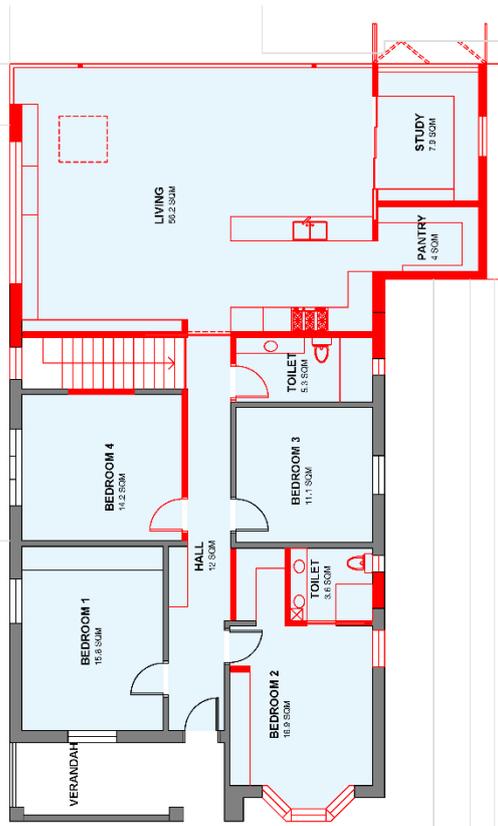
LANDSCAPE PLAN



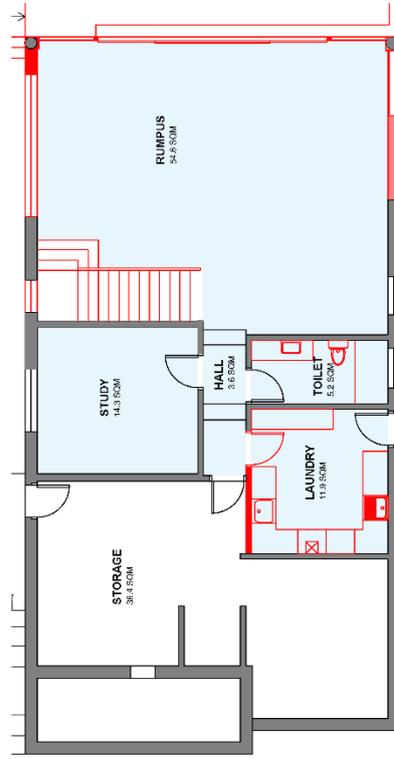
BW - BLACK WATTLE  
(*Callitriche serratifolia*)  
MATURE HEIGHT 12-14m

PLANT SCHEDULE

PROJECT DEVELOPMENT APPLICATION	PROJECT ALTERATION & ADDITION TO EXISTING DWELLING	DATE DND
CLIENT KAREN & ANGUS	PROJECT NO. LANDSCAPE PLAN	DATE 14/12/22
	ADDRESS 65 TILLOCK ST HABERFIELD 2045 NSW	SCALE 1:200 @ A3 D2 1:500 @ A4 1:500 @ A1



PROPOSED GROUND FLOOR  
147 SQM



PROPOSED LOWER FLOOR  
89.6 SQM

	EXISTING	PROPOSED
LOWER FLOOR AREA	52.8sqm	89.6sqm
GROUND FLOOR AREA	112.1sqm	147sqm
GFA	164.6sqm	236.8sqm
SITE AREA	754.7sqm	754.7sqm
FSR	0.22:1	0.31:1



DEVELOPER	KAREN & ANGUS	PROJECT No.	65 TILLOCK ST HABERFIELD	PROJECT No.	1,200@A3	DATE	14/12/22
DEVELOPMENT APPLICATION	ALTERATION & ADDITION TO EXISTING DWELLING	PROJECT No.	2045 NSW	PROJECT No.	AMITRAN	DATE	14/12/22
DATE	2045 NSW	PROJECT No.	AMITRAN	PROJECT No.	AMITRAN	DATE	14/12/22
DATE	2045 NSW	PROJECT No.	AMITRAN	PROJECT No.	AMITRAN	DATE	14/12/22



PROPOSED BACK FACADE



PROPOSED FRONT FACADE



2 - SLIDING DOOR



1 - HYDRAULICALLY OPERATED AWNING WINDOW



3 - WOODEN SHUTTER



4 - SLIDING WINDOW



5 - BREEZE BLOCK WALL



6 - TIMBER DECK



7 - WHITE RENDER



8 - BRICK WALL



9 - ROOF TILE



10 - TIMBER GATE

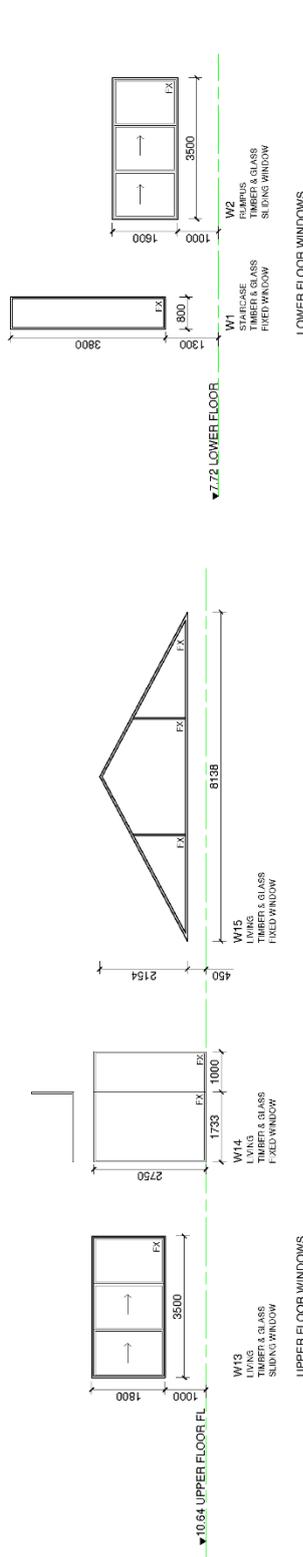
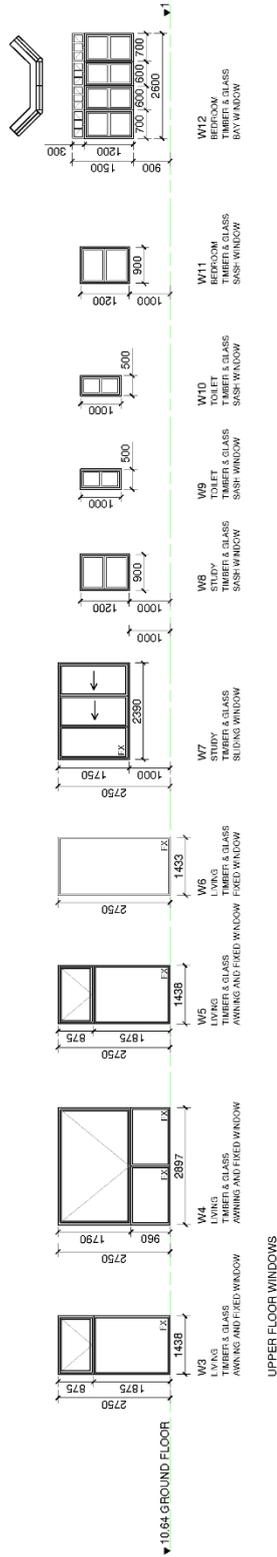


11 - BAY WINDOW



12 - TIMBER SASH WINDOWS

Project Name	DEVELOPMENT APPLICATION	Project Number	DAB0
Client	KAREN & ANGUS	Prepared by	AMTRAN
Address	65 TILLOCK ST HABERFIELD 2015 NSW	Date	14/12/22
Project Details	ALTERATION & ADDITION TO EXISTING DWELLING	Scale	1:50
		Author	NA@A3
		Project Manager	L SUBILS



**WINDOW SCHEDULE**

NAME	LOCATION	ORIENT	WIDTH	HEIGHT	STYLE	FRAME	AREA	OPENABILITY
W1	STAIR	NE	800	3800	FIXED	TIMBER	3,0400	0%
W2	RUMPUS	NE	3300	1600	SLIDING	TIMBER	5,2800	68%
W3	LIVING	E	1430	2750	AWNING - FIXED	TIMBER	3,9325	32%
W4	LIVING	E	2800	2750	AWNING - FIXED	TIMBER	7,8650	64%
W5	LIVING	E	1430	2750	AWNING - FIXED	TIMBER	3,9325	32%
W6	LIVING	E	1430	2750	FIXED	TIMBER	3,9325	0%
W7	LIVING	E	2800	2750	SLIDING	TIMBER	7,8650	68%
W8	STUDY	SW	900	1000	SASH	TIMBER	0,9000	50%
W9	TOILET	SW	500	1000	SASH	TIMBER	0,5000	50%
W10	TOILET	SW	900	1200	SASH	TIMBER	1,0800	50%
W11	BEDROOM	W	2800	1500	BAY WINDOW	TIMBER	3,9000	37%
W12	BEDROOM	W	2800	1800	SLIDING	TIMBER	6,3000	68%
W13	LIVING	NE	2730	2750	FIXED	TIMBER	7,5075	0%
W14	LIVING	E	8100	1050	FIXED	TIMBER	8,5050	0%

**EXTERNAL DOOR SCHEDULE**

NAME	LOCATION	ORIENT	WIDTH	HEIGHT	STYLE	FRAME	AREA	OPENABILITY
D1	RUMPUS	E	8880	2700	FIXED/SLIDING	TIMBER	23,9880	68%
D2	RUMPUS	SW	1500	2200	SLIDING	TIMBER	3,3000	100%

**SKYLIGHT SCHEDULE**

NAME	LOCATION	WIDTH	HEIGHT	STYLE	FRAME	AREA	OPENABILITY
SK1	LIVING	1140	1180	OPERABLE	ALUMINIUM	1,3452	100%

DEVELOPMENT APPLICATION

Project: ALTERATION & ADDITION TO EXISTING DWELLING

Client: KAREN & ANGUS

Site: 65 TILLOCK ST HABERFIELD NSW 2045

Prepared by: AMITRAN

Date: 1:100@A3

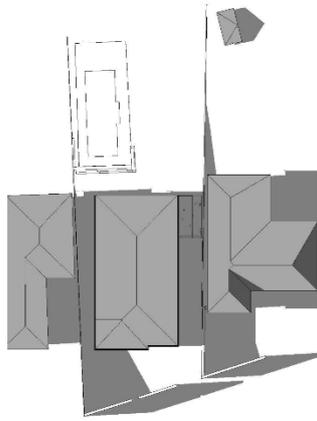
Drawn by: DA70

Scale: 1:100@A3

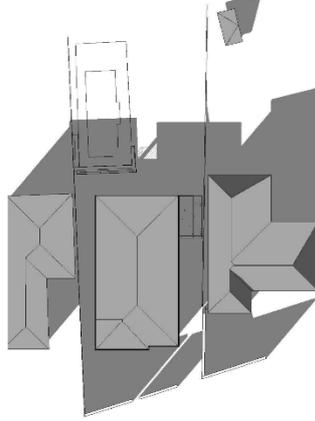
Issue: 02

Project No: 1441222

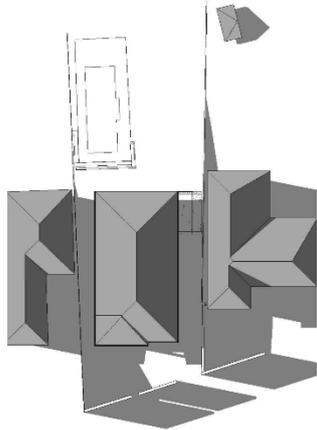
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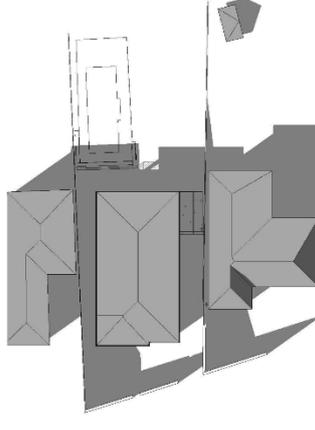
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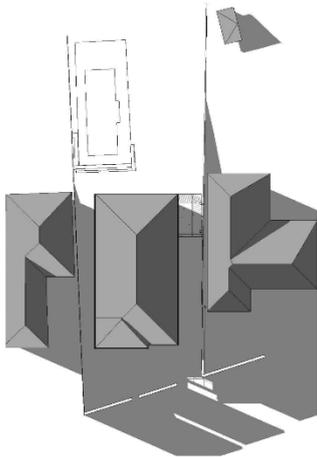
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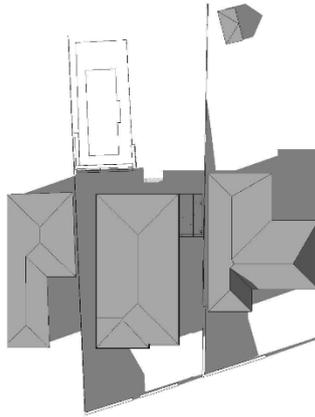
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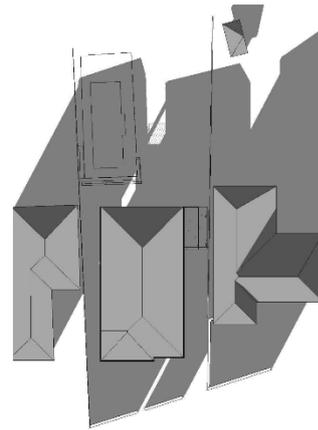
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SHADOW DIAGRAM JUNE 21ST 9AM



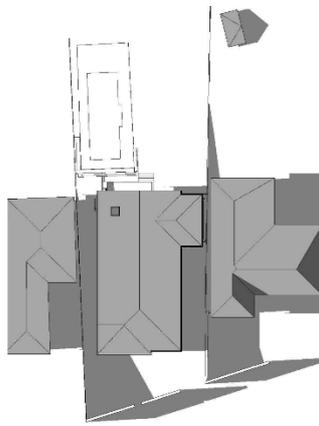
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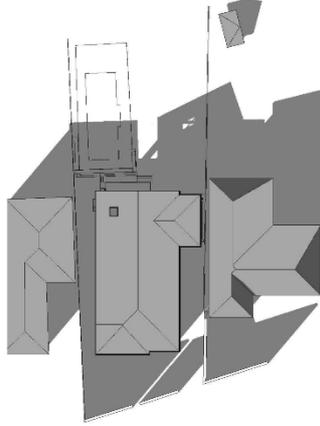
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Project Name	ALTERATION & ADDITION TO EXISTING DWELLING	Project No.	DNS1
Client	KAREN & ANGUS	Project No.	1500/A3
Project No.	SHADOW DIAGRAMS EXISTING	Project No.	D2
Project No.	85 TILLOCK ST HABERFIELD 2045 NSW	Project No.	141222
Project No.		Project No.	1 SUBBLS

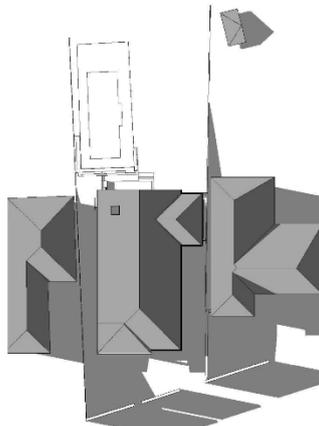
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Version: 1, Version Date: 15/12/2022



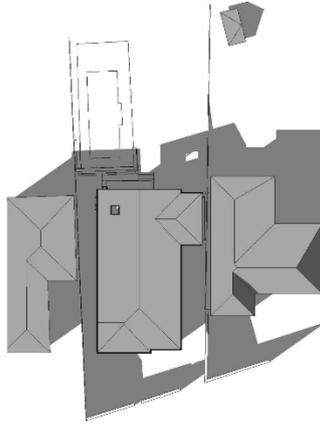
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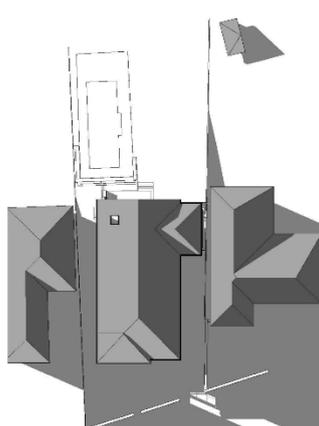
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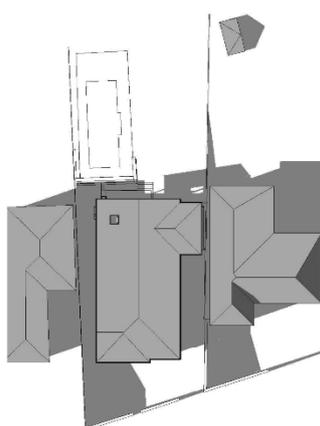
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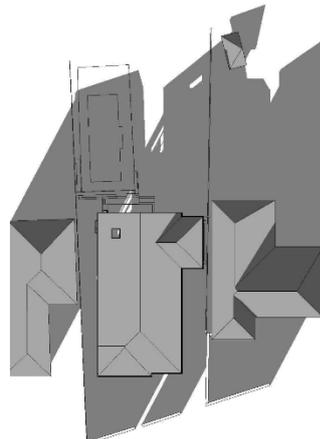
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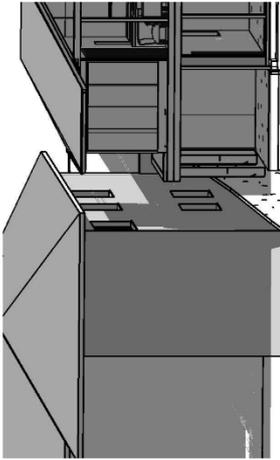
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SHADOW DIAGRAM JUNE 21ST 3PM

Project Name	ALTERATION & ADDITION TO EXISTING DWELLING	Project No	D/50
Client	KAREN & ANGUS	Project No	1500/A3
Project No	SHADOW DIAGRAMS PROPOSED	Project No	D2
Address	65 TILLOCK ST HABERFIELD 2045 NSW	Project No	141222
Project No		Project No	1500/A3
Project No		Project No	D2
Project No		Project No	141222

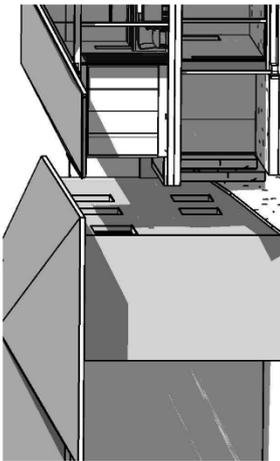
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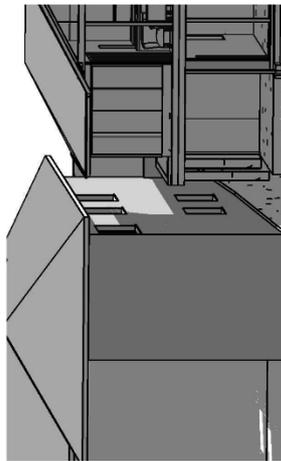
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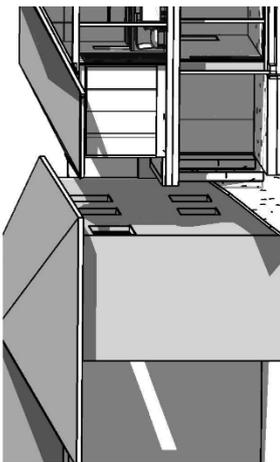
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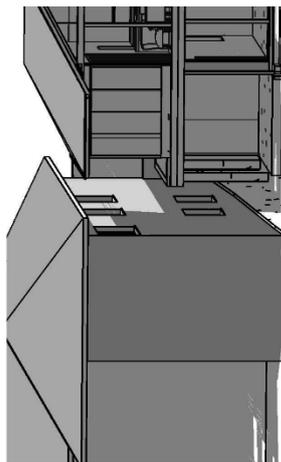
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SHADOW DIAGRAM JUNE 21ST 9AM



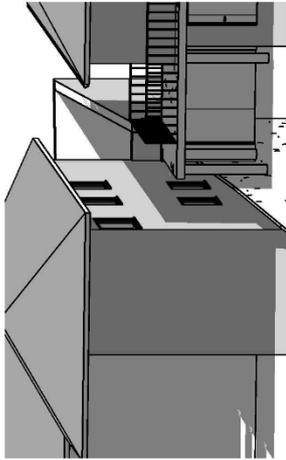
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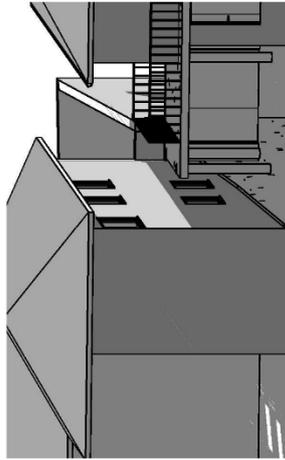
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Project Name	ALTERATION & ADDITION TO EXISTING DWELLING	Project No	DMS
Client	KAREN & ANGUS	Project No	1500/A3
Project No	AMITRAN	Project No	D2
Project No	65 TILLOCK ST HABERFIELD	Project No	141222
Project No	2045 NSW	Project No	1 SUBS
Project No	ELEVATION SHADOW DIAGRAMS PROPOSED	Project No	

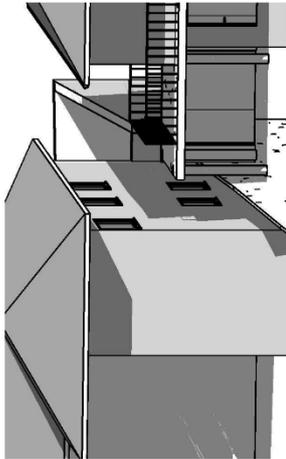
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Version: 1, Version Date: 15/12/2022



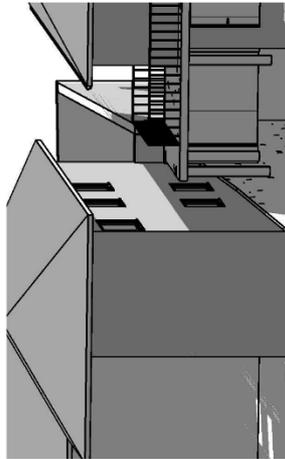
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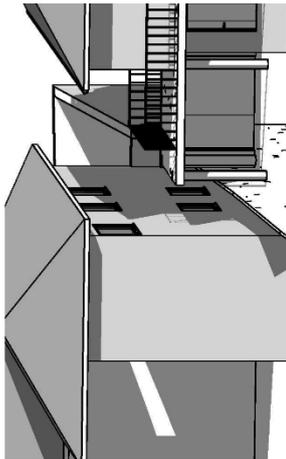
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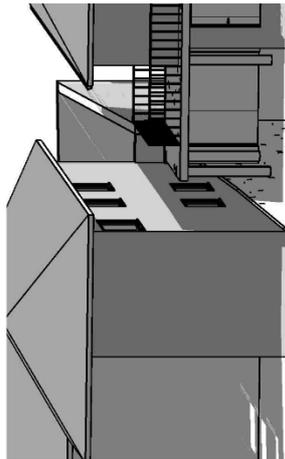
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SHADOW DIAGRAM JUNE 21ST 1PM



SHADOW DIAGRAM JUNE 21ST 9AM



SHADOW DIAGRAM JUNE 21ST 12PM



SHADOW DIAGRAM JUNE 21ST 3PM

Project No	DNSP
Project Name	ALTERATION & ADDITION TO EXISTING DWELLING
Project No	1500/A3
Project Name	AMITRAN
Project No	02
Project Name	65 TILLOCK ST HABERFIELD
Project No	2045 NSW
Project Name	EXISTING
Project No	15/12/22
Project Name	AMITRAN
Project No	1500/A3
Project Name	ALTERATION & ADDITION TO EXISTING DWELLING
Project No	02
Project Name	65 TILLOCK ST HABERFIELD
Project No	2045 NSW
Project Name	EXISTING
Project No	15/12/22

Document Set ID: 37152723  
Version: 1, Version Date: 15/12/2022

## Attachment C- Section 4.6 Exception to Development Standards

Justification for the Variation to a Development Standard

65 Tillock Street, Haberfield

Justification for a Variation to a Development Standard

– Inner West Local Environmental Plan, 2022.

### 1 Purpose

A variation to the development standard contained in clause 6.20 (3)(a)(ii) of the Inner West Local Environmental Plan, 2022 (IWLEP) is requested pursuant to the provisions contained in clause 4.6 of the instrument. The proposed development is assessed in terms of permissibility and environmental impact in the accompanying Statement of Environmental Effects.

### 2 The Site and its Locality.

The subject site is located at 65 Tillock Street, Haberfield. The land is described as lot 36 in DP 7508 in the Inner West Council Area.

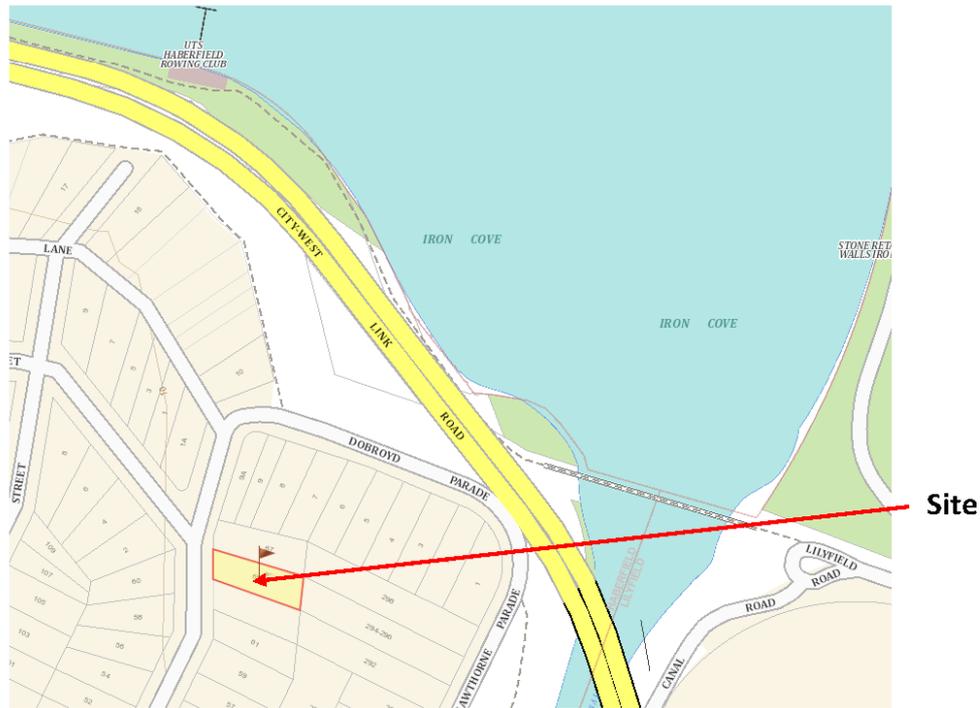


Figure 1 Site Location

The subject site is located at 65 Tillock Street, Haberfield as shown in Figure 1. The land is irregular in shape and is described as Lot 36 in DP 7508 with an area of 754.7m<sup>2</sup>. Vehicular access to the property, which is a steeply sloping site, is from Tillock Street via a concrete driveway from the street

Justification for the Variation to a Development Standard

on the southern boundary of the site to a carport.

Physical details of the site and the location of the existing dwelling are contained in the survey plan included in the drawing set.

### **3 The Development Standard and the extent of non-compliance**

Clause 20 (3)(a)(ii) of IWLEP provides that the development below the existing ground floor of a building in the Habberfield Conservation Area is not to exceed 25% of the gross floor area of the existing ground floor. The floor area of the existing ground floor has an area of 112.1m<sup>2</sup> and a proposed area of 147 m<sup>2</sup>, which exceeds the standard.

### **4 Flexibility in the Application of Development Standards**

Clause 4.6 of IWLEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. The purpose of this provision is to provide flexibility in the application of development standards and to achieve better environmental and planning outcomes.

In order to vary a development standard Council must receive in writing a justification from the applicant which demonstrates the following:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- There are sufficient environmental planning grounds to justify contravening the development standard;
- The proposed development will be in the public interest because it is consistent with the objectives of this particular standard and the objectives for development within the zone in which the development is proposed to be carried out;
- Whether the contravention of the development standard raises any matter of significance for State or Regional Planning; and
- The public benefit of maintaining the development standard.

### **5 Justification**

The justification for a development proposal contrary to the development standard in IWLEP is based on the following considerations.

Justification for the Variation to a Development Standard

**5.1 Compliance with the development standard is unnecessary.**

Compliance with the standard is unnecessary in this instance because:

- The proposed development is consistent with the objectives for the Haberfield Heritage Conservation Area as demonstrated in the accompanying heritage assessment.
- The apparent scale, height, and bulk of the dwelling is unchanged because the extension is located at the rear and side of the dwelling on a site which slopes away from the road, and
- The proposed development does not exceed any development standard for GFA in IWLEP or any other environmental planning instrument; and
- As shown in the accompanying Statement of Environmental Effects the proposed development is consistent with the objectives of the R2 Low Density Residential Zone, is consistent with the form of dwellings in the immediate location, does not conflict with heritage considerations, and is in the public interest, and
- The resultant development reflects the development density of residential development in the locality, and
- There are no objectives for the development standard at clause 6.20 (3)(a)(ii) of IWLEP:

**5.2 Compliance with the development standard is unreasonable.**

In addition, strict compliance with the standard would be unreasonable given that the departure from the standard proposed will not be visible from the street and the lack of adverse environmental impacts on neighbouring properties due to a departure from the standard.

**5.3 The proposed variation is justified on environmental planning grounds**

A variation to the height control is justified on environmental planning grounds because, as indicated in the accompanying Statement of Environmental Effects, the proposed development is compliant with other standards and controls in the Inner West Local Environmental Plan and Council’s Comprehensive Development Control Plan – particularly with respect to the Haberfield Heritage Conservation Area as demonstrated in the accompanying heritage assessment.

**5.4 The proposed development is in the public interest**

The proposed development is in the public interest because it is consistent with the objectives for the development within the R2 Low Density Residential Zone in which the development is located.

This is demonstrated in the following summary:

<b>Objective</b>	<b>Consistency</b>
<ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a low density residential environment.</i></li> </ul>	<p><b>Complies</b> The proposed development involves alterations and additions to an existing dwelling. The changes</p>

Justification for the Variation to a Development Standard

	proposed have been carefully designed to meet the needs and improve the amenity of the residents of the dwelling.
<ul style="list-style-type: none"> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> </ul>	<b>Not Applicable</b>
<ul style="list-style-type: none"> <li>• <i>To provide residential development that maintains the character of built and natural features in the surrounding area.</i></li> </ul>	<b>Complies</b> The proposed development will result in a dwelling that maintains the character of the built and natural features of the surrounding area as demonstrated by the findings of the Heritage Assessment contained in Appendix B of the SEE.

**5.5 Matter of significance for State or Regional Planning.**

There are no matters of State or Regional Planning significance which have a bearing on this development application and the proposed variation of the development standard for height.

**5.6 The public benefit of maintaining the development standard.**

There is no public benefit involved in maintaining the standard and no precedent will be created if the standard is varied. On the contrary, the application of flexible standards to individual cases is of itself a public planning benefit.

**6 Conclusion**

Under the proposed development application, the area of the proposed ground floor level exceeds the maximum increase of 25%. For the reasons given in this written statement, Council is justified in varying the development standard for an increase on the ground floor area that applies to the proposed development at 65 Tillock Street Haberfield.

## Attachment D – Statement of Heritage Significance

as an Urban Conservation Area by the National Trust in 1978, and has been included on the Register of the National Estate since 1990.

### Why Haberfield is important - a statement of significance

Haberfield has historic significance as the first successful comprehensively planned and marketed Garden Suburb in Australia. Designed and developed by real estate entrepreneur and town planning advocate, Richard Stanton, its subdivision layout and tree lined streets, its pattern of separate houses on individual lots (the antithesis of the unhealthy crowded inner suburbs of the period) and its buildings and materials, clearly illustrate his design and estate management principles. Haberfield pre-dates the first Garden Suburbs in Britain by some five years.

It is significant in the history of town planning in NSW. The separation of land uses, exclusion of industry and hotels, designation of land for community facilities and its comprehensive provision of utility services and pre-development estate landscaping profoundly affected housing trends, state subdivision practice and planning legislation in 20<sup>th</sup> century Australia.

It is significant in the history of Australian domestic architecture for its fine ensemble of Federation houses and their fences, and shops, most with their decorative elements intact.

It is outstanding for its collection of modest Federation houses displaying skilful use of materials and a high standard of workmanship of innovative design and detail particularly reflective of the burgeoning naturalistic spirit of the Federation era in which they were built.

The form, materials, scale and setback of buildings and their landscaped gardens fronting tree lined streets together provide mature streetscapes of aesthetic appeal.

Haberfield is a major research repository of the Federation era, garden design and plant material, architectural detail, modest house planning, public landscaping and utility provision.

### Haberfield and its history

The present day suburb of Haberfield occupies all the land north of Parramatta Road between Iron Cove and Long Cove Creeks granted to Nicholas Bayly in 1803. It was purchased in 1805 by emancipist and successful businessman and land owner, Simeon Lord, for 850 pounds. Lord named these 480 acres "Dobroyde" for his cousin's home in Lancastershire. When his eldest daughter, Sarah, married Mr David Ramsay in 1825, the Dobroyd Estate was part of her marriage settlement.

Mr Ramsay died in 1860, leaving his widow to dedicate land for church, manse, school and cemetery (St David's, Dalhousie Street) and to divide the rest of the Dobroyd Estate amongst their ten children.

Three of the Ramsay children put portion of their land up for sale in the 1880s. Louisa's land was subdivided into villa allotments in 1885. However, despite the extension of the tramway from Leichhardt along Ramsay Street to Five Dock, it would appear that very few villas were constructed, probably because of the restraints put on investment and development by the Depression of the 1890s.

Haberfield owes its reputation today as Australia's first Garden Suburb to the successive purchase and development of much of the Ramsay children's estates by R Stanton and W H Nicholls, real estate agents of Summer Hill.

Stanton was a friend of John Sulman, British immigrant and dominant figure in the town planning debate in Australia at the turn of the century. Australia's urban areas, particularly Sydney, faced problems of health and poverty as the rapidly growing post-Gold Rush population crowded into the cities. People were housed in unsewered terrace buildings and household drains often flowed into the back lanes. Debate about the state of our cities led to a Royal Commission in 1909, which Sulman addressed. He was aware of the British Garden City Movement which was concerned about the unhealthy effects of crowded industrial cities. It sought to design and build self-sufficient cities where industrial, commercial and residential land uses were separated, where houses were set in gardens and adequate space for agriculture and parkland was provided. Sulman lectured about town planning and architecture at Sydney University in the 1880s and gave public lectures about towns and planning. In 1914 he brought leaders of the



**Attachment E- Conditions in the event of approval**

**CONDITIONS OF CONSENT**

**DOCUMENTS RELATED TO THE CONSENT**

**1. Documents related to the consent**

The development must be carried out in accordance with plans and documents listed below:

<b>Plan, Revision and Issue No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>
DA01 Rev 2	Site Analysis	14/12/2022	Amitran
DA10 Rev 2	Existing Lower Floor Plan	14/12/2022	Amitran
DA11 Rev 2	Existing Ground Floor	14/12/2022	Amitran
DA12 Rev 2	Existing Roof Plan	14/12/2022	Amitran
DA20 Rev 2	Proposed Lower Floor	14/12/2022	Amitran
DA21 Rev 2	Proposed Ground Floor	14/12/2022	Amitran
DA22 Rev 2	Proposed Roof Plan	14/12/2022	Amitran
DA30 Rev 2	Proposed East & west Elevations	14/12/2022	Amitran
DA31 Rev 2	Proposed North and South Elevations	14/12/2022	Amitran
DA32 Rev 2	Proposed Sections 1	14/12/2022	Amitran
DA33 Rev 2	Proposed Sections 2	14/12/2022	Amitran
DA40 Rev 2	Landscape Plan	14/12/2022	Amitran
DA60 Rev 2	Materials and Finishes	14/12/2022	Amitran

As amended by the conditions of consent.

**DESIGN CHANGE**

**2. Design Change**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The proposed southern elevation window (window W8) relating to the ground floor study is to be deleted.

**FEES**

**3. Security Deposit - Custom**

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been 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.

<b>Security Deposit:</b>	\$5600.00
<b>Inspection Fee:</b>	\$350.00

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

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and 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 initial 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.

#### 4. Section 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Ashfield Section 94A Development Contributions Plan 2009 – Amendment No.3*.

Note: Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment amount\*:

\$6,850.00

\*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000)*. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

**5. Long Service Levy**

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid 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.

**GENERAL CONDITIONS**

**6. Tree Protection**

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.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned) :

Tree No.	Botanical/Common Name	Location
-	<i>Melaleuca bracteata</i> (Black tea-tree)	Front on Council controlled land.

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;
- b. Red for trees to be removed;
- c. Blue for trees to be pruned; and
- d. Yellow for trees to be transplanted.

**7. Waste Management Plan**

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

**8. Erosion and Sediment Control**

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

**9. Standard Street Tree Protection**

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

**10. Works Outside the Property Boundary**

This development consent does not authorise works outside the property boundaries on adjoining lands.

**PRIOR TO ANY DEMOLITION****11. Hoardings**

The person acting on this consent must ensure the site is 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 roads or Council controlled lands 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. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

**12. Advising Neighbours Prior to Excavation**

At least 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.

**13. Construction Fencing**

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

**PRIOR TO CONSTRUCTION CERTIFICATE****14. Dilapidation Report – Pre-Development – Minor**

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

**15. Stormwater Drainage System – Minor Developments (OSD is not required)**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. Stormwater runoff from roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank, by gravity to the kerb and gutter of a public road. Roof and paved areas that cannot be drained by gravity to the street shall be drained to an absorption system via suitably sized rainwater tank subject to, no nuisance or concentration of flows to other properties and the feasibility and design of the on-site dispersal system being certified by a suitably qualified and experienced practising Civil and/or Geotechnical Engineer;
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- c. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm event. Major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;

- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to a rainwater tank;
- e. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. Existing overland flowpath must be maintained within the setback to the side boundaries;
- g. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- h. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas except where a reduced step is permitted under Section 3.1.2.3(b) of the Building Code of Australia for Class 1 buildings;
- i. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- j. No nuisance or concentration of flows to other properties;
- k. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- l. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for stormwater outlet;
- m. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- n. New pipeline within the footpath area that is to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- o. Any new stormwater outlet through sandstone kerb must be carefully core drilled in accordance with Council standard drawings; and
- p. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

#### **16. Structural Certificate for retained elements of the building**

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

**17. Sydney Water – Tap In**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program 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.

*Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92*

**DURING DEMOLITION AND CONSTRUCTION**

**18. Tree Protection**

To protect the following tree/s, ground, trunk and branch protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
-	<i>Melaleuca bracteata</i> (Black tea-tree) is located at the front on Council controlled land

**19. Construction Hours – Class 1 and 10**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

**20. Survey Prior to Footings**

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

**PRIOR TO OCCUPATION CERTIFICATE****21. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

**22. Certification of Tree Planting**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

A minimum of 2 x 75 litre size additional trees, that will attain a minimum mature height of 12 metres, have been planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary, 2.2m from any dwelling or garage wall and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape*. Trees listed as exempt species from Council's Tree Management Controls, and species recognised to have a short life span will not be accepted as suitable replacements.

If the trees are found dead or dying before they reach the dimensions where they are protected by Council's Tree Management Controls, they must be replaced in accordance with this condition.

**ADVISORY NOTES****Permits**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must 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 veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

**Insurances**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to 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.

**Tree Protection Works**

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

**Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. The Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - ii. the date the work is due to commence and the expected completion date; and
- b. A written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

**Storage of Materials on public property**

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

**Toilet Facilities**

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

**Infrastructure**

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

**Other Approvals may be needed**

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

**Failure to comply with conditions**

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.

**Other works**

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*.

**Obtaining Relevant Certification**

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;  
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

**Disability Discrimination Access to Premises Code**

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

**National Construction Code (Building Code of Australia)**

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

**Notification of commencement of works**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- 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.
- 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.

**Dividing Fences Act**

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

**Swimming Pools**

Applicants are advised of the following requirements under the *Swimming Pools Act 1992*:

- a. The owner of the premises is required to register the swimming pool on the NSW State Government's Swimming Pool Register. Evidence of registration should be provided to the Certifying Authority.
- b. Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the. The pool must not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012.
- c. A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

- d. Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
- e. A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with Clause 10 of the *Swimming Pool Regulation 2008*.
- f. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the *Swimming Pools Act 1992* at all times.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa must enter Council's stormwater system.

#### Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must 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; and
- 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. A lease fee is payable for all occupations.

#### Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.



Dial Prior to You Dig	1100	
		<a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660	
		To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441	
		<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406	
		<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government		
		<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a>
		<a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a>
		Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	
		<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92	
		<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - Environmental Solutions	SITA 1300 651 116	
		<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)		<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50	
		<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a>
		Enquiries relating to work safety and asbestos removal and disposal.

**Street Numbering**

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.