



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/249
Address	71 Gipps Street, BIRCHGROVE NSW 2041
Proposal	Ground and first floor alterations and additions to existing dwelling-house and associated works, including tree removal.
Date of Lodgement	14 May 2018
Applicant	Mr S Banerjee
Owner	Mr S Banerjee and Ms A H Vaidya
Number of Submissions	4 submissions from 3 properties
Value of works	\$770,000
Reason for determination at Planning Panel	Submission from Council Employee
Main Issues	<ul style="list-style-type: none"> • Bulk and Scale • Solar Access • Privacy
Recommendation	Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards



LOCALITY MAP

Subject Site		Objectors		N
Notified Area		Supporters		

Note: Not all objectors could be shown due to scale of map

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to the existing dwelling at 71 Gipps Street, Birchgrove. The application was notified to surrounding properties and 4 submissions from 3 properties were received.

The main issues that have arisen from the application include:

- Bulk and Scale
- Solar Access
- Privacy

The application has been assessed on its merits and is considered acceptable, subject to conditions and as a result is recommended for approval.

2. Proposal

Consent is sought for alterations and additions to existing dwelling, including:

- Ground Floor:
 - Demolition at rear and construction of a new kitchen, living, dining area.
 - Staircase to first floor
 - New deck
 - Restoration of front balustrade
 - New Landscaping
- First Floor:
 - Master bedroom and ensuite addition at rear

3. Site Description

The subject site is located on the southeastern side of Gipps Street, between Cameron Street and Bay Street. The site consists of 1 allotment and is generally rectangular shaped with a total area of 202.3sqm and is legally described as Lot 15 DP 81278. The site has a frontage to Gipps Street of 10 metres.

The site supports a single storey dwelling. The surrounding properties support residential dwellings of varying scale, including single and two storey dwellings. The image below, indicates the dwelling and adjoining neighbours.



Figure 1: 71 Gipps Street

The subject site is not listed as a heritage item, however is located within a Heritage Conservation area and is not identified as a flood prone lot. An Orange Tree is sought to be removed, with a replacement tree proposed in the rear garden.

4. Background

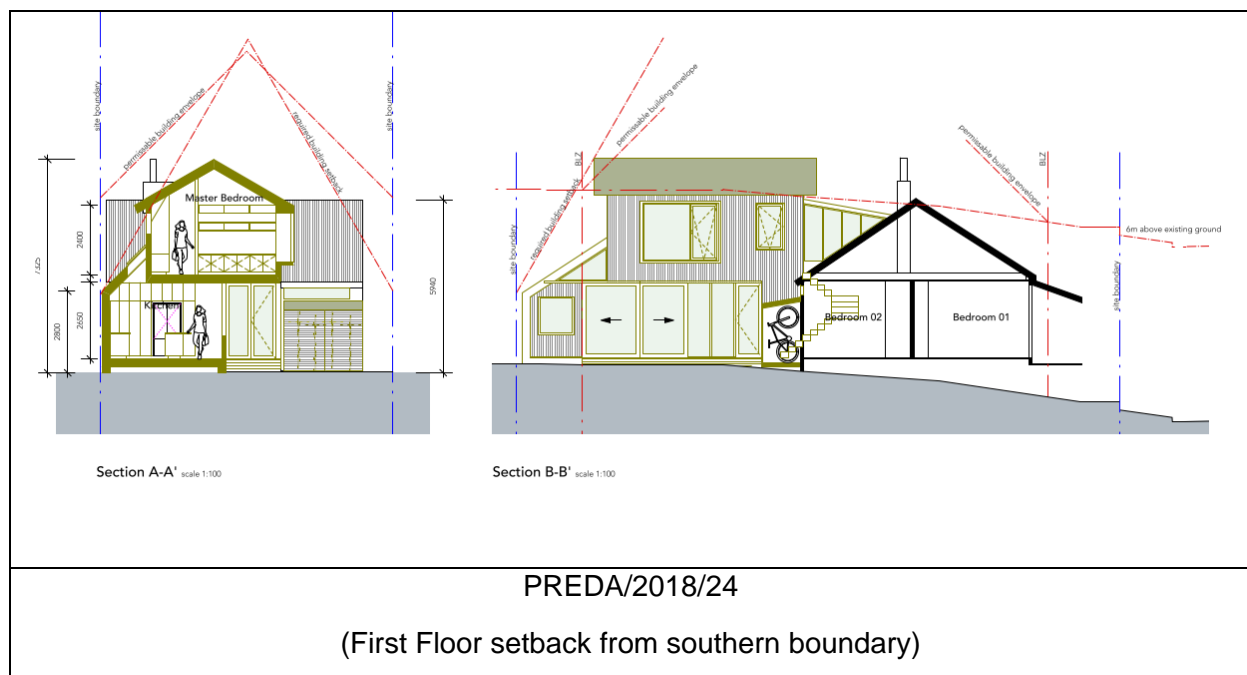
4(a) Site history

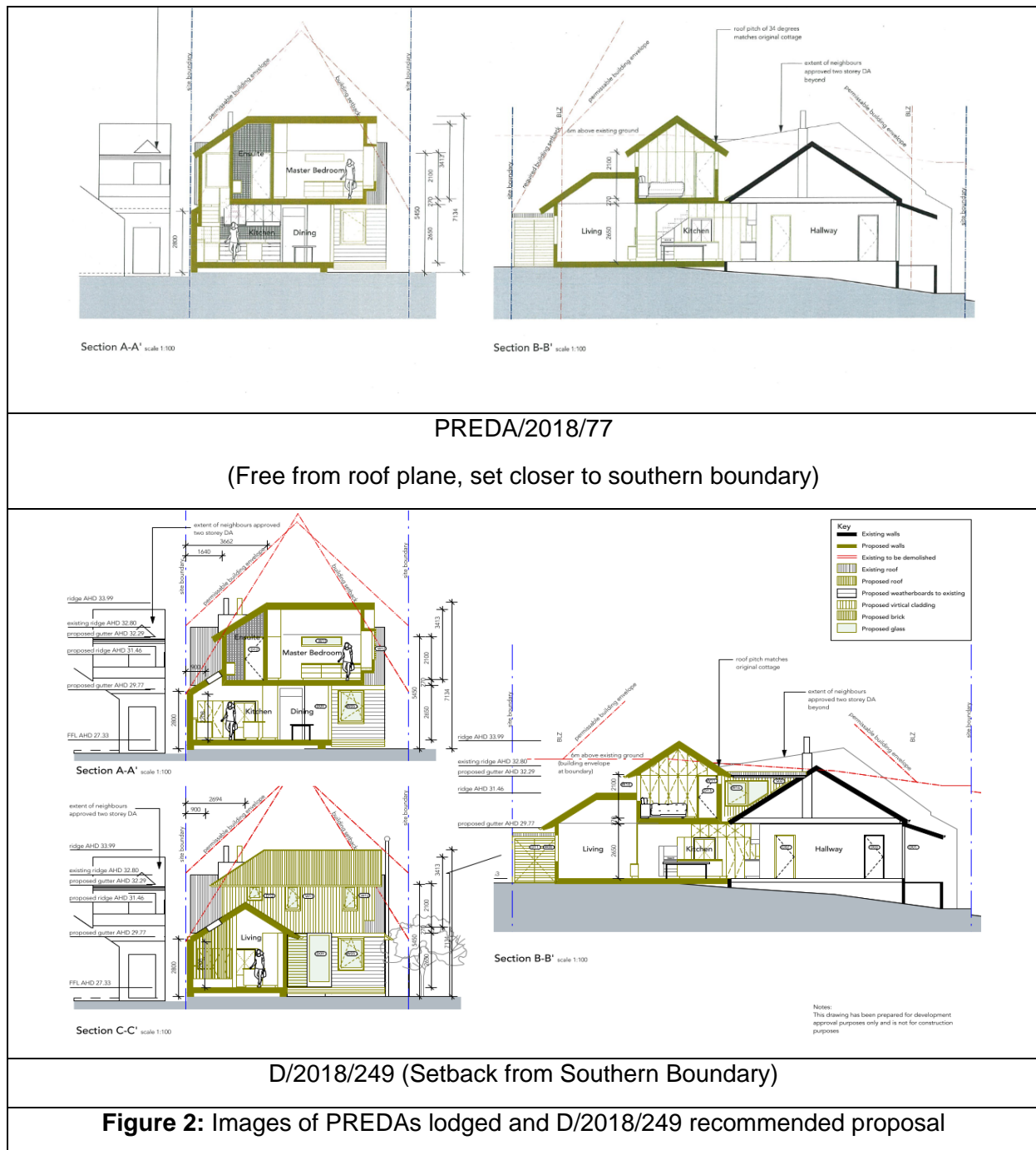
The following section outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
PREDA/2018/77	Alterations and additions to the existing dwelling	Advice Issued 04/04/2018
PREDA/2018/24	Alterations and additions to the existing dwelling	Advice Issued 13/03/2018
BA/1996/99	Building Application	Approved 25/02/1996
DA/45/1996	Alterations and additions to dwelling including new first floor	Approved 11/06/1996

The site has been subject to 2 PREDAs. The images below indicate the proposals lodged as part of the PREDAs.





In summary, it is considered that the amended application as part of this DA has addressed those key issues raised in the PREDAs and taking into account comments raised in the submissions and the application is now in a position to be supported.

Surrounding properties

69 Gipps Street

Application	Proposal	Decision & Date
D/2010/303	Alterations & additions to existing dwelling including ground and first floor addition. This application relies on SEPP 1 objections.	Approved 12/10/2010

The above application has not been acted upon and has lapsed. The image below is the northern elevation to 73 Gipps Street.

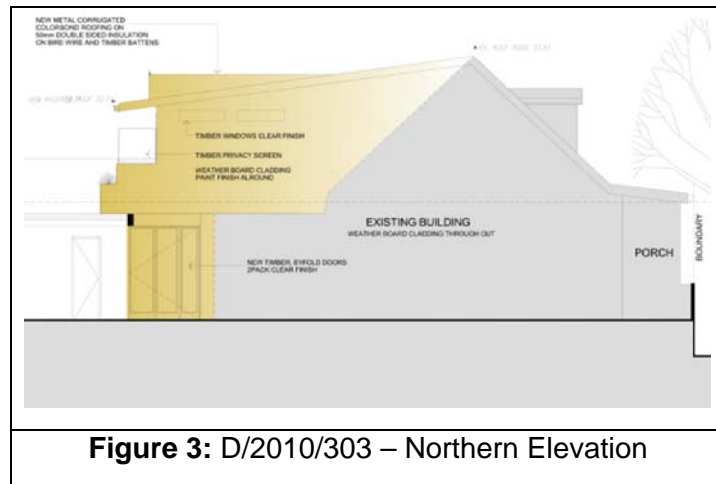


Figure 3: D/2010/303 – Northern Elevation

73 Gipps Street

Application	Proposal	Decision & Date
CDC/2011/37	New Pool to rear	Approved 21/12/2011
ZS102/43	S.102 modification to amend hours of working on site	Approved With Conditions 20/07/1995
DA/525/1993	Amended plans - erect dwellings lots 13 & 14	Approved 23/06/1994
DA/556/1993	Amended plans - erect dwellings lots 13 & 14	Approved 23/06/1994

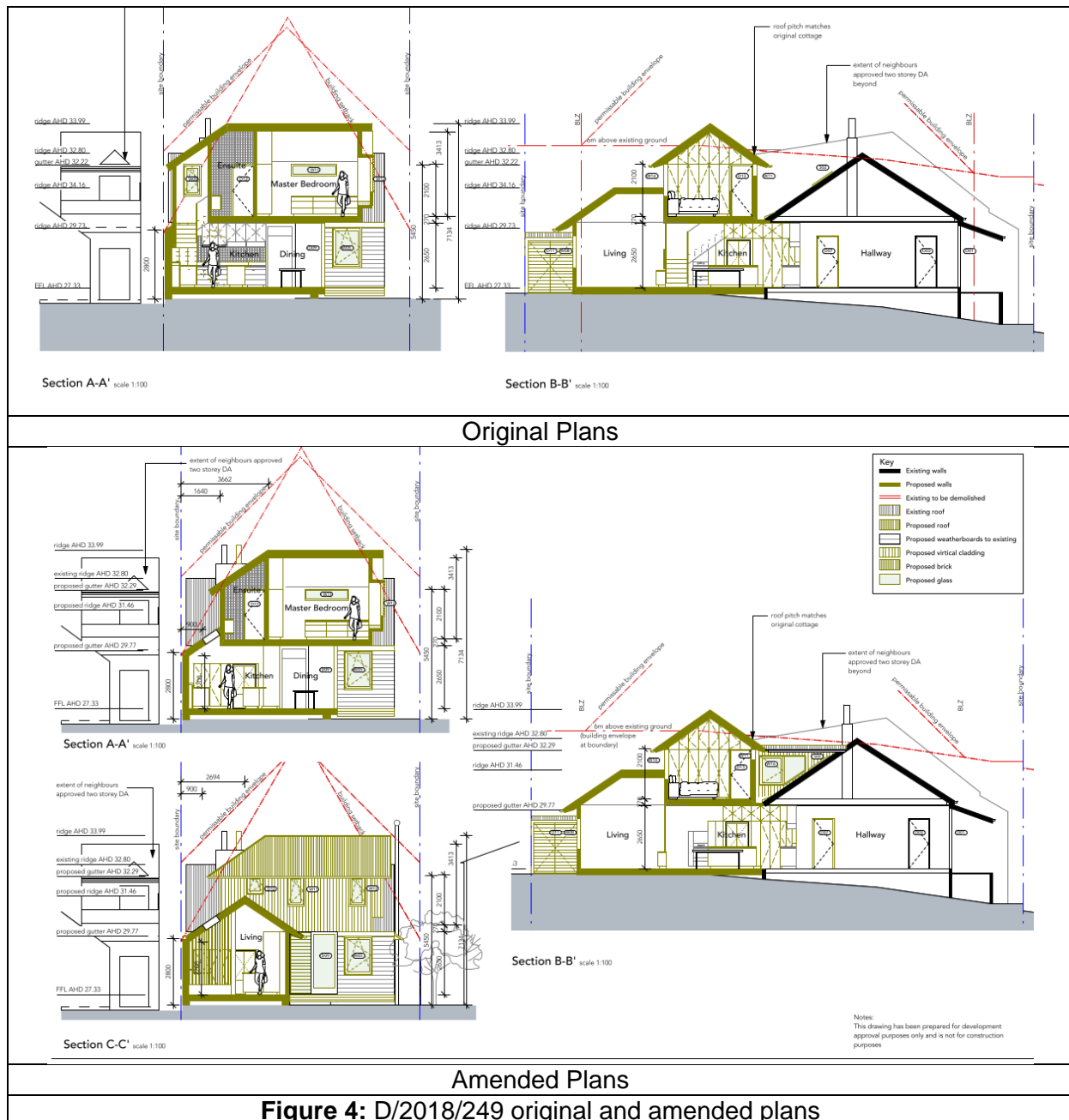
4(b) Application history

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

Date	Discussion / Letter/ Additional Information
06/07/2018	Council – Inspected properties lodging submissions
20/07/2018	Council – Met with the Applicant to discuss issues
03/08/2018	Applicant – Amended plans lodged
31/08/2018	Submission – Additional submissions received from 69 Gipps Street
28/09/2018	Applicant – Response to submission and heritage comments

The amended plans were not re-notification as they constituted a reduced or lesser development in accordance with C5, A3.13 – Specific Circumstances where notification is not required, part A: Introduction, LDCP 2013.

The amended plans resulted in the rear built form being relocated from the side boundary to 69 Gipps Street to a portion of the rear roof plane. The images below indicate the original and amended plans.



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.

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

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

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

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

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

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)(iii) State Environmental Planning Policy (Vegetation in non-Rural Areas) 2017

The proposal includes the removal of an Orange tree and a proposed replacement tree in the rear garden.

It is considered that the proposed removal and replacement planting is acceptable. Conditions are imposed to ensure the replacement planting achieves maturity, with additional conditions recommended to the protection of trees during construction.

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

An assessment has been made in relation to SREP Sydney Harbour Catchment 2005. It is considered that the carrying out of the development is not contrary to the aims of the plan and is satisfactory with regard to the matters for consideration. The proposal is considered acceptable with regard to the SREP.

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

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management

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

Standard	Proposal	% of non compliance	Compliance
Floor Space Ratio = 0.9:1 (182.07sqm)	0.69:1 (127sqm)	NA	Yes
Landscape Area = 15% (30.3sqm)	15% (30.5sqm)	NA	Yes
Site Coverage = 60% (121.4sqm)	65% (133sqm)	9.61% (11.67sqm)	No

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

As detailed in the table above, the proposal will result in non-compliant site coverage. It is considered that flexibility in this instance will result in an acceptable amenity/liveability for the residents, whilst retaining an acceptable level of outdoor space at the rear of the site.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
 - The roof form of the original cottage is very low slung making it not possible to occupy existing roof space without modification to the roofline.
 - The original roof form of the existing cottage covers a significant area of the site.
 - Heritage Conservation objectives require new building additions to be located backward of the roofline of the original cottage. This has necessitated an extended building footprint in order to accommodate stairs to a new first floor addition and appropriately sized new living areas backward of the original cottage roof.
 - Ordinarily, building mass on a site such as this would be concentrated over the existing building towards the front of the site or at least backward of the original cottage ridgeline. This would minimise impact on neighbours and maximise private open space on the site. Heritage controls and desired future character requirements mean that

new massing is not allowed to be located over the original cottage, necessitating an extended building footprint to accommodate appropriately sized living spaces and a staircase to a first floor bedroom. The rake and extent of the original cottage roof in this case also precludes occupying existing roof space as adjoining neighbours at 69 Gipps Street have done.

- Despite non-compliance with one aspect of the clause the objectives of the clause are met in all cases.
- The site has achieved adequate landscaped area, private open space in excess of the minimum requirements, the ability to accommodate a shade tree and meet water management objectives, despite non-compliance.
- The proposed has significantly less floor area than is permissible under FSR controls for the site despite non-compliance with site coverage controls.
- The variation is within 10% of the requirements of the control.
- Through consultation with Council via the PreDA advisory service and extensive shadow modelling, the proposed has been sited to minimise impact on adjoining neighbours and to be compatible with the scale of development on adjoining sites as well as meet heritage conservation and desired future character objectives.
- Reducing site coverage would not result in significantly greater amenity to adjoining neighbours in that a reduction in ground floor area would not result in significantly less overshadowing. The building form has also been designed to mirror adjoining development, maximise neighbours access to light and minimise wall heights were possible, particularly in close proximity to the boundary.

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) *the concurrence of the Secretary has been obtained.*

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

- The proposal is compatible with the desired future character of the area in relation to building bulk, form and scale and landscaped area;
- The proposal complies with the Floor Space Ratio and Landscaped Area standards. The siting of the proposed works are within the building location zones where it can be reasonably assumed development can occur;
- The proposal and development standard non-compliances will not result in any undue adverse amenity impacts to the surrounding properties.

The Secretary has provided concurrence.

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

The granting of concurrence to the proposed variation of the development standard will not raise any issues of state or regional planning significance.

(b) *the public benefit of maintaining the development standard, and*

The proposed variation to the development standard will not compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, there is no material public benefit to the enforcing of the development standard.

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

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

Clause 5.10 – Heritage Conservation

The site is located in a Heritage Conservation Area. It is considered that the proposal will satisfy the objectives of this Clause, subject to the following conditions -

- The timber balustrade of the front elevation verandah must be reinstated 'like per like' in terms of form, material and colour (Leichhardt DCP 2013, Clause 1.4, Objective O1, Controls C2, C3).
- The existing fireplace and surrounds in the current living room must be salvaged, carefully removed and reinstated in the proposed library/guest room to avoid loss of significant fabric (Leichhardt DCP 2013, Clause 1.4, Objective O1, Control C3).
- Original significant rear wall of the principal building form that is to be removed to the eastern elevation must be interpreted with a bulkhead to provide evidence of the former alignment of the rear wall (Leichhardt DCP 2013, Clause 1.3, Objective O1, Control C7 and Clause 1.4, Objective O1, Control C3).

The above conditions are included in the recommendation

Clause 6.4 – Stormwater Management

It is considered that the proposal will satisfy the objectives of this Clause, subject to the following conditions –

- All new boundary fences must be of light weight and open construction .

5(b) Draft Environmental Planning Instruments

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

- Draft State Environmental Planning Policy (Environment)

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.2.6 Birchgrove Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	Yes
Part E: Water	Yes
Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

C1.4 – Heritage Conservation Areas and Heritage Items

As mentioned in Section 5(a)(v), the proposal is considered acceptable subject to conditions.

C3.2 Site Layout and Building Design

The ground floor addition extends slightly beyond the existing rear alignment and in doing so the 'technical' ground floor BLZ. At first floor adopting the first floors at both 69 and 73 Gipps Street, the required rear BLZ is 7.5m, where the proposal is 5.5m, as a result it encroaches into the rear BLZ. The image below indicates approximately the existing and proposed rear alignments. Whilst lapsed, it is noted that the 2010 approval at 69 Gipps Street extended to beyond the currently rear alignment and this proposal would be largely compliant with the BLZ.



Figure 5: First Floor BLZ

In assessment of the application under C6 which enables a variation or establishment of a new Building Location Zone, it is considered that the siting of the ground and first floor additions are acceptable for the following reasons:

- The proposed development responds to the Heritage Conservation Area and desired future character in conserving the single storey form, siting the additions at the rear and retaining a large proportion of the roof form;
- The proposal complies with the Floor Space Ratio, Landscaped Area and Private Open Space standards;
- The development has not sought excessive floor-to ceiling heights and is setback from the side boundaries to provide visual relief when viewed from neighbouring properties;
- Amenity to adjacent properties (i.e. sunlight, privacy) is reasonably protected.

In consideration of the above, the siting of the proposal is in a location where development could be readily assumed given the context of the area.

Side Boundary Setbacks

The following table indicates compliance with the Side Boundary Setback Graph –

Elevation	Proposed Wall Height (m)	Required setback (m)	Proposed setback (m)	Difference (m)
Northern (bedroom)	7.1	2.1	1.9	0.2
Southern (ensuite)	5.5	1.6	1.6	0

As indicated, the northern wall height does not comply with the required setbacks, requiring greater setbacks than proposed. The pattern of development along this section of Gipps Street and generally in this area, have a number of buildings with two storey forms that exceed this control. As a result, the wall height and setbacks are not considered to be out of character with the prevailing forms.

In assessment under C8 that enables a variation to the setbacks it is considered that the wall height is acceptable for the following reasons –

- The scale of the dwelling is not 'out of character' with the overall pattern of development to other two storey forms along Gipps Street.
- The floor-to-ceiling heights are not considered excessive, with reduced pitching points;
- It is not considered that the proposal results in adverse or amenity that can be reasonably protected.
- The ground floor zero setback is maintained to the southern boundary, with a 1.6m first floor setback. The ground floor 1m setback to the northern boundary is maintained, with a 1.4m setback to the bay window. All are considered to not alter the existing situation in terms of ability to enable maintenance of the site and neighbouring properties.

Building Envelope

The Desired Future Character for the area provides a maximum 6m wall height. This single storey appearance of the dwelling is maintained and as a result, the building envelope is not altered and is within the 6m.



Rear of 118 Rowntree Street

Rear of 122 Rowntree Street



Rear First floor of 69 Gipps Street

Figure 6: Images from surrounding properties

As a result, on balance it is considered the siting and scale of the additions is appropriate when assessed against the desired themes and its immediate context.

C3.9 – Solar Access

The following controls apply to the proposal in regards to solar access to adjoining properties.

Retaining solar access to neighbouring dwellings main living room glazing

- *C13 Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.*
- *C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

Retaining solar access to neighbouring dwellings private open space

- *C18 Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.*
- *C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

Living Rooms

The proposal affects windows in the rear wing of 68 Gipps Street which service the kitchen, laundry and bathroom. Technically, consideration is not given to these rooms as they are not living rooms and it would be beyond the scope of the controls to pursue a design amendment on this basis.

Notwithstanding this, the shadow diagrams indicate that there will be a loss to these windows at the winter solstice and this is considered largely unavoidable to any first floor addition. However, the design amendments made have improved the solar access to be retained to the windows, which is considered positive given their vulnerable nature, being due south of the site and that the development is sited where a development could be reasonably assumed.

Private Open Space

The winter solstice shadows diagrams indicate that there will be a loss to the private open space of 69 Gipps Street where it does not receive the required solar access. Equinox shadow diagrams were also submitted which indicated that the solar access currently received will be retained.

In regards to the loss of solar access, an assessment against the reasonable of the impacts can be made as follows:

- a. the reasonableness of the development overall, in terms of compliance with other standards and controls concerned with the control of building bulk and having regard to the general form of surrounding development;*
- b. site orientation;*
- c. the relative levels at which the dwellings are constructed;*
- d. the degree of skill employed in the design to minimise impact; and*
- e. whether reasonably available alternative design solutions would produce a superior result.*

It is considered that in the assessment of reasonableness, whilst there will be a loss of solar access to 69 Gipps Street, it is considered that any reasonable development on this site would likely cause an impact due to the property being south of the subject site and therefore making them vulnerable to a loss. A year round analysis at equinox times has established that the private open spaces will remain largely unaffected which is considered positive given its highly vulnerable nature

The proposal complies with the Side Setback controls to the southern boundary, has not sought excessive floor-to-ceiling heights and has low pitching points responding to the conditions of the site and neighbour. There are design options that could be introduced for example, siting the building closer to the northern boundary or relocating more of the first floor into the rear roof form. However, it is considered that in its context, it is considered that the siting is balanced well, in retaining amenity to a vulnerable neighbouring property and providing amenity for the residents, whilst also conserving the main dwelling.

C3.10 - Views

Council relies on the Planning Principles relating to view sharing established by the New South Wales Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 for further assessment against view loss. No. 69 Gipps Street lodged a submission relating to view loss.

The Land and Environment Court accepts that the attribution to the values to views is subjective and has established a planning principle to help establish a more structured approach in assessing the impact of development in terms of view loss.

*The **first step** is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Comment: The property benefits from a partial Harbour Bridge view through vegetation and other buildings at Gipps and Rowntree Streets.

*The **second step** is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect*

than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment: The view is obtained from across the side boundary of the subject site and other properties. The view is considered to be available predominantly from both sitting and standing positions. The image below indicates the existing views available.

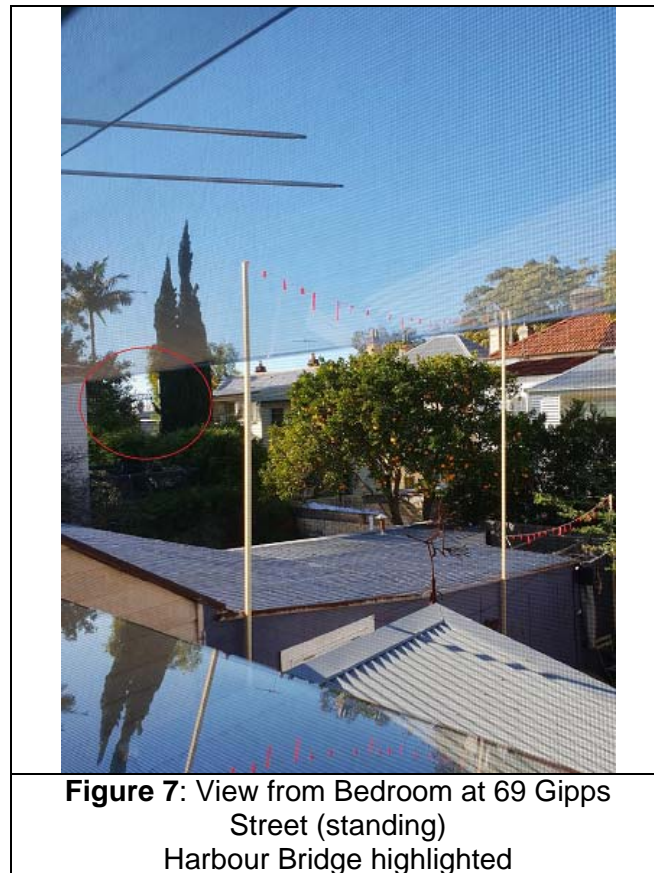


Figure 7: View from Bedroom at 69 Gipps Street (standing)
Harbour Bridge highlighted

*The **third step** is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Comment: The view affected is obtained from the first floor level bedroom. This view is not available from other levels/areas at 69 Gipps Street and will be lost as a result of the proposal.

*The **fourth step** is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

Comment: The subject proposal is compliant with Council's Landscaped Area and Floor Space Ratio development standards, however does rely on a variation to the Site Coverage standard.

It is considered that a first floor addition would likely have some impact to the existing view from the first floor of 69 Gipps Street, and to prevent a first floor to retain this view is not considered reasonable given - the pattern of development in the area, that comprises many two storey forms; the view is obtained across a number of properties; and that the addition is sited where it could reasonably be assumed to occur. As a result, it is not considered that the view can be protected in this instance.

C3.11 - Visual Privacy

The relevant controls are -

C1 - Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.

The proposal has windows at first floor that service the Master bedroom and ensuite. These rooms in their nature, seek their own privacy and in regards to the controls, privacy is applied to living rooms to adjoining properties as opposed to bedrooms/ensuites, which are generally considered to be a 'low usage' as opposed to more 'higher usage' and as mentioned before, bedrooms and ensuites generally seek their own privacy.

As a result, it is considered that to pursue removal of the windows and/or additional screening is beyond the scope of the controls.

For completeness, below are images taken from 122 Rowntree Street, which face the rear of the subject site.

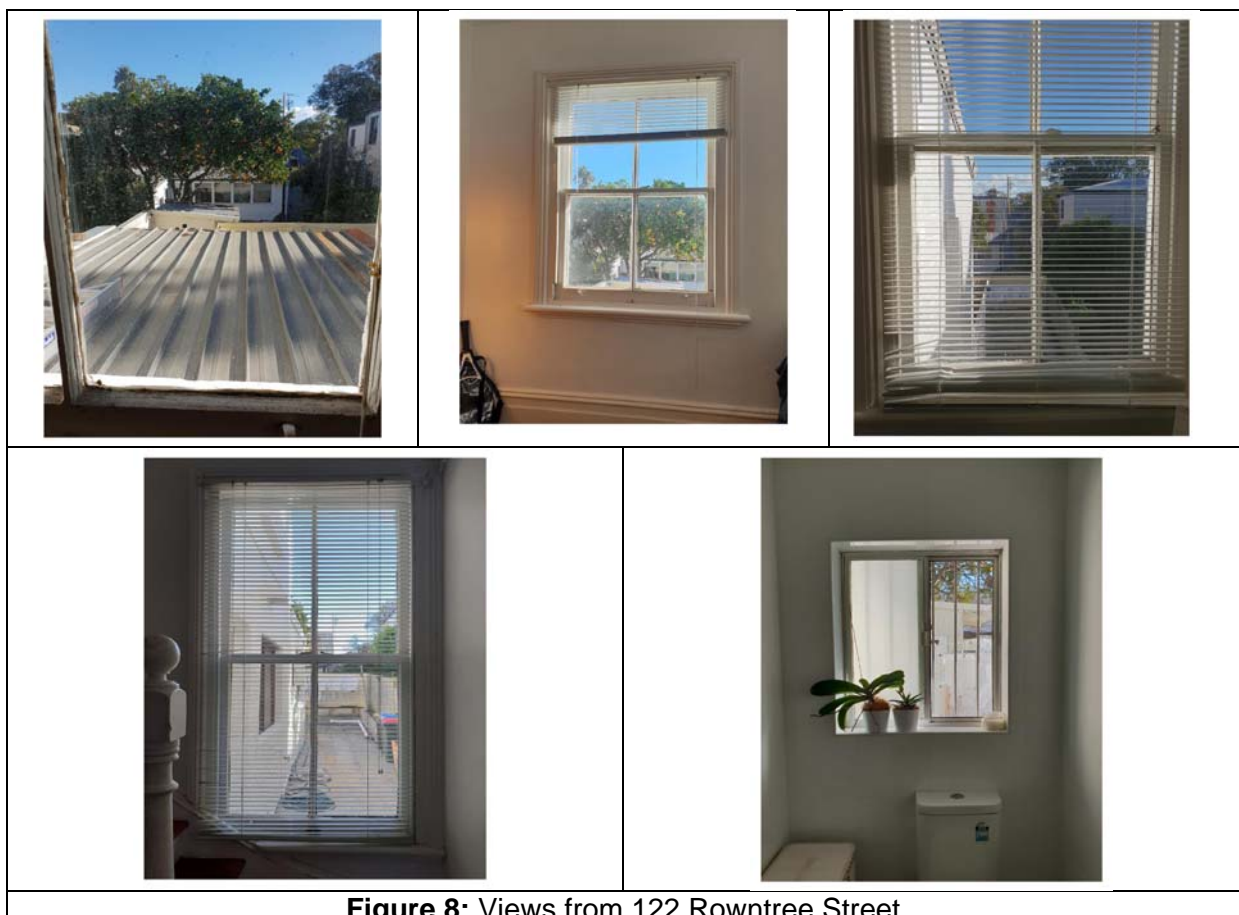


Figure 8: Views from 122 Rowntree Street

As a result, it is not considered that a loss of privacy will occur in this instance or that can reasonably be protected when assessed against the controls.

5(d) The Likely Impacts

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

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

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

5(f) Any submissions

The application was notified in accordance with LDCP 2013 for a period of 14 days to surrounding properties. A total of 4 submissions from 3 properties were received.

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

- Bulk & Scale, Siting
- Heritage & Desired Future Character
- Shadows
- Privacy (Visual)
- View Loss

Other issues raised in the submissions include –

Reference to DA/2010 at 69 Gipps Street has lapsed.

Comment: Noted.

Information is misleading and incorrect

Comment: The information submitted is adequate to enable an assessment of the application to be carried out.

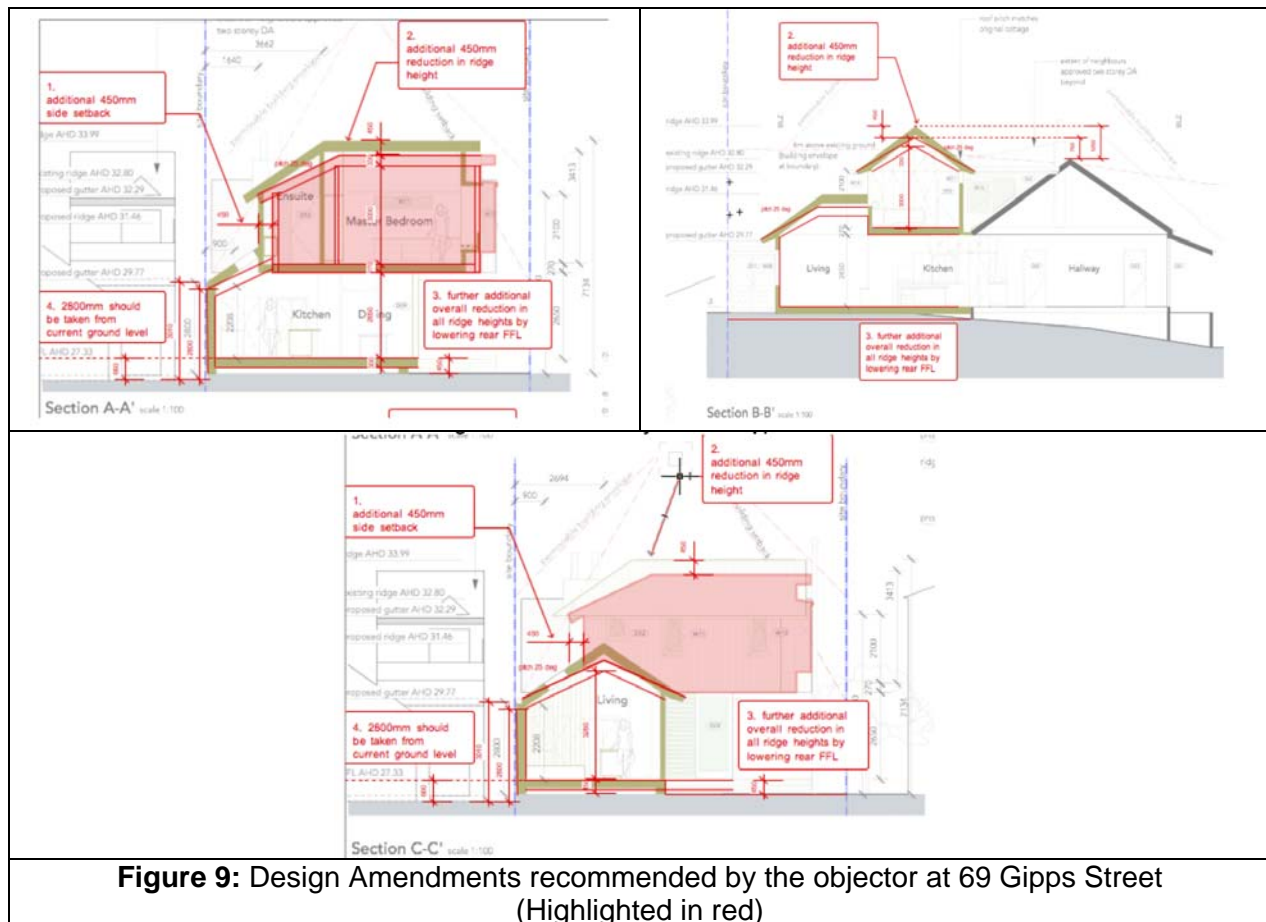
Request site inspections by Council

Comment: An Officer inspected the properties that lodged submissions.

The second submission from 69 Gipps Street provided design amendments for consideration to minimise the scale and shadows. These involved –

- Increase in the setback from the boundary (moving closer toward to 73 Gipps Street)
- Reduction in the roof pitch
- Lowering the proposed rear first floor level

The diagrams below indicate the design amendments –



It is considered that whilst the design amendments are preferred by 69 Gipps Street, they are not considered warranted. The overall proposed design is considered acceptable, the improvements in terms of solar access are to the roof of 69 Gipps Street and not the windows and the lowering of the roof ridges and pitches is considered to lower the quality of amenity for the proposed, which is as proposed is considered to be modest. As a result, the design amendments suggested are not included in the recommendation.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage Officer – No objections subject to conditions
- Development Engineer – No objections subject to conditions
- Landscape – No objections subject to conditions

6(b) External

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

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6(3) of the LEP in support of the contravention of the development standard for 4.3A(3)(b) Site Coverage. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds, the proposed development will be in the public interest because the exceedance is not 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, grant consent to Development Application No: D/2018/249 for alterations and additions to existing dwelling at 71 Gipps Street Birchgrove subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2018/249 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA02-02 Rev 00 – Proposed Site/Roof Plan	Linden Thorley Architect	02/08/2018
DA02-03 Rev A – Proposed Ground Floor Plan	Linden Thorley Architect	02/08/2018
DA02-04 Rev 00 – Proposed First Floor Plan	Linden Thorley Architect	02/08/2018
DA02-05 Rev 00 – Sections	Linden Thorley Architect	02/08/2018
DA02-06 Rev 00 – Elevations (West and South)	Linden Thorley Architect	02/08/2018
DA02-07 Rev 00 – Elevations (North and East)	Linden Thorley Architect	02/08/2018
Document Title	Prepared By	Dated
Basix Certificate No. A315294_02	Building Sustainability Assessments	08/05/2018

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

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

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

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

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

2. Consent is granted for the demolition on the property, subject to strict compliance with the following conditions:
 - a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
 - b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
 - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A *final* inspection when the demolition works have been completed.

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
- i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

3. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
<i>Citrus spp</i> (Orange Tree) located in rear of site	Remove

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

The approved works shall not be carried out unless this letter, or copy of it, is kept on the site. It shall be shown to any authorised Council Officer upon request.

All tree work shall be undertaken by an experienced Arborist with a minimum qualification of Level 3 under the Australian Qualification Framework (AQF). The work shall be undertaken in accordance with AS4373 – 2007 'Pruning of amenity trees' and in compliance with the Safe Work Australia Code of Practice 'Guide to Managing Risks of Tree Trimming and Removal Work'.

4. The trees identified below are to be retained:

Tree/location
<i>Tristanopsis laurina</i> (Water Gum) located in Nature Reserve

Details of the trees to be retained must be included on the Construction Certificate plans.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

5. Amended plans are to be submitted incorporating the following amendments:
- a) All new boundary fences must be of light weight and open construction.
 - b) The timber balustrade of the front elevation verandah must be reinstated 'like per like' in terms of form, material and colour (Leichhardt DCP 2013, Clause 1.4, Objective O1, Controls C2, C3).
 - c) The existing fireplace and surrounds in the current living room must be salvaged, carefully removed and reinstated in the proposed library/guest room to avoid loss of significant fabric (Leichhardt DCP 2013, Clause 1..4, Objective O1, Control C3).
 - d) Original significant rear wall of the principal building form that is to be removed to the eastern elevation must be interpreted with a bulkhead to provide evidence of the former alignment of the rear wall (Leichhardt DCP 2013, Clause 1.3, Objective O1, Control C7 and Clause 1.4, Objective O1, Control C3).

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

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

The system/s shall be operated as follows:

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

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

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

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

7. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
8. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - c) At least two days notice, in writing has been given to Council of the intention to commence work.

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

9. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
- a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

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

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

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

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

12. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:
 - The building is to be provided with smoke alarm system that complies with *AS3786-1993: Smoke Alarms* and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

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

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

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

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

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

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences.
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

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

15. The approved plans must be checked online with Sydney Water Tap In to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

The Certifying Authority must ensure that the appropriate approval has been provided prior to the issue of a Construction Certificate.

16. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):

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

- iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"
- Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

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

17. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

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

18. The following replacement trees must be planted:

Tree/species	Quantity	Location
Native specimen capable of attaining a minimum height of 6 meters upon maturity.	1	Rear property

The minimum container size of the new tree shall be 75 litres at the time of planting, and shall comply with AS 2303—*Tree Stock for Landscape Use*.

Replacement trees (as specified above) are to be planted within 30 days of the removal. Council is to be notified when the replacement tree has been planted within the timeframe specified above and an inspection arranged with Council's Tree Assessment Officer. If the replacement is found to be faulty, damaged, dying or dead prior to being protected under the Tree Management Controls of the Leichhardt Development Control Plan 2013, the replacement tree shall be replaced with the same species, which will comply with the criteria above.

Council encourages the uses of replacement trees that are endemic to the Sydney Basin to increase biodiversity in the local environment and provide a natural food source for native birds and marsupials. Note: Any replacement tree species must not be a palm tree species or be a plant declared to be a noxious weed under the Noxious Weeds Act 1993 or tree species listed as an exempt species under Section C1.14 (Tree Management) of the Leichhardt Development Control Plan 2013.

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

19. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2,870
Inspection fee (FOOTI)	\$225

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 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 consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

20. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
 - b) A concrete pump across the roadway/footpath
 - c) Mobile crane or any standing plant
 - d) Skip bins
 - e) Scaffolding/Hoardings (fencing on public land)
 - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
 - g) Awning or street verandah over footpath
 - h) Partial or full road closure
 - i) Installation or replacement of private stormwater drain, utility service or water supply

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

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

21. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
22. A stormwater drainage design prepared by a Licensed Plumber or qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
- a) Charged or pump-out stormwater drainage systems are not permitted.
 - b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
 - c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.

- d) An overland flowpath must be provided within the setback to the north eastern boundary between the rear of the dwelling and the Gipps Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
- e) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas.
- f) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 *Plumbing and Drainage – Stormwater Drainage*
- g) 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.

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

23. To preserve the following tree/s no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/s/branches are protected (in accordance with AS4970-*Protection of trees on development sites*) by the placement of appropriate lengths of 50 x 100mm timbers spaced at 150mm centres and secured by wire/hoop strap over suitable protective padding material (i.e. underlay or carpet). The trunk/branch protection shall be maintained intact until the completion of all work on site.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

PRIOR TO THE COMMENCEMENT OF WORKS

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

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

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

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

25. The site must be secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

26. The *Home Building Act 1989* requires that insurance must be obtained from an insurance company approved by the Department of Fair Trading prior to the commencement of works approved by this Development Consent.

A copy of the certificate of insurance must be submitted to the Certifying Authority prior to the works commencing.

If the work is to be undertaken by an owner-builder, written notice of their name and owner-builder permit number must be submitted to the Certifying Authority.

In all other cases, written notice must be given to the Certifying Authority of:

- a) the name and licence number of the principal contractor; and
- b) reasons why a certificate of insurance is not required.

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

27. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
28. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
29. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
30. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

DURING WORKS

31. Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.

Construction materials and vehicles shall not block or impede public use of the footpath or roadway.

32. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a suitably qualified structural engineer.

If excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage.
- b) If necessary, underpin and support the building in an approved manner.
- c) Give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate within the proximity of the respective boundary.

Any proposed method of support to any excavation adjacent to adjoining properties or any underpinning is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil/structural works. Copies of the design plans must be provided to the relevant adjoining property owner/s prior to commencement of such works. Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

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

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

35. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

"Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

36. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
37. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
38. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
39. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
40. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

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

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

41. 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.

42. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

44. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.

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

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

46. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:

- the approved plans;
- BASIX certificate (where relevant),
- approved documentation (as referenced in this consent); and
- conditions of this consent.

47. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

48. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Non-compliance with this condition will result in loss of your security deposit.
49. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

ONGOING CONDITIONS OF CONSENT

50. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
51. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
52. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
53. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling house without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

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

PRESCRIBED CONDITIONS

A. BASIX Commitments

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

In this condition:

- a) Relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and

- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

E. Condition relating to shoring and adequacy of adjoining property

- 1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

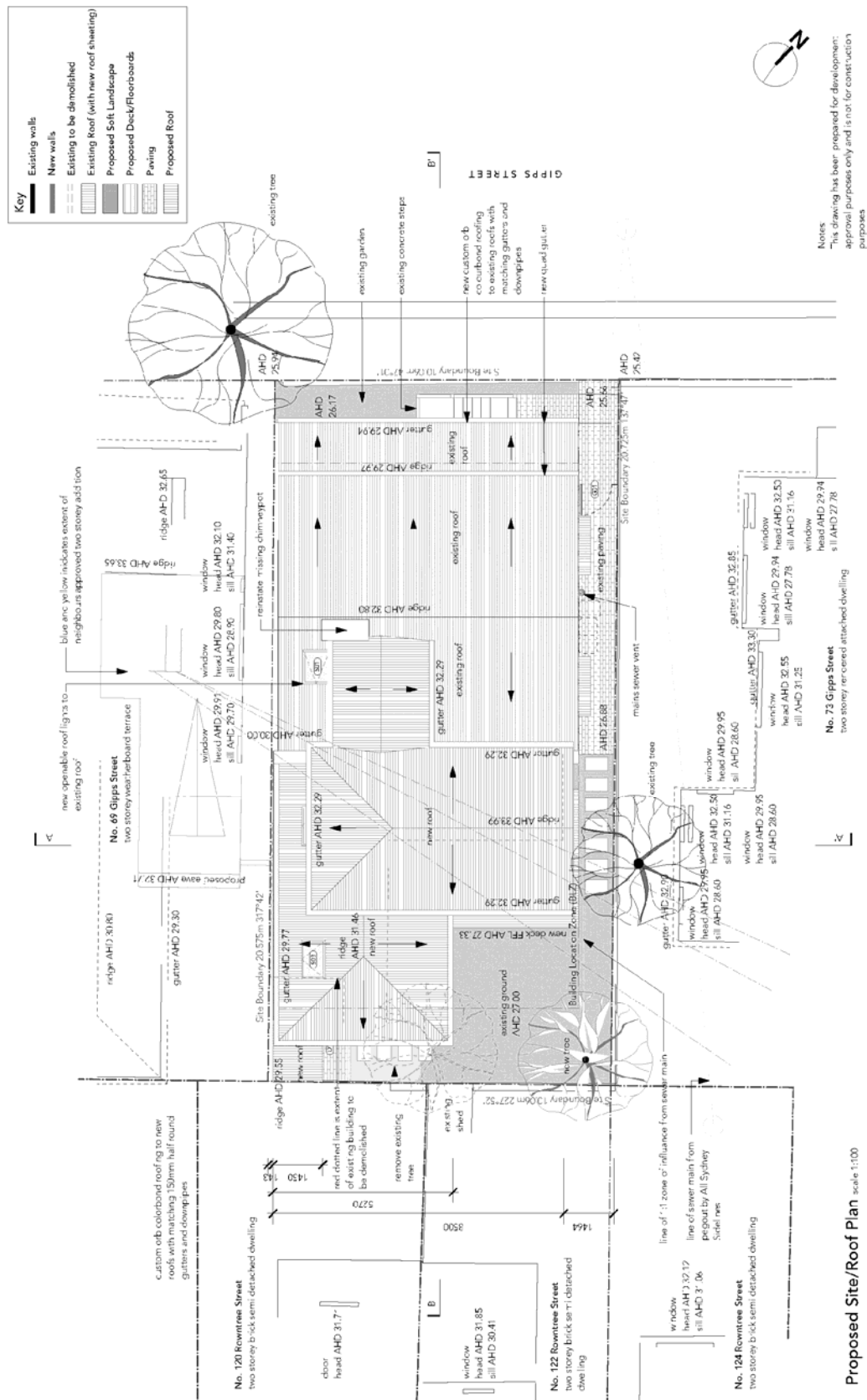
1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.

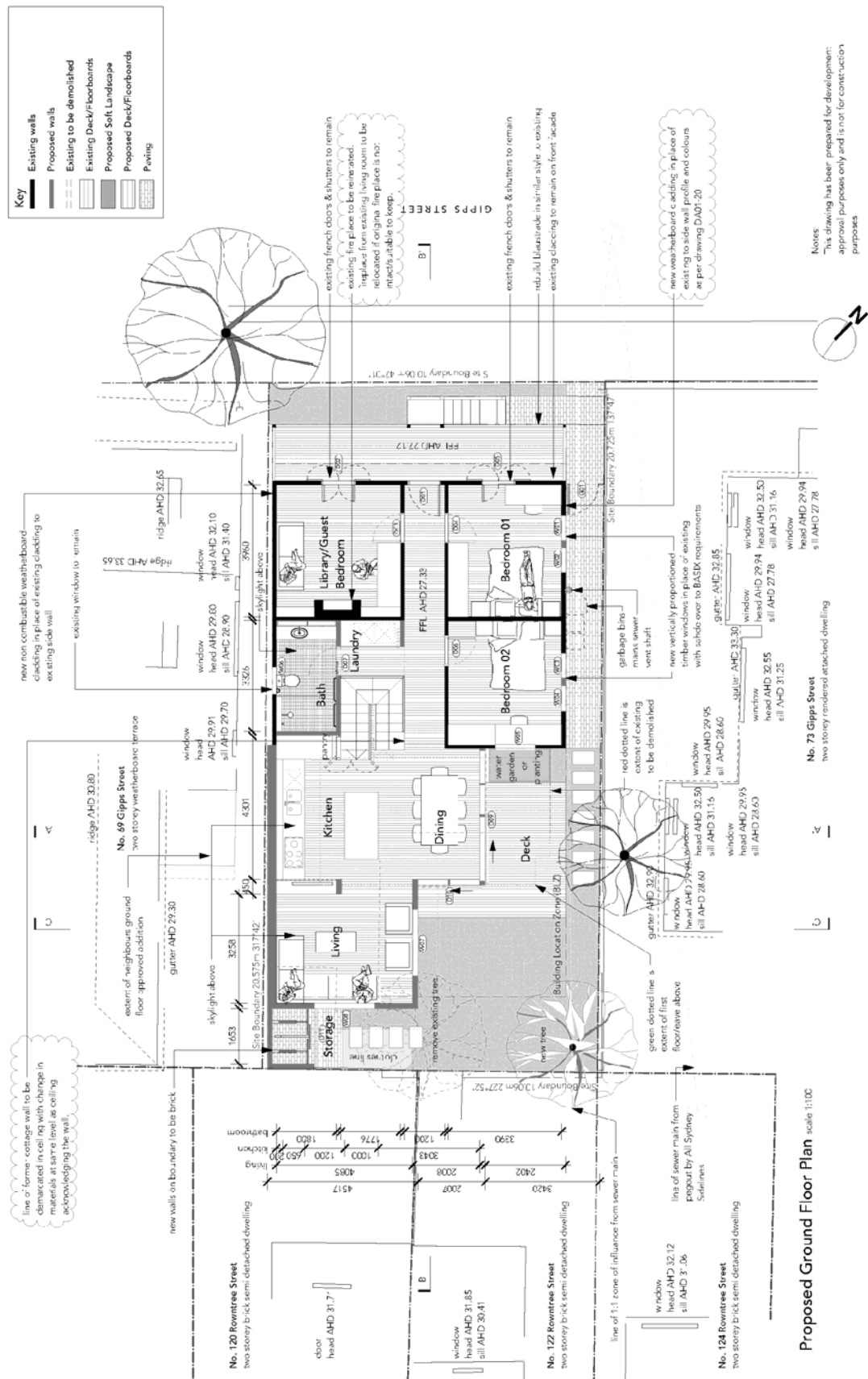
- e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

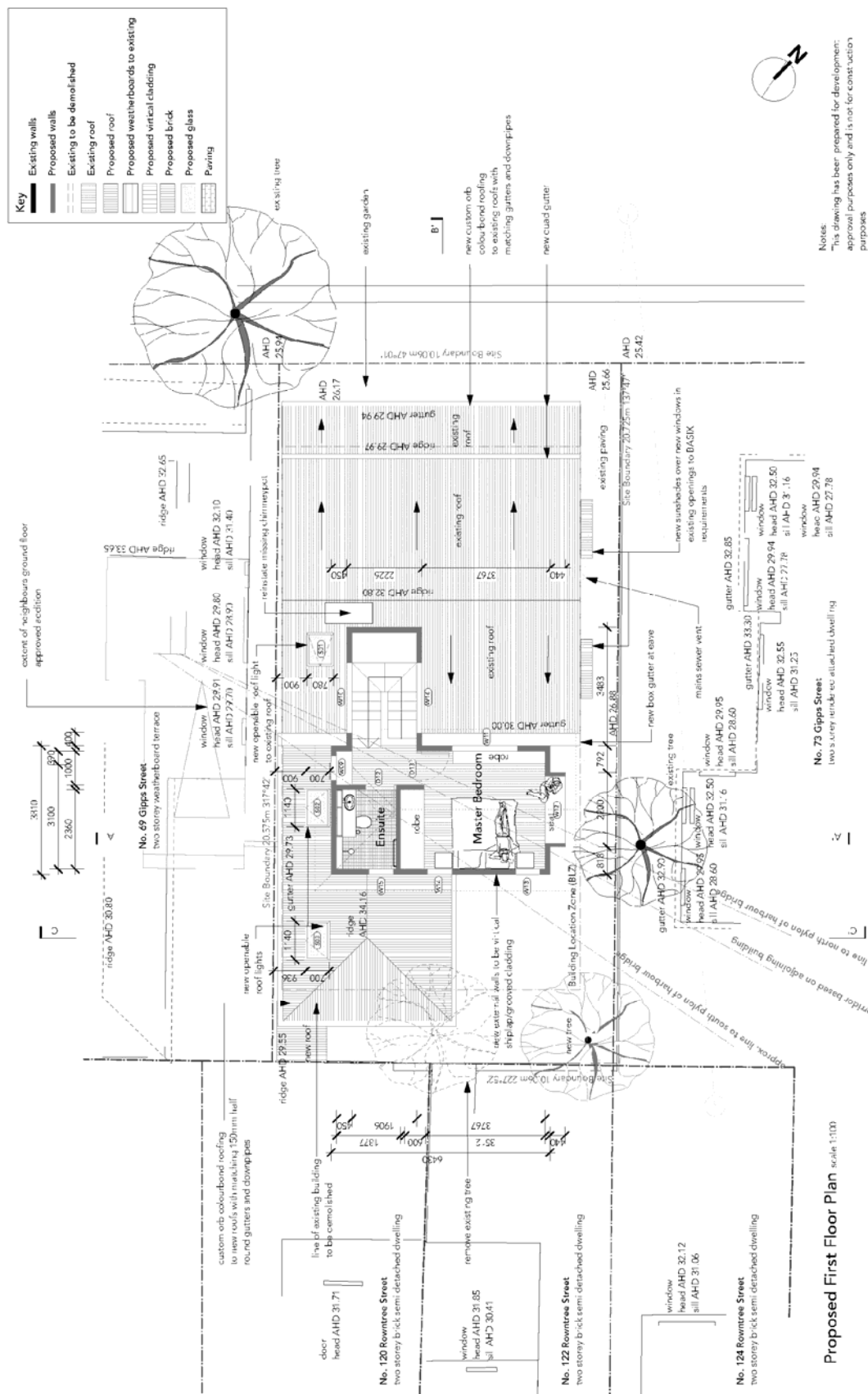
Have you made a political donation?

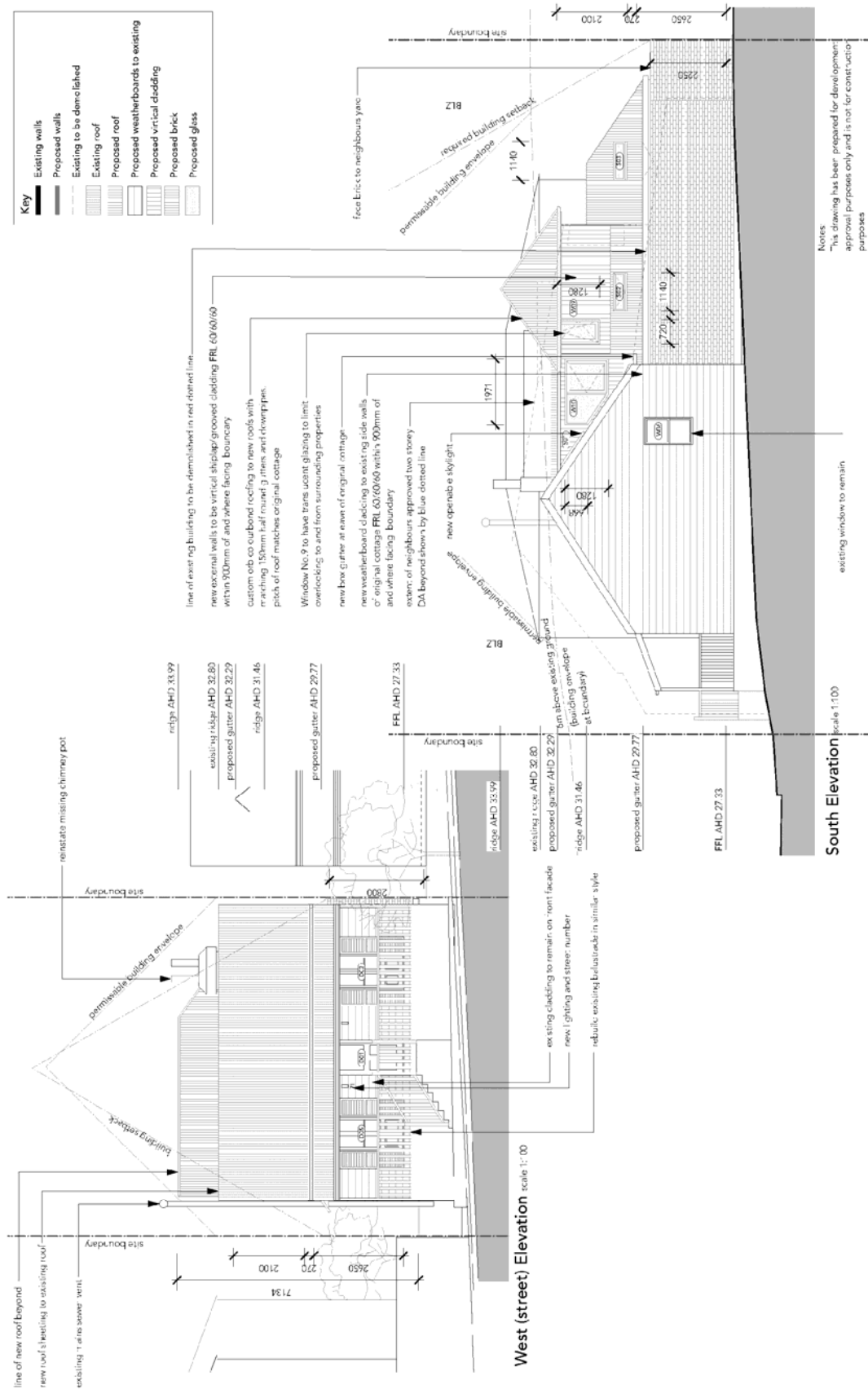
If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at www.leichhardt.nsw.gov.au/Political-Donations.html. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.

Attachment B – Plans of proposed development









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Project 71 Gipps Street, Birchgrove NSW 2041
Lot 15 DP 81278

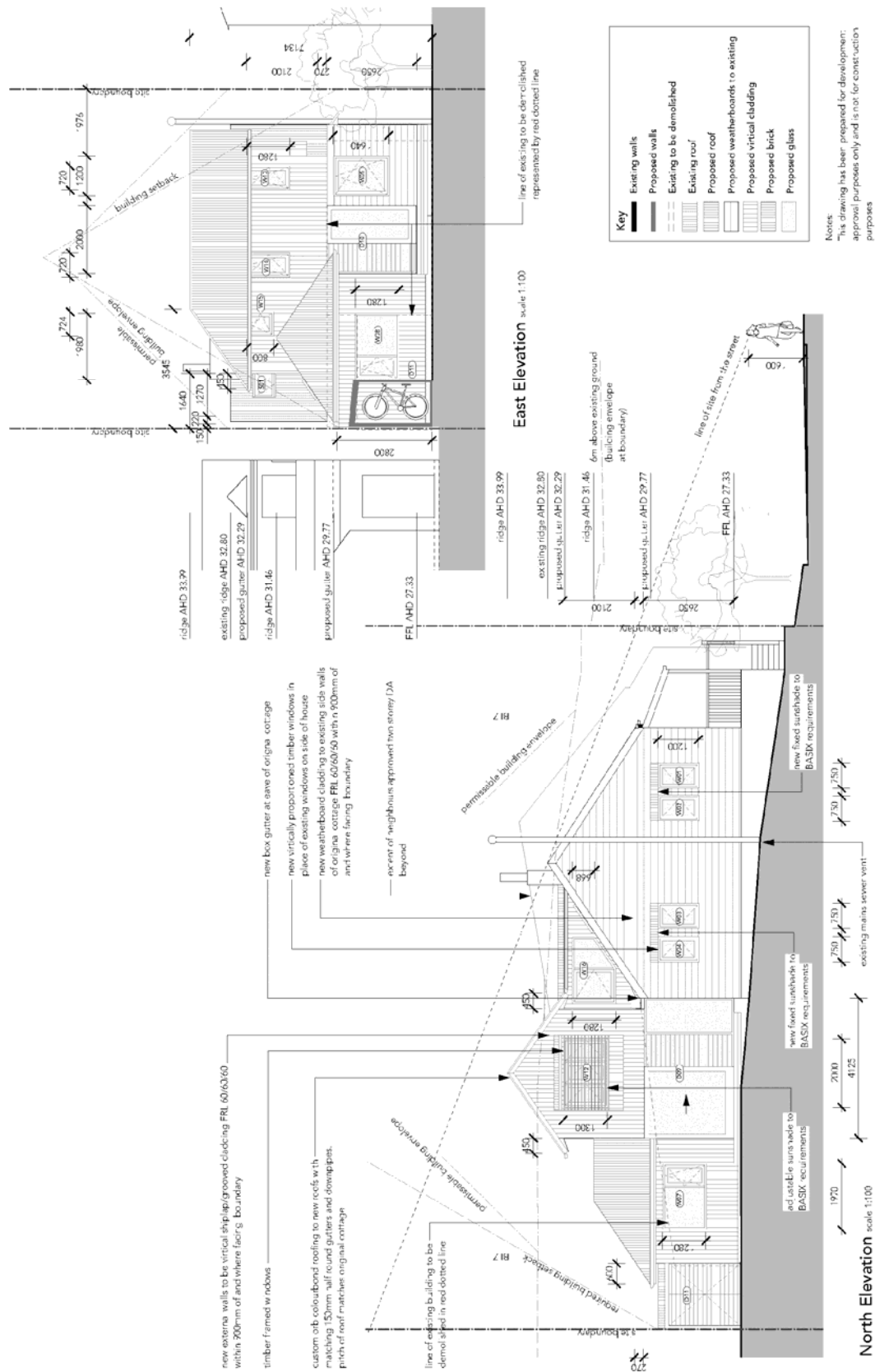
Issue Development Approval

Date Thursday, 2 August 2018
5:05:30 am

Drawing 'West & South Elevations

DA02 - 06 00

Notes:
This draft
approval
purpose



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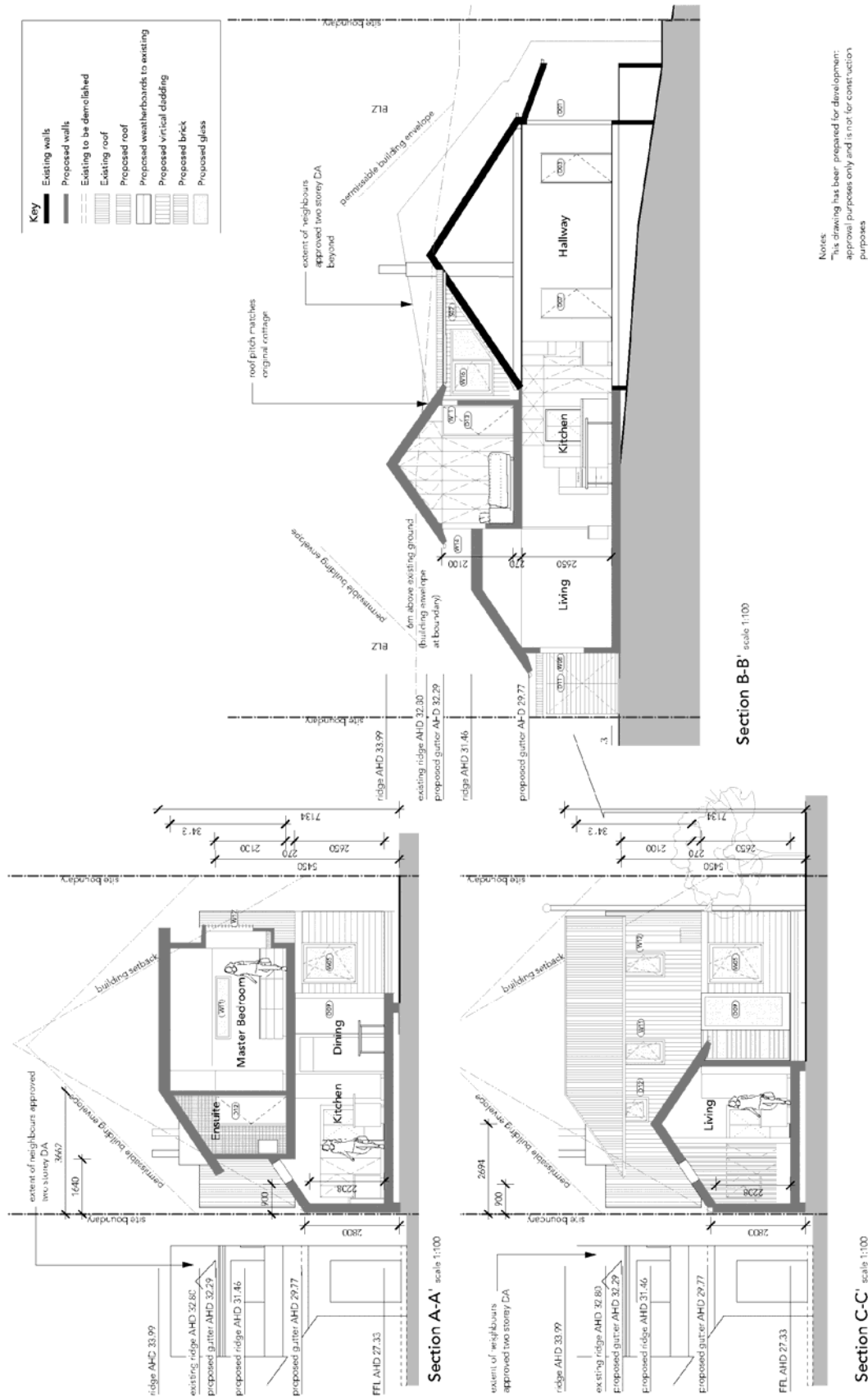
Project 71 Gipps Street, Birchgrove NSW 2041
Lot 15 DP 81278

Thursday, 2 August 2018
5:03:30 am

Drawing East & North Elevations

1:100 © A3

DA02 - 07 00



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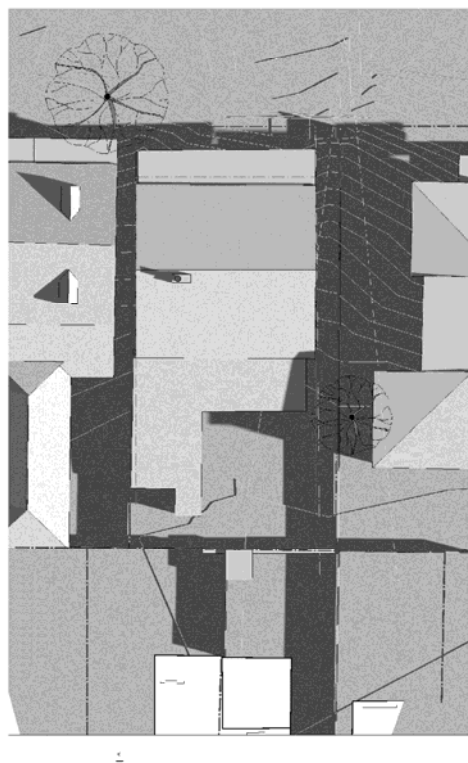
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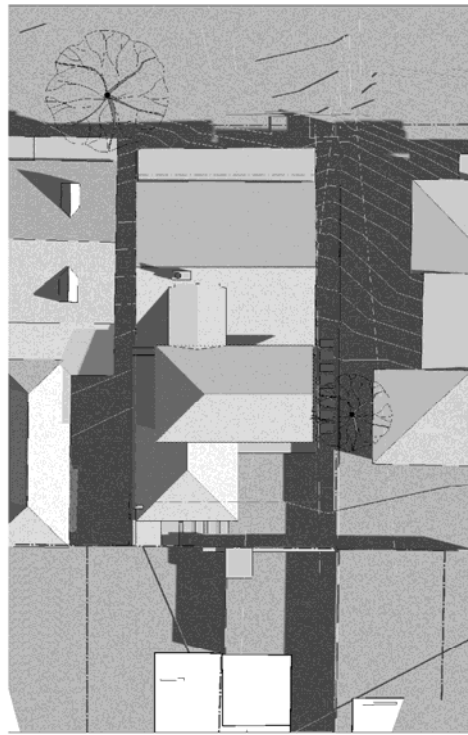
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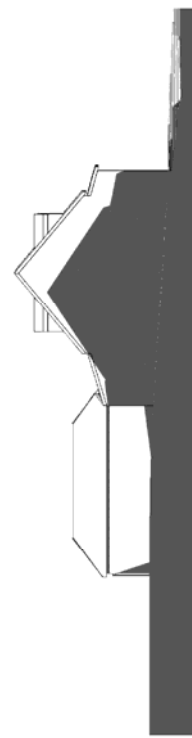
Drawing Sections



Existing Shadows in Plan Equinox 09:00am



Proposed Shadows in Plan Equinox 09:00am



Existing Shadows in Section (69 Gipps St) Equinox 09:00am



Proposed Shadows in Section (69 Gipps St) Equinox 09:00am

- additional shadow as a result of the proposed
- extent of additional overshadowing prior to changing massing under formal PreDA process with Council
- sunlight gained by relocating staircase
- sunlight on private open space gained as a result of the proposed



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Lot 15 DP 81278

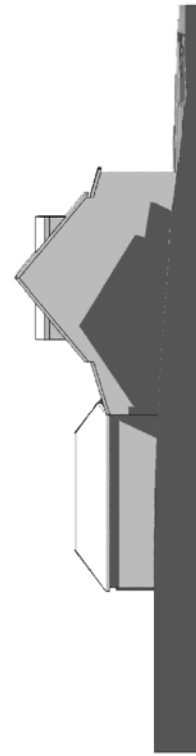
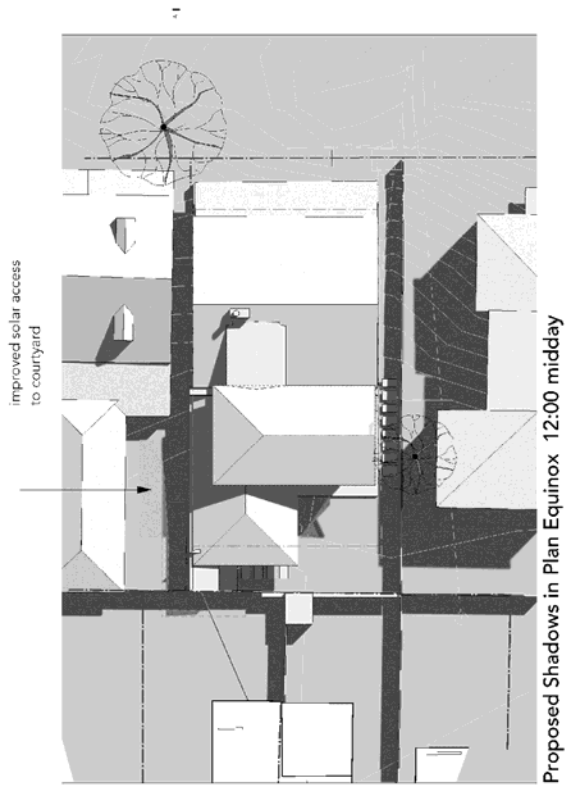
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Drawing Shadow Studies - Equinox 09am

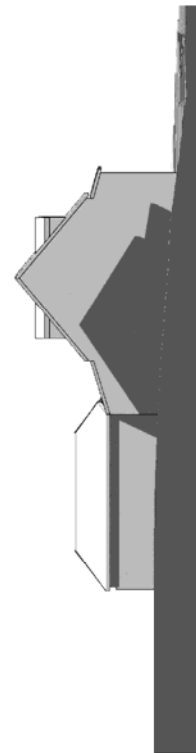
Issue Development Approval





Scale 1:200 @ A3

Dwg No. DA02 - 17 00



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-  additional shadow as a result of the proposed
-  extent of additional overshadowing prior to changing massing under formal PreDA process with Council
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Project 71 Gipps Street, Birchgrove NSW 2041
Lot 15 DP 81278

Date Thursday, 2 August 2018
5:03:30 pm

Drawing Shadow Studies - Equinox 12 midday

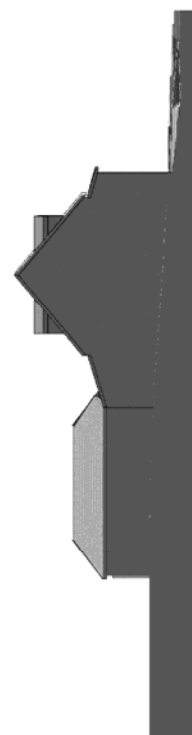
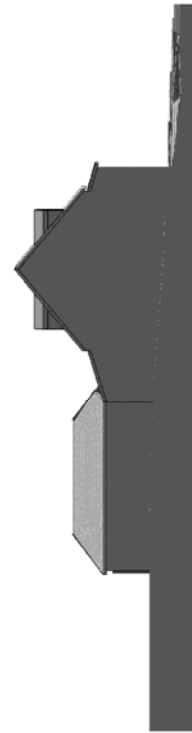
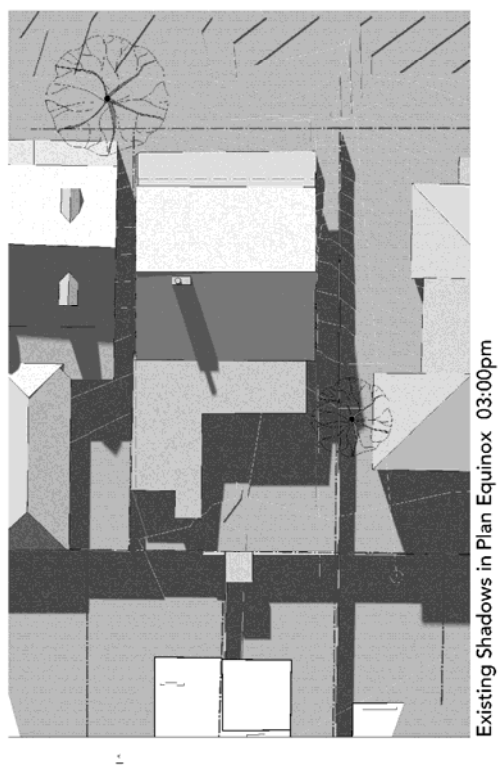
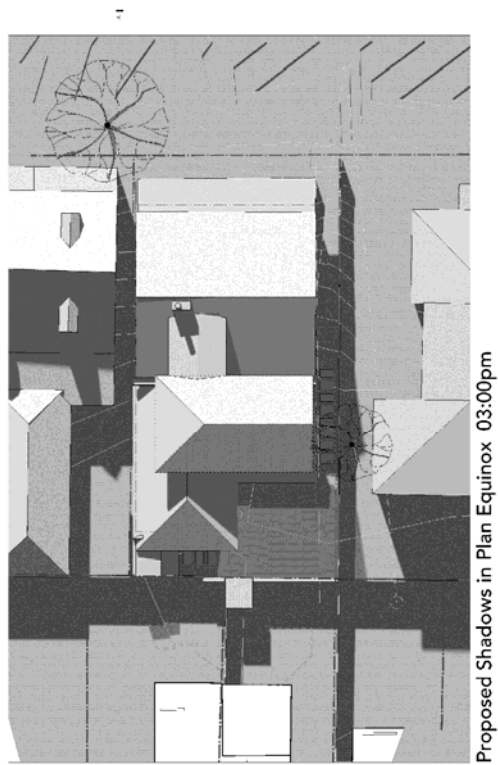
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Scale 1:200

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Dwg No. DA02 - 18 00

rev



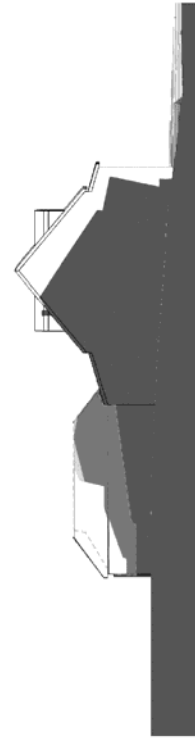
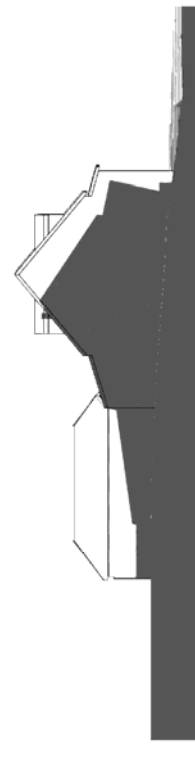
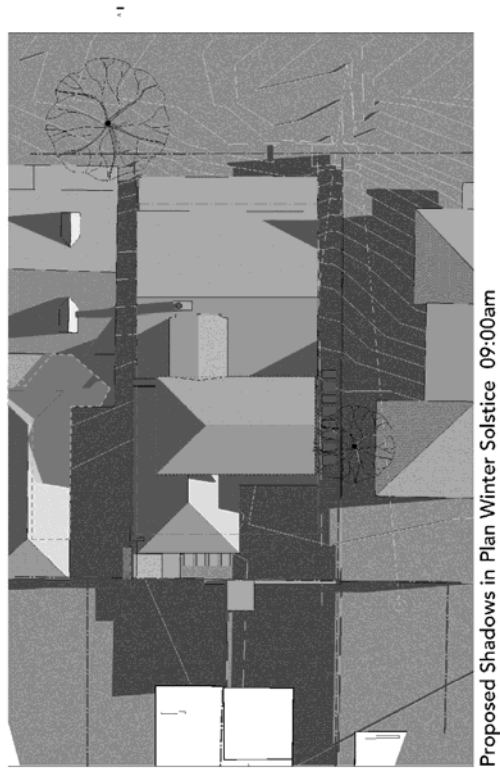
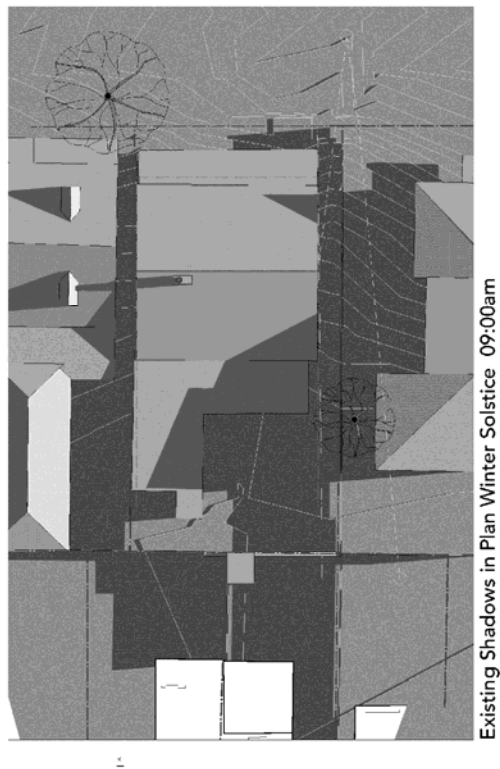
- additional shadow as a result of the proposed
- extent of additional overshadowing prior to changing massing under formal PreDA process with Council
- sunlight gained by relocating staircase
- sunlight on private open space gained as a result of the proposed



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Project 71 Gipps Street, Birchgrove NSW 2041
Lot 15 DP 81278
Issue Development Approval
Drawing Shadow Studies - Equinox 03pm
Date Thursday, 2 August 2018
5:03:30 pm
Scale 1:200 @ A3
Dwg No. DA02 - 19 00

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- additional shadow as a result of the proposed
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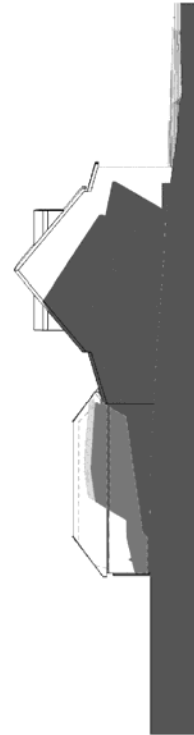
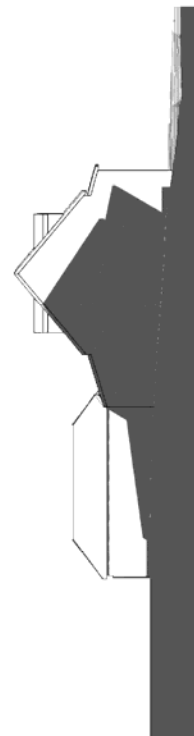
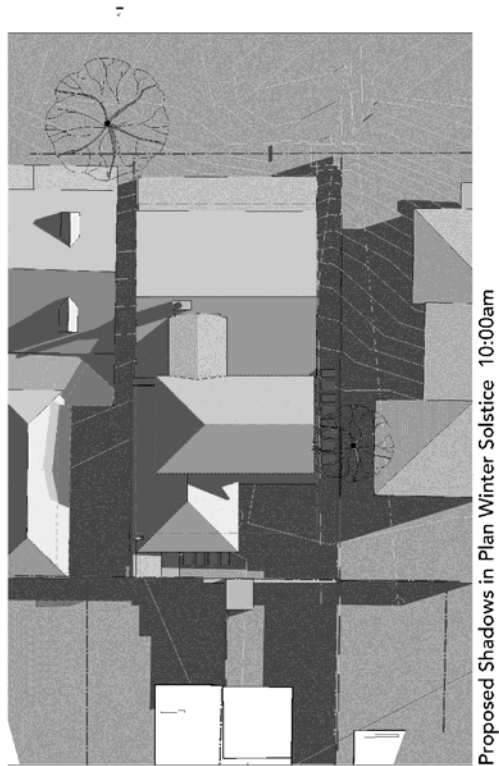
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Issue Development Approval
Date Thursday, 2 August 2018
5:03:30 pm
Scale 1:200 @ A3
Drawing Shadow Studies - Winter Solstice 9am
Dwg No. DA02 - 10 00

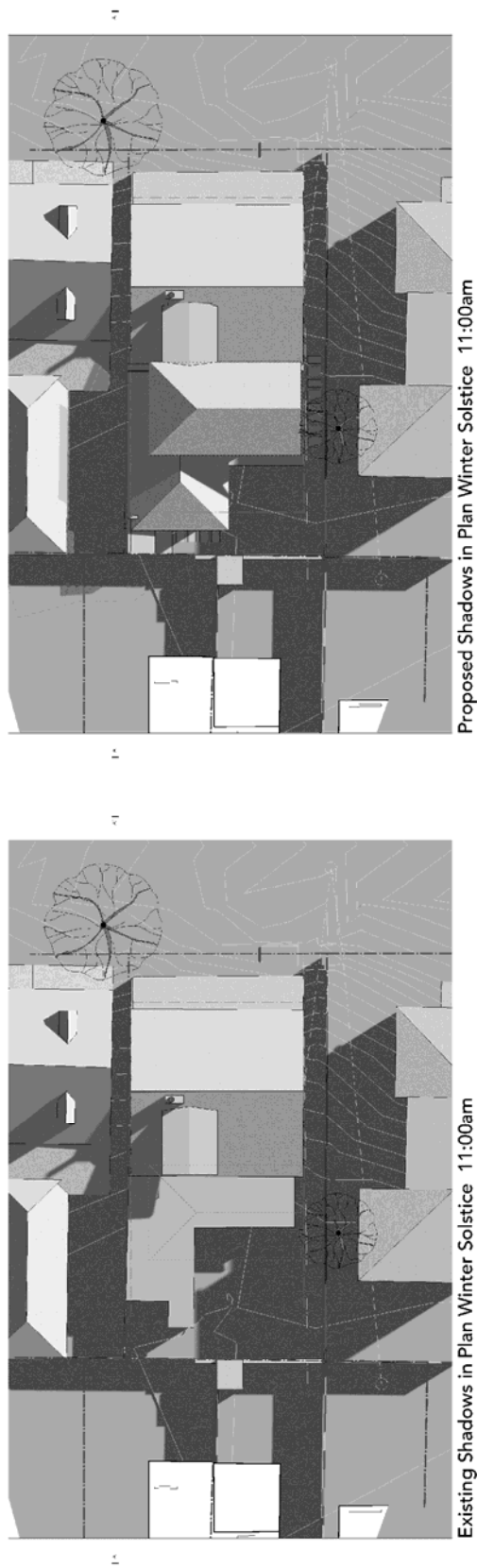


- additional shadow as a result of the proposed
- extent of additional overshadowing prior to changing massing under formal PWD process with Council
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Lot 15 DP 81278
Issue Development Approval
Scale 1:200 @ A3
Drawing Shadow Studies - Winter Solstice 10am
Date Thursday 2 August 2018 5:03:30 pm
Dwg No. DA02 - 11 00

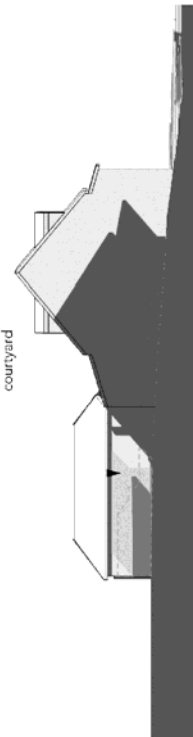
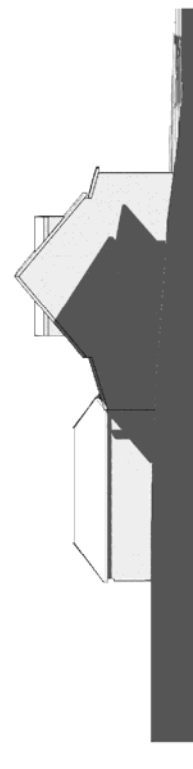
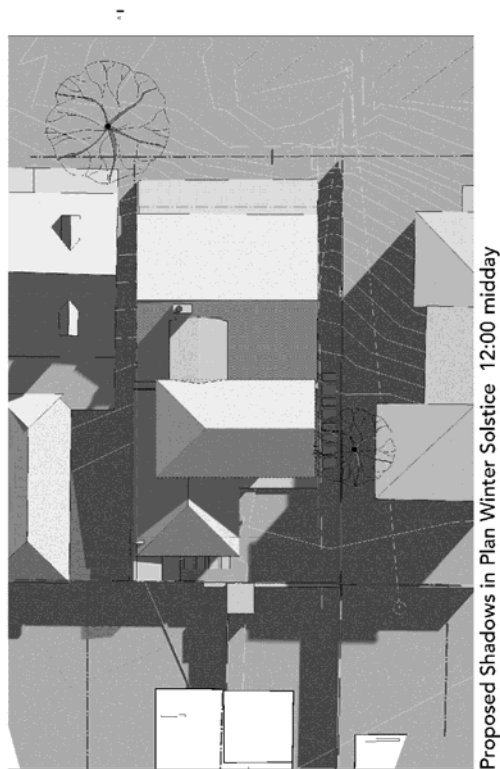
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Date Thursday, 2 August 2018
5:03:30 pm
Issue Development Approval
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Drawing Shadow Studies - Winter Solstice 11am
Dwg No. DA02 - 12 00

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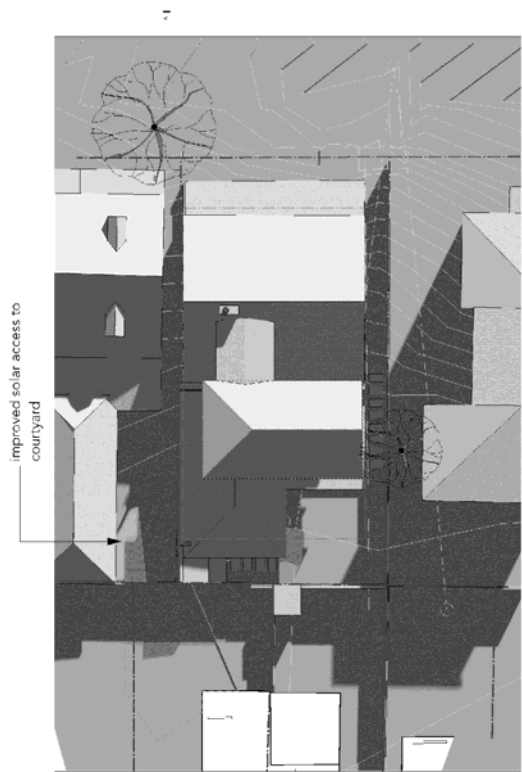
Note:
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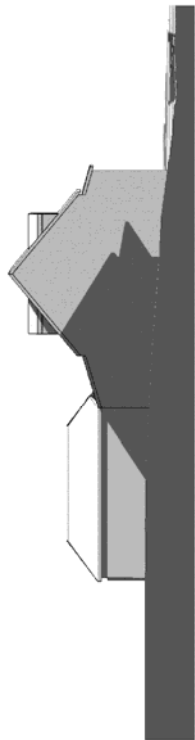
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Project 71 Gipps Street, Birchgrove NSW 2041
Lot 15 DP 81278
Issue Development Approval
Date Thursday, 2 August 2018
5:03:30 pm
Scale 1:200 @ A3
Drawing Shadow Studies - Winter Solstice 12 midday
Dwg No. DA02 - 13 00



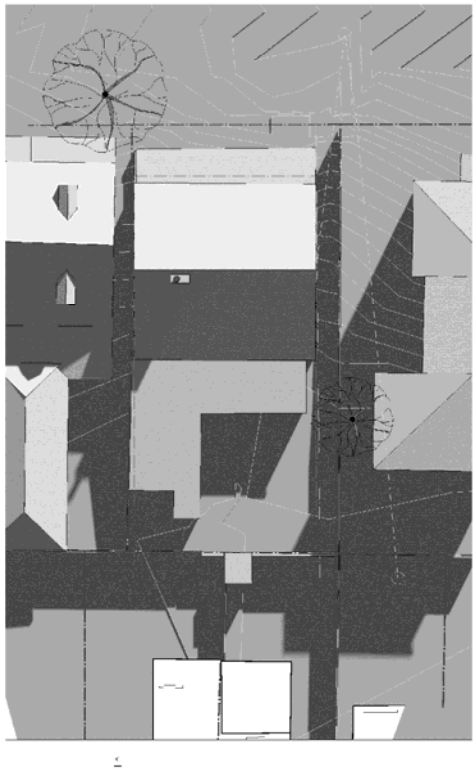
Proposed Shadows in Plan Winter Solstice 01:00pm



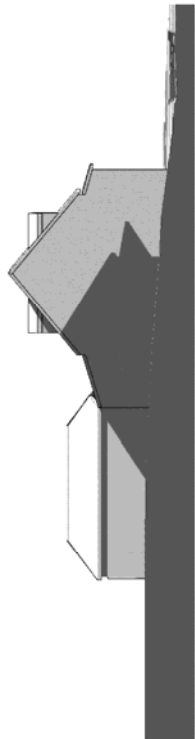
Proposed Shadows in Section (69 Gipps St) Winter Solstice 01:00pm



Notes:
This drawing has been prepared for development approval purposes only and is not for construction purposes



Existing Shadows in Plan Winter Solstice 01:00pm



Existing Shadows in Section (69 Gipps St) Winter Solstice 01:00pm

- additional shadow as a result of the proposed
- extent of additional overshadowing prior to changing marking under formal PECA process with Council
- sunlight gained by relocating staircase
- sunlight on private open space gained as a result of the proposed

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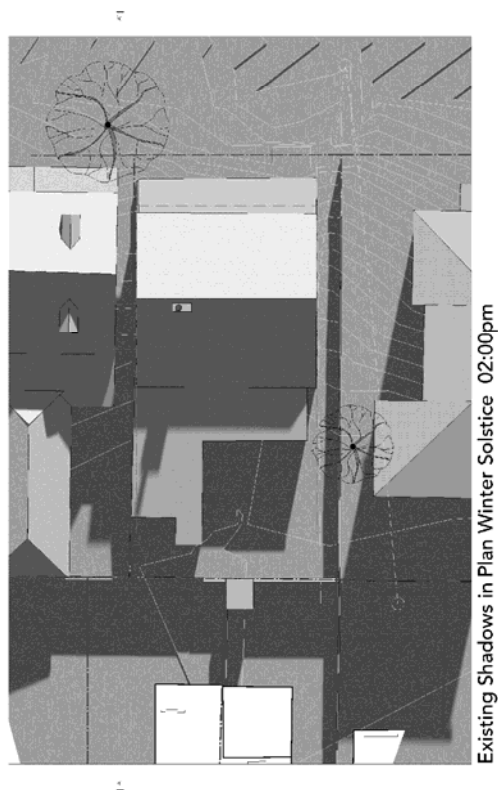
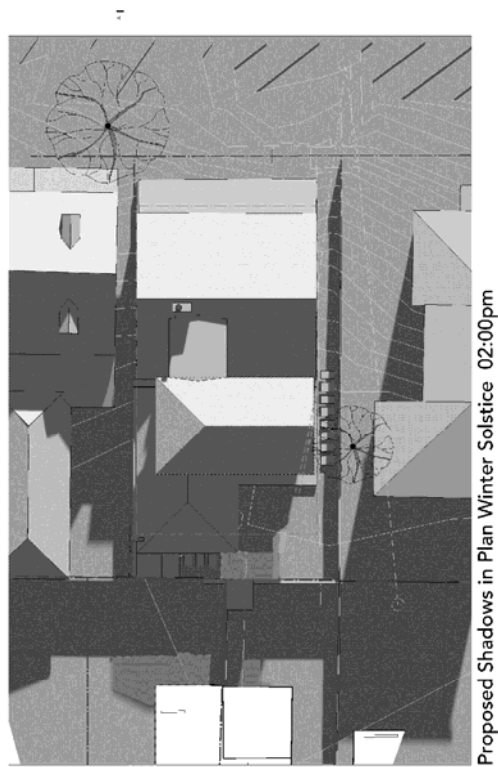
Date Thursday, 2 August 2018
5:03:30 pm

Issue Development Approval

Scale 1:200 @ A3

Drawing Shadow Studies - Winter Solstice 01pm

Dwg No. DA02 - 14 00

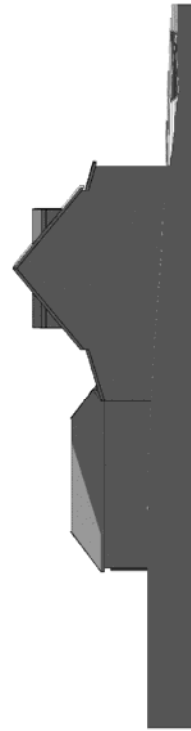
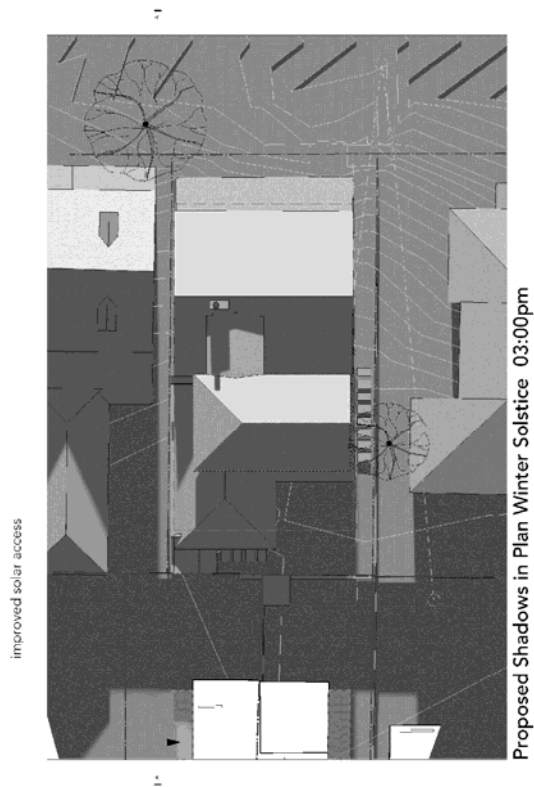


- additional shadow as a result of the proposed
- extent of additional overshadowing prior to changing making under formal PreDA process with Council
- sunlight gained by relocating staircase
- sunlight on private open space gained as a result of the proposed

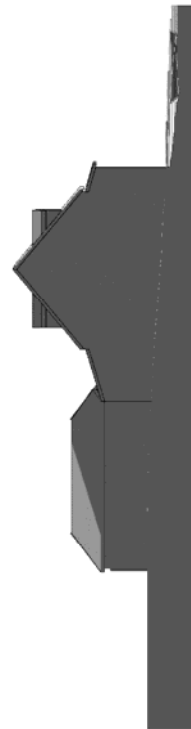
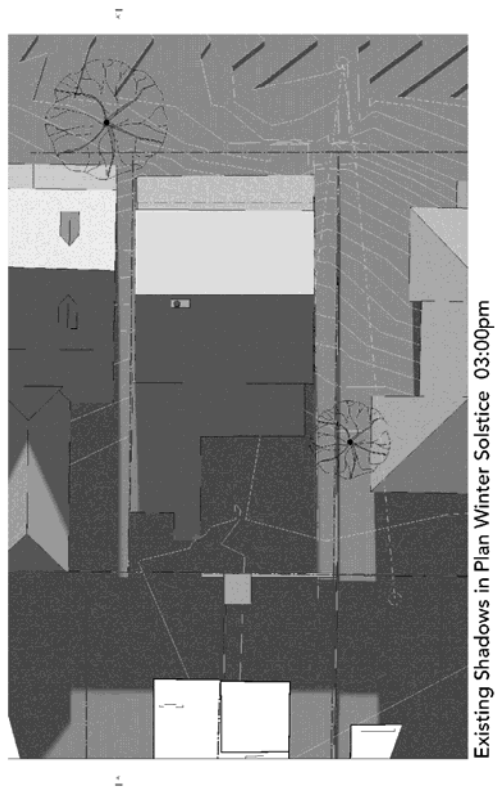
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Project 71 Gipps Street, Birchgrove NSW 2041
Lot 15 DP 81278
Issue Development Approval
Drawing Shadow Studies - Winter Solstice 02pm
Date Thursday, 2 August 2018
5:03:30 pm
Scale 1:200 @ A3
Dwg No. DA02 - 15 00

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- additional shadow as a result of the proposed
- extent of additional overshadowing prior to changing massing under formal PreDA process with Council
- sunlight gained by relocating staircase
- sunlight on private open space gained as a result of the proposed

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Scale 1:200 @ A3

Date Thursday, 2 August 2018
5:03:30 pm

Drawing Shadow Studies - Winter Solstice 03pm

Dwg No. DA02 - 16 00

Attachment C – Clause 4.6 Exception to Development Standard

7. Exception to Development Standard Request

As per clause 4.6 of the LEP a request is made for an exception to the following development standards.

7.1 LEP Clause 4.3A (2) (b) Landscaped Areas for Residential Accommodation in the R1 Zone

The proposed landscaped area on the site is compliant and exceeds the minimum requirement of 15% by approximately 3m². The maximum site coverage of 60% has been exceeded. The maximum site coverage permitted on the site is 202.3 x 0.6 = 121.56m². The existing site coverage is 107.115m². The proposed site coverage is 133.506 and exceeds the maximum site coverage under this control by 11.946m², a variation of 9.62%.

(1) The objectives of this clause are as follows:

- (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
- (b) to maintain and encourage a landscaped corridor between adjoining properties,
- (c) to ensure that development promotes the desired future character of the neighbourhood,
- (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
- (e) to control site density,
- (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

The primary reasons for non compliance are as follows:

1. The roof form of the original cottage is very low slung making it not possible to occupy existing roof space without modification to the roofline.
2. The original roof form of the existing cottage covers a significant area of the site.
3. Heritage Conservation objectives require new building additions to be located backward of the roofline of the original cottage. This has necessitated an extended building footprint in order to accommodate stairs to a new first floor addition and appropriately sized new living areas backward of the original cottage roof.

Compliance with the objectives of this clause are demonstrated as follows:

1. With the exception of c) and e) the objectives of this clause primarily relate to ensuring adequate provision of Landscaped Areas on this site for the purposes of garden space, private open space for recreation and water management. The proposed exceeds the minimum requirements for landscaped area and private open space on the site and has demonstrated good water management through the provision of a significant increase to permeable area on the site and rain water harvesting. There is also provision for a significant shade tree on the site. As such the objectives of a), b), d) and f) are met or exceeded despite non compliance with the site coverage control.
2. Objective c) relates to compatibility of the proposed with the desired future character of the area. The primary reason for non compliance with the site coverage control is in aid of meeting heritage conservation and desired future character objectives under the DCP. By locating the proposed additions backward of the

original cottage. The integrity of the cottage and the streetscape are preserved. As such the objective of c) is met despite non compliance with the site coverage control.

3. Objective e) relates to site density. The proposed building has an FSR of 0.641:1 which is significantly under the permissible FSR of 0.9:1. As such non compliance with the site coverage control does not afford greater site density. Non compliance in this case is primarily in aid of achieving objective d) relating to desired future character.

We suggest that the proposed non compliance should be considered acceptable on the following grounds:

1. Ordinarily, building mass on a site such as this would be concentrated over the existing building towards the front of the site or at least backward of the original cottage ridge line. This would minimise impact on neighbours and maximise private open space on the site. Heritage controls and desired future character requirements mean that new massing is not allowed to be located over the original cottage, necessitating an extended building footprint to accommodate appropriately sized living spaces and a staircase to a first floor bedroom. The rake and extent of the original cottage roof in this case also precludes occupying existing roof space as adjoining neighbours at 69 Gipps Street have done.
2. Despite non compliance with one aspect of the clause the objectives of the clause are met in all cases.
3. The site has achieved adequate landscaped area, private open space in excess of the minimum requirements, the ability to accommodate a shade tree and meet water management objectives, despite non compliance.
4. The proposed has significantly less floor area than is permissible under FSR controls for the site despite non compliance with site coverage controls.
5. The variation is within 10% of the requirements of the control.
6. Through consultation with Council via the PreDA advisory service and extensive shadow modelling the proposed has been sited to minimise impact on adjoining neighbours and to be compatible with the scale of development on adjoining sites as well as meet heritage conservation and desired future character objectives.
7. Reducing site coverage would not result in significantly greater amenity to adjoining neighbours in that a reduction in ground floor area would not result in significantly less overshadowing. The building form has also been designed to mirror adjoining development, maximise neighbours access to light and minimise wall heights where possible, particularly in close proximity to the boundary.

As such we suggest that non compliance with this aspect of the clause be considered acceptable in this case.

7.2 DCP Control C3.9 Solar Access

Whilst the DCP controls do not require a formal request in the same way that the LEP does. We take neighbour amenity and overshadowing very seriously and make the point that we are not proposing to impact on neighbours in this way without having explored all alternative options. We also seek to justify non compliance with similar rigour to that of an exception to an LEP control.

In relation to retaining solar access to neighbours private open space the following is required:

C16 Where surrounding dwellings have south facing private open space ensure solar access is retained for two hours between 9am and 3pm to 50% of the total area during the winter solstice.

Statement of Environmental Effect Proposed Alterations & Additions to 71 Gipps Street, Birchgrove NSW 2041

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