







INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	10.2019.19.1
Address	18, 18A & 18B Bay Street, Croydon
Proposal	Tree removal, relocation of driveway and amendment to existing easements.
Date of Lodgement	13 February 2019
Applicant	Reggie's Residential Design & Drafting
Owner	Mrs M Mottee
Number of Submissions	Two
Value of works	\$24,000.00
Reason for determination at Planning Panel	Heritage Item
Main Issues	Heritage, Tree Management, Vehicle Movement
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Statements of Heritage Significance
Attachment D	Conditions in the circumstance the application is approved



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for tree removal, relocation of the driveway and amendment to existing easements at 18, 18A and 18B Bay Street, Croydon. The application was notified to surrounding properties and two (2) submissions were received.

The main issues that have arisen from the application include:

- The application seeks to remove five (5) tree from the site without sufficient justification for their removal;
- The application seeks to remove three (3) trees from the site that are of high landscape and environmental significance; and
- Insufficient information has been provided to demonstrate safe vehicle movement along the proposed driveway.

Given the above, the application is not supported and refusal is recommended.

2. Proposal

Approval is sought to carry out the following works:

- Remove one (1) *Araucaria columnaris* (Cook Island Pine) tree located in the front setback of 18 Bay Street;
- Remove one (1) *Araucaria heterophylla* (Norfolk Island Pine) tree and one (1) *Araucaria cunninghamiana* (Hoop Pine) tree located in a garden bed on the eastern side boundary adjacent to 18A Bay Street;
- Remove one (1) *Magnolia grandiflora* (Bull Bay Magnolia) tree located beneath the Norfolk Island Pine and Hoop Pine trees;
- Remove one (1) *Cedrus Deodara* (Himalayan Cedar) tree located in front of the unit block at 18B Bay Street;
- Relocate the existing driveway to the eastern side of the property; and
- Amend the existing easements relating to the driveway.

3. Site Description

The subject site located on the southern side of Bay Street, between Croydon Road and Lang Street. The subject site contains the following properties:

- 18 Bay Street – Lot C in Deposited Plan 418190. 610sqm in area;
- 18A Bay Street – Lot 11 in Deposited Plan 1005170. 2,197.8sqm in area; and
- 18B Bay Street – Lot A in Deposited Plan 418190. 613.9sqm in area.

18 Bay Street and 18B Bay Street contain three (3) storey residential flat buildings. 18A Bay Street contains a single storey dwelling house and a two (2) storey dwelling house. The adjoining properties support single storey dwelling houses.

The subject site is located within a heritage conservation area under the provisions of Ashfield Local Environmental Plan 2013 (ALEP 2013), namely Rathgael Estate Conservation Area (C35).

18A Bay Street is listed as a heritage item under the provisions of ALEP 2013, namely Item No.364 – “House” and Item No.365 – “Stone Cottage”.



Image 1: Subject Site

4. Background

4(a) Site history

The following outlines the relevant development history of the subject site:

Subject Site

Application	Proposal	Decision & Date
6.1978.316.1	Alterations and additions to dwelling & garage/store	Approved – 19/09/1978
6.1974.9607.1	Balcony	Approved – 12/12/1974
6.1965.5441.1	New sunroom & rumpus room	Approved – 05/05/1965
6.1960.3284.1	8 residential flats	Approved – 30/08/1960

4(b) Application history

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

Date	Discussion / Letter / Additional Information
13/02/2019	Application lodged with Council
25/02/2019	Site inspection undertaken

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 (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Ashfield 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. CIWDCP 2016 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The proposal does not involve access to soils or a sensitive land use and is not of a nature which would require remediation in accordance with *SEPP 55*.

5(a)(ii) *State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)*

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection of trees identified under Comprehensive Inner West Development Control Plan 2016.

The application seeks consent for the removal of five (5) trees from the site that are protected under CIWDCP 2011. The issue of tree management is discussed later in this report under the provisions of Section 2, Chapter C of CIWDCP 2011.

It is considered that the removal of the trees has not been adequately justified, and further, would adversely affect the heritage significance of the heritage items and heritage conservation area and is not acceptable having regard to Clause 10(3)(d) of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

5(a)(iii) *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

5(a)(iv) Ashfield Local Environment Plan 2013 (ALEP 2013)Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned R2 – Low Density Residential under the provisions of ALEP 2013. The proposal, being ancillary to the existing residential uses is permissible within the zone.

The development is considered acceptable having regard to the objectives of the R2 – Low Density Residential zone.

Clause 5.10 – Heritage Conservation

The subject site is located within a heritage conservation area under the provisions of ALEP 2013, namely Rathgael Estate Conservation Area (C35)

18A Bay Street is listed as a heritage item under the provisions of ALEP 2013, namely Item No.364 – “House” and Item No.365 – “Stone Cottage”.

The *Araucaria columnaris* (Cook Island Pine) tree, *Araucaria heterophylla* (Norfolk Island Pine) tree *Araucaria cunninghamiana* (Hoop Pine) tree are of high landscape and environmental significance. The trees are of high retention value and contribute to the landscaping setting of the heritage item and are therefore worthy of preservation.

Removal of the significant trees to allow for the relocation of the driveway is not considered sufficient justification to remove the trees. As such, it is considered that the development has not been appropriately designed as not to impact upon the heritage significance of the site in accordance with Clause 5.10(4) of ALEP 2013.

5(b) Draft Environmental Planning Instruments

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

Draft Environment SEPP

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 the 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 the 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 against the following relevant provisions of the Comprehensive Inner West Development Control Plan 2016:

Section 2, Chapter A – Miscellaneous

Design Solution 11.1 of Section 2, Chapter A, Part 8 of CIWDCP 2016 requires driveways to be designed to allow vehicles to enter and leave the site in a forward direction. The proposed 70 metre long driveway which extends along the eastern boundary of the subject site serves numerous dwellings and units on the site.

Insufficient information has been submitted with the application to demonstrate that vehicles can enter and exit the site in a forward direction and therefore move safely throughout the site. As such, the development is not considered acceptable having regard to Design Solution 11.1 of Section 2, Chapter A, Part 8 of CIWDCP 2016.

Section 2, Chapter C – Sustainability

The application was referred to Council's Tree Management Officer who has objected to the proposed removal of five (5) trees from the site.

Inspection shows three (3) site trees with high landscape and environmental significance one (1) *Araucaria columnaris* (Cook Island Pine) located in the front setback of the property 18 Bay Street, one (1) *Araucaria heterophylla* (Norfolk Island Pine) and one (1) *Araucaria cunninghamiana* (Hoop Pine) located in a garden bed on the eastern, side boundary adjacent to 18A Bay Street.

Less significant site trees include one (1) *Magnolia grandiflora* (Bull Bay Magnolia) located beneath the canopies of the *Araucaria heterophylla* (Norfolk Island Pine) and the *Araucaria cunninghamiana* (Hoop Pine) and one (1) *Cedrus Deodara* (Himalayan Cedar) located in front of the Unit Block No 18B.

It is considered that insufficient information has been submitted to support the removal of the trees and that removal of the trees to allow for the relocation of the driveway (which is itself not property justified with adequate technical information) is not considered sufficient justification.

Given the above, it is considered that the application does not achieves the purpose of the Section 2, Chapter C, Part 4 of CIWDCP 2016.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in regards to the loss of significant trees within the heritage conservation area and as part of the heritage items and the loss of safe vehicle manoeuvrability on the site.

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

It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(f) Any submissions

The application was notified in accordance with the Comprehensive Inner West Development Control Plan 2016 for a period of 14 days to surrounding properties. A total of two (2) submissions were received with one (1) in support of the application.

The objection received raised concern regarding loss of privacy as a result of removal of the trees and the location of the existing letter boxes. The removal of the trees is not supported so no loss of privacy will be experienced. No change to the existing letter boxes is proposed as part of this application.

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 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.

Tree Management – The application was referred to Council's Tree Management Officer who objected to the removal of the trees for the reasons discussed above.

Engineering – The application was referred to Council's Engineer who raised objection to the relocation of the driveway given the loss of safe vehicle movement within the site.

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are not payable for the proposal.

8. Conclusion

The proposal does not satisfactorily demonstrate compliance with the aims, objectives and design parameters contained in Ashfield Local Environmental Plan 2013 and Inner West Comprehensive Development Control Plan (DCP) 2016.

The development would result in significant impacts on the amenity of the adjoining and subject premises/properties and the heritage significance of a listed heritage item and is not considered to be in the public interest.

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

9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. 10.2019.19.1 for Tree removal, relocation of driveway and amendment to existing easements.at 18, 18A & 18B Bay Street, Croydon for the following reasons:

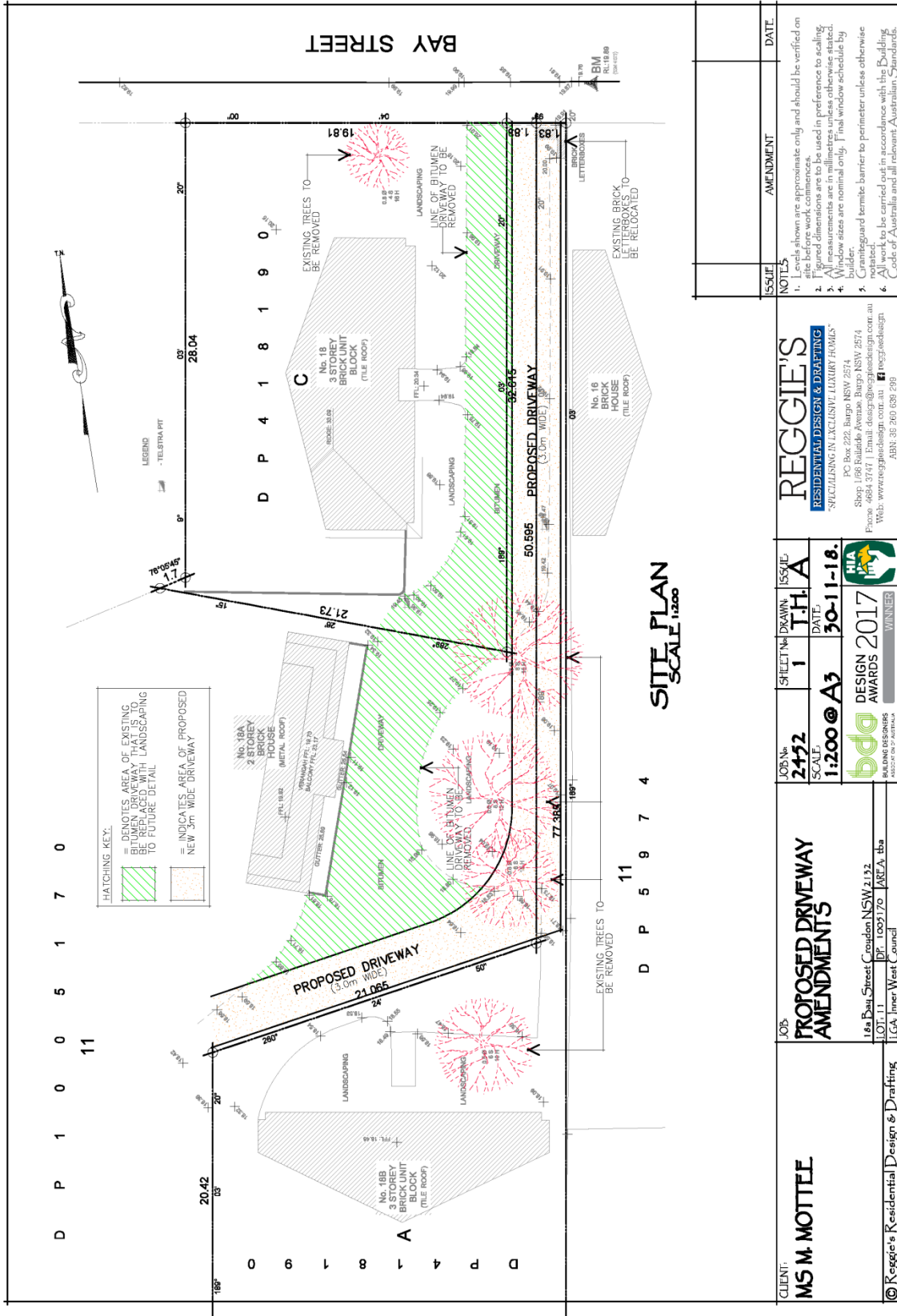
1. The removal of the trees adversely affect the heritage significance of the heritage items and heritage conservation area and is not acceptable having regard to Clause 10(3)(d) of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
2. The removal of the trees will impact upon the heritage significance of the site and therefore does not comply with Clause 5.10(4) of Ashfield Local Environmental Plan 2013.
3. Insufficient information has been submitted with the application to demonstrate that vehicles can enter and exit the site in a forward direction as part of the application and it therefore does not comply with Design Solution 11.1 of Section 2, Chapter A, Part 8 of the Comprehensive Inner West Development Control Plan 2016
4. Insufficient information and justification has been submitted to support the removal of the trees as part of the application and it therefore does not comply with Section 2, Chapter C, Part 4 of the Comprehensive Inner West Development Control Plan 2016.
5. Incomplete and insufficient information was submitted with the application relating to tree management and vehicle movement to enable a proper assessment of the likely impacts of the development in accordance with Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
6. It is considered that the proposal will have an adverse impact on the subject site and adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development pursuant to Section 4.15(1)(c).

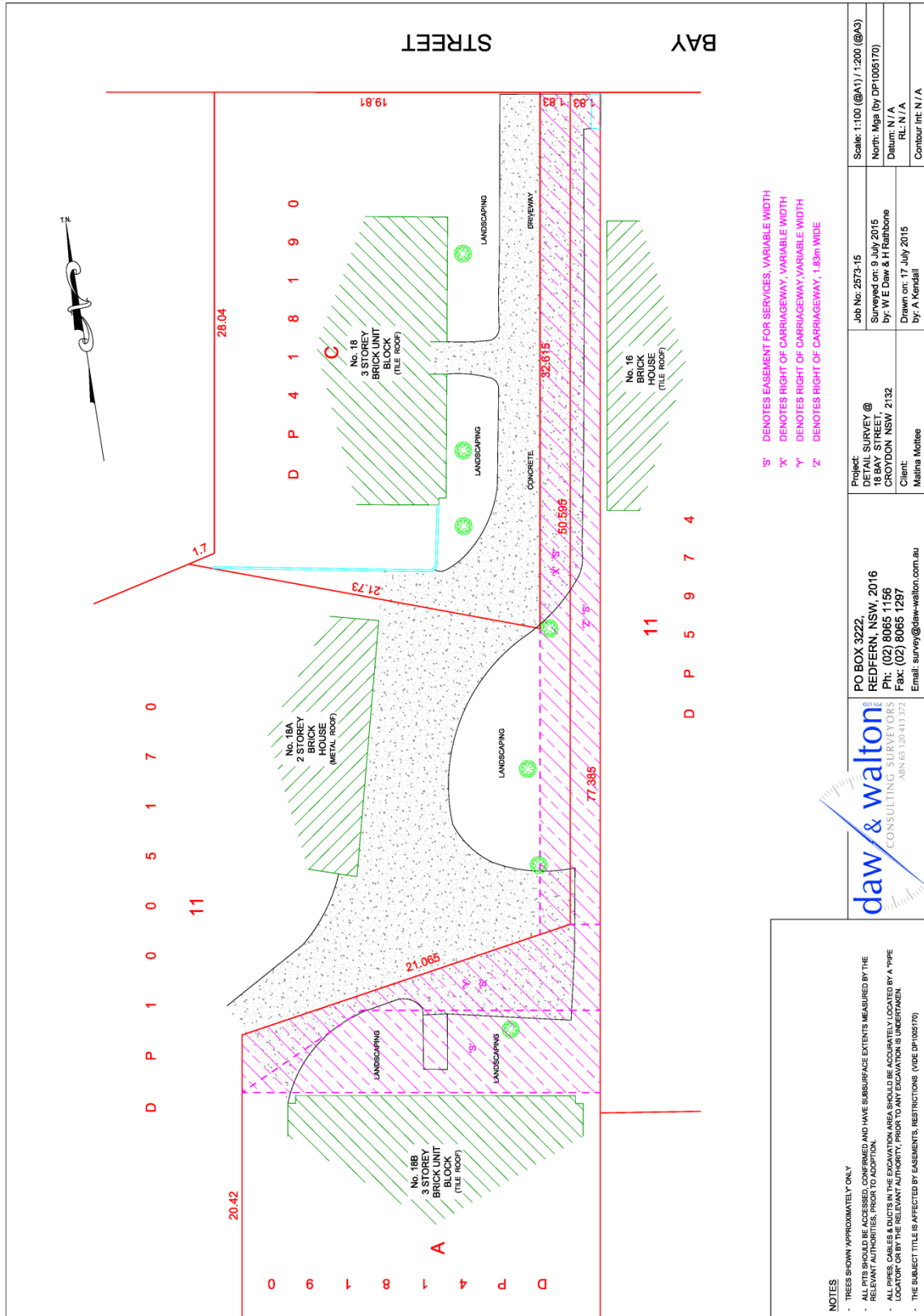
Attachment A – Reasons for refusal

Attachment A – Reasons for refusal

1. The removal of the trees adversely affect the heritage significance of the heritage items and heritage conservation area and is not acceptable having regard to Clause 10(3)(d) of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
2. The removal of the trees will impact upon the heritage significance of the site and therefore does not comply with Clause 5.10(4) of Ashfield Local Environmental Plan 2013.
3. Insufficient information has been submitted with the application to demonstrate that vehicles can enter and exit the site in a forward direction as part of the application and it therefore does not comply with Design Solution 11.1 of Section 2, Chapter A, Part 8 of the Comprehensive Inner West Development Control Plan 2016
4. Insufficient information and justification has been submitted to support the removal of the trees as part of the application and it therefore does not comply with Section 2, Chapter C, Part 4 of the Comprehensive Inner West Development Control Plan 2016.
5. Incomplete and insufficient information was submitted with the application relating to tree management and vehicle movement to enable a proper assessment of the likely impacts of the development in accordance with Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
6. It is considered that the proposal will have an adverse impact on the subject site and adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development pursuant to Section 4.15(1)(c).

Attachment B – Plans of proposed development





Attachment C- Statement of Heritage Significance

Attachment C – Statements of Heritage Significance

House, Rathgael

Item details

Name of item:	House, Rathgael
Type of item:	Built
Group/Collection:	Residential buildings (private)
Category:	House
Primary address:	18A Bay Street, Croydon, NSW 2131
Local govt. area:	Ashfield

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
18A Bay Street	Croydon	Ashfield			Primary Address

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Ashfield LEP 2013	384	23 Dec 13		
Heritage study					

References, internet links & images

None

Note: Internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

The information for this entry comes from the following source:

Name:	Local Government
Database number:	1020387

Stone Cottage

Item details

Name of item: Stone Cottage

Type of item: Built

Group/Collection: Residential buildings (private)

Category: Cottage

Primary address: 18A Bay Street (Rear), Croydon, NSW 2131

Local govt. area: Ashfield

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
18A Bay Street (Rear)	Croydon	Ashfield			Primary Address

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Ashfield LEP 2013	365	23 Dec 13		
Heritage study					

References, internet links & images

None

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

The information for this entry comes from the following source:

Name: Local Government

Database number: 1020388

Attachment D – Conditions in the circumstance the application is approved

Attachment D – Conditions in the circumstance the application is approved

A General Conditions

(1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers

No.	Issue	Title	Prepared by	Date
Sheet 1	-	Site Plan	Building Designers Association Australia	30/11/2018
2573-15	-	Detail Survey	Daw & Walton Consulting Surveyors	17/07/2015

and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

(2) Compliance with BCA

All works are to comply with the Building Code of Australia and relevant Australian Standard requirements.

B Design Changes

(3) Amendments required to approved plans

Nil

C Conditions that must be satisfied prior to issuing/releasing a Construction Certificate

(4) Waste Management Plan

Prior to the issue of a Construction Certificate, the applicant shall prepare and submit a Waste Management Plan in accordance with the provisions of Inner West Comprehensive Development Control Plan - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

- (a) Estimations of quantities and type of materials to be reused, recycled or left over for removal from site;
- (b) Identification on a plan of on site material storage areas during construction, waste storage, recycling and composting areas;
- (c) Details of construction materials and methods to be used to minimise the production of waste in the completion of the new building work.
- (d) How waste is to be treated on the site.
- (e) How any residual non-reusable and non-recyclable waste is to be disposed of and including details of the approved waste disposal outlets where disposal will take place.

(5) Erosion & sedimentation control-management plan

Prior to issue of a construction certificate the applicant shall prepare an erosion and sedimentation control plan in accordance with Part 4 of the guidelines titled "*Pollution Control Manual for Urban Stormwater*", as recommended by the Environmental Protection Authority.

Any stormwater runoff collected from the site must be treated in accordance with the Guidelines, before discharge off the site to comply with the *Protection of the Environment Operations Act 1997* or other subsequent Acts.

Where sedimentation control basins are provided discharge shall be to the requirements of the Environmental Protection Authority.

Applicants are further advised to refer to the following publications for additional information:

- (a) "*Sedimentation and Erosion Control*" - Department of Conservation and Land Management.
- (b) "*Soil and Water Management for Urban Development*" - Department of Housing.

The plan must be submitted with the application for a construction certificate.

Further information may be obtained from:

Environment Protection Officer
Environment Protection Authority
Inner Sydney Region
Locked Bag 1502
BANKSTOWN NSW 2200

(6) Permits – General

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.

(7) Dilapidation – minor

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.

(8) Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

(9) Security Deposit

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)	\$2,152.50
Inspection fee (FOOT)	\$230.65

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.

(10) Public Liability Insurance

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.

(11) Long service levy

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building of \$25,000.00 and over are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.

(12) Services and infrastructure adjustment/relocation

The applicant shall meet the full cost for Telstra, Sydney Water, Energy Australia, AGL Electricity/AGL Retail Energy or alternative service/energy providers to adjust/relocate their services/infrastructure as required. The applicant shall make the necessary arrangements with the relevant service authority or relevant retail energy company.

(For information on the location of services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the utility authorities/retail energy company confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate.

(13) Home Building Act 1989 Insurance

Compliance with Part 6 of *Home Building Act 1989* is required. A copy of either the Builders Home Warranty Insurance OR a copy of the Owner-Builder Permit shall be submitted to Council.

(14) Footpath/laneway – photographs to be submitted

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway, footpath and/or laneway at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard.

(15) Footpath, kerb and gutter protection

The applicant shall take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath shall be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

(16) Erosion, dust, topsoil and sediment control

Temporary measures shall be provided during construction eg. bunding, shade cloth to prevent dust leaving the site, sandbags around Council/private stormwater pits etc. in order to prevent sediment, dust, topsoil and polluted waters discharging from the site. Plans showing such measures shall be submitted and approved by Council/certifier prior to the release of the Construction Certificate.

(17) Payment of any Additional Fees

If the estimated cost of works for the construction certificate application exceeds the estimate supplied with the development application, an additional fee, any contributions and bonds based on the revised estimate must be paid to Council prior to release of the Construction Certificate.

(18) Tree Replacement Planting

The following trees must be planted:

A minimum of 5 x 75 litre size replacement tree, which will attain a minimum mature height of eight (8) metres, shall be planted in a more suitable location within the property at a minimum of 1.5m from any boundary or structure. The tree is to conform to AS2303—*Tree stock for landscape use*.

Note: any replacement tree species must not be a palm tree species or tree species listed as an exempt species under Council's Tree Management Controls.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

D Conditions that must be complied with before work commences**(19) Notice of Commencement – Notification of Works**

Work must not commence until the Principal Certifying Authority or the person having the benefit of the development consent has given Notification in Writing to Council no later than two days before the building work commences.

(20) Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (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 shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

Note: If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning &*

Assessment Act 1979. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

(21) Inspections required by Principal Certifying Authority

Inspections shall be carried out at different stages of construction by Council or an accredited certifier. If Council is selected as the Principal Certifying Authority (PCA) the inspection fees must be paid for in advance which will be calculated at the rate applicable at the time of payment.

(22) Sanitary facilities - demolition/construction sites

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(23) Site fencing/security

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

(24) Support for neighbouring buildings and notice to adjoining owners

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (a) must preserve and protect the building from damage, and
 - (b) if necessary, must underpin and support the building in an approved manner, and
 - (c) must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) 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 clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Notes:

- (i) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works.
- (ii) allotment of land includes a public road and any other public place.

(25) Demolition work plan

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the

precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

E **Conditions that must be complied with during construction or demolition**

(26) Plans to be available on site

The Council stamped approved plans, Development Consent and Construction Certificate shall be held on site to be produced unobliterated to Council's officer at any time when required.

(27) Locate structures within boundaries

The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment.

(28) Spoil and building materials on road and footpath

All building materials shall be stored wholly within the property boundaries and shall not be placed on the footpath, grass verge or roadway without prior written approval of Council.

Bulk refuse bins shall not be placed on the grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council's One Stop Shop telephone 9716 1800.

(29) Signs to be erected on building and demolition sites

(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; and
- (b) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.

(2) Any-sign shall be maintained and not removed until work has been finished.

(30) Demolition/excavation/construction - hours of work

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.

(31) Demolition requirements/standards

Demolition is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the SafeWork NSW.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the SafeWork NSW.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with SafeWork Requirements (in particular the SafeWork standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (eg; ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.

- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.
- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

(32) Footpath, kerb and gutter protection

The applicant is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath must be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

(33) Road opening permit – Council controlled lands

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is *separate* from a Damage Deposit as listed elsewhere in these Conditions of Consent.

(34) Tree Protection

No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

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

F Conditions that must be complied with prior to the issue of a Subdivision Certificate

(35) Section 73 Certificate

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

(36) Subdivision Plan to Show Easements and Right of Ways

Prior to the release of a Subdivision Plan, the Certifying Authority must be provided with evidence that all instruments under Section 88B of the *Conveyancing Act 1919* used to create easements or right-of-ways are shown.

G Conditions that must be complied with before the building is occupied**(37) Public Domain works**

All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

H Conditions that are ongoing requirements of development consents**(38) Tree Replenishment**

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.

I Advisory Notes**(39) Modifications to your consent - prior approval required**

Works or activities other than those authorised by the approval including changes to building configuration or use will require the submission and approval of an application to modify the consent under Section 4.55 of the *Environmental Planning & Assessment Act 1979*. You are advised to contact Council immediately if you wish to alter your approved plans or if you cannot comply with other requirements of your consent to confirm whether a Section 4.55 modification is required.

Warning: There are substantial penalties prescribed under the *Environmental Planning and Assessment Act 1979* for breaches involving unauthorised works or activities.

(40) Occupational health and safety

All site works must comply with the occupational health and safety requirements of the SafeWork NSW.

(41) Tree preservation

Where tree removal or work has not been approved by this Development Consent, the developer is notified that a general Tree Preservation Order applies to all trees (with the exception of certain species) in the Municipality of Ashfield with a height greater than five (5) metres. This order prohibits the ringbarking, cutting down, topping, lopping*, pruning, transplanting, injuring or wilful destruction of such trees except with the prior approval of the Council. Written consent from Council for such tree works must be in the form of a "Tree Preservation Order Permit for Pruning or Removal of Protected Trees" to be obtained from Council.

* Lopping may be carried out without consent only to maintain a minimum clearance of 500mm from power lines, pruning to remove dead wood/branches and minor pruning of branches overhanging buildings to a height of 2 metres only with the agreement of the owner of the tree. Contact Council's One Stop Shop - telephone 9716 1800, for details of the Tree Preservation Order.

(42) Relocation of stormwater drainage

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.