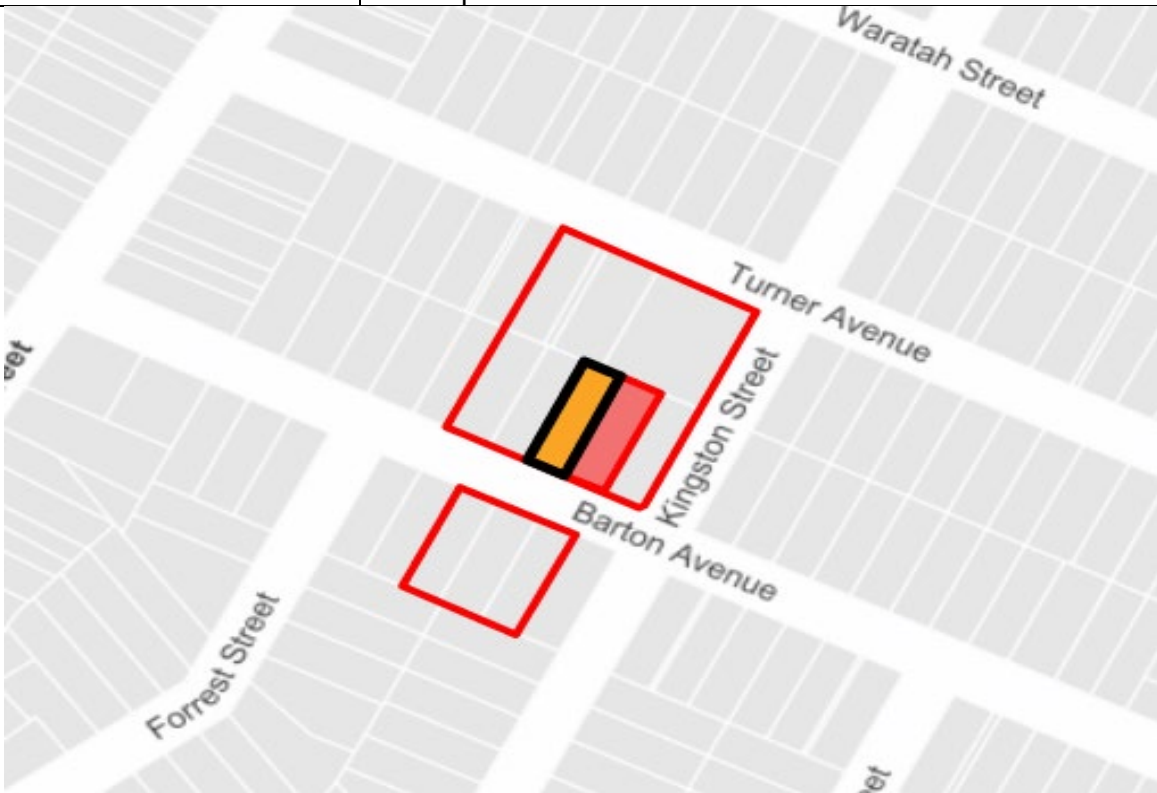




 DEVELOPMENT ASSESSMENT REPORT	
Application No.	REV/2020/0017
Address	27 Barton Avenue HABERFIELD NSW 2045
Proposal	Section 8.2 review of DA/2020/0323 for the construction of a carport.
Date of Lodgement	13 August 2020
Applicant	Mr James Salmon
Owner	Ms Connie M Zysek
Number of Submissions	2 objections
Value of works	\$12,000.00
Reason for determination at Planning Panel	S8.2 Review where recommendation is to uphold previous refusal.
Main Issues	Heritage conservation
Recommendation	Refusal
Attachment A	Plans of proposed development
Attachment B	Heritage Impact Statement
Attachment C	Draft Conditions (if review is upheld)
Attachment D	DA Report for DA/2020/0323
	
LOCALITY MAP	
Subject Site 	Objectors 
Notified Area 	Supporters 
Note: Due to scale of map, not all objectors could be shown.	

1. Executive Summary

A Development Application (DA/2020/0323) seeking consent to construct a single carport in front of the existing dwelling house was refused by Council under staff delegation on 22 June 2020 for the following reasons:

- 1. The proposal would detrimentally impact the character of the surrounding streetscape and Haberfield Heritage Conservation Area, is inconsistent with the original planned subdivision and garden setting of the Haberfield Heritage Conservation Area and therefore does not comply with Clause 5.10(4) of Ashfield Local Environmental Plan 2013.*
- 2. Vehicle access is available to the rear of the site and therefore the proposal does not comply with Chapter E2, Control 2.33(d) of the Comprehensive Inner West Development Control Plan 2016.*
- 3. The proposed carport does not comply with the minimum side setback required by Chapter F, Part 1, DS4.3 of the Comprehensive Inner West Development Control Plan 2016.*
- 4. The proposed carport is roofed and insufficient landscaping is provided on the site and therefore does not comply with Chapter F, Part, DS6.4 of the Comprehensive Inner West Development Control Plan 2016.*
- 5. 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 pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.*
- 6. In view of the substantiated objections to the proposal, the development is not in the Public Interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.*

A copy of the Assessment Report for DA/2020/0323 is included as Attachment D to this report.

The applicant has requested that Council review the determination made under Section 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

The application was notified to surrounding properties in accordance with Council's policy. In response, 2 objections were received.

The main issue that has arisen from the assessment of the application include:

- Conservation Area impacts.

As detailed within this report, the impacts resultant from the carport on the significance of the Haberfield Heritage Conservation Area (HHCA) are considered adverse and as such, the proposal is deemed unsupportable. Therefore, the application is recommended for refusal.

2. Proposal

The application seeks review of Determination No. 2020/0323 under Section 8.2 of the EP&A Act 1979. The application seeks consent for the following works:

- Construction of a free standing, timber car port with metal roof, located within the front setback/driveway of the property.

3. Site Description

The site is located on the northern side of Barton Avenue. The site consists of 1 allotment, which is generally regular in shape with a total area of approximately 645.9sqm and a frontage to Barton Avenue of approximately 14.3m. The site is legally described as Lot 145 in DP 130418.

The site is located within the Haberfield Heritage Conservation Area (HHCA) under the *Ashfield Local Environmental Plan 2013 (ALEP 2013)*.

The site currently supports a single storey dwelling house, with modern additions located at its rear. In addition, an inground swimming pool is located at the rear of the property.

The original front form of the dwelling house on the site is designed in a 'Federation' style, assumed to be dated from between 1913 to 1914. The front form of the dwelling house visible from the streetscape appears to retain several of its original features and makes a positive contribution to the streetscape and wider HCA. Well maintained garden areas are present within the front setback of the property.

Surrounding land uses are low density, residential in nature, including contributory single storey dwelling houses.



Figure 1: Zoning Map of the subject site (blue outline).

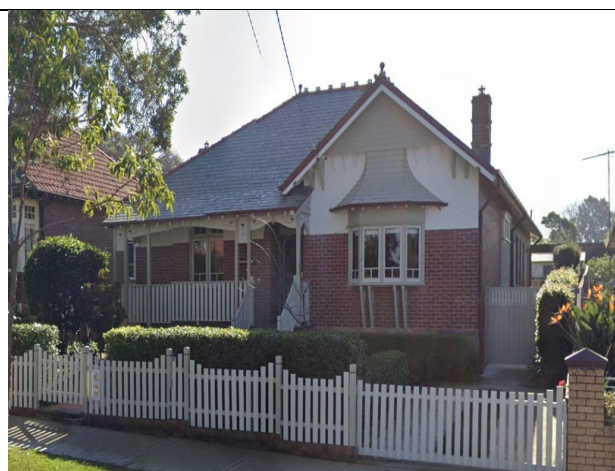


Figure 2: Site photo

4. Background

4(a) Site history

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

Date	Proposal	Decision
22/06/2020	Carport	Refused
17/06/2016	10.2016.93.1 – Construction of a pergola and carport	Withdrawn
17/06/2016	10.2014.282.2 – Addition of a dutch gable at the rear	Withdrawn
21/01/2015	10.2014.282.1 – Alterations and additions	Approved
25/11/2008	10.2008.120.1 – Alterations and additions	Approved
28/04/2006	10.2006.31.1 – Fencing	Approved

08/03/1999	10.1999.34.1 – Garden shed and gate	Approved
07/04/1998	6.1998.72.1 – Swimming pool	Approved
17/03/1998	5.1998.46.1 – Swimming pool	Approved
19/08/1997	5.1997.110.1 – Roof guttering	Approved

4(b) Application history

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

Date	Discussion / Letter / Additional Information
13/08/2020	Application lodged.
29/09/2020 to 16/10/2020	Application notified.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *EP&A Act 1979*.

5(a) Environmental Planning Instruments (EPIs)

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

- *State Environmental Planning Policy No. 55—Remediation of Land (SEPP 55)*;
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)*; and
- *Ashfield Local Environmental Plan 2013 (ALEP 2013)*.

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)*

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. The Inner West Comprehensive Development Control Plan 2016 (IWCDCP 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 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 (Vegetation in Non-Rural Areas) (Vegetation SEPP)*

The *Vegetation SEPP* concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of the IWCDCP 2016. The proposal will not impact existing significant vegetation on the site or within surrounding properties, as the proposed carport is located over an existing concrete driveway, with a strip of turf within its middle portion.

5(a)(iii) Ashfield Local Environment Plan 2013 (ALEP 2013)

The application was assessed against the following relevant clauses under the *Ashfield Local Environmental Plan 2013 (ALEP 2013)*:

Clause	Proposed	Compliance
Clause 1.2 Aims of Plan	The proposal is considered consistent with the relevant aims of the plan, except for the following: <ul style="list-style-type: none"> The proposed development fails to conserve the cultural heritage of the area and protect the urban character of Haberfield, as the carport detracts from the streetscape appearance and setting of the contributory dwelling house located on the site. Refer to further discussion under Section 5(d) below. 	No
Clause 2.3 Zone objectives and Land Use Table <i>R2 Low Density Residential</i>	The proposal satisfies this clause as follows: <ul style="list-style-type: none"> The existing dwelling house use on the site remains unaltered by the proposal; Dwelling houses are permissible with consent in the R2 Low Density Residential Zone; and The proposal is generally consistent with the relevant objectives of the zone. 	Yes
Clause 4.3 Height of building <ul style="list-style-type: none"> (max. 7m) 	The proposal complies with the maximum height of building standard, as the proposed carport is a maximum of 3.4m in height.	Yes
Clause 5.10 Heritage Conservation	Refer to further discussion under Section 5(d) below.	No
Clause 6.5 Development on land in Haberfield Heritage Conservation Area (HHCA)	The proposal is considered acceptable with respect to the standards applying to development on land within the HHCA as follows: <ul style="list-style-type: none"> No change to the appearance of the dwelling proposed; No gross floor area above the existing ground floor proposed; No excavation greater than 3m proposed; No dormer or gable windows proposed; and No change to the existing landscaped area proposed. 	Yes

5(b) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the *EP&A Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not particularly relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(c) Development Control Plans (DCPs)

The application has been assessed against the relevant provisions under the Inner West Comprehensive Development Control Plan 2016 (IWCDCP 2016):

Control	Standard	Proposed	Compliance
Chapter F – Development Category Guidelines			
Part 1 – Dwelling House and Dual Occupancy			
PC2. – Heritage	DS2.1 - Development of a heritage item or within a heritage conservation area identified in the <i>ALEP 2013</i> is consistent with, Part E – Heritage of this DCP Note: reflecting the importance of heritage to the LGA, Part E– Heritage takes precedence in the case of inconsistency with this part of the DCP	The proposal is not consistent with Part E – Heritage of this DCP. Refer to further discussion under Section 5(d) below.	No
PC4. – Building Setbacks	DD4.5 - To comply with BCA, generally 900mm for dwellings and 450mm for outbuildings	395mm eastern side setback proposed	No
PC6. Garages and carports	DS6.1 - A minimum of one car parking is required per dwelling DS6.4A car space may be considered between the front boundary and the front building line where: <ul style="list-style-type: none"> • It has no roof. • Is not possible to locate elsewhere on site. • Its floor pavement surface is sympathetic to the context. • A sufficient amount of front landscape garden area is provided. 	One proposed The proposal does not meet this provision as follows: <ul style="list-style-type: none"> • The carport is roofed; and • It appears access to the rear of the site is provided via the existing driveway. 	Yes No
Chapter E2 – Haberfield Heritage Conservation Area			
Section 2 – Detailed Planning Measures for Residential Properties			
Garages and Carports	2.33 Controls: b) New garages and carports are to be located at the back or at the side of the house. d) Carports but not garages forward of the building line may be permitted only in circumstances where access is not available to the rear.	Access is available at the rear of the site, via the existing driveway.	No

5(d) Address of Previous Reasons for Refusal

As evidenced by the assessment of the proposal against the relevant EPIs and DCP outlined above, the proposal does not comply with key planning controls relating to carports, which was found to be the case under the assessment of DA/2020/0323.

Notwithstanding the above, supplementary information was submitted with the subject application that provides examples of existing carports in the surrounding area. Based on the appearance and age of the examples provided, many appear not to have been constructed in recent years and are unsympathetic to the dwelling houses they serve; which is demonstrated by their bulk and scale, roof forms and materiality. In addition, it has not been confirmed that the examples provided have been lawfully approved by Council and the majority of which have restricted or no side access.

In any event, as the application has been made under the Section 8.2 provisions of the *EP&A Act 1979*, an analysis against the reasons for refusal issued under the original determination is provided hereafter:

1. *The proposal would detrimentally impact the character of the surrounding streetscape and Haberfield Heritage Conservation Area, is inconsistent with the original planned subdivision and garden setting of the Haberfield Heritage Conservation Area and therefore does not comply with Clause 5.10(4) of Ashfield Local Environmental Plan 2013.*

As it stands, the existing, Federation style, dwelling house makes a positive contribution to the character of the streetscape and the wider Haberfield HCA. This is evidenced by the original design features being present on the street facing portion of the dwelling house, including its verandah, entry stairs, bay window, materiality and landscaping; which all appear to be in relatively good condition. Also, the original siting and roof form of the dwelling house appears to have been conserved.

It is considered the construction of the carport would detract from the streetscape appearance of the dwelling house when viewed from the public domain and from within adjoining properties, as the location, materials, scale and height of the carport would dominate and compete with the original design features and form of the dwelling house. Also, the proposed carport would adversely impact the existing openness of the front landscaped area/garden of the property, which is a key characteristic of dwelling houses within the HHCA.

Further to the above, the proposed carport would appear as an anomaly with this portion of the Barton Avenue streetscape, as the majority of the surrounding dwellings, including both adjoining dwellings, do not include carports within their front setbacks and parking structures forward of the front building line are a highly atypical element in the Haberfield HCA.

Considering the above, the proposal is not supported on heritage conservation grounds.

2. *Vehicle access is available to the rear of the site and therefore the proposal does not comply with Chapter E2, Control 2.33(d) of the Comprehensive Inner West Development Control Plan 2016.*

The information supplied with the application outlines that only 2.3m of driveway width is provided between the dwelling house and the eastern boundary, thereby not providing for adequate room to allow for the exit from a vehicle within this area. However, based on the subject assessment of the plans submitted, it appears there is at least between 2.4m to 2.5m

width along the side passage/driveway between the dwelling house and eastern boundary, which is the same as the width of a parking space under the relevant Australian Standards.

In addition, it was highlighted that due to an approval by Council of an application for the construction of an inground swimming pool, located on the eastern boundary and near the end of the side access point/driveway, there is now insufficient area for a carport or garage to be constructed at the rear of the site. Further, it was argued that by Council approving this application, it knowingly removed access to the rear of the property.

It is considered the approval of the swimming pool by Council does not serve as adequate justification for providing support for the proposed carport. The application which consented to the swimming pool was assessed on its merits, which were found to be acceptable at the time, and was not required under relevant legislation, EPIs or DCPs to consider the potential restriction of vehicular access to the rear of the site.

Further, the above justification provided does not negate the adverse heritage conservation impacts resultant from the proposed carport on the existing contributory dwelling house, streetscape and the wider HHCA; as described earlier within this report. Also, at present, notwithstanding the presence of the existing swimming pool, access for a vehicle to the rear of the site is still achievable.

3. *The proposed carport does not comply with the minimum side setback required by Chapter F, Part 1, DS4.3 of the Comprehensive Inner West Development Control Plan 2016.*

Information supplied with the subject application outlined that certain provisions under the NCC do require compliance with the minimum side setback requirements, if the carport is open on two or more of its sides and does not have less than one third of its perimeter open. This claim could not be confirmed. In any case, the application is still not supported on heritage conservation grounds.

4. *The proposed carport is roofed and insufficient landscaping is provided on the site and therefore does not comply with Chapter F, Part, DS6.4 of the Comprehensive Inner West Development Control Plan 2016.*

The architectural plans submitted with the application still include a roof over the proposed carport, which is not permitted under the relevant provisions of the IWCDP 2016. However, the information provided with the application outlines that the applicant is willing to remove the roof of the proposed carport.

Notwithstanding the above, it is considered if the roof of the proposed carport were removed, its purpose would become redundant, as it does not provide shelter or protection for a vehicle. In addition, this outcome would also make the remaining elements of the carport, including its timber posts, become redundant as well. However, if the timber posts were to remain, it is considered adverse heritage/ streetscape impacts would still be present, as described above.

In terms of landscaping provision, based on the information provided, the proposal does not include the reduction of landscaping. Also, the carport is proposed over an existing concrete driveway, which includes a strip of turf within its middle portion. Therefore, the proposal as presented is considered satisfactory with respect to this issue.

5. *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 pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

As described earlier within this report, it is considered the proposed carport will still result in an adverse impact on adjoining properties and as such, the site is considered unsuitable to accommodate the proposal pursuant to Section 4.15(1)(c) of the *EP&A Act 1979*.

6. *In view of the substantiated objections to the proposal, the development is not in the Public Interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.*

Two (2) substantiated objections were received against the subject proposal, which are discussed further within this report. As such, it is considered that the proposal is not in the public interest pursuant to Section 4.15(1)(e) of the *EP&A Act 1979*.

5(e) The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have a adverse impacts upon the Haberfield HCA.

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

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

5(g) Any submissions

The application was notified in accordance with Council's Community Engagement Framework. In response, two (2) submissions were received.

The submissions received raised the following concerns, which have already been discussed throughout the main body of this report:

- (i) Heritage conservation impacts; and
- (ii) Compliance with parking structure controls.

In addition to the above, a submission raised the following concern, which is discussed under the heading below:

Concern	Comment
View loss Concern was raised that the proposal would result in the loss of existing views for adjoining properties.	It is considered that the proposed carport will not result in any loss of significant existing views from adjoining properties, given its siting and maximum height.

5(h) The Public Interest

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

In view of the substantiated objections to the proposal, the development is contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal section and issues raised in this referral have been discussed in section 5 above.

- Heritage & Urban Design.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions /7.12 levies are not payable for the proposal.

8. Conclusion

The proposal does not comply with key aims, objectives and design parameters contained within the relevant *ALEP 2013* AND *IWDCP 2016*.

The development would result in significant impacts on the heritage qualities and characteristics of the site, streetscape and surrounding HHCA and is not considered to be in the public interest.

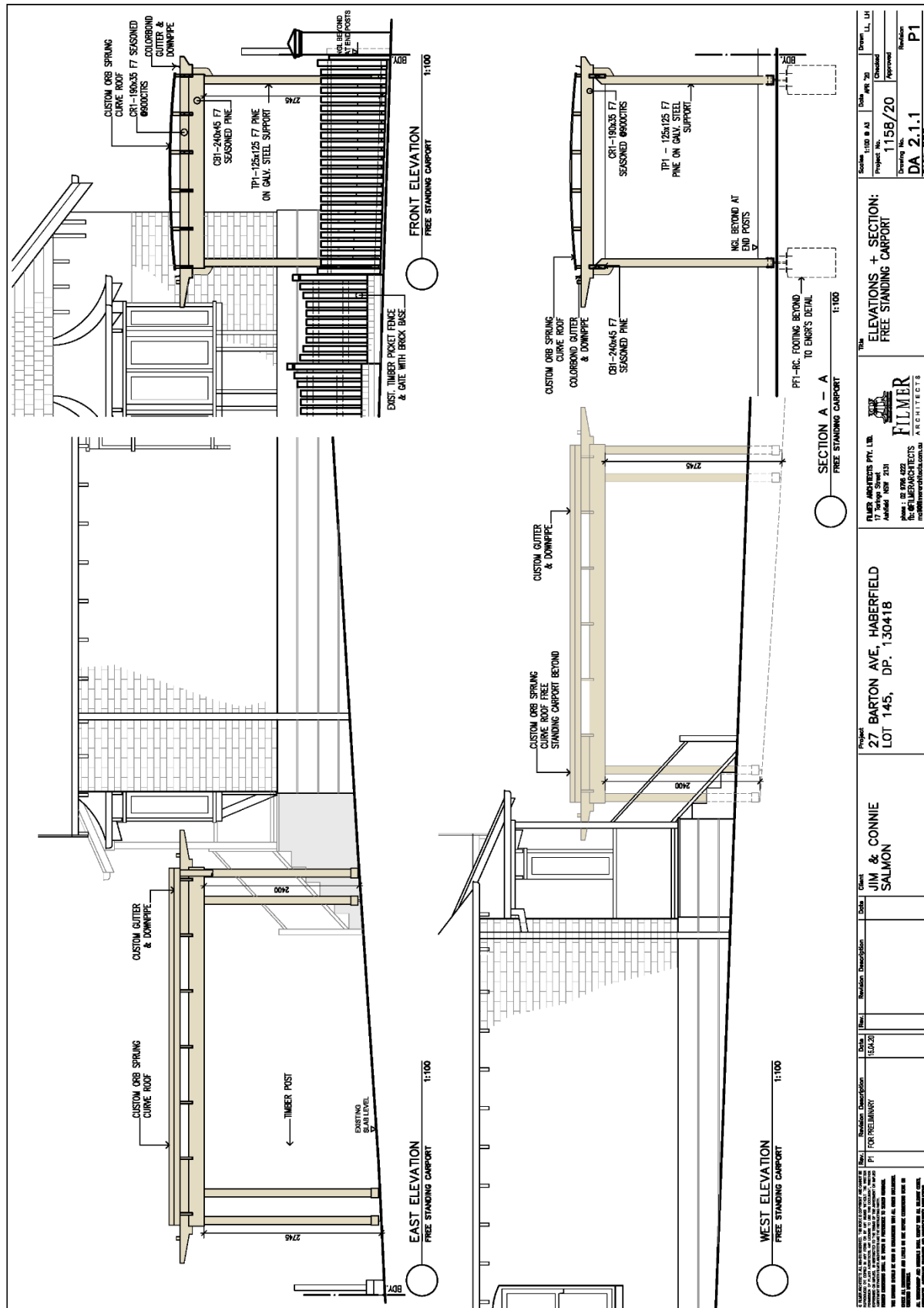
The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. 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 Section 8.2 Application No. REV/2020/0017 for review of refused DA/2020/0323 for the construction of a carport at 27 Barton Avenue Haberfield for the following reasons.
1. The proposal does not demonstrate that it satisfies Clause 1.2(c) and (f) - *Aims of Plan* of the *Ashfield Local Environmental Plan 2013*, pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.
 2. The proposal would detrimentally impact the character of the surrounding streetscape and Haberfield Heritage Conservation Area, is inconsistent with the original planned subdivision and garden setting of the Haberfield Heritage Conservation Area and therefore does not comply with Clause 5.10(4) of *Ashfield Local Environmental Plan 2013*.
 3. Vehicle access is available to the rear of the site and therefore the proposal does not comply with Chapter E2, Control 2.33(d) of the *Comprehensive Inner West Development Control Plan 2016*.
 4. The proposed carport does not comply with the minimum side setback required by Chapter F, Part 1, DS4.3 of the *Comprehensive Inner West Development Control Plan 2016*.
 5. The proposed carport is roofed and therefore does not comply with Chapter F, Part, DS6.4 of the *Comprehensive Inner West Development Control Plan 2016*.

6. 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 pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
7. In view of the substantiated objections to the proposal, the development is not in the Public Interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

[illegible]





PLAN SHOWING DETAIL & LEVELS
AT NO.27 BARTON AVENUE
HABERFIELD

[illegible]

Attachment B- Heritage Impact Statement

HERITAGE IMPACT STATEMENT 27 BARTON AVENUE, HABERFIELD



FILMER ARCHITECTS
mail@filmerarchitects.com.au

April 2020

Filmer Architects Pty. Ltd.

1. INTRODUCTION

1.1 Preamble

This Heritage Impact Statement (HIS) has been prepared to accompany an application for the construction of a covered pergola at 27 Barton Avenue, Haberfield, NSW.

No.27 is not listed as an individual heritage item in the Ashfield Local Environmental Plan 2013, (LEP) but it is within the Haberfield Conservation Area. Furthermore it is not in a streetscape that contains a heritage item.

Council requires the submission of a Statement of Heritage Impact (SOHI) for the proposed works as they are within a conservation area and works on the subject site may have a visual impact on the cultural significance of the place.

This statement has been prepared by Colin Filmer of Filmer Architects at the request of the owner, Ms C Salmon, and accompanies plans prepared by Filmer Architects Pty Ltd.

1.2 Heritage Statement

As it currently stands the subject site is considered to have a positive impact on the streetscape and on the character and appearance of the conservation area. The report concludes that the proposed works will not impact on the appearance of the building to the street and the building will maintain its positive contribution to the conservation area.

1.3 Limitations

The site is not listed as a heritage item, and as such no provision was made for a detailed history of the site. No historical archaeology was carried out on the site.



Filmer Architects Pty. Ltd.

2.0 ASSESSMENT OF SIGNIFICANCE (Heritage Office Criterion)

Criterion (a)

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)

27 Barton Avenue has some historical significance as it dates from 1913/14, the mid to late federation era. The intact elements of the building are representative of the significant development of the suburb at this time. It is considered a high level contributor to the Conservation Area.

Criterion (b)

An item has a strong or special association with the life works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)

The site does not attain the requisite standard of significance under this criterion.

Criterion (c)

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

No 27 has retained much of its original fabric in the frontage and in the main body of the house. For this reason it is important as it demonstrates aesthetic characteristics.

Criterion (d)

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

The site does not attain the requisite standard of significance under this criterion.

Criterion (e)

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)

There is no evidence to suggest that the subject building has any technical significance beyond that contained in the common building practice of the day.

Criterion (f)

An item possesses uncommon, rare or endangered aspects of New South Wales' cultural or natural history (of the cultural or natural history of the local area)

The site cannot be considered rare in the local area as there are similar style dwellings in the immediate vicinity.

Criterion (g)

An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments (or the class of the local area's cultural or natural places; or cultural or natural environments)

The building is representative of the Mid Federation style. As such the building attains the requisite standard of significance under this criterion.

Filmer Architects Pty. Ltd.

3.0 STATEMENT OF SIGNIFICANCE

The subject dwelling at 27 Barton Avenue, Haberfield contributes to the historical and aesthetic significance of the area.

Kulki renamed Jenngory, decorative timber brackets support the oriel window. Stylised floral design in timberwork. (Vincent Crow, Tours of Haberfield Part 1)

The house was constructed in 1913 – 1914 and has retained its original frontage including all of the original windows, interior detail, roof line and gable to Barton Ave. Because of its intactness it contributes well to the conservation area.

4.0 DESCRIPTION OF WORK

The following works are proposed for the site:

- Construct a covered pergola forward of the building line,

5.0 IMPACT STATEMENT

The Statement of Significance (above) has determined what elements of the site contribute to the conservation area. All of those elements will be retained by the proposed works.

The proposed location of the pergola is due to the inaccessible nature of the side driveway.

The overall width of the driveway (2.4m) does not allow car doors to be opened when parked.

To limit the visual impact the construction will be in the form of a timber pergola and have the appearance of a garden structure when viewed from the street. The metal roofing will be set back from the pergola edge to allow climbing plants to take hold. The impact of the front elevation of the house is minimal due to the elevated floor line and high foundation wall.

This report concludes that the proposal will maintain the significance of the place. As such the works are considered to have a positive impact on the Conservation Area.

FILMER ARCHITECTS PTY LTD

Attachment C – Draft conditions (if review is upheld)

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Drawing No. and Rev No.	Plan Name	Date Issued	Prepared by
Site & Roof Plan, DA 1.1.1, Rev. P1	Architectural Plans	April 2020	Filmer Architects
Elevations + Section: Free Standing Carport, DA 2.1.1, P1	Architectural Plans	April 2020	Filmer Architects

As amended by the conditions of consent.

GENERAL CONDITIONS

2. Waste Management Plan

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

3. Standard Street Tree Protection

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

4. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

5. Construction Fencing

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

DURING DEMOLITION AND CONSTRUCTION

6. Construction Hours – Class 1 and 10

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

7. Stormwater Drainage System

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained, including any absorption trench or rubble pit drainage system, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensure no concentration of flows or nuisance to other properties.

ADVISORY NOTES**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

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

Permits from Council under Other Acts

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

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

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

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

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au

WorkCover Authority of NSW

13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos
removal and disposal.

Attachment D – DA Report for DA/2020/0323

**Development Assessment Report**

Application No:	DA/2020/0323	Applicant:	James Salmon
Date of lodgement:	01 May 2020	Owner:	Ms Connie M Zysek
Assessing Officer:	Cameron Gray	Cost of works:	\$12,000.00
Peer Reviewer:	Jai Reid	Date of Determination:	22 June 2020
Subject Site:	27 Barton Avenue HABERFIELD NSW 2045		
Proposal:	Carport		

1. Synopsis

This report concerns an application for a carport. The application was notified in accordance with Council's Notification Policy and two (2) submissions were received in response to the initial notification.

The proposal does not comply with the applicable planning controls. The proposal will result in significant impacts on the streetscape.

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

2. Description of Proposal

The application seeks development consent to construct a single carport in front of the existing dwelling house.

3. Site and Surrounding Development

The subject site is located on the northern side of Barton Avenue, between Dalhousie Street and Kingston Street, Haberfield. The site area is approximately 654.9sqm with a primary frontage to Barton Avenue. An existing single storey dwelling house is located on the site.

Surrounding land uses are predominantly single storey dwelling houses.



Location plan



Site photo

4. Development History

Previous relevant building and development applications submitted to Council for the subject site include:

Date	Proposal	Decision
17/06/2016	10.2016.93.1 – Construction of a pergola and carport	Withdrawn
17/06/2016	10.2014.282.2 – Addition of a dutch gable at the rear	Withdrawn
21/01/2015	10.2014.282.1 – Alterations and additions	Approved
25/11/2008	10.2008.120.1 – Alterations and additions	Approved
28/04/2006	10.2006.31.1 – Fencing	Approved
08/03/1999	10.1999.34.1 – Garden shed and gate	Approved
07/04/1998	6.1998.72.1 – Swimming pool	Approved
17/03/1998	5.1998.46.1 – Swimming pool	Approved
19/08/1997	5.1997.110.1 – Roof guttering	Approved

5. Application History

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

Date	Major Interactions
16/06/2020	Request to withdraw the application issued to the applicant (detailed below)
18/06/2020	Applicant advised Council they wish to pursue determination of the application based on the information submitted

A request to withdraw the application was sent to the applicant on 16 June 2020. The withdrawal letter detailed the following reasons as to why the application could not be supported:

- Access to the rear of the house is available through a side driveway and as such, the proposed carport does not satisfy Council's controls for parking spaces forward of the building line in the Haberfield Heritage Conservation Area;
- The carport would detrimentally impact the character of the streetscape and surrounding Heritage Conservation Area;
- The proposed carport is roofed and insufficient landscaping is provided on the site and as such, the carport does not satisfy the requirements of parking structures forward of the building; and
- The proposed carport does not meet the minimum side setbacks required.

6. Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 4.15 of the *Environmental Planning & Assessment Act 1979* (EP&A Act 1979).

a) State Environmental Planning Policies

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

- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.*

(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. CIWDPC 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 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.

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

Vegetation SEPP concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council’s DCP.

The application will not impact any existing vegetation on the site.

b) Ashfield Local Environmental Plan 2013

The site is zoned R2 – Low Density Residential under the *Ashfield LEP 2013 (ALEP)*.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R2 – Low Density Residential zone.

The relevant matters to be considered under the *Ashfield Local Environmental Plan 2013* for the proposed development are outlined below.

Clause	Standard	Proposed	Compliance
Height of buildings	7m	3m	Yes
Floor space ratio	0.5:1	No change to the existing gross floor area proposed	N/A

Heritage Conservation	Located within the Haberfield Heritage Conservation Area (HCA)
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Standard	Proposed	Compliance
Must maintain a single storey appearance	No change to the appearance of the dwelling proposed.	Yes
Gross floor area above existing ground floor will not exceed the gross floor area of the existing roof space	No gross floor area above the existing ground floor proposed.	Yes
Gross floor area below the existing ground floor level will not exceed 25% of the gross floor area of the existing ground floor	No gross floor area below the existing ground floor proposed.	Yes
No excavation greater than 3m below existing ground level	No excavation greater than 3m proposed.	Yes
No dormers or gablets	No dormer or gablet windows proposed.	Yes
50% of site to be landscaped	44.07% (284.6sqm). No change to the existing landscaped area proposed.	N/A

Heritage

The site is located within the Haberfield Heritage Conservation Area. The application was accompanied by information addressing heritage management and impacts upon heritage significance. This documentation has been reviewed by Council's Heritage Advisor who raised objection to the application given the proposal does not satisfy Control 2.33(d) of Chapter E2 of the Comprehensive Inner West Development Control Plan 2016 in that access to parking is available to the rear of the site, as demonstrated in 1943 aerial images of the site which contain a garage at the rear of the site. It is not considered that the demolition of the garage and construction of a swimming pool is sufficient justification to alter the parking controls within the HCA.

Given the above, it is considered that the proposal would detrimentally impact the character of the surrounding streetscape and HCA, is inconsistent with the original planned subdivision and garden setting of the HCA and therefore does not comply with Clause 5.10(4) of *ALEP 2013*.

c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

d) Comprehensive Inner West Development Control Plan 2016

The proposal has been considered against the provisions of the Comprehensive Inner West Development Control Plan 2016.

Control	Standard	Proposed	Compliance
Setbacks	To comply with BCA, generally 900mm for dwellings and 450mm for outbuildings	395mm eastern side setback proposed	No
Garages and carports	<p>A minimum of one car parking is required per dwelling</p> <p>A car space may be considered between the front boundary and the front building line where:</p> <ul style="list-style-type: none"> It has no roof Is not possible to locate elsewhere on site Its floor pavement surface is sympathetic to the context A sufficient amount of front landscape garden area is provided 	<p>One proposed</p> <p>The proposed parking structure is roofed and insufficient landscaped area is provided on the site.</p>	<p>Yes</p> <p>No</p>
Solar access	<p>Sunlight to at least 50% (or 35m² with minimum dimension 2.5m, whichever is the lesser) of private open space areas of adjoining properties is not to be reduced to less than three (3) hours between 9am and 3pm on 21 June.</p> <p>Existing solar access is maintained to at least 40% of the glazed areas of any neighbouring north facing primary living area windows for a period of at least three hours between 9am and 3 pm on 21 June.</p>	<p>Neighbouring dwellings to retain the minimum required 3 hours of solar access</p> <p>Proposal generally retains existing solar access for neighbouring dwellings</p>	<p>Yes</p> <p>Yes</p>
Front gardens	Minimised hard paving. 3m max driveway width. Area for vegetation and trees.	No change to the existing front garden or driveway width proposed	Yes
Rear gardens	Area for vegetation and trees	No change to the existing landscaping in the rear yard proposed	Yes

Haberfield Controls			
Clause	Standard	Proposed	Compliance
Garages and Carports	Carports not garages forward of the building line may be permitted only in circumstances where access is not available to the rear.	Access is available to the rear of the site via a side driveway.	No

It is considered the application does comply with the parts as indicated and ultimately does not achieve the aims and objectives of the Comprehensive Inner West Development Control Plan 2016, particularly having regard to car parking and setbacks.

e) Referrals

The application was referred to the following internal referral bodies:

Referral body	Comments
Heritage specialists	See Part 5(b) above

f) Notification and Advertising

The application was advertised, an on-site notice was displayed on the property, and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. Two (2) submissions were received raising the following concerns which have already been discussed throughout the main body of this report:

- (i) Compliance with Council's controls for parking structures forward of the building line; and
- (ii) Impact on the Haberfield Heritage Conservation Area.

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

Concern	Comment
View loss	It is not considered that the proposed carport would result in the loss of any significant views.

g) The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have a significant adverse environmental, social and economic impacts upon the locality.

h) 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.

i) 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.

In view of the substantiated objections to the proposal, the development is contrary to the public interest.

7. Development Contributions



Section 7.11 contributions / 7.12 levies are not payable for the proposal.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained within the relevant environmental planning instruments and development controls plans.

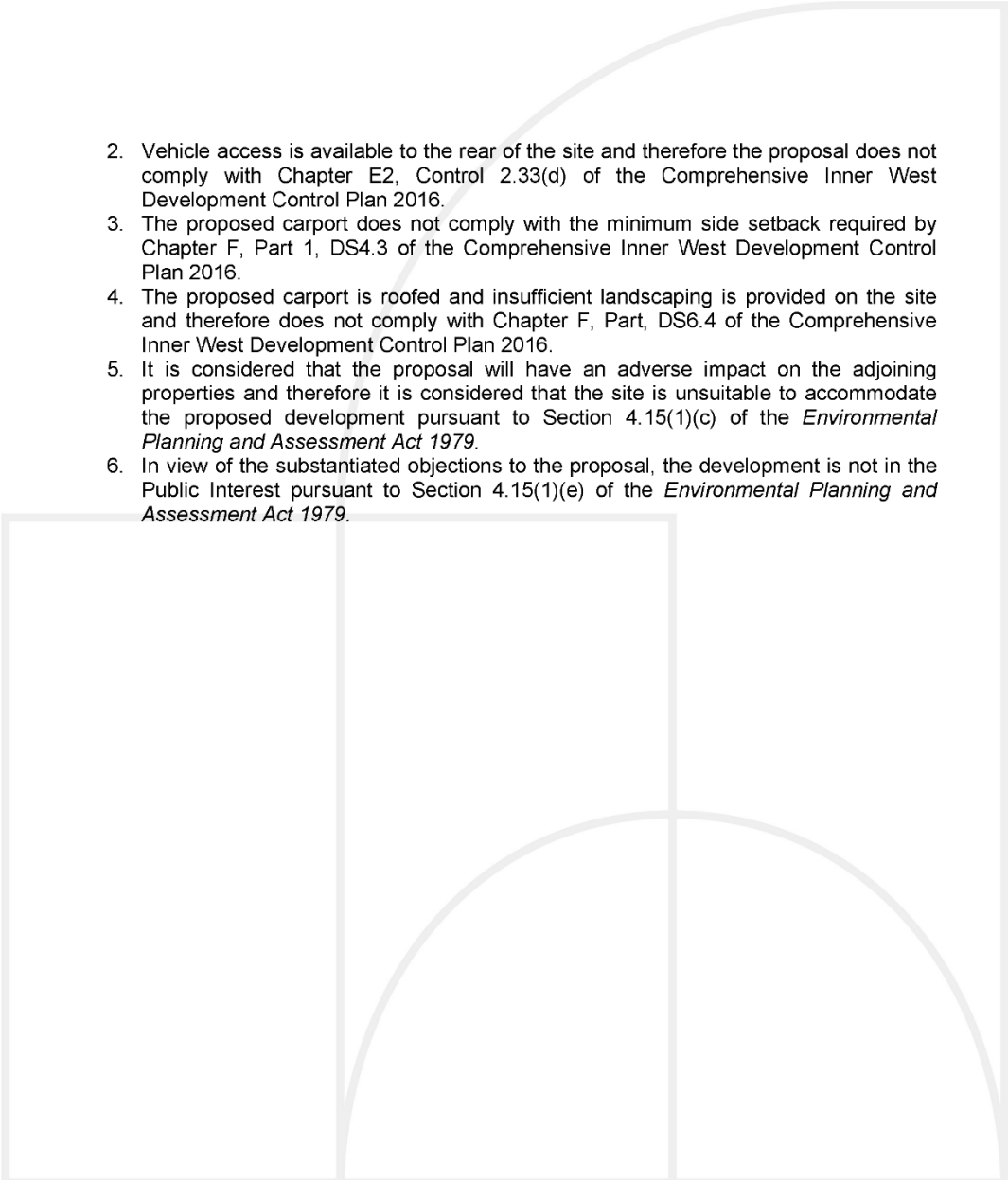
The development would result in significant impacts on the amenity of the adjoining properties and the streetscape and is not considered to be in the public interest.

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

Report prepared by Cameron Gray	Application Determined by Jai Reid
	
Assessment Planner	Team Leader 22 June 2020

9. Reasons for Refusal

1. The proposal would detrimentally impact the character of the surrounding streetscape and Haberfield Heritage Conservation Area, is inconsistent with the original planned subdivision and garden setting of the Haberfield Heritage Conservation Area and therefore does not comply with Clause 5.10(4) of *Ashfield Local Environmental Plan 2013*.

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2. Vehicle access is available to the rear of the site and therefore the proposal does not comply with Chapter E2, Control 2.33(d) of the Comprehensive Inner West Development Control Plan 2016.
 3. The proposed carport does not comply with the minimum side setback required by Chapter F, Part 1, DS4.3 of the Comprehensive Inner West Development Control Plan 2016.
 4. The proposed carport is roofed and insufficient landscaping is provided on the site and therefore does not comply with Chapter F, Part, DS6.4 of the Comprehensive Inner West Development Control Plan 2016.
 5. 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 pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
 6. In view of the substantiated objections to the proposal, the development is not in the Public Interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.