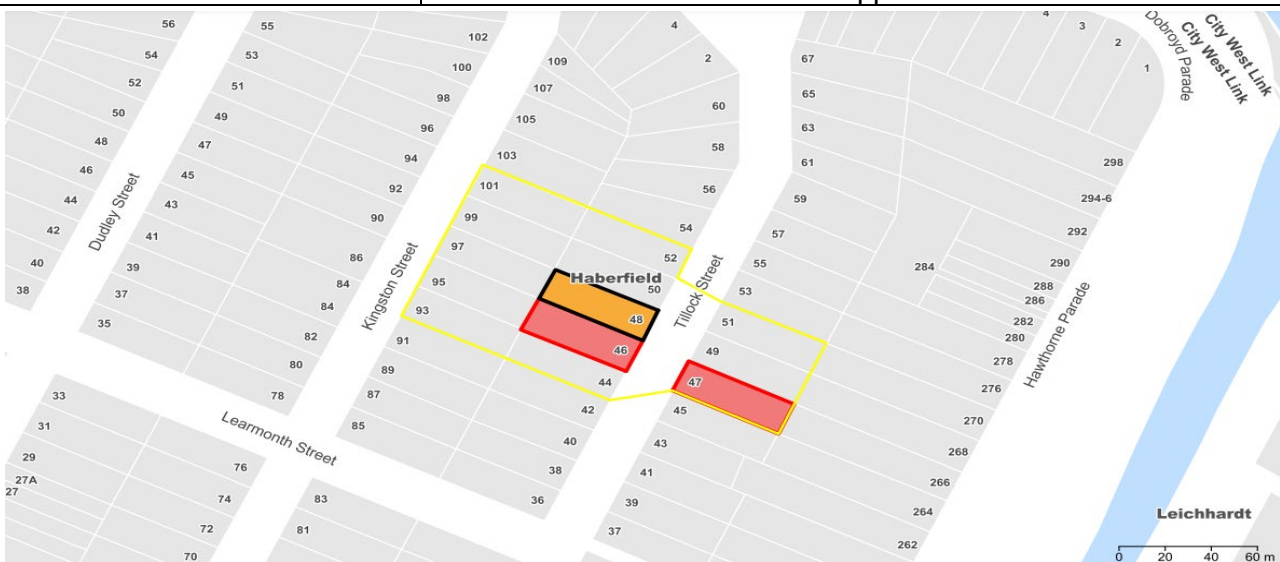






 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2022/0405
Address	48 Tillock Street HABERFIELD NSW 2045
Proposal	Alterations and additions to existing dwelling including lower ground level and additions
Date of Lodgement	26 May 2022
Applicant	Bayside Built
Owner	Mr Trent Thomas Mrs Alexandra R Thomas
Number of Submissions	Initial: 4
Value of works	\$1,000,190.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	<ul style="list-style-type: none"> • Landscaped Area • Impact on Haberfield Heritage Conservation Area • Siting, Setbacks and Pattern of Development
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance
Attachment E	Draft conditions in the event of approval
	
LOCALITY MAP	
Subject Site	   
Notified Area	 
Note: Due to scale of map, not all objectors could be shown.	

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling including lower ground level and additions at 48 Tillock Street Haberfield.

The application was notified to surrounding properties and 4 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Landscaped Area
- Impact on Haberfield Heritage Conservation Area
- Siting, Setbacks and Pattern of Development

The application fails to demonstrate the site is suitable for the proposed development. The application is unsupportable and in view of the circumstances, refusal of the application is recommended.

2. Proposal

The application proposes alterations and additions to the existing dwelling on site including a lower ground level and rear additions.

Specifically, the proposal involves the following works:

- Partial demolition of the existing ground floor level of the dwelling house including demolition of the existing rear addition;
- Demolition of the existing carport and garage;
- Excavation to enable a lower ground level that includes 2 car parking spaces, bike storage, storage rooms, equipment room, laundry, lift, roller door and a proposed driveway at the existing boundary;
- Addition to the rear of the existing dwelling house including lift, office, powder room, lounge, dining, kitchen, pantry and two bedrooms.
- Provision of solar panels on the proposed ground floor level roof extension;
- Landscaping and earthworks;
- Green roof proposed with Colourbond roofing, gutter and downpipe.

3. Site Description

The subject site is located on the western side of Tillock Street, between Crescent Street and Learmonth Street. The site consists of one allotment and is generally rectangular shaped with a total area of 696.7sqm and is legally described as Lot 23 Section 7 in DP 7508 being 48 Tillock Street, Haberfield.

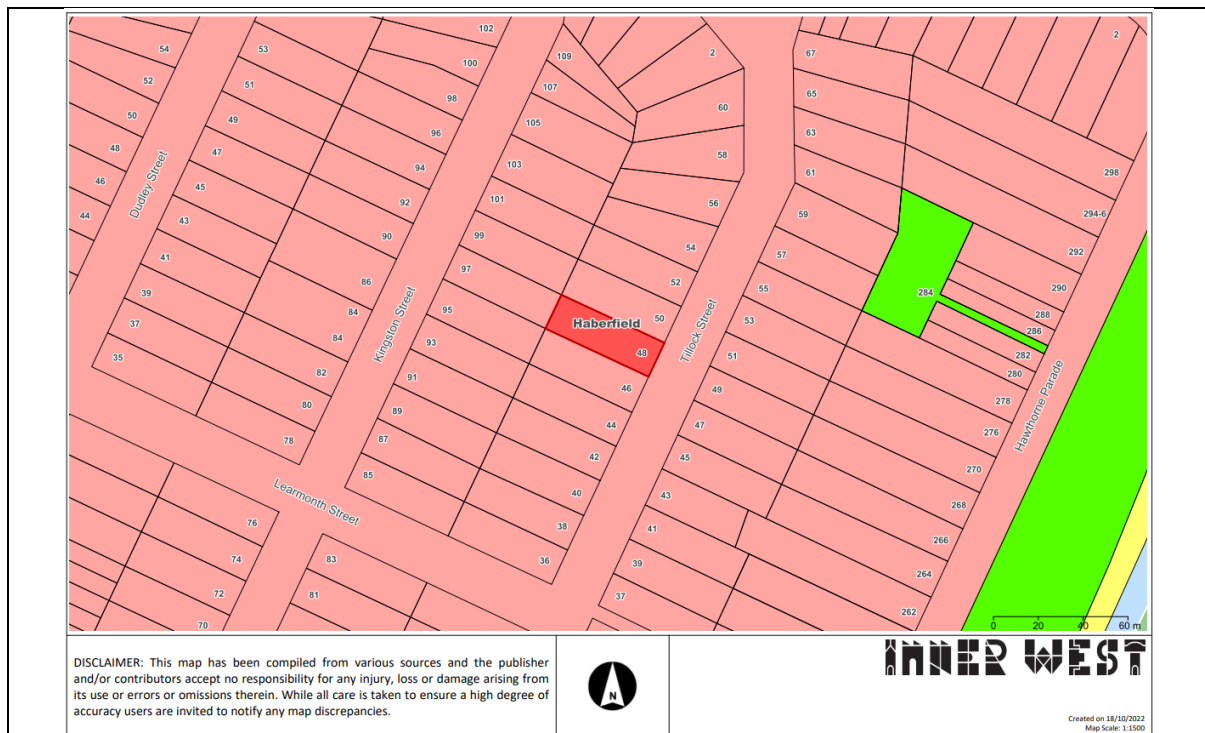
The site has a frontage to Tillock Street of 15.14 metres.

The site supports a single storey stone, brick and fibro cottage, fibro garage and metal shed. The adjoining properties support single storey dwelling houses.

The subject site is not listed as a heritage item however, the property is located within a heritage conservation area.

The following trees are located on the site and within the vicinity.

- *Celtis sinensis* (Hackberry) tree located at the rear of No. 46 Tillock Street



Land Zone Map



Aerial Map

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
PDA/2022/0060	Follow up PRE-DA: Alterations and additions to an existing dwelling including a rear extension	20/04/2022 – Advice Letter Issued
PDA/2021/0455	Alterations and additions to an existing dwelling including a rear extension	07/02/2022 – Advice Letter Issued

Surrounding properties

46 Tillock Street

Application	Proposal	Decision & Date
010.2018.00000206.001	Alterations and additions to existing dwelling including rear extension, new garage, carport and associated works	14/04/2019 Approved - Local Planning Panel

50 Tillock Street

Application	Proposal	Decision & Date
009.2019.00000045.001	Alterations and additions to the existing dwelling	06/09/2019 – Advice Letter Issued
010.2011.00000019.002	s96 modification to DA 10.2011.19.1	12/05/2014 Approved
010.2011.00000019.001	Dwelling (Alts. & Adds)- Alterations and additions to the dwelling house, subfloor garage and front retaining wall at 50 Tillock Street, Haberfield.	25/03/2011 Approved

4(b) Application history

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

Date	Discussion / Letter / Additional Information
07/06/2022	Application lodged.
14/06/2022 28/06/2022	- Application notified.
16/08/2022	Request for additional information sent to applicant raising the following concerns: <ul style="list-style-type: none"> - Non-compliance with Clause 6.5 (3)(b) of the ALEP 2013 – Excavation greater than 3m. - Non-compliance with Clause 6.5 (3)(d) of the ALEP 2013 – Landscaped area less than 50% - Heritage and Urban Design

	<ul style="list-style-type: none"> - Scale and siting of rear addition and inconsistency with pattern of development - Extent of basement - Tree Impacts
02/09/2022	<p>Additional information lodged with Council including:</p> <ul style="list-style-type: none"> - Revised heritage statement - Revised architectural drawings - Root investigation statement - Stormwater statement and drawings - Structural statement and drawings - Revised landscape plan
07/10/2022	<p>Letter provided to applicant providing an opportunity to withdraw the application due to the following outstanding matters:</p> <ul style="list-style-type: none"> - Non-compliance with Clause 6.5 (3)(d) of the ALEP 2013 – Landscaped area less than 50% - Heritage and Urban Design - Scale and siting of rear addition and inconsistency with pattern of development - Extent of basement
10/10/2022	<p>Council officers met with the applicant to discuss the concerns raised in the letter dated 07/10/2022</p>
13/10/2022	<p>Further email correspondence with the applicant advising that the application would be determined and recommended for refusal.</p>

Amended plans were received during the assessment of the application. Renotification was not required in accordance with Council’s Community Engagement Framework. The amended plans are the subject of this report.

5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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

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

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

A search of Council's records in relation to the site has not indicated that the site is one that is specified in Section 4.6 (4)(c).

A search of Council's records does not indicate any knowledge or incomplete knowledge of uses listed within Table 1 of the contaminated land planning guidelines.

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

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

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

5(a)(ii) *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

Chapter 2 Vegetation in non-rural areas

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

The application seeks the removal of vegetation from within the site or on Council land. The application was referred to Council's Tree Management Officer whose comments are summarised as follows:

- Note - Tree 4 is recommended for removal in the AIA however this tree is shown for retention on the Landscape Plan and Architectural Plans. Mango trees are on the Tree Minor Works list and therefore consent for removal is provided.
- Canopy trees are required in accordance with Controls 8 and 11 of the Tree Management DCP.
- Overall, the additional information has been reviewed and the application can be supported subject to recommended conditions.

Therefore, the proposal is considered acceptable with regard to the provisions of the SEPP.

5(a)(iii) Local Environmental Plans

Inner West Local Environmental Plan 2022

The *Inner West Local Environmental Plan 2022 (IWLEP 2022)* was gazetted on 12 August 2022. As per Section 1.8A – Savings provisions, of this Plan, as the subject application was made before the commencement of this Plan, the application is to be determined as if the *IWLEP 2022* had not commenced.

Section 4.15(1)(a)(i) of the *EPA Act 1979* requires consideration of any Environmental Planning Instrument (EPI), and Section 4.15(1)(a)(ii) also requires consideration of any EPI that has been subject to public consultation. The subject application was lodged on 07/06/2022, on this date, the *IWLEP 2020* was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

The *IWLEP 2020* contained provisions which amended Clause 1.2 - Aims of the Plan and Clause 5.10 – Heritage Conservation and the application was assessed against the following relevant clauses of the draft *IWLEP 2020*:

(i) Clause 1.2 – Aims of Plan

The proposal is inconsistent with the relevant aims of the plan, in particular Clause 2(i) and 2(j) as the application has failed to demonstrate that it will not have an adverse impact on environmental heritage and local character of the inner West.

(ii) Clause 5.10 Heritage Conservation

The proposal fails to satisfy objectives 1(a) and 1(b) of Clause 5.10 of *IWLEP 2022* as the proposal has not been appropriately designed to minimise impacts on the Haberfield Heritage Conservation Area for reasons discussed throughout this report.

Ashfield Local Environmental Plan 2013 (ALEP 2013)

The application was assessed against the following relevant sections of the *Ashfield Local Environmental Plan 2013*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives

- Section 2.7 - Demolition
- Section 4.3 - Height of buildings
- Section 4.4 - Floor space ratio
- Section 4.5 - Calculation of floor space ratio and site area
- Section 4.6 - Exceptions to development standards
- Section 5.10 - Heritage Conservation
- Section 6.1 - Earthworks
- Section 6.5 - Development on land in Haberfield Heritage Conservation Area

(i) Section 2.3 Land Use Table and Zone Objectives

The site is zoned R2 – Low Density Residential under the *ALEP 2013*. The *ALEP 2013* defines the development as:

dwelling house means a building containing only one dwelling.

The development is permitted with consent within the land use table, however, the development is inconsistent with the objectives of the R2 zone (refer to discussion below).

(ii) Section 4 Principal Development Standards

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

Standard	Proposal	Non - Compliance	Complies
Clause 4.3 - Height of Building Maximum permissible: 7m	5.9m	N/A	Yes
Clause 4.4 - Floor Space Ratio Maximum permissible: 0.5:1 or 348.35sqm	0.44:1 or 303.94sqm	N/A	Yes

(iii) Section 5.10 Heritage Conservation

The subject site is identified as being within the Haberfield Heritage Conservation Area (HCA) under *ALEP 2013* and as such is subject to Clause 5.10 of *ALEP 2013* and Chapter E2 of IWCDP 2016.

The proposed development has not been appropriately designed with regard to the relevant provisions, for the following reasons:

- The proposal does not achieve compliance with the 50% landscaping requirements and is inconsistent with Section 6.5(3)(d) of the *ALEP 2013*.
- The proposal involves increasing the amount of hard paving / built form on the site and is inconsistent with Part 2.45 of chapter E2 of IWCDP 2016 as it does not retain adequate garden space to reflect the garden setting of the Haberfield HCA.
- The scale of the rear extension is inconsistent with the pattern of development for the Haberfield HCA. The rearward extent of the additions has not been sufficiently reduced, so that the extension is shorter in length than the main portion of the house that is being retained and is inconsistent with Part 2.3 of Chapter E2 IWCDP 2016.

- The extent of the basement does not relate to the original housing stock and the topography of the land in which larger undercroft areas would be accommodated on sites that slope away from the street.
- The scope of the basement detracts from the intended character of the Haberfield HCA and contributes to the non-compliant landscaped area.
- Insufficient detail has been provided demonstrating that the intersection between the old and new roof has been appropriately redesigned to ensure that the drainage from the new roof can be achieved without impacting on the existing tile roof.
- The choice of brick colour does not correspond the palette of materials, colours and finishes utilised in the Haberfield HCA and is contrary to Part 2.39 of Chapter E2 IWCDCP 2016.

Given the above, the development results in adverse heritage impacts as it minimises the garden setting characteristic of Haberfield HCA and is inconsistent with Clause 5.10 of *ALEP 2013* and Chapter E2 of IWCDCP 2016.

(iv) Section 6.5 Development on land in Haberfield Heritage Conservation Area

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

Standard	Proposal	Non - Compliance	Complies
Clause 6.5(3)(a)(i) – Gross Floor Area above existing ground floor	No GFA proposed above existing ground floor	N/A	Yes
Clause 6.5(3)(a)(ii) – Gross Floor Area above below ground floor Maximum permissible: 25%	No GFA proposed below existing ground floor	N/A	Yes
Clause 6.5(3)(b) – Excavation in Haberfield Maximum permissible: 3m	2.9m	N/A	Yes
Clause 6.5(3)(c) – Does not involve the installation of dormer or gablet windows	No dormer or gablet windows proposed	N/A	Yes
Clause 6.5(3)(d) – Landscaped Area in Haberfield Minimum required: 50%	42.18% or 293.90sqm	15.63% or 54.50sqm	No

(v) Section 6.5(3)(d) Landscaped Area in Haberfield and Section 4.6 Exceptions to Development Standards

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

- Section 6.5(3)(d) – Landscaped Area in the Haberfield HCA

The applicant seeks a variation to the Landscaped Area development standard under Section 6.5(3)(d) of the *Ashfield Local Environmental Plan 2013* by 15.63% or 54.50sqm.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *Ashfield Local Environmental Plan 2013* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *Ashfield Local Environmental Plan 2013* justifying the proposed contravention of the development standard which is quoted as follows:

- *Given the development achieves the objectives of the development standard and the objectives of the land use zone, and furthermore complies with the applicable State and Council Planning Policies, the proposal has merit and the contravention of the development standard is justified.*
- *The proposed addition provides a compliant built form apart from the 50% Landscaped area which is subject to this variation request.*
- *The alterations and additions are also not anticipated to cause any additional overshadowing onto adjoining properties or the public domain and will not noticeably alter the existing bulk and scale of the dwelling when viewed from the street and surrounds.*
- *The internal amenity afforded to occupants of the dwelling house will be improved as a result of the development and private open space that are of a high standard and will not be compromised by the non-compliance with the landscaped area development standard.*
- *The non-compliance is extremely minor at 1.8% or 12.54m² and strict compliance with the development standard would not result in an improved planning outcome. This is because any increased landscaping enforcement will likely result in a need to propose first floor additions within the roof space of a compromised quality for no additional net benefit to the site, adjoining properties and the locality.*
- *No substantive public benefit would be realised by maintaining and enforcing the development standard. Considering the existing non-compliance, an increase in the landscaped area of 1.8% to strictly comply would be unnecessary considering the nature of the works and would not improve the built form outcome for the site nor realise any improvement to the relationship between the site, adjoining development and the surrounding area.*

The applicant's written rationale fails to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is not in the public interest because it is inconsistent with the objectives of the R2 zone, and therefore not in accordance with Section 4.6(4)(a)(ii) of the *Ashfield Local Environmental Plan 2013* for the following reasons:

- 50% of the site is currently landscaped area and complies with this development standard. The requirements under Clause 6.5 of the ALEP 2013 have been strongly and consistently upheld by Council to ensure that development within the Haberfield HCA maintain significant areas of landscaping, of which the Garden Suburb locality of Haberfield is known for.

- The proposal does not provide a suitable balance between built form and open space and fails to provide a development which meets the needs of the broader community.

It is considered the development is not in the public interest because it is inconsistent with the Landscaped Area development standard, and therefore not in accordance with Section 4.6(4)(a)(ii) of the *Ashfield Local Environmental Plan 2013* for the following reasons:

- The minimum landscaped area control for the Haberfield Conservation area was introduced to ensure that developments maintain a single storey appearance and retain the original garden suburb attributes as per the objectives of Clause 6.5 of *ALEP 2013*.
- The applicant has failed to provide an accurate calculation of areas of soft landscaping on the site noting that the submitted Landscape Plan does not correspond to the notations and calculation provided.
- While the proposal maintains a single storey dwelling appearance the proposal fails to provide landscaping that reflects the garden suburb attributes and site coverage of surrounding sites in Haberfield HCA.
- The proposed development is considered inconsistent with the objectives of Clause 6.5 and has failed to demonstrate that the proposed variation is acceptable in accordance with Clause 4.6 of *ALEP 2013*.

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

The proposal fails to satisfy the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *Ashfield Local Environmental Plan 2013*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from Landscaped Area development standard and it is recommended the Section 4.6 exception be refused.

5(b) Development Control Plans

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

IWCDCP2016	Compliance
Section 1 – Preliminary	
B – Notification and Advertising	Yes
Section 2 – General Guidelines	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	No – refer to Section 5(a)(iii) and discussion below
3 - Flood Hazard	N/A
4 - Solar Access and Overshadowing	Yes
5 - Landscaping	Yes
6 - Safety by Design	N/A
7 - Access and Mobility	N/A
8 - Parking	Yes
9 - Subdivision	N/A
10 - Signs and Advertising Structures	N/A

11 - Fencing	N/A
12 - Telecommunication Facilities	N/A
13 - Development Near Rail Corridors	N/A
14 - Contaminated Land	Yes
15 - Stormwater Management	Yes
B – Public Domain	
C – Sustainability	
1 – Building Sustainability	Yes
2 – Water Sensitive Urban Design	Yes
3 – Waste and Recycling Design & Management Standards	Yes
4 – Tree Preservation and Management	Yes
5 - GreenWay	N/A
6 – Tree Replacement and New Tree Planting	Yes
D – Precinct Guidelines	N/A
E1 – Heritage items and Conservation Areas (excluding Haberfield)	N/A
E2 – Haberfield Heritage Conservation Area	
1 – Preliminary	Yes
2 – Detailed Planning measures for Residential properties	No – refer to Section 5(b) and discussion below
3 – Planning Measures for Commercial properties	N/A
4 – Miscellaneous	N/A
F – Development Category Guidelines	
1 – Dwelling Houses and Dual Occupancy	No – refer to discussion below

The following provides discussion of the relevant issues:

Chapter E2 - Haberfield Heritage Conservation Area

The subject site is a contributory building located within the Haberfield HCA.

The following objectives, under this Part of the IWCDCP 2016 are applicable to the proposed development:

2.3 – *Pattern of Development*

- *b) Any new development (new building or extension to an existing building) shall produce site coverage similar in pattern and size to the site coverage established by the original development of the suburb.*

2.6 – *Building Form*

- *d) Extensions shall not conceal, dominate or otherwise compete with the original shape, height, proportion and scale of the existing buildings.*
- *g) The overall length of any extension is to be less than, and secondary to, the original house.*

2.12 – *Siting, Setbacks and Levels*

- *c) Site coverage should be similar to the traditional pattern of development, leaving generous green garden space to the front and back areas.*
- *e) Where natural land slope allows, sub-floor and basement development is permitted for use as laundries, storerooms, workrooms or garages.*

2.39 – Colour Schemes

- e) *New buildings should use colours that harmonise with the traditional colour schemes.*

2.45 – Garden Elements, Including Paving, Driveways, Pergolas And Pools

- a) *The surviving original garden elements in Haberfield are to be kept and repaired where necessary.*

The proposal has not been appropriately designed / amended to address the following points:

- The proposal involves increasing the amount of hard paving / built form on the site and does not retain adequate garden space to reflect the garden setting of the Haberfield HCA.
- The scale of the rear extension is inconsistent with the pattern of development for the Haberfield HCA. The rearward extent of the additions has not been sufficiently reduced, so that the extension is shorter in length than the main portion of the house that is being retained.
- The extent of the basement does not relate to the original housing stock and the topography of the land in which larger undercroft areas would be accommodated on sites that slope away from the street. The scope of the basement detracts from the intended character of the Haberfield HCA and contributes to the non-compliant landscaped area.
- Insufficient detail has been provided demonstrating that the intersection between the old and new roof has been appropriately redesigned to ensure that the drainage from the new roof can be achieved without impacting on the existing tile roof.
- The choice of brick colour does not correspond the palette of materials, colours and finishes utilised in the Haberfield HCA.

Given the above, the development results in adverse heritage impacts as it minimises the garden setting characteristic of Haberfield HCA and is inconsistent with the provisions contained under this Part of the IWCDCP 2016.

Chapter F, Part 1, PC3 - Scale and PC4 Building setback

The following objectives, under these Parts of the IWCDCP 2016 are applicable to the proposed development:

PC3 - Scale

Development site cover, height, width and length:

- *is compatible with that prevailing in the street*
- *is sympathetic to neighbouring development*

PC4 – Building Setback

Building setbacks:

- *are consistent with that prevailing in the street*
- *provide adequate open space and vegetation*

It is considered that the additions have not been appropriately designed / amended to address the following points:

- The additions extend beyond the rear alignment of other dwellings within the immediate vicinity. The proposed 3.6m rear setback is inconsistent with neighbouring built form which includes a 14m rear setback at No. 50 Tillock Street and a 23m rear setback at No. 46 Tillock Street.
- The scale and siting of the additions are contrary to the pattern of development within the locality and inconsistent with development within the Haberfield HCA.
- The additions have not been appropriately setback from the rear boundary to ensure sufficient open space and landscaped area is provided / maintained on the site.

Overall, it is considered that the proposal does not achieve compliance with the objectives and controls under this Part of the IWCDCP 2016 and therefore the application recommended for refusal.

Chapter F, Part 1, PC13 – Solar Access

The following controls, under this Part of the IWCDCP 2016 are applicable to the proposed development:

- *DS13.1 Sunlight to at least 50% (or 35 m² with minimum dimension 2.5 m, whichever is the lesser area) of private open space areas of adjoining properties is not reduced to less than three (3) hours between 9 am and 3 pm on 21 June*
- *DS13.2 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 (3) hours between 9 am and 3 pm on 21 June*

The proposal will result in additional overshadowing of the rear yard of No. 46 Tillock Street between 9am and 3pm in mid-winter. However, given the topography of the site and the single storey form of the additions, this neighbouring property would still retain the requisite solar access as prescribed above.

The proposal complies with Council's Solar Access controls prescribed under the IWCDCP 2016 however, the application is recommended for refusal for reasons outlined elsewhere in this report.

5(c) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality for the reasons discussed throughout this report.

5(d) 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(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

4 submissions were received in response to the initial notification.

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

- Impact on the Heritage Conservation Area
- Siting, setbacks and length of additions
- Inconsistency with pattern of development and character of the suburb
- Insufficient landscaped area
- Solar access and overshadowing

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

Concern	Comment
<p>“The proposed driveway will artificially lower the natural ground line and create a retaining wall on our boundary greater than 3m. This excavation will be visible to the street and creates a bulk and scale issue.”</p>	<p>The proposed excavation for the driveway and parking is considered acceptable. The extent of excavation which may be visible from the street is not considered to result in adverse impacts on the Haberfield HCA in terms of streetscape presentation or bulk and scale.</p> <p>The development does not involve excavation in excess of 3 metres below ground level (existing) and complies with Clause 6.5(3)(b) of the ALEP 2013.</p> <p>Notwithstanding this, the extent of the basement area is excessive and inconsistent with the intended character of the Haberfield HCA.</p>
<p>The proposed excavations for the driveway and basement areas are greater than 3m and do not comply with the Ashfield LEP.</p>	<p>The proposal has been amended by way of additional information which has reduced the extent of the excavation. The development does not involve excavation in excess of 3 metres below ground level (existing) and complies with Clause 6.5(3)(b) of the ALEP 2013.</p>
<p>Privacy impacts to rear yard and pool area of No. 46 Tillock Street</p>	<p>The proposal has been amended by way of additional information to reduce the width and height of the proposed windows to the side (southern) elevation. Given the topography of the site, the single storey form of the additions, and the setback to the side boundary, the proposal does not result in adverse privacy impacts to neighbouring properties</p>
<p>The proposal creates a major impact on our privacy (No. 46 Tillock Street) by introducing a garden roof to the rear of the dwelling which will mean there will be persons on the roof servicing the garden on a regular basis.</p>	<p>The roof garden is not proposed to be trafficable and therefore unlikely to result in any adverse or undue privacy impacts.</p> <p>Insufficient details have been provided regarding how the green roof will be maintained. While this could be addressed by way of conditions of consent, the application is recommended for refusal for reasons outlined elsewhere in this report.</p>
<p>“The proposal is for parking in a basement which creates sound issues to our living and sleeping (No. 46 Tillock Street) trying to manoeuvre cars in and out the basement. The turning circle for the cars does not comply and possibly does not work.”</p>	<p>The proposal was referred to Council’s Traffic and Parking Engineer found the proposed basement parking spaces and access to be acceptable and compliant with the relevant standards.</p> <p>Given the excavation proposed to facilitate the basement parking and the level difference between the new driveway to neighbouring properties, in which the parking access sits below the existing carport and boundary fence, it is considered that the proposed basement parking and access would not result in adverse visual or acoustic impacts.</p>

	Furthermore, it is considered reasonable for parking to be located in this location consistent with the current arrangement and the existing driveway and carport. Notwithstanding this, the extent of the basement area is excessive and inconsistent with the intended character of the Haberfield HCA.
Privacy and overshadowing impacts of roof garden to No. 46 Tillock Street.	The proposal complies with Council's Solar Access controls prescribed under the IWCDCP 2016. As raised previously, the roof garden is not proposed to be trafficable and therefore does not result in any adverse or undue privacy impacts. However, the application is recommended for refusal for reasons outlined elsewhere in this report.
Bulk and scale / Overdevelopment	The proposed additions are setback at the rear, maintain a single storey presentation and incorporate appropriate internal heights and roof forms. Furthermore, given the fall of the land, it is considered that the rear additions would not result in adverse bulk and scale impacts to the streetscape. However, the siting, setbacks and scale of the additions are inconsistent with the pattern of development for the Haberfield HCA and locality and do not provide a suitable balance between built form and landscaped areas. The extent of the basement area is also excessive and inconsistent with the intended character of the Haberfield HCA. The application is therefore recommended for refusal.

5(f) 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.

- Heritage
Not acceptable (refer to body of report for discussion)
- Development Engineering
Acceptable, subject to conditions
- Urban Forest
Acceptable, subject to conditions

6(b) External

N/A

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

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

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Ashfield Local Environmental Plan 2013* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development would result in significant impacts on the surrounding locality and heritage conservation area and is not considered to be in the public interest.

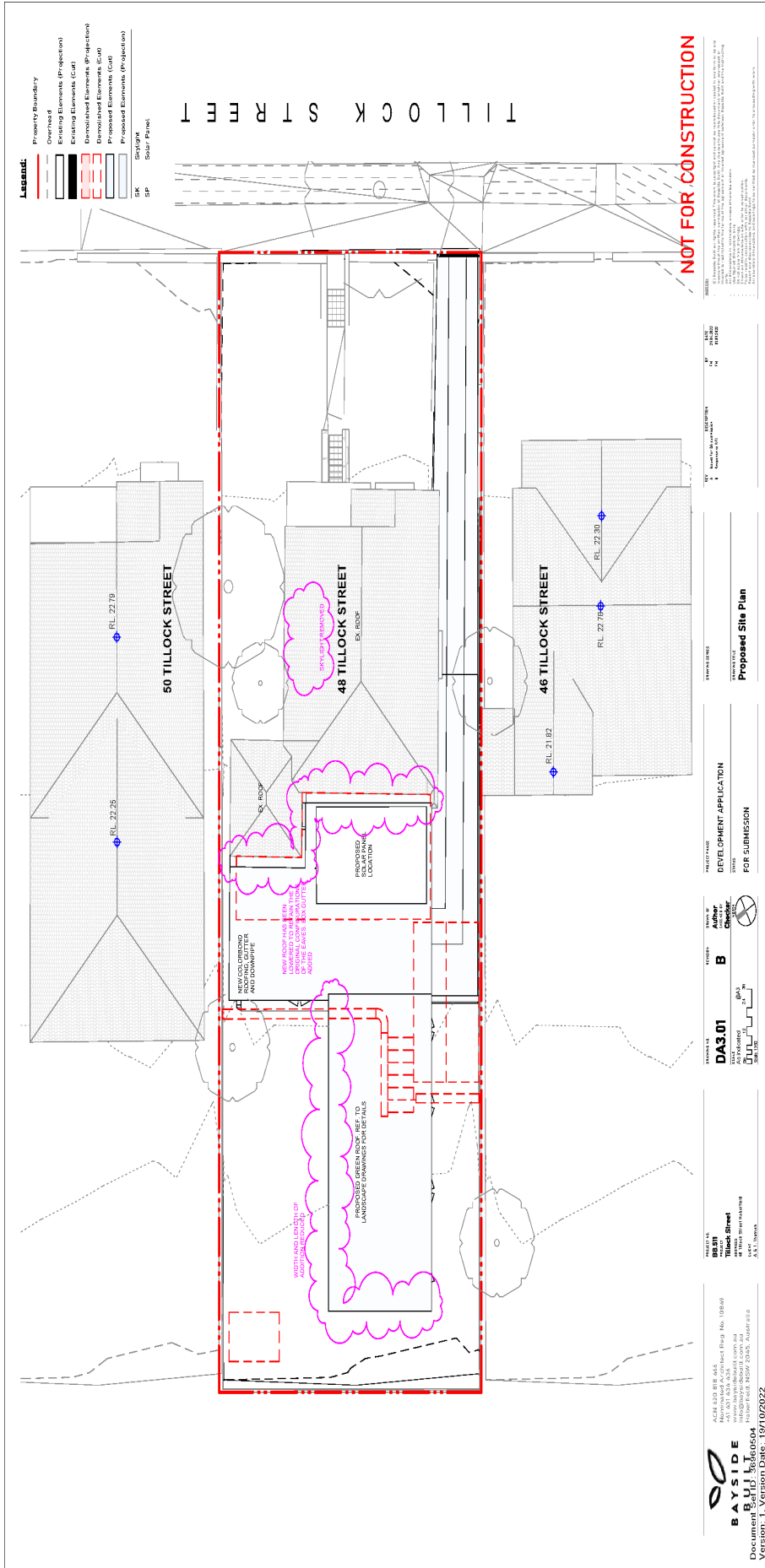
The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

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. DA/2022/0405 for alterations and additions to existing dwelling including lower ground level and additions at 48 Tillock Street, HABERFIELD 2045 for the reasons in Attachment A

Attachment A – Reasons for refusal

1. The proposed development is inconsistent with the following Clauses of *Ashfield Local Environmental Plan 2013*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
 1. Clause 1.2 - Aims of the Plan, in that the proposal will have an adverse impact on environmental heritage and local character of Ashfield.
 2. Clause 5.10 – Heritage Conservation, in that the proposal does not comply with the 50% landscaped area development standard.
 3. Clause 6.5 – Haberfield Heritage Conservation Area, in that the proposal will result in unacceptable impacts to the Haberfield Heritage Conservation Area.
 4. Clause 4.6 - Exceptions to Development Standards, in that there are insufficient planning grounds to justify the departure from Landscaped Area development standard.
2. Having regard to submissions received and the adverse environmental impacts of the proposal, the application as proposed is not in the public interest, pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*.
3. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
4. The proposed development does not comply with the following Parts of the Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
 1. Chapter A, Part 2 – Good Design, in that the proposal has not been appropriately designed with regard to context, scale, built form, amenity and streetscape.
 2. Chapter E2, Part 2 – Haberfield Heritage Conservation Area, in that the development results in adverse heritage impacts and minimises the garden setting characteristic of Haberfield HCA
 3. Chapter F, Part 1 – Dwelling Houses, in that the proposal is inconsistent with the scale, building setbacks and pattern of development.



Floor Plan
Lower Ground Floor
1:250

Floor Plan
Ground Floor
1:250

Gross Floor Area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) any balcony, verandah, or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
- (f) vehicular access, loading areas, garbage and services, and
- (g) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (h) car parking to meet any requirements of the consent authority (including but not limited to any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

Site Area
= 696.7m²
LEP FSR Requirement = 0.5:1 = 348m²
Proposed FSR = 0.34:1 = 239m²

Landscaped Area means a part of a site used for growing plants, grasses and trees; but does not include any building, structure or hard paved area

Site Area
= 696.7m²
LEP Landscape Area Requirement = 50% = 348m²
Proposed Landscaped Area = 50% = 348m²

LANDSCAPE AREA INCREASED TO 50% FSR REQUIRED

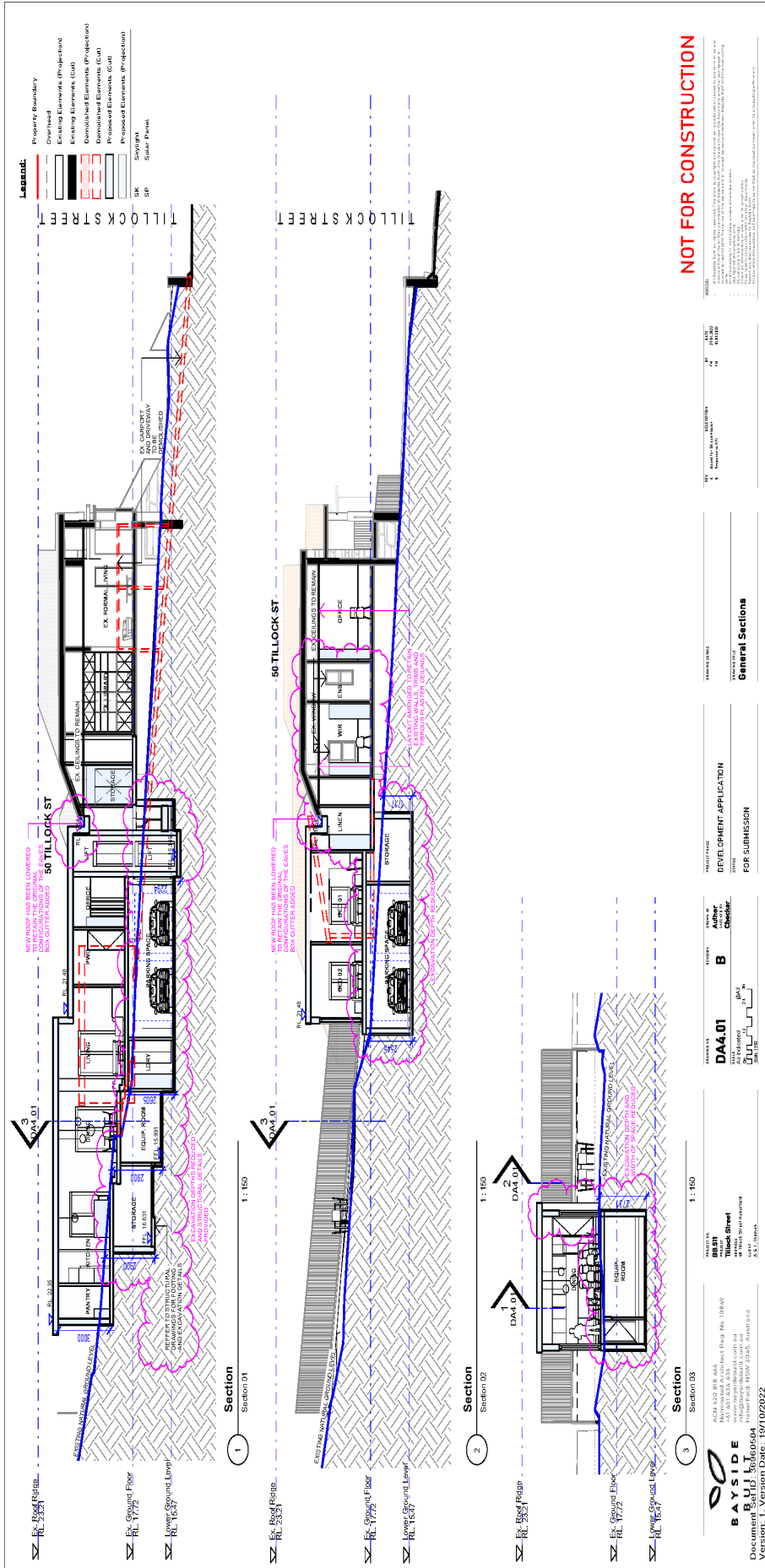
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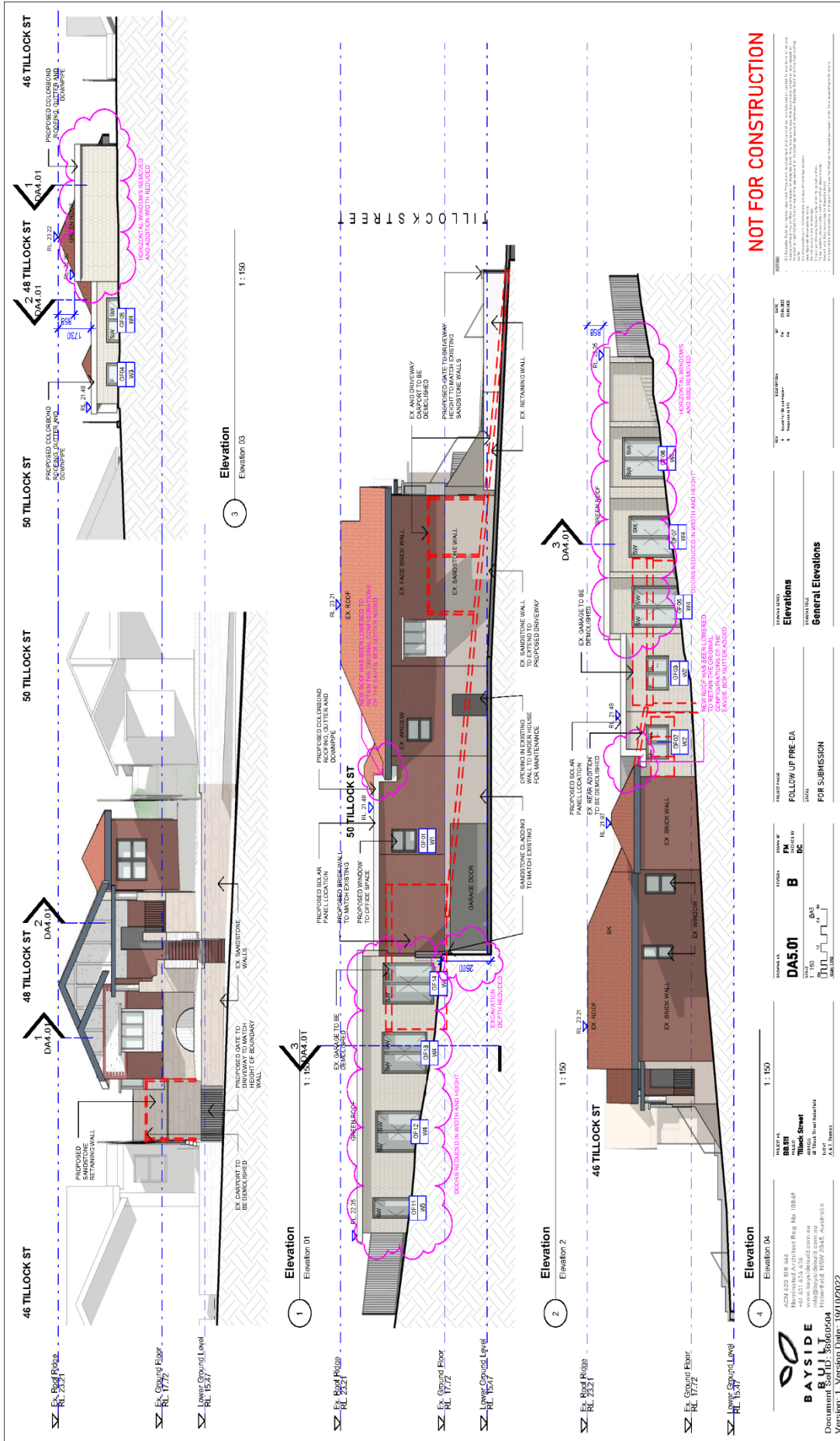
DESIGN ANALYSIS
Development Code: DA6.01
Development Type: B
Development Application: FOR SUBMISSION
Scale: 1:250
Scale: 1:250
Scale: 1:250

FSR & Landscape area Calculation

PROJECT INFORMATION
Project Name: Street
Project Address: Street
Project Location: Street
Project Date: 15/10/2022

DESIGNER INFORMATION
Designer: Bayside
Designer Address: Street
Designer Phone: Street
Designer Email: Street
Designer Website: Street





NOT FOR CONSTRUCTION

PROJECT: BAYSIDE BUILDERS
ADDRESS: 46-50 Tillock Street
SYDNEY NSW 2045 Australia
DATE: 10/10/2022
VERSION: 1

SCALE: 1:150
DATE: 10/10/2022

PROJECT NAME: FOLLOW UP PRE CA
FOR SUBMISSION

GENERAL ELEVATIONS

TRAFFIC LIGHTS: 1:150
ELEVATIONS: 1:150
GENERAL ELEVATIONS: 1:150

REVISIONS:
 NO. 1: 10/10/2022
 BY: [Signature]
 DESCRIPTION: [Description]

PROJECT DATA:
 PROJECT NO: DA5.01
 PROJECT NAME: FOLLOW UP PRE CA
 PROJECT ADDRESS: 46-50 Tillock Street
 PROJECT DATE: 10/10/2022

PROJECT LOCATION: 46-50 Tillock Street
 PROJECT DATE: 10/10/2022

PROJECT NAME: FOLLOW UP PRE CA
FOR SUBMISSION

A & T Thomas

PROJECT
48 Tillock Street
Haberfield

DRAWING
Landscape Site Plan

DATE 5/5/2022
DRAWN BR
CHKD BR
SCALE 1:200
PJT NO. 169

DWG NO. DA.L.001

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REV DATE BY REVISION NOTES
A 06/2022 BR For Council Approval
NORTH



rollo design
ROLLO DESIGN PTY LTD
P: (02) 8065 6552
info@rollo.design.com.au
www.rollo.design.com.au



1 Landscape Site Plan
Scale: 1:100

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THE CONTRACTOR TO CHECK THE LOCATION OF PRIVATE CONNECTIONS FROM THE MAIN WATER MAINS TO THE PROPERTY. THE CONTRACTOR TO CHECK THE LOCATION AND DEPTH OF ALL SERVICES PRIOR TO COMMENCEMENT. INSTALLATION TO ENGINEERS DETAIL AND TO BE CHECKED BY ENGINEER. STRUCTURAL POOL & COPING TO ENGINEERS SPECIFICATION.

ALL CONSTRUCTION TO BECA STANDARDS (NATIONAL CONSTRUCTION CODE / BUILDING CODE OF AUSTRALIA).

SOURCE SURVEY DATA IS BASED ON HILL & BLUME CONSULTING SURVEYORS AND ENGINEERS. DATUM: AHD AT RL14.31

Document Set ID: 36605504
Version: 1, Version Date: 19/10/2022

CLIENT
A & T Thomas

PROJECT
48 Tillock Street
Haberfield

DRAWING
Landscape Rooftop Plan

DATE 5/5/2022

DRAWN BR CHMD BR

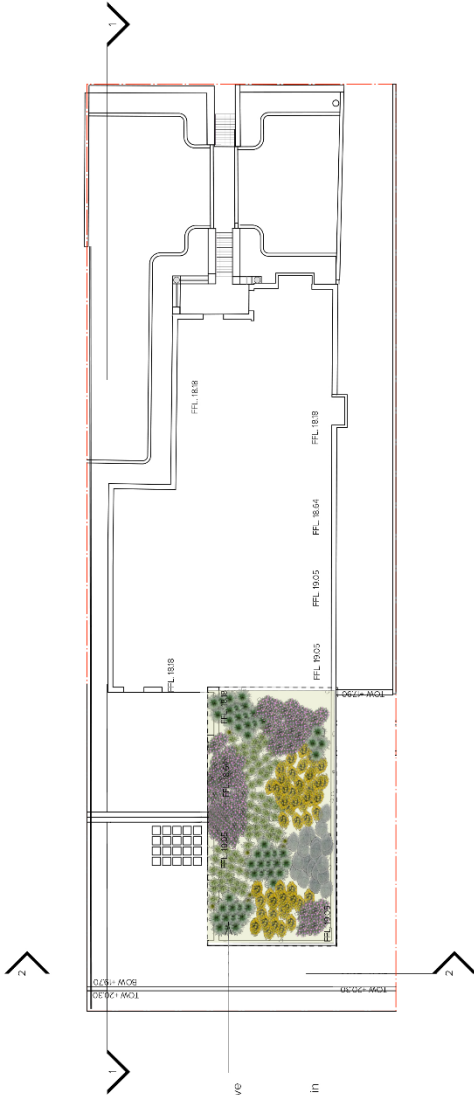
SCALE @A3 AS SHOWN

PLOT NO. 169

DWG NO. DA.L.002

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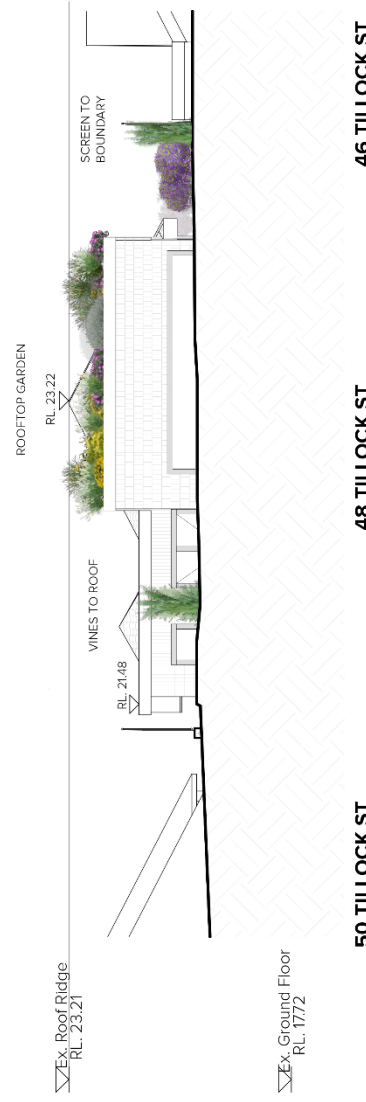
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NORTH



The Rooftop Garden
Predominantly hardy native species including low growing shrubs and groundcovers.
Mass planted by species in a mosaic pattern.

1 Rooftop Planting Plan
Scale: 1:200

ALL CONSTRUCTION TO BCA STANDARDS (NATIONAL CONSTRUCTION CODE / BUILDING CODE OF AUSTRALIA).
SOURCE SURVEY DATA IS BASED ON HILL & BLUME CONSULTING SURVEYORS AND ENGINEERS. DATUM: AHD AT RL+1.31'



2 Sectional Elevation 4
Scale: 1:100

Document Set ID: 36965504
Version: 1, Version Date: 19/10/2022

A & T Thomas

PROJECT
48 Tillock Street
Haberfeld

DRAWING
Landscape Section

DATE 5/5/2022

DRAWN BR **CHKD** BR

SCALE #A3 1:1

PJT NO. 169

DWG NO. DAL.003

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1 Sectional Elevation 1

Scale: 1:100

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Attachment C- Section 4.6 Exception to Development Standards

CLAUSE 4.6
VARIATION REQUEST

CLAUSE 4.6 REQUEST FOR VARIATION TO LANDSCAPED AREA REQUIREMENT

48 TILLOCK STREET, HABERFIELD





PLANZONE

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QA Record:

Doc ID: CL4.6.211126.AZ.AH
Version: 1.0
Issue Date: 16 May 2022

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1 INTRODUCTION

This Clause 4.6 Variation Request has been prepared to accompany the Development Application (DA) to Inner West Council seeking consent for partial demolition to the rear and excavation to create a lower-ground floor/basement level and alterations and additions to the existing dwelling house including associated landscaping and stormwater works at 48 Tillock Street, Haberfield.

The Clause 4.6 Variation Request relates to the Landscaped area principal development standard prescribed under Clause 6.5 of the *Ashfield Local Environmental Plan 2013* (the LEP), which states that:

“ The minimum landscaped area for development that involves an existing building on land in the Haberfield heritage conservation area must be at least 50% of the site. ”

The proposed development includes 336m² of landscaped area, equating to 48.2% of the 696.7m² site area and a 1.8% shortfall of the minimum requirement of 50%. The proposed landscaped area is shown in Figure 1 below and separate landscape plans accompanying this application:

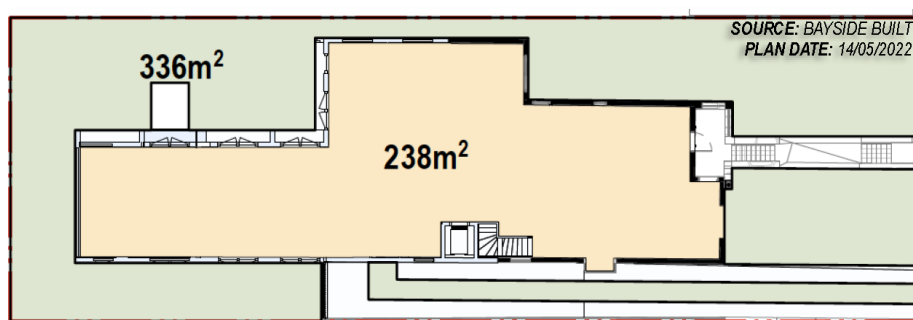


FIGURE 1: PROPOSED GROUND FLOOR PLAN SHOWING LANDSCAPED AREAS

Pursuant to Clause 4.6 in the LEP, justification for the contravention of the Landscaped area development standard is provided within this Clause 4.6 Variation Request. This request has been prepared having regard to the matters for consideration prescribed in Clause 4.6 in the LEP, noting that Clause 6.5 in the LEP is not excluded from consideration under Clause 4.6(8) in the LEP. The variation request has also been prepared having regard to the findings and decisions in various case law including:

- *Wehbe v Pittwater Council* [2007] NSW LEC 827;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009;
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7;
- *Initial Action v Woollahra Municipal Council* [2018] NSWLEC 118;
- *Brigham v Canterbury-Bankstown Council* [2018] NSWLEC 1406;
- *Turland v Wingerarribee Shire Council* [2018] NSWLEC 1511; and
- *Rebel MH Neutral Bay Pty Ltd v North Sydney Council* [2019] NSWCA 130.

This Clause 4.6 Variation Request meets the objectives of Clause 4.6(1) in the LEP:

“ (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances. ”



and demonstrates for the purpose of Clause 4.6(3) in the LEP:

- “ (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 (b) that there are sufficient environmental planning grounds to justify contravening the development standard. ”

2 REVIEW OF CASE LAW

The main principles adopted by the Land and Environment Court of NSW (L&EC) in considering Clause 4.6 variation requests to development standards have been established in the proceedings of *Wehbe v Pittwater Council [2007] NSW LEC 827* and *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7*.

The relevant principles of those proceedings are as follows:

2.1 WEHBE V PITTWATER COUNCIL [2007] NSW LEC 827

In these proceedings, Justice Preston set out the following five ways in which compliance with a development standard could be established as being unreasonable or unnecessary:

1. *Are the objectives of the development standard achieved notwithstanding non-compliance with the standard;*
2. *Is the underlying objective or purpose not relevant to the development with the consequence that compliance is unnecessary;*
3. *Would the underlying objective or purpose be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
4. *Has the development standard been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or*
5. *Is "the zoning of particular land" "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land".*

2.2 RANDWICK CITY COUNCIL V MICAUL HOLDINGS PTY LTD [2016] NSWLEC 7

In these proceedings, Preston CJ approved the following four stage test to ensure that the Court was satisfied that the variation request should be granted:

1. *That compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case;*
2. *That there are sufficient environmental planning grounds to justify contravening the development standard;*
3. *That the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3); and*
4. *That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

3 SITE & PLANNING CONTEXT

The subject site comprises 1 land parcel legally described as Lot 23/Section 7 in DP 7508 and is more commonly known as 48 Tillock Street, Haberfield.



The subject site is rectangular in shape with a site area of 696.7m² and boundary dimensions as follows:

- ▶ An eastern frontage measuring 15.24 metres;
- ▶ A northern side boundary measuring 45.72 metres;
- ▶ A southern side boundary measuring 45.72 metres; and
- ▶ A western rear boundary measuring 15.24 metres.

An aerial image and photographs illustrating the site and existing structures are provided below:



FIGURE 2: LOCATION MAP



FIGURE 3: AERIAL MAP

CLAUSE 4.6 VARIATION REQUEST
 CLAUSE 4.6 REQUEST FOR VARIATION TO LANDSCAPED AREA REQUIREMENT
 48 TILLOCK STREET, HABERFIELD





FIGURE 4: VIEW OF THE SUBJECT SITE FROM TILLOCK STREET



FIGURE 5: VIEW OF THE FAÇADE OF EXISTING DWELLING HOUSE AT THE SUBJECT SITE

This DA seeks consent for partial demolition to the rear and excavation to create a lower-ground floor/basement level and alterations and additions to the existing dwelling house including associated landscaping and stormwater works at 48 Tillock Street, Haberfield. The development is defined as a 'dwelling house' pursuant to the definitions contained in *Ashfield Local Environmental Plan 2013*:



“ **Dwelling house** means a building containing only one dwelling.

A detailed breakdown of the proposed alterations and additions is provided as follows:

- Demolition works on the existing ground floor level of the existing dwelling house including demolition of the existing rear addition which includes the bedroom, bathroom and office area and part of internal partition walls of the existing living room;
- Existing carport and garage to be demolished
- Proposed lower ground level that includes, 2 car parking spaces, workshop, bike storage, storage room, equip room, laundry, lift, drying area, roller door and a proposed driveway at the existing gate boundary.
- Demolition of rear part of the existing rear fibro addition of the existing dwelling house;
- Extension to the rear of the existing dwelling including:
 - Open planned Living/Dining/Kitchen;
 - Laundry/Pantry;
 - Bedroom;
 - Courtyard;
- Provision of Solar Panels on the proposed ground floor level roof extension; and
- Green roof proposed with Colourbond roofing, gutter and downpipe.

A detailed description of the proposed development has been provided within the Statement of Environmental Effects (SEE) accompanying the DA and should be referred to in conjunction with this request.

4 CLAUSE 4.6 VARIATION REQUEST & ASSESSMENT

1. **What is the name of the environmental planning instrument that applies to the land?**
Ashfield Local Environmental Plan 2013
2. **What is the zoning of the land?**
The site is zoned R2 Low Density Residential.
3. **What are the objectives of the zone?**
Zone R2 Low Density Residential
 - To provide for the housing needs of the community within a low-density residential environment.
 - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
4. **What is the development standard being varied?**
Landscaped area
5. **What clause is the development standard listed in the environmental planning instrument?**
Clause 6.5(3)(d)
6. **What are the objectives of the development standard?**
(1) The objective of this clause is to maintain the single storey appearance of dwellings in the Haberfield Heritage Conservation Area
7. **What is the numeric value of the development standard?**
50%



8. What is proposed numeric value of the development standard?
48.2%

9. What is the percentage variation proposed?
1.8%

4.1 CLAUSE 4.6(3)(A)

DEMONSTRATE THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE.

The following assessment outlines that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case, particularly referencing the test established in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (the Initial Action case) which confirmed the approach as held in *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC7* (the Micaul case) as follows:

In the Initial Action case, Preston CJ concluded:

- *Clause 4.6(4) of an LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.*
- *The first opinion of satisfaction in clause 4.6(4)(a)(i) is whether the clause 4.6 request has adequately addressed the matters required to be demonstrated in clause 4.6(3). Those matters are:*
 - *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
 - *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- *The consent authority does not have to directly form the opinion of satisfaction regarding these matters, but only indirectly form the opinion of satisfaction that the written request has adequately addressed these matters.*
- *The second opinion of satisfaction in clause 4.6(4)(a)(ii) is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.*
- *The consent authority must be directly satisfied that the clause 4.6 request adequately addresses the matter in clause 4.6(4)(a)(ii), which is not merely that the proposed development will be in the public interest, but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development in the zone.*

Furthermore, this Clause 4.6 Variation Request and the assessment that follows establishes that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical component of the development standard as set out in the 5-part test established in *Wehbe v Pittwater Council [2007] NSWLEC 827* (the Wehbe case).

The local surrounding area is mainly characterised by single and two-storey dwellings and dwelling houses from the late 19th and early 20th century. The dwellings typically present as single storey to the street and two storeys to the rear with landscaped surrounds. The subject proposal will maintain the dwelling's single storey appearance from the street extending no further than the existing rear building line, presenting a balanced built form within a landscaped setting.



Strict compliance with the numerical development standard is unnecessary and unreasonable in this case as the objectives of the development standard are achieved, notwithstanding non-compliance with the numerical component of the development standard, in the following ways:

Objective (1): to maintain the single storey appearance of dwellings in the Haberfield Heritage Conservation Area

The proposed alterations and additions will not be visible from the street and is limited to the ground floor level and lower ground floor, maintaining the existing dwelling's single storey appearance when viewed from Tillock Street. The addition extends into the rear of the site, beyond the existing rear building line, in order to maintain the single storey low scale appearance which is characteristic of development within the Haberfield Heritage Conservation Area. Accordingly, the proposal will maintain the dwelling's bulk and scale when viewed from the street and surrounding sites.

In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63], Chief Justice Preston states that the desired future character is shaped by the provisions of the LEP as well as approved development that exceeds the development standards:

“ ...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard. ”

The proposal will maintain existing compliance with the Height of Buildings and Wall Height development standards contained within the LEP, with all new works located well-below the LEP maximums. Additionally, the proposal will more than comply with the maximum FSR additional local provision provided in the LEP and complies with the site coverage, open space and building setback controls to achieve a built form that is consistent with the desired future character of the area.

The proposal will provide a suitable balance between the built form and landscaping softening the proposed built form. The proposed landscaped area is 98m² greater than the gross floor area proposed even though it does not comply with the 50% landscaped area required as per the figure below with the proposal achieving 48.2% of landscaped area:

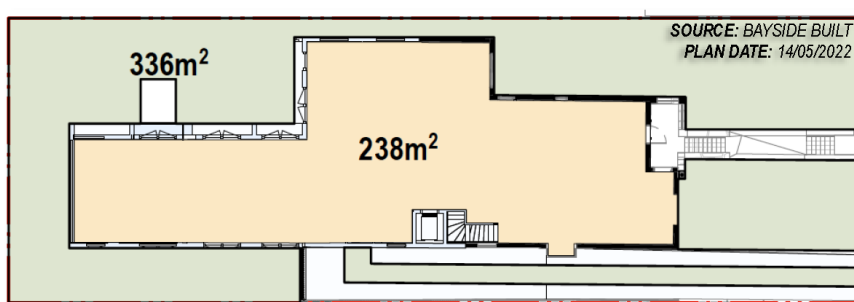


FIGURE 6: PROPOSED SITE PLAN SHOWING LANDSCAPED AREAS

Accordingly, there will continue to be a suitable balance between landscaping and built form on the site.



The proposed alterations and additions is limited to the ground floor level and lower ground level of the existing dwelling house and align with the existing side and rear setbacks with the additional bulk and scale successfully minimised by retaining a single storey built form when viewed from the front, side and rear adjoining properties. Importantly, the additional GFA is not visible from the street with neighbouring privacy and solar access maintained and any views across the site protected.

Streetscape Character

The proposed alterations and additions will not be visible from Tillock Street and accordingly, the dwelling house will maintain the existing single storey streetscape built form and be compatible with the single storey streetscape character when viewed from the street.

Solar Access

As discussed in the SEE, the proposal will maintain existing levels of solar access to neighbouring living space windows and private open space areas.

Acoustic and Visual Privacy

The siting of the proposed addition provides ample separation from adjoining properties to minimise any acoustic and visual privacy impacts for neighbouring dwellings, while also ensuring occupants of the proposed dwelling will be provided with suitable acoustic and visual privacy.

There are no significant changes to privacy as the new window is located in a similar location to the existing, is oriented to the rear of the site and is limited to the ground floor level where setbacks and existing vegetation and fencing provide adequate separation and screening. Additionally, no change of use is proposed, no additional bedrooms are proposed and the proposal maintains the existing location of primary living areas at the rear of the site. This ensures that acoustic and visual privacy is maintained as existing.

Views

No known view corridors have been identified across the site. Regardless, as the proposed addition is limited to the ground floor level and matches existing side setbacks, with any views from surrounding sites or the public domain appropriately protected.

Given the above, the proposal achieves the objective of the development standard.

4.2 CLAUSE 4.6(3)(B)

DEMONSTRATE THAT THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD.

Given the development achieves the objectives of the development standard and the objectives of the land use zone, and furthermore complies with the applicable State and Council Planning Policies, the proposal has merit and the contravention of the development standard is justified.

The proposed addition provides a compliant built form apart from the 50% Landscaped area which is subject to this variation request. The alterations and additions are also not anticipated to cause any additional overshadowing onto adjoining properties or the public domain and will not noticeably alter the existing bulk and scale of the dwelling when viewed from the street and surrounds. The internal amenity afforded to occupants of the dwelling house will be improved as a result of the development and private open space that are of a high standard and will not be compromised by the non-compliance with the landscaped area development standard.



The non-compliance is extremely minor at 1.8% or 12.54m² and strict compliance with the development standard would not result in an improved planning outcome. This is because any increased landscaping enforcement will likely result in a need to propose first floor additions within the roof space of a compromised quality for no additional net benefit to the site, adjoining properties and the locality.

Accordingly, there are sufficient environmental planning grounds to justify contravening the Landscaped area development standard in the Haberfield area.

4.3 CLAUSE 4.6(4)(A)(I)

DEMONSTRATE THAT THE APPLICANT'S WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3).

This Clause 4.6 Variation Request has adequately addressed the matters required to be demonstrated by subclause (3), as detailed throughout.

4.4 CLAUSE 4.6(4)(A)(II)

DEMONSTRATE THAT THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT.

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard as demonstrated earlier, and is consistent with the objectives of the zone as detailed below.

The development is consistent with the objectives of the R2 Low Density zone as follows:

- ▶ The development will provide for the housing needs of the community within a low density residential environment.
- ▶ The proposal contributes to a variety of housing types in the surrounding area;
- ▶ The proposed works are compatible with the desired future character of the area in terms of bulk, height and scale; and
- ▶ The proposal encourages residential development that has regard to local amenity and public and private views.

The landscaped area as proposed is sustainable and appropriate given that the site achieves 48.2% of landscaped area in the Haberfield area.

No substantive public benefit would be realised by maintaining and enforcing the development standard. Considering the existing non-compliance, an increase in the landscaped area of 1.8% to strictly comply would be unnecessary considered the nature of the works and would not improve the built form outcome for the site nor realise any improvement to the relationship between the site, adjoining development and the surrounding area.

The proposal, including the non-compliance is landscaped area exceedance, achieves the objects of the *Environmental Planning and Assessment Act, 1979* (the Act) in the following ways:

- ▶ Section 1.3(c) as the proposed development is well below the maximum height of buildings and floor space ratio development standards and the development will promote the orderly and economic use and development of the land by not posing any adverse amenity impacts on adjoining development and the public domain as a consequence of the breach;



- ▶ Section 1.3(d) as the development proposes the delivery and maintenance of affordable housing by allowing the owners to enlarge and expand their existing home to suit their needs without needing to relocate; and
- ▶ Section 1.3(g) as the proposed development promotes good design and amenity of the built environment by concentrating higher densities and forms.

For the reasons above and the assessment provided within this request, there are sufficient environmental planning grounds to justify the contravention of the 50% landscaped area requirement in the Haberfield area development standard.

4.5 CLAUSE 4.6(4)(B)

DEMONSTRATE THAT THE CONCURRENCE OF THE PLANNING SECRETARY HAS BEEN OBTAINED.

Planning Circular PS 20-002, dated 5 May 2020, contains an assumed concurrence notice dated 18 February 2018 for all consent authorities for the purpose of determining a development application to which a Clause 4.6 Variation Request is made.

The subject Clause 4.6 Variation Request exceeds a numerical standard by 1.8% and so accordingly, the Council and its delegated staff may assume the concurrence of the Planning Secretary.

4.6 CLAUSE 4.6(5)

PLANNING SECRETARY CONCURRENCE.

As detailed above, assumed concurrence has been issued by the Planning Secretary.

4.7 CLAUSE 4.6(6)

EXCLUDED SUBDIVISION.

The application of Clause 4.6 to the Landscaped area in the Haberfield area development standard is not precluded by the operation of Clause 4.6(6) of the LEP.

4.8 CLAUSE 4.6(7)

RECORD KEEPING.

This is an administrative matter for the Council.

4.9 CLAUSE 4.6(8)

EXCLUDED DEVELOPMENT AND CLAUSES.

The application of clause 4.6 to the Landscaped area in the Haberfield area development standard is not precluded by the operation of Clause 4.6(8) of the LEP.

5 CONCLUSION

Having regard to the assessment of the proposal and Clause 4.6 Variation Request, the proposed development achieves the objectives of the development standard and the objectives of the land use zone, notwithstanding the contravention of the Landscaped area in the Haberfield area development standard. Therefore, compliance with the development standard is unnecessary and unreasonable in these circumstances.



For the reasons provided within this request, there are sufficient environmental planning grounds to justify contravention of the Landscaped area in the Haberfield area development standard. This request has appropriately demonstrated that the proposed development will be in the public interest because it is consistent with the objectives of the development standard that is contravened and the objectives for development of the zone in which the development is proposed to be carried out.

This Clause 4.6 Variation Request has been prepared in accordance with the requirements of Clause 4.6 of the LEP and has had regard to the findings of the various case law mentioned and discussed throughout. Accordingly, the Local Planning Panel can exercise its power to grant development consent for the development that contravenes the development standard.

For the reasons outlined within this request, the subject variation is worthy of Council's support.

Attachment D – Statement of Heritage Significance

Statement of Heritage Impact

48 Tillock Street Haberfield

for

Bayside Built



***48 Tillock Street
From opposite.***

Prepared by:

Archnex Designs

Wentech Pty Ltd (ABN 310 735 41803) trading as Archnex Designs.

May 2022

Email: archnex@bigpond.net.au

14 Winchcombe Ave, Haberfield NSW 2045

Phone: 0425 228176

**48 Tillock Street Haberfield
Statement of Heritage Impact
Table of Contents**

Statement:

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D.	Location	Page 1.
E.	Context	Page 2.
F.	Proposed Development	Page 7.
G.	Heritage Impacts	Page 9.
H.	Conclusion	Page 15.

Appendix:

Documents

- (i) Haberfield- Extract Part E2 Comprehensive Inner West DCP 2016
- (ii) CTRH 23/7/7508
- (i) CT 2720-24
- (ii) DP 7508
- (iii) Sands Directory Search Schedules
- (iv) Material Board

Archnex Designs

Wentech Pty Ltd (ABN 310 735 41803) trading as Archnex Designs.
Heritage Building Consultants, Interior Designers

STATEMENT OF HERITAGE IMPACT [SoHI]:

Start Date: 25 April 2022.
Premises: 48 Tillock Street Haberfield
Property Description: Lot 23, Section 7, DP 7508
Prepared By: Greg Patch
 B Sc Arch, B ARCH (Hons), M Herit Cons (Hons),
 14 Winchcombe Ave,
 Haberfield NSW 2045
For: Bayside Built

A. PURPOSE OF STATEMENT

This statement has been prepared to assess potential heritage impacts of proposed alterations and additions to the above property.

B. GROUNDS OF STATEMENT

48 Tillock Street is within the Haberfield Heritage Conservation Area [HCA]. This has been established through examination of Map HER_001 of Ashfield LEP 2013.

C. LIMITS OF STATEMENT

This statement is based on the material at Part E and an inspection of the place in December 2021.

D. LOCATION



1. Location of 48 Tillock St Haberfield (Source: SLX Maps © NSW Lands 2022).

Email: archnex@bigpond.net.au

14 Winchcombe Ave, Haberfield N S W 2045

Phone: 0425 228176

E. CONTEXT.**E1. DOCUMENTARY****Haberfield HCA- Chapter E2 of the Inner West Comprehensive DCP***Why Haberfield is important - a statement of significance*

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

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

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

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

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

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

Land Titles

The land is part of a 480-acre Crown Grant made to Nicholas Bayley on 9th August 1803.

Part was purchased by the Haymarket Permanent Land Building Investment Company Limited and subdivided under Deposited Plan 7508 which was surveyed by Adelbert Schleicher in May 1913.

Lot 23, Section 7 was purchased by Sarah Alice Horrocks of Leichhardt, married woman and Certificate of Title Volume 2720 Folio 24 [CT 2720-24] was issued to her on 7 December 1916. Sarah took out a mortgage on the property in September 1919 and discharged it in June 1924. The property was then sold to George Joseph Keith Andrews of Haberfield, clerk in September 1927 who held it until October 1957 when it was sold to Mary Curteis of Haberfield, married woman. It was transferred to Owen Gregan Curteis of Haberfield, medical practitioner and Celia Curteis his wife in September 1973, and was then transmitted to Owen Gregan Curteis in December 1987, following which the deed was cancelled and Computer Folio 23/ 7/ 7508 created in October 1990.

There has been one transfer (2016) since.

Sands Directory

Tillock St is first listed in Sands Directory as of the 1920 edition, with one occupant: William C Walter.

Keith Andrews is listed at N^o 48 as of the 1928 edition and again for the last years for which the Sands was published, 1932/33. There are 11 addresses listed between Learmonth and Crescent Streets.

As of the 1925 edition, there are 7 occupants listed between Learmonth and Crescent Sts.

As of 1923, Herbert Horrocks (presumably husband of Sarah) is listed.

As of 1921, Herbert Horrocks is listed.

It would appear from this and the mortgage activity that the house was most probably built in 1920, assuming that the Sands survey was done the year prior to publication.

E2. PHYSICAL

The place was inspected 6 December 2021, when the following photographs were taken:



2.48 Tillock St from opposite driveway



3. View north along Tillock Street.



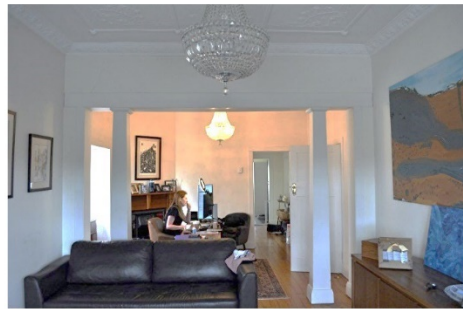
4. House to the south-east.



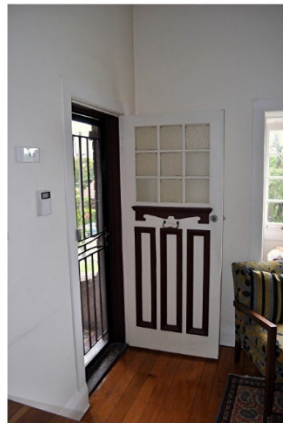
5. Adjoining house to the north.



6. Living room and oriole window.

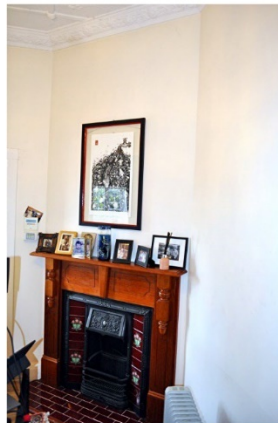


7. Screen and dining/sitting room.



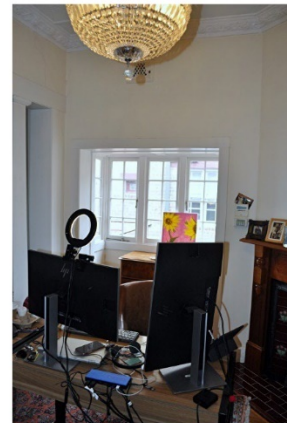
8. Front door.

48 Tillock St Haberfield- SoHI



9. Splay fireplace.

Issue: (03/05/22)

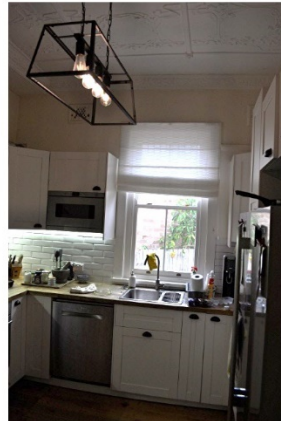


10. Oriole window to Dining Rm.

Page: 3



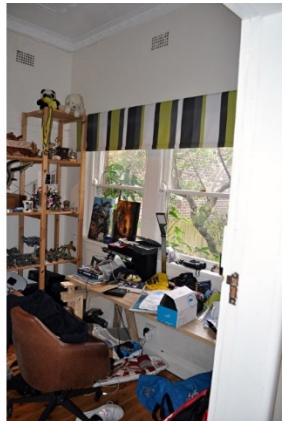
11. Kitchen- cooktop



12. Kitchen sink.



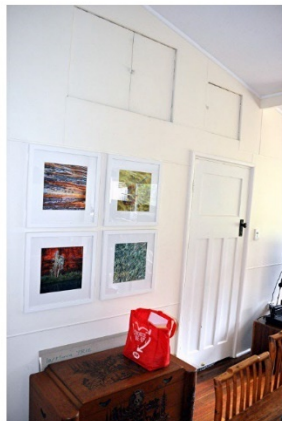
13. Study-side window.



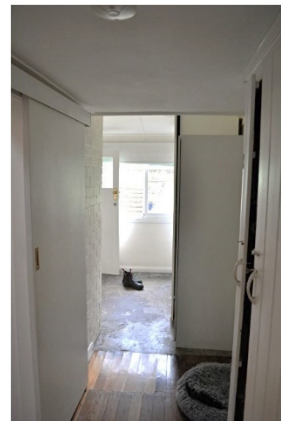
14. Study



15. Rear Family Room and terraced backyard beyond.



16. Side wall- Family Rm.



17. Utility hall to rear.



18. Bathroom.



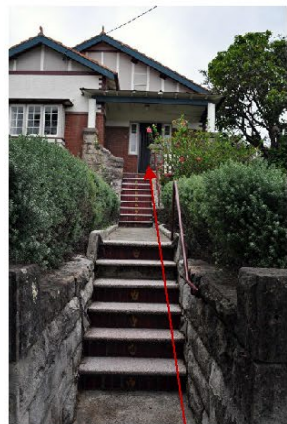
19. Moulded fibrous plaster ceiling- Master bedroom.



20. Master Bed. Verandah doors.



21. Moulded fibrous plaster ceiling- rear bedroom



22. Front path. Verandah doors.



23. WC.



24. Rear of house from back yard.



25. Rear of garage.



26. Garden shed.



27. View north from rear yard.



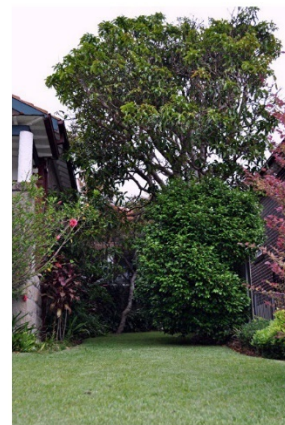
28. Garage interior.



29. Garage interior.



30. Gate & rear side door.



31. North setback.



32. side driveway.



33. Southern side of house. Extg. gates & carport.

48 Tillock St Haberfield- SoHI

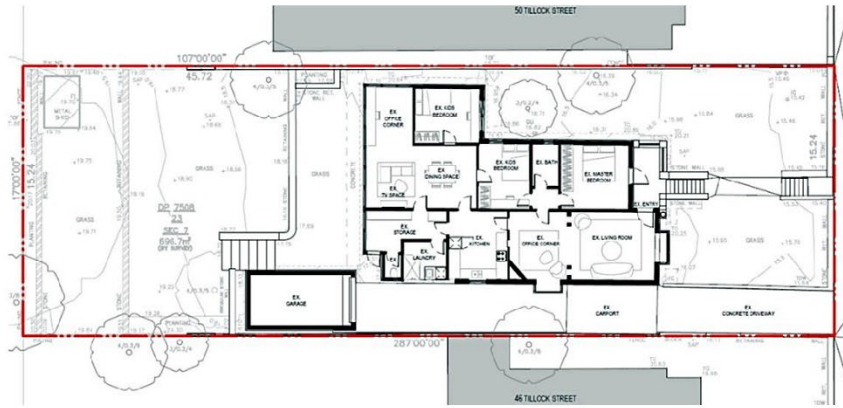
Issue: (03/05/22)

Page: 6

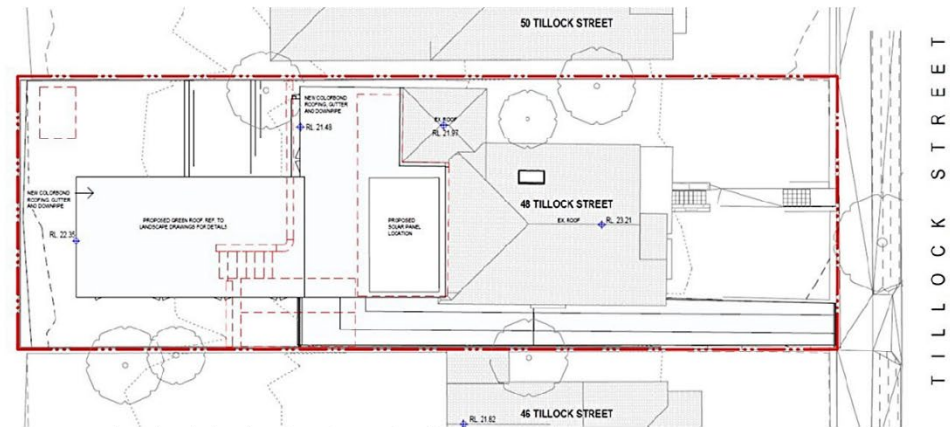
F. PROPOSED DEVELOPMENT

I have examined drawings N^os.DA0.01; -/1.01 to -/1.03; -/2.01; 3.01 to 3.04; -/4.01; 5.01;-/6.01to -/6.05; -/7.01 & -/7.02 prepared by Bayside Built [BB] and dated 29.04.2022.

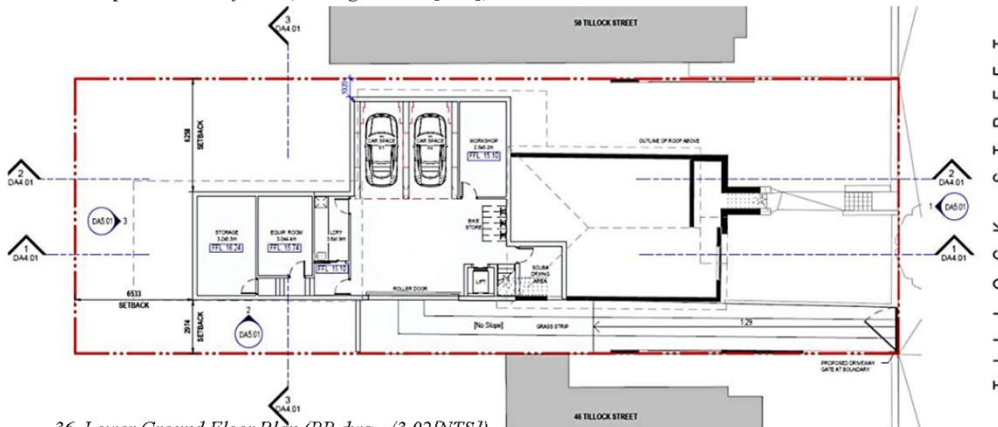
They depict proposed alterations and additions to the subject premises:



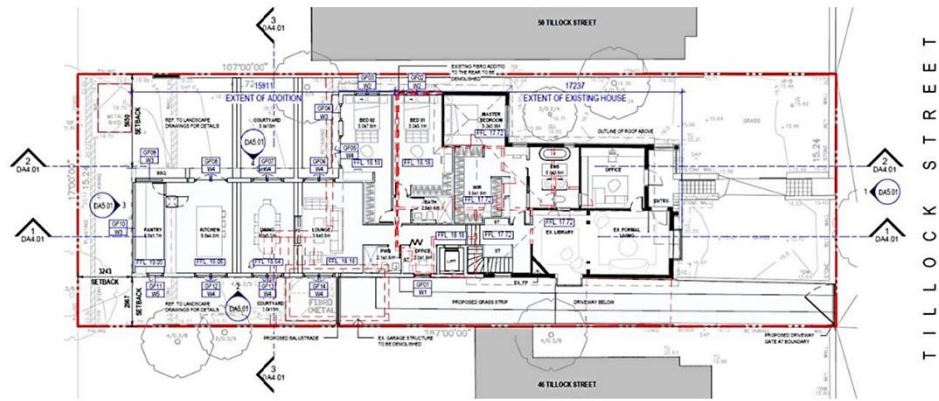
34. Site/ existing floor plan (BB dwg. -/2.01A [NTS])



35. Proposed Site/Roof Plan (BB dwg. -/3.01A [NTS]).



36. Lower Ground Floor Plan (BB dwg. -/3.02[NTS])



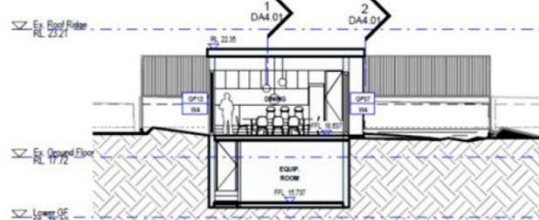
37. Ground Floor Plan (BB dwg. -/3.03 [NTS])



38. Longitudinal Section 01. (BB dwg. 4.01A [NTS])



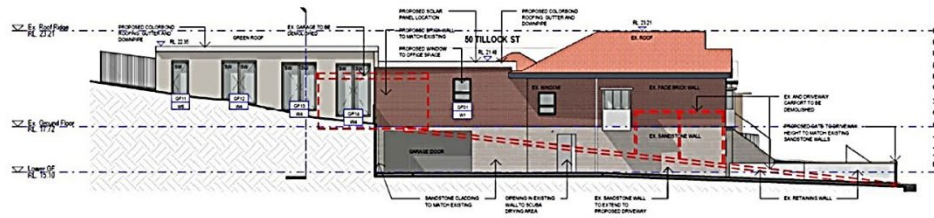
39. Longitudinal Section 02. (BB dwg. 4.01A [NTS])



40. Cross Section 03. (BB dwg. 4.01A [NTS])



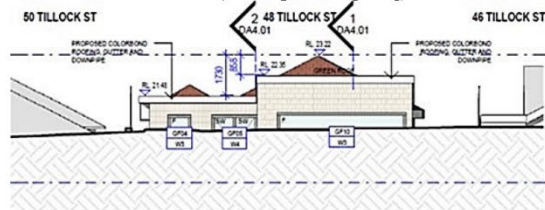
41. Street Elevation. (BB dwg. 5.01A [NTS])



42. South-west Elevation. (BB dwg. 5.01A [NTS])



42. North-east Elevation. (BB dwg. 5.01A [NTS])



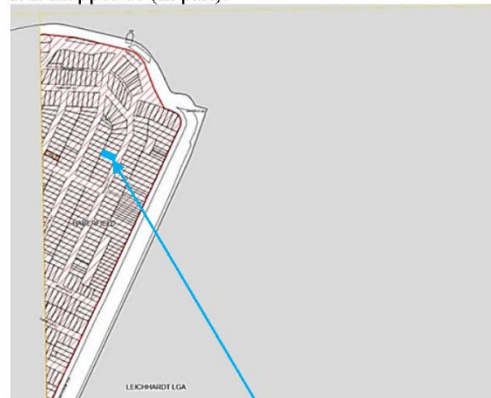
43. Rear Elevation. (BB dwg. 5.01A [NTS])

G. IMPACT OF THE PROPOSED DEVELOPMENT

Haberfield HCA is listed at:
 Ashfield Local Environmental Plan 2013
 Schedule 5 Environmental heritage
 Part 2 Heritage conservation areas

Description	Identification on Heritage Map	Significance
Haberfield Conservation Area (nominated area of State significance)	Shown by red hatching and labelled "C42"	Local

It is mapped as (in part):



44. Extract Map HER_003. Location of subject property.

The relevant provisions of Ashfield LEP 2013 are:

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 5.

Clause	Comment
<p>(1) Objectives</p> <p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to conserve the environmental heritage of Ashfield, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. <p>(2) Requirement for consent</p> <p>Development consent is required for any of the following:</p> <ul style="list-style-type: none"> (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance): <ul style="list-style-type: none"> (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item, (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed, (d) disturbing or excavating an Aboriginal place of heritage significance, (e) erecting a building on land: <ul style="list-style-type: none"> (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance, (f) subdividing land: <ul style="list-style-type: none"> (i) on which a heritage item is located or that is within a heritage conservation area, or 	<p>The proposed development entails altering the exterior of a building that is within an HCA.</p>

- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

However, development consent under this clause is not required if: Consent is required.

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:

(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and

(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

- (b) the development is in a cemetery or burial ground and the proposed development:

(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and

(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

- (d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

The significance of the Haberfield HCA is recounted at p. 2, above.

The proposed development will have no impact upon the stated significance, as the subdivision and layout of the area, and existing house have no established connexion with Richard Stanton.

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or

- (b) on land that is within a heritage conservation area, or

The proposed development is to land that is within an HCA.

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

This document has been prepared having general regard to the guideline document "Statements of Heritage Impact" as published by HeritageNSW.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

The proposed development is to an ostensibly contributory building within a conservation area. The preparation of a Conservation Management Plan is not warranted by the nature of the existing building nor the proposed development.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies):

The subject place is not identified as being of archaeological significance.

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

The subject place is not identified as being of Aboriginal significance.

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

The subject place is not identified as being of State significance.

(a) notify the Heritage Council about the application, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise

Conservation incentives are not sought.

not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Special Provisions Clause of the LEP -6.5 *Development on land in Haberfield Heritage Conservation Area* also applies-see Statement of Environmental Effects by Planzone under separate cover.

Comprehensive Inner West DCP 2016

Chapter E2- Haberfield Heritage Conservation Area

Building Form

2.6 Controls

- a) *Alterations to the original main part of a building (other than a non-conforming building), including front and side facades, verandahs and roof forms, are not permitted.*

Comment: the proposed works are largely to an area of the house that appears to have been the subject of previous alterations/ additions and will have no impact on the extant original street façade or side walls of the house.

- b) *Where a building, other than a non-conforming building has undergone limited change, restoration and repair of the original front of the building is encouraged.*

Comment: no works are proposed to the front of the house as it appears relatively original and intact-the proposed works will not have an impact on the front of the house.

- c) *Where a building, other than a non-conforming building has suffered major alteration, reinstatement is encouraged. When no surviving physical or documentary evidence of the original can be found, reconstruction similar to the neighbouring or other original Haberfield houses is encouraged.*

Comment: the proposed alterations/ additions are largely to the rear of the house that has been modified in the past, with some reconfiguration of spaces within the main body of the house to improve access, function and amenity.

- d) *Extensions shall not conceal, dominate or otherwise compete with the original shape, height, proportion and scale of the existing buildings.*

Comment: the proposed works will have minimal impact on the remnant original shape of the house.

- e) *Extensions are permitted only to the rear. In certain circumstances (where there is inadequate rear land) modest side extensions may be allowed where this does not alter or overwhelm the original front façade or the presentation of the house from the street.*

Comment: the proposed works are to the rear of the house and will have negligible impact on the presentation of the house to the street.

- f) *Where extensions are involved, new roofs are to be lower than the main roof form with a maximum height considerably less than the principal ridge point.*

Comment: as can be seen in the longitudinal sections at p8, above, the proposed additions generally follow the existing topography of the site where proposed to be “on-grade”, with the garaging and service areas excavated into the site.

- g) *The overall length of any extension is to be less than, and secondary to, the original house.*

Comment: the length of the proposed addition is indicated on BB dwg. -/3.03 (see p.8, above).

- h) *New roof shapes may include gables and gablets where these are related to shapes already present in the main roof, and where they are subordinate to the main roof shape. Dormer windows, Juliet[sic] balconies and similar protrusions will not be permitted.*

Comment: the proposed roofs to the additions is generally “flat” as a “green roof”. No “protrusions” are proposed.

- i) *Attic rooms can be built within the main roof shape where they do not involve alteration of the roof shape. They are to be modest in scale and comprise one (1) or at the most two (2) rooms capable of habitation. Attic windows in the front or side faces of the main roof are not permitted.*

Comment: not applicable- the proposed addition is of a “linked pavilion” type.

- j) *Rear extensions containing an attic may be considered where the attic does not cause the extension to compete with the scale and shape of the main roof and is not visible from a public place.*

Comment: the proposed addition does not include an attic.

- k) *Where attics are permitted, their windows shall be located in rear gable ends or gablets. They shall be discreet in scale and appearance and cannot be visible from a public place. Where extensions to existing roofs are being undertaken, modest sized in-line skylights may be considered in the side and rear planes of the extension only, and limited to one such window per roof plane.*

Comment: one in-line skylight is proposed to the side (north-east) roof plane, though not to an “attic” *per se*.

- l) *Extensions shall not employ any major or prominent design elements that compete with the architectural features of the existing building.*

Comment: the proposed addition employs a low-profile flat roof connected to the rear plane of the existing house and will not compete with the architectural features of the existing building.

Roof Forms (p13.)

The existing pitched tile-clad roof is to be retained as is, and there will be minimal impact on the streetscape presentation of the house, given the setback of the proposed addition.

Siting, Setbacks and Levels (p14)

The existing side setbacks are maintained to the existing house, with the proposed additions observing the same setback (see BB dwg. -/3.03 at p8, above) to the south-western boundary.

Walls (p16.)

None of the brickwork to existing original walls is proposed to be changed. It is proposed to use face brick as per the selection illustrated on the Materials Board (BB Dwg.-/7.01- see copy at the Appendix), above to the proposed additions works to differentiate the new works from the original portion of the house.

Chimneys (p16.)

The extant chimney (and associated fireplace) is to be retained.

Joinery (p17.)

None of the extant decorative exterior joinery trim elements to the front portion of the house will be affected by the proposed works.

Windows and Doors (p. 18)

The original front door and French door set to the verandah is to be retained as are the remainder of original external windows. Those to the rear, seemingly enclosed verandah portion appear to have been replaced/ introduced in the past and are to be removed to effect the proposed addition.

Window Sunhoods, Blinds and Awnings (p. 20)

None of the existing above original elements will be affected by the proposal.

Verandahs (p. 20)

The extant front verandah is to be maintained.

Garages and Carports (p. 21)

The existing garage is to be removed (see image 25, p6, above).

Garden Sheds/Store Sheds, etc. (p. 22)

The existing garden shed/ outbuilding is to be removed.

Colour Schemes (p. 23)

The proposed colour scheme for the new works is outlined at BB Dwg.-/7.01- see copy at the Appendix -and appears appropriate.

Fences & Gates (p. 24)

The existing sandstone retaining wall/fence to the street boundary is to be retained/ refurbished, and the gates replaced in metal palisade-type (vehicular) and timber (pedestrian) gates.

Garden Elements, Including Paving, Driveways, Pergolas and Pools (p. 25)

The rear yard is to be terraced to relate to the Lounge/Dining/Kitchen/ Pantry addition stepping. A planting strip is proposed to the driveway which proposed in a “wheel-strip” configuration.

Section 4 – Miscellaneous

Modern Technological Developments (p. 31)

It is proposed to instal photovoltaic panels to the roof of the proposed addition-see Site/Roof plan at p.7, above. These are located on a “flat” roof and will not be visible from the street, nor apparent from adjoining properties.

H. CONCLUSION

Historical research indicates that the extant original house to the subject site was most probably built in c. 1920 for Sarah and Herbert Horrocks. It has style indicators that place it within the Federation / Californian Bungalow transition period of the post WWI era and is relatively intact in terms of its presentation to Tillock Street and contribution to the character of the Haberfield HCA.

The proposed alterations and additions works seek to improve the amenity and level of accommodation of the house, and to incorporate current utilities into the design without giving rise to adverse visual impacts on the streetscape and Haberfield HCA more broadly.

In my opinion, the proposal is supportable in terms of potential heritage impacts and is commended to Council for favourable consideration.

Prepared by



Greg Patch
Heritage Consultant

Appendix: Documents

48 Tillock St Haberfield- SoHI

App.

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

Why Haberfield is important - a statement of significance

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

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

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

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

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

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

Haberfield and its history

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

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

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

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

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



Garden City Movement to lecture in Australia.¹

The Garden Suburb was the lesser and more marketable offshoot of the Garden City ideals. It sought to provide pleasant healthy model suburban estates. Stanton's Haberfield estate was the first successful Garden Suburb in Australia, predating the first in Britain (Hampstead) by five years.

Stanton and Nicholls purchased fifty acres from two Ramsay children in 1901, and laid out the estate on Stanton's own principles of garden suburb design and management. He set aside land for commercial purposes (there were to be no hotels, no corner shops and no factories in this model suburb); laid out the roads (named for members of the new Federal Government - Turner, Barton, Forrest, Kingston & O'Connor - and the generous allotments; established an integrated drainage and sewerage system at the back of the lots and planted the street trees. High quality modest houses designed by estate architects, Spencer, Stansfield and Wormald, were built for sale, and title covenants were placed on vacant allotments to ensure a continuation of Stanton's overall design intentions - single storey cottages, one per allotment, uniform setbacks, and quality materials, brick and stone, slate or tiles. Gardens were laid out by estate gardeners before owners moved in.²

So successful was this first venture that in 1903 Stanton purchased more of the Ramsay estates between Ramsay Street and Parramatta Road. It is no wonder that other development companies quickly imitated his principles: the Dobroyd Park Estate in 1905 and the Dobroyd Point Estate in 1910 to the west and north of Stanton's estates benefited by proximity to his marketing successes.

It is unusual for any subdivision to be fully developed immediately, but the Stanton Estates were remarkable for the short time frame in which most of them were built upon. Where vacant lots remained these were built on in the 1920s, 1930s and 1940s, and an examination of the period of each house can provide an interesting history lesson in the progressive development of the suburb.

Sydney's great suburban boom following the end of the First World War saw houses built on many of the vacant allotments. However, it was not until the 1940s that all the allotments were built upon. By the 1960s and 1970s some of the original houses had been demolished for flats or larger houses. Others have so visibly changed by reskinning of outer walls that only their original roof shape and footprint remains beneath.

Haberfield Today

As a result of Stanton's commitment to quality construction and design and to his application of title covenants the residential parts of Haberfield are characterised today by single storey brick houses on generous garden lots with uniform setbacks and a similarity of form and materials.

Within this common design, the architectural detail of the individual Federation houses (and later 1920s and 1930s bungalows) is richly varied and of great visual and architectural significance as a family of modest Federation designs.

What you can do

Conservation Areas such as Haberfield are a proven tourist attraction and their careful conservation will continue to enhance real estate values, improve local business and increase amenity for residents. Therefore:

- Make those changes that are necessary.
- Make sure such changes respect existing buildings and gardens in their siting, scale and general shape. This does not mean "faking up" a new building to look old. This debases the value of the original Haberfield buildings, and is not needed nor acceptable.
- Direct change towards keeping, revealing or reinstating the original building. Recent inappropriate changes should be evaluated for removal if possible.
- Give the same careful consideration to changes to the back of houses and shops as you would to these visible from the street or a public place because they could alter the harmonious proportion and scale common to the suburb.

¹ Burke, Sheridan: The Garden Suburb in NSW & the Conservation of Haberfield. M. Sc. Thesis (Architecture & Conservaton), University of Sydney, 1985.

² Crow, Vincent: Haberfield - the Development of its Character Ashfield & District Historical Society, 1978.





NEW SOUTH WALES LAND REGISTRY SERVICES - HISTORICAL SEARCH

SEARCH DATE

 21/12/2021 12:39PM

FOLIO: 23///508

First Title(s): SEE PRIOR TITLE(S)
 Prior Title(s): VOL 2/20 FOL 24

Recorded	Number	Type of Instrument	C.T. Issue
16/9/1989		TITLE AUTOMATION PROJECT	LOT RECORDED FOLIO NOT CREATED
3/10/1990		CONVERTED TO COMPUTER FOLIO	FOLIO CREATED CI NOT ISSUED
29/10/2016	AK803284	TRANSFER	
29/10/2016	AK803285	MORTGAGE	EDITION 1
1/9/2018	AN6/8863	DEPARTMENTAL DEALING	EDITION 2 CORD ISSUED

*** END OF SEARCH ***

archnex

PRINTED ON 21/12/2021

Reg:R108879 /Doc:CT 02720-024 CT /Rev:31-Jul-2012 /NSW LRS /Prt:21-Dec-2021 12:40 /Seq:2 of 2
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*No. 951410 caveat dated 5th June 1985
Produced & entered 5th June 1985 at 2.30 minutes after noon
afternoon
J. H. Pell
Registrar-General*

*No. A 503768 MORTGAGE dated 30th September 1919
from the said Sarah Alice Corrocks to the
Bank of Australasia
Produced and entered 23rd October 1919
at 11 o'clock in the forenoon
J. H. Pell
REGISTRAR GENERAL*

*No. B 91493 DISCHARGE of within Mortgage
A 503768 dated 1st June 1924
Produced 1st June 1924 and entered
11th June 1924
at 11 o'clock in the forenoon
J. H. Pell
REGISTRAR GENERAL*

*No. B 58964 WITHDRAWAL of the within Caveat
No. A 951410 dated 29th September 1927
Produced 21st November 1927 and entered
21st November 1927
at 11 o'clock in the forenoon
W. H. Clayton
ACTING REGISTRAR GENERAL*

*No. B 58965 TRANSFER dated 22nd September 1927
from the said Sarah Alice Corrocks to
George Joseph Smith and son of
Haberfield NSW
of the land within, described
Produced 21st November 1927 and entered 21st November 1927
at 11 o'clock in the forenoon
W. H. Clayton
ACTING REGISTRAR GENERAL*

*No. B 58966 MORTGAGE dated 20th September 1927
from the said George Joseph Smith and son
to War Finance Board Commission
Produced 21st November 1927 and entered 21st November 1927
at 11 o'clock in the forenoon
W. H. Clayton
ACTING REGISTRAR GENERAL*

*No. B 58965 MORTGAGE dated 1st April 1935
from the said George Joseph Smith and son
to War Finance Board Commission
Produced and entered 11th April 1935
at 11 o'clock in the afternoon
J. H. Pell
REGISTRAR GENERAL*

*MORTGAGE No. C 58792-58796 has been discharged.
See C 58793 Entered 16th July 1936
J. H. Pell
REGISTRAR GENERAL*

*MORTGAGE No. C 330045 has been discharged.
See C 58794 Entered 16th July 1936
J. H. Pell
REGISTRAR GENERAL*

*No. H 6968 MORTGAGE dated 22nd February 1929
from the said Mary Curteis
to BANK OF NEW SOUTH WALES
Entered 21st March 1929
J. H. Pell
REGISTRAR GENERAL*

*No. H 6968 MORTGAGE dated 22nd February 1929
from the said Mary Curteis
to BANK OF NEW SOUTH WALES
Entered 21st March 1929
J. H. Pell
REGISTRAR GENERAL*

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from the said Mary Curteis
to BANK OF NEW SOUTH WALES
Entered 21st March 1929
J. H. Pell
REGISTRAR GENERAL*

*REGISTERED PROSPECTOR Owen Gregory Curteis
by Notice of Death X 241582 Registered
4-12-1987*

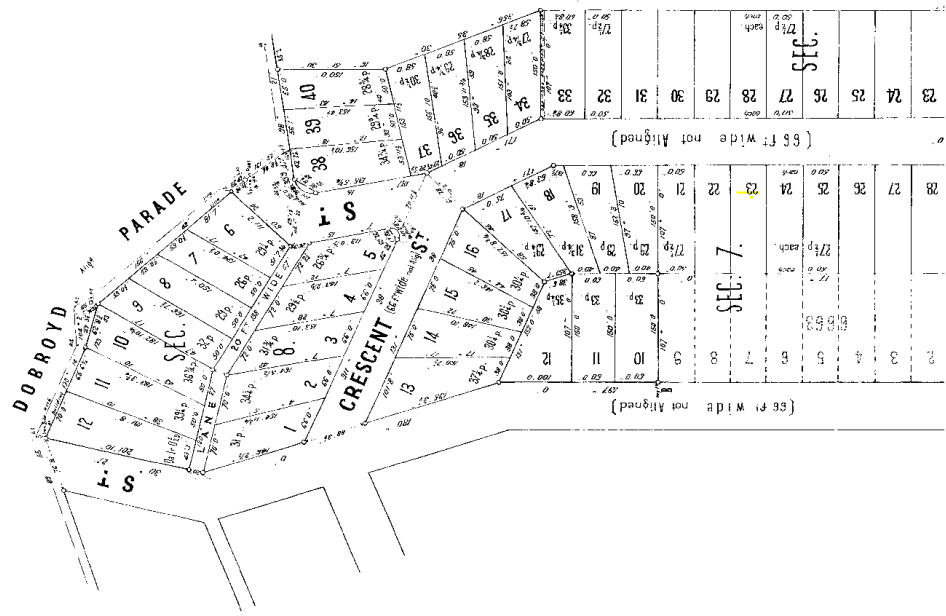
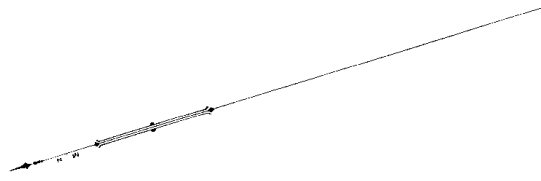
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74-1987 No 1
770-1438-047*

PLAN — DP 7508

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DOBROYD POINT ESTATE
 Being part of the Land in Gen. of this Municipality
 — Municipality of Ashfield —
 — Parish of Concord ; County of Cumberland —

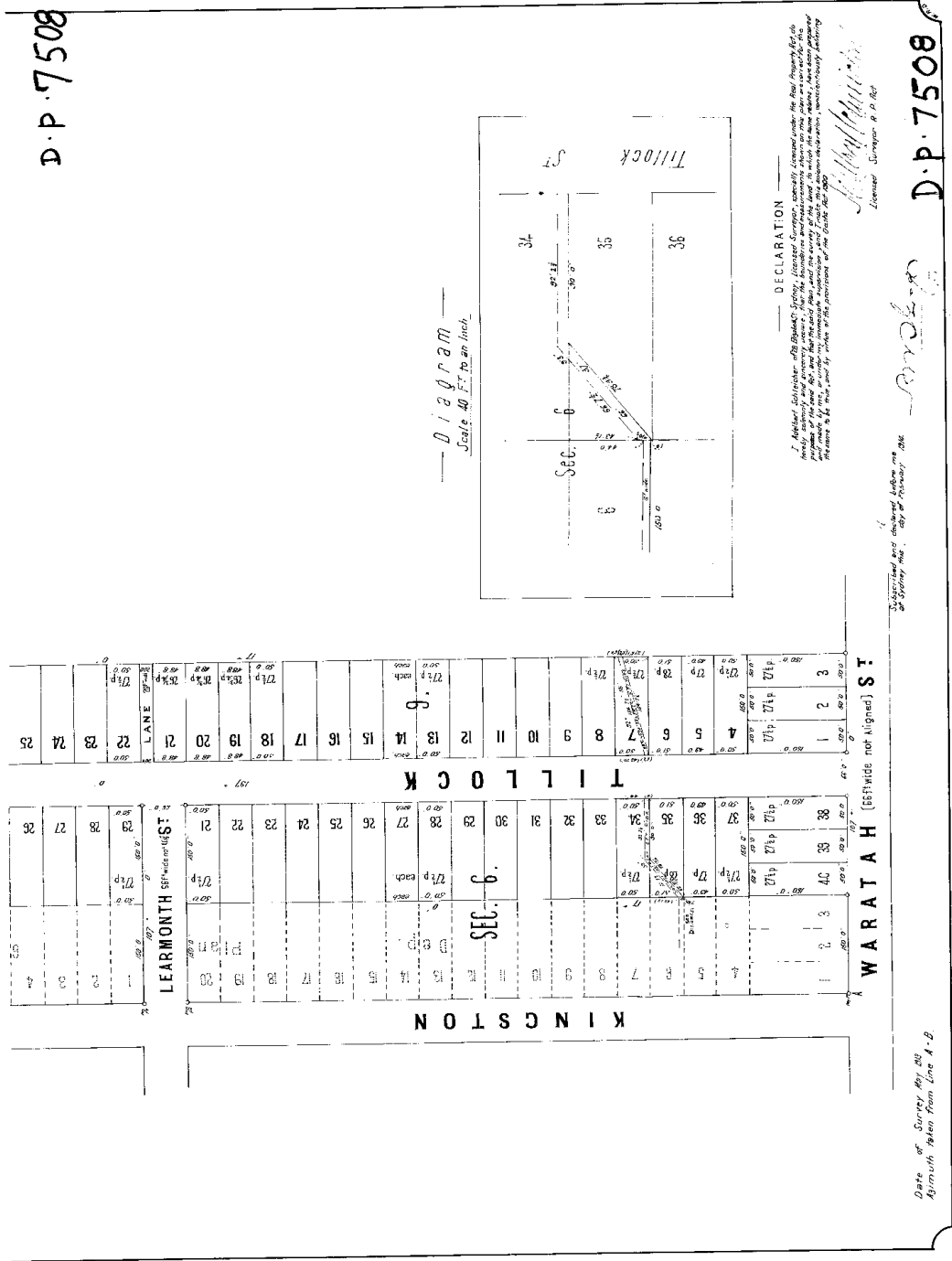
Scale 100 feet to an inch



D.P. 7508

A84542 18.2.14.

© Office of the Registrar-General /Src:GlobalX /Ref:archmex
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ANTHONY HORDERNS—THE SHOP FOR THE CLASSES. THE ASPHFELD AND SUMMER HILL.

Table listing names and addresses for 'ANTHONY HORDERNS—THE SHOP FOR THE CLASSES. THE ASPHFELD AND SUMMER HILL.' Columns include '183', '184', '185' and various street names like 'Hadden St', 'Hadden St', 'Hadden St'.

ANTHONY HORDERNS—THE SHOP FOR THE MASSES. THE ASPHFELD AND SUMMER HILL.

Table listing names and addresses for 'ANTHONY HORDERNS—THE SHOP FOR THE MASSES. THE ASPHFELD AND SUMMER HILL.' Columns include '183', '184', '185' and various street names like 'Hadden St', 'Hadden St', 'Hadden St'.

WOOD, COFFILL & COMPANY LTD. HEAD OFFICE: 810 GEORGE ST., CITY. PHONE 9226 CITY

Table listing names and addresses for 'WOOD, COFFILL & COMPANY LTD. HEAD OFFICE: 810 GEORGE ST., CITY. PHONE 9226 CITY'. Columns include '183', '184', '185' and various street names like 'Hadden St', 'Hadden St', 'Hadden St'.

INTERMENTS ARRANGED FOR IN ANY PART OF AUSTRALIA OR ABROAD ON SHORT NOTICE

ANTHONY HORDERNS—A PARADISE OF ECONOMY.

ASHFIELD AND SUMMER HILL.

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- 33 Davies Ralph N.
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ANTHONY HORDERNS—IT ISN'T A SHOP, IT'S AN INSTITUTION.

ASHFIELD AND SUMMER HILL.

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THE LEADING FIRM OF FURNERAL DIRECTORS IN THE COMMONWEALTH

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191

WOOD COFFILL LIMITED, LIVERY DEPT., 51-61 PARRAMATTA ROAD, CROWN, 'PHONE L2948

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191

HEIGHWAY & HIGGS, Expert Property Salesmen, 24 Hercules St., Ashfield. Tel. U1317.

ASHFIELD AND SUMMER HILL

Table with columns: Vic, To, From, and Vic. Lists property addresses and names in the Ashfield and Summer Hill areas.

IF DESIROUS OF SELLING OR LETTING YOUR PROPERTY, PHONE US.

HEIGHWAY & HIGGS, Expert Property Salesmen, 24 Hercules St., Ashfield. Tel. U1317.

ASHFIELD AND SUMMER HILL

Table with columns: To, Tea, and Vic. Lists property addresses and names in the Ashfield and Summer Hill areas.

RENT COLLECTING IS OUR SPECIALITY. APPOINT US YOUR AGENTS.

HEIGHWAY & HIGGS, Expert Property Salesmen, 24 Hercules St., Ashfield. Tel. U1317.

Table with columns for '186', '187', '188', '189' and rows of property listings including names, addresses, and descriptions.

HEIGHWAY & HIGGS, Expert Property Salesmen, 24 Hercules St., Ashfield. Tel. U1317.

Table with columns for '186', '187', '188', '189' and rows of property listings including names, addresses, and descriptions.

RENT COLLECTING IS OUR SPECIALTY. APPOINT US YOUR AGENTS. AGENTS FOR THE LIVERPOOL & LONDON & GLOBE INSURANCE CO. LTD.

ASHFIELD AND SUMMERS HILL 160, 71D

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ASHFIELD AND SUMMERS HILL 160, 71D

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RENT COLLECTING IS OUR SPECIALITY. APPOINT US YOUR AGENTS.

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EXISTING HOUSE TEXTURES AND FINISHES

BR-01
BRICK TO MATCH EXISTING

BR-02
LOHAS BRICKS
TENERE SMOOTH OR SIMILAR

BR-03
KUI-PLCK 700 HI-STRENGTH®
COLORBOND SURFIMIST OR
SIMILAR

BR-04
WOODLAND GREY™

BR-05
DOORS/WINDOWS/GATE/BALUSTRADE
COLORBOND WOODLAND GREY

CL-01
RED CEDAR SHINGLES OR SIMILAR

CL-02
SANDSTONE CLADDING TO
MATCH EXISTING

Elevation 01 -
Elevation 01 -
1 : 200

Elevation 02 -
Elevation 02 -
1 : 200

Elevation 03 -
Elevation 03 -
1 : 200

Elevation 04 -
Elevation 04 -
1 : 200

Section 03
Section 03
1 : 200

NOT FOR CONSTRUCTION

1. This drawing is for information only. It is not to be used for construction. The Council is not responsible for any errors or omissions in this drawing. The Council is not responsible for any damage or loss resulting from the use of this drawing. The Council is not responsible for any delay or interruption of any services resulting from the use of this drawing. The Council is not responsible for any other consequences resulting from the use of this drawing.

PROJECT NAME
DEVELOPMENT APPLICATION

DATE
PRELIMINARY

SCALE
AS SHOWN

DESIGNER
BAYSIDE BUILT

PROJECT NO.
DA7.01

DATE
03/11/2025

SCALE
AS SHOWN

DESIGNER
BAYSIDE BUILT

PROJECT NAME
DEVELOPMENT APPLICATION

DATE
PRELIMINARY

SCALE
AS SHOWN

DESIGNER
BAYSIDE BUILT

Attachment E – Draft conditions in the event of approval

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA3.01 Rev B	Proposed Site Plan	01.09.2022	Bayside Built
DA3.02 Rev B	Lower Ground Floor Plan	01.09.2022	Bayside Built
DA3.03 Rev B	Ground Floor Plan	01.09.2022	Bayside Built
DA3.04 Rev B	Roof Plan	01.09.2022	Bayside Built
DA4.01 Rev B	Sections	01.09.2022	Bayside Built
DA5.01 Rev B	Elevations	01.09.2022	Bayside Built
C00.01, C01.01, C01.02, C02.01, C02.03, C02.04	Stormwater Plans	31.08.2022	Engineering Studio
	ARBORICULTURAL IMPACT ASSESSMENT (AIA) REPORT	13.05.2022	Margot Blues
-	ROOT INVESTIGATION STATEMENT	29.08.2022	Ezigrow
Certificate number: A456861	BASIX Certificate	26.04.2022	Certified Energy

Ref: 093/2022	Traffic and Parking Report	12.05.2022	TTPA
G22172-1-Rev A	Geotechnical Investigation Report	28.04.2022	GCA

As amended by the conditions of consent.

FEES

2. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$4000.00
Inspection Fee:	\$241.50

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

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

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

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

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

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

Payment amount*:

\$ 10,001.90

*Indexing of the Section 7.12 contribution payment:

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

Payment methods:

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

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

5. Tree Protection

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

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

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

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

6. Works to Trees

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
Tree 2 - <i>Lauris nobilis</i> (Bay Tree), Tree 3 - <i>Ceratopetalum gummiferum</i> (NSW Christmas Tree), Tree 4 - <i>Mangifera indica</i> (Mango Tree)	Removal

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

Refer to the Arboricultural Impact Assessment report prepared by Margot Blues and dated 5/13/2022 for tree numbers and locations.

7. Waste Management Plan

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

8. Erosion and Sediment Control

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

9. Standard Street Tree Protection

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

10. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

11. Hoardings

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

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

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

12. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the adjoining properties at No. 46 Tillock Street and No. 50 Tillock Street to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

13. Advising Neighbours Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

14. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE

15. Dilapidation Report – Pre-Development – Minor

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

16. Stormwater Drainage System – Minor Developments (OSD is required)

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

- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing Nos C00.01 to C02.04 (7 sheets) prepared by Engineering Studio and dated 13 May 2022, as amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from the 5000 L rainwater tank, by gravity to the kerb and gutter of a public road;
- c. The below ground structure must be designed to be "tanked" preventing the ingress of seepage or groundwater;
- d. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank;
- f. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- g. Details of the 100-year ARI overflow route in case of failure\blockage of the drainage system must be provided;
- h. Overland flowpath must be provided within the setback to the northern and southern side boundaries between the rear of the dwelling and the street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath. The driveway and retaining wall should not obstruct the local overland flow path along southern side boundary
- i. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings;
- j. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- k. No nuisance or concentration of flows to other properties;
- l. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- m. A silt arrestor pit must be installed inside the property, adjacent to the boundary, for the stormwater outlet;
- n. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- o. New pipeline within the footpath area that is to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- p. Stormwater outlet through sandstone kerb must be carefully core drilled in accordance with Council standard drawings; and

- q. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

17. Structural Certificate for retained elements of the building

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

18. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water’s online ‘Tap In’ program to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

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

19. Green Roofs, Walls and Facades Report

Prior to the issue of Construction Certificate, the Certifying Authority is to be provided with a report prepared by a registered landscape architect demonstrating that the proposed landscape plan and details of any green roofs, wall and facades are consistent with [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#) including but not limited to using species selected from the suggested species list, water proofing and drainage.

DURING DEMOLITION AND CONSTRUCTION

20. Tree Protection

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

Tree No.	Botanical/Common Name/Location
5	<i>Melaleuca armillaris</i> (Honey Myrtle) / street tree

21. Limited Root Pruning

No tree roots of greater than 55mm in diameter located within the specified radius of the trunk of the following tree may be severed or injured in the process of any works (including terrace walls for landscaping) during the construction period:

Tree No.	Botanical/Common Name	Radius in metres
1	<i>Celtis sinensis</i> (Hackberry) - adjacent site rear	4 m

If tree roots less than 55mm in diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose* tool. The pruning must be undertaken by a practicing Arborist.

22. 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.

23. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE

24. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed:

- a. New light duty concrete vehicle crossing at the existing vehicular access location;
and
- b. Any damaged concrete footpath across the frontage of the site reconstructed.

All works must be constructed in accordance with Council’s standards and specifications and AUS-SPEC#2-“Roadworks Specifications”.

25. Protect Sandstone Kerb

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

26. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed and rainwater system commissioned in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plans must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

27. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF5 Certificate of Horticulture or Arboriculture that:

A minimum of 1 x 75 litre size tree, which will attain a minimum mature height of seven (7) metres and minimum mature canopy width of five (5) metres and 1 x 45 litre size tree that will attain a minimum mature height of six (6) metres and minimum mature canopy width of three (3) has been planted in suitable locations within the property at a minimum of 1.5 metres from any boundary, 2.3 metres from a dwelling or garage wall and allowing for future tree growth. The trees are to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species or on the Tree Minor Works list in Council's Tree Management Controls, palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

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

28. Verification and Maintenance of Green Roofs, Walls and Facades Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#).

ON-GOING**29. Green Roofs, Walls and Facades Establishment**

The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for 12 Months from the issue of an Occupation Certificate. If any of the planting are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate they must be replaced with the same species within one (1) month (up to 3 occurrences).

ADVISORY NOTES**Permits**

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

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

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

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Prescribed Conditions

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

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;

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

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*.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

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

Street Numbering

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